

# Unrestricted Document Pack

APOLOGIES Committee Services  
Tel. 01621 875791 / 876232

Council Chamber 01621 859677

CHIEF EXECUTIVE'S OFFICE  
CHIEF EXECUTIVE  
Fiona Marshall

07 July 2017

Dear Councillor

You are summoned to attend the meeting of the;

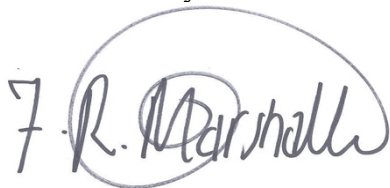
## **SOUTH EASTERN AREA PLANNING COMMITTEE**

on **MONDAY 17 JULY 2017** at **7.30 pm**.

in the Burnham Town Council Offices, Chapel Road, Burnham-on-Crouch.

A copy of the agenda is attached.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Fiona Marshall', enclosed within a large, hand-drawn oval.

Chief Executive

### COMMITTEE MEMBERSHIP

#### CHAIRMAN

Councillor R P F Dewick

#### VICE-CHAIRMAN

Councillor A S Fluker

#### COUNCILLORS

Mrs B F Acevedo  
B S Beale MBE  
R G Boyce MBE  
Mrs P A Channer, CC  
Mrs H E Elliott  
P G L Elliott  
M W Helm  
R Pratt, CC  
N R Pudney

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**AGENDA**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**MONDAY 17 JULY 2017**

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1. **Chairman's notices (please see overleaf)**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 18)

To confirm the Minutes of the meeting of the Committee held on 19 June 2017, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **FULMAL1700288 - Land At Remembrance Avenue** (Pages 19 - 30)

To consider the planning application and recommendations of the Chief Executive, (copy enclosed, Members' Update to be circulated).

6. **FULMAL1700384 - Land Adjacent 67 Queen Street Southminster** (Pages 31 - 38)

To consider the planning application and recommendations of the Chief Executive, (copy enclosed, Members' Update to be circulated).

7. **FULMAL1700437 - White Horse Hotel 20 North Street Southminster** (Pages 39 - 50)

To consider the planning application and recommendations of the Chief Executive, (copy enclosed, Members' Update to be circulated).

8. **FULMAL1700439 - Units 6-8 and 9-10 Hall Road Industrial Estate Hall Road Southminster** (Pages 51 - 76)

To consider the planning application and recommendations of the Chief Executive, (copy enclosed, Members' Update to be circulated).

9. **FULMAL1700496 - Land Adjacent To Little Ruses Ruses Lane Asheldham**  
(Pages 77 - 84)

To consider the planning application and recommendations of the Chief Executive, (copy enclosed, Members' Update to be circulated).

10. **Tree Preservation Order (TPO) 2-17 - Land rear of 24-54 Maldon Road and South of Green Lane, Burnham-on-Crouch** (Pages 85 - 104)

To consider the application and recommendations of the Chief Executive, (copy enclosed, Members' Update to be circulated).

11. **Other Area Planning and Related Matters** (Pages 105 - 106)

To consider the report of the Chief Executive on the following matters (Members' Update to be circulated):

(i) Appeals Lodged

(ii) Appeal Decisions

12. **Any other items of business that the Chairman of the Committee decides are urgent**

**Note:**

1. The Council operates a facility for public speaking. This will operate only in relation to the consideration and determination of planning applications under Agenda Items No. 5 - 10.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

\* Please note the list of related Background Papers attached to this agenda.

**NOTICES**

**Fire**

In event of a fire, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.



## **BACKGROUND PAPERS**

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

### **Development Plans**

- Maldon District Replacement Local Plan 2008 – Saved Policies
- Maldon District Local Development Plan 2014-2029 - submitted to the Secretary of State for Examination in Public on 25 April 2014 (as amended).

### **Legislation**

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991 and The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- The Town and Country Planning (Local Planning) (England) Regulations 2012
- Growth and Infrastructure Act 2013

### **Supplementary Planning Guidance and Other Advice**

- i) Government policy and guidance
  - National Planning Policy Framework (NPPF) and Technical Guidance
  - Planning Practice Guidance (PPG)
  - Planning policy for traveler sites
  - Planning practice guidance for renewable and low carbon energy
  - Relevant government circulars
- ii) Essex County Council
  - Essex Design Guide 1997
- iii) Maldon District Council
  - Submission Local Development Plan (April 2014) (as amended)
  - Five Year Housing Land Supply Statement 2014/15
  - Planning Policy Advice Note v.4 (October 2015)
  - Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
  - Infrastructure Phasing Plan (January 2015)
  - North Heybridge Garden Suburb Strategic Masterplan Framework - 2014

- South Maldon Garden Suburb Strategic Masterplan Framework - 2014
- Vehicle Parking Standards SPD - July 2006
- Accessibility to Buildings SPD – December 2006
- Children’s Play Spaces SPD – March 2006
- Sadd’s Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide - 2010
- Affordable Housing Guide – June 2006
- Heybridge Basin Village Design Statement – November 2006
- Wickham Bishops Village Design Statement - 2010

Copies of all Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours



**MINUTES of  
SOUTH EASTERN AREA PLANNING COMMITTEE  
19 JUNE 2017**

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**PRESENT**

Chairman	Councillor R P F Dewick
Vice-Chairman	Councillor A S Fluker
Councillors	Mrs B F Acevedo, B S Beale MBE, R G Boyce MBE, Mrs P A Channer, CC, P G L Elliott, M W Helm and N R Pudney

**162. CHAIRMAN'S NOTICES**

The Chairman drew attention to the list of notices published on the back of the agenda.

**163. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mrs H E Elliott and R Pratt.

**164. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 22 May 2017 be approved and confirmed.

**165. DISCLOSURE OF INTEREST**

The following declarations were made in respect of Agenda Item 6 -  
OUT/MAL/17/00383 – Land South of Charwood, Stoney Hills, Burnham-on-Crouch:

- Councillor R P F Dewick disclosed a pecuniary interest as he had carried out work for the applicant.
- Councillor N R Pudney advised that he had in laws that lived up Stoney Hills and knew the Agent.
- Councillor A S Fluker advised that in the interest of openness and transparency he knew the Agent, Applicant and some of the objectors.
- Councillors M S Helm, Mrs P A Channer and Mrs B F Acevedo declared non-pecuniary interests as they knew the Agent.

Councillor Mrs P A Channer declared a non-pecuniary interest as a Member of Essex County Council who were consulted on matters of highways, access etc. and in particular had made comments on Agenda Item 7 - FUL/MAL/17/00388 – Bradwell Power Station Ponds and Vault Complex, Downhall Beach, Bradwell-on-Sea.

**166. FUL/MAL/17/00324 - ESPERO, TINNOCKS LANE, ST. LAWRENCE**

<b>Application Number</b>	<b>FUL/MAL/17/00324</b>
<b>Location</b>	Espero Tinnocks Lane St Lawrence Essex
<b>Proposal</b>	Variation of condition 2 on approved planning permission FUL/MAL/16/01237 (Demolition of existing bungalow and erection of new three-bedroom dwelling)
<b>Applicant</b>	Mr & Mrs John & Margaret Skerritt
<b>Agent</b>	Ms Lisa Shell - Lisa Shell Architects Ltd
<b>Target Decision Date</b>	07/06/2017
<b>Case Officer</b>	Nicola Ward, TEL: 01621 875864
<b>Parish</b>	<b>ST LAWRENCE</b>
<b>Reason for Referral to the Committee / Council</b>	Parish Trigger

It was noted from the Members' Update that an incorrect response from the Parish Council had been detailed on the Officers' report and paragraph 5.2.5 had been included in error and should be deleted.

**RESOLVED** that this application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of the original permission on 17 January 2020.
2. The development hereby permitted shall be carried out in complete accordance with the approved drawings as detailed on this decision notice.
3. No development shall take place until samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials and details as approved.
4. Prior to the commencement of the development hereby permitted existing ground levels and finished floor levels of the new dwelling shall be submitted to and approved in writing by the Local Planning Authority. There shall be no alteration to these approved finished floor levels.
5. No works or development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant that tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.
6. No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the Local

Planning Authority. The screening as approved shall be constructed prior to the first use / occupation of the development to which it relates and be retained as such thereafter.

7. No development shall commence until details of the measures to be taken for the disposal surface water shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.
8. Finished floor levels of the development hereby approved shall be a minimum of 5.67mAOD.

In response to his earlier declaration Councillor R P F Dewick left the meeting at this point.

IN THE CHAIR : COUNCILLOR A S FLUKER

**167. OUT/MAL/17/00383 - LAND SOUTH OF CHARWOOD, STONEY HILLS, BURNHAM-ON-CROUCH**

<b>Application Number</b>	<b>OUT/MAL/17/00383</b>
<b>Location</b>	Land South Of Charwood Stoney Hills Burnham-On-Crouch Essex
<b>Proposal</b>	Proposed construction of two bungalows
<b>Applicant</b>	Think Green Energy Ltd
<b>Agent</b>	Mr Anthony Cussen - Cussen Construction Consultants
<b>Target Decision Date</b>	5 July 2017
<b>Case Officer</b>	Spyros Mouratidis, TEL: 01621 875841
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2005 Parish Trigger

Following the Officer presentation Councillor Vanessa Bell on behalf of Burnham-on-Crouch Town Council and Mr Cussen the Agent, addressed the Committee.

In response to a comment from the Agent, the Group Manager - Planning Services advised the Committee that planning history was material consideration for determination. The recent appeal decision referred to hung on a pond on the site which had recently been refilled and the Planning Inspector had made reference to Great Crested Newts. The proposed conditions relating to this application, if agreed, included the requirement for a habitat survey to be undertaken prior to development.

In response to a question from the Committee, the Group Manager - Planning Services highlighted the site area and those adjacent sites where planning permission had recently been granted, including those permissions granted on appeal.

Councillor Elliot made reference to a number of concerns highlighted to him by residents relating to the unsociable hours that construction in the vicinity took place. Members were advised that Government guidance in relation to noise and disturbance during the construction of a development was not really a planning issue. A condition would need to show that that it was stopping some demonstrable harm.

Councillor P G L Elliott proposed that should Members be mindful to approve the application an additional condition be added to specify that any works on a Saturday or Sunday can only take place internally. Following further advice from Officers, Councillor Elliott revised his proposal stating that no external works to be allowed on Saturday after 13:00 or at any time on Sundays and bank holidays. This was duly seconded.

The Chairman then put the Officers recommendation of approval with the additional condition as proposed. Upon a vote being taken this was agreed.

**RESOLVED** that this application be **APPROVED** subject to the following conditions:

- 1 Details of the access, appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.

- The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 No development shall take place including any demolition or clearance works, until a comprehensive ecological survey of the site has been undertaken to ascertain if any protected species are present. The results of the survey shall be submitted to and approved in writing by the local planning authority along with details of the provision and implementation of ecological mitigation to protect any protected species if found to be present. The development shall be carried out and completed in accordance with the approved mitigation scheme.
- 3 As part of the reserved matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the Local Planning Authority. The screening as approved shall be constructed prior to the first use / occupation of the development to which it relates and be retained as such thereafter.
- 4 Unless otherwise shown to be removed on the approved plan all of the hedgerow boundaries shall be retained and maintained at all times thereafter.
- 5 The public’s rights and ease of passage over public footpath no 5 (Burnham-on-Crouch parish) shall be maintained free and unobstructed at all times.
- 6 The landscaping details referred to in Condition1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme’s implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

- 7 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.
- 8 No development shall commence until details of existing ground levels and proposed finished ground, and its relation to the adjoining land, and floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9 The development shall be single storey only comprising of one floor of accommodation.
- 10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared. This must be conducted in accordance with the Department for Environmental Food and Rural Affairs (DEFRA) and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- 11 Development shall not commence until a scheme for the provision and implementation of surface water drainage incorporating Sustainable Urban Drainage Schemes (SUDs) and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the development.
- 12 Development shall not commence until details of foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the development.

- 13 During the construction of the development hereby approved, no external works shall be carried out on Saturdays after 13:00 or at any time on Sundays and bank holidays.

Councillor Dewick returned to the chamber.

IN THE CHAIR : COUNCILLOR R P F DEWICK

**168. FUL/MAL/17/00388 - BRADWELL POWER STATION PONDS AND VAULT COMPLEX, DOWNHALL BEACH, BRADWELL-ON-SEA**

<b>Application Number</b>	<b>FUL/MAL/17/00388</b>
<b>Location</b>	Bradwell Power Station Ponds And Vault Complex Downhall Beach Bradwell-On-Sea Essex
<b>Proposal</b>	Construction of a permanent building envelope to enclose the redundant Ponds and Vaults Complex providing protection from the prevailing weather during the 100 year care and maintenance period.
<b>Applicant</b>	Magnox Limited
<b>Agent</b>	Ms Clare Heeley - AECOM
<b>Target Decision Date</b>	5 July 2017
<b>Case Officer</b>	Spyros Mouratidis, TEL: 01621 875841
<b>Parish</b>	<b>BRADWELL-ON-SEA</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

In response to a question, the Group Manager - Planning Services provided Members with details of the proposed material for the cladding and clarified that the proposed building was not to control the waste from the power station but sit over the existing structure.

A debate ensued and concern was raised regarding the proposed cladding and whether it was combustible.

Councillor A S Fluker proposed that the Officers' recommendation of approval as set out in the report be agreed.

Councillor P G L Elliott proposed that a condition seeking that any cladding applied was not combustible be added. This was duly seconded

In accordance with Procedure Rule No. 13 (3) Councillor A S Fluker requested a recorded vote, which was duly supported.

The Chairman then put the proposal of an additional condition to the Committee and the voting was as follows:

For the recommendation:

Councillors Mrs B F Acevdo, Mrs P A Channer CC, P G L Elliott, M W Helm and N R Pudney

Against the recommendation:

Councillors B S Beale, R G Boyce and A S Fluker.



Abstention:  
Councillor R P F Dewick.

In accordance with Procedure Rule No. 13 (3) Councillor A S Fluker requested a recorded vote, which was duly supported.

The Chairman then put the Officers' proposal of approval subject to the conditions listed in the report and additional condition to the Committee and the voting was as follows:

For the recommendation:  
Councillors Mrs B F Acevdo, R G Boyce, B S Beale, Mrs P A Channer CC,  
P G L Elliott, A S Fluker, M W Helm and N R Pudney

Against the recommendation:  
None.

Abstention:  
Councillor R P F Dewick.

Following a question, the Chairman clarified that the vote just taken was for approval subject to the conditions listed in the report and additional condition agreed by the Committee.

**RESOLVED** that this application be **APPROVED** subject to the following conditions:

- 1 The development hereby permitted shall begin no later than three years from the date of this decision.
- 2 The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.
- 3 No works for the cladding of the building or for the installation of any other external treatment of the building shall take place until samples of the facing material, which shall not be combustible, to be used, including glazing, have been submitted to and approved in writing by the local planning authority. The works must then be carried out in accordance with the approved details.
- 4 The construction of the building hereby approved shall be carried out in accordance with the details, proposed measures and recommendations contained within the Ponds Construction Methodology Management Plan referenced JT/001 and dated 21/03/2017, the Environmental Management Plan referenced BRAD/ES/EMP/011 - ISSUE 1, the Biodiversity Appraisal referenced BRAD/EN/REP/226 – ISSUE 2 and dated 30/03/2017, and the Construction Noise Assessment referenced 60522693-REP-00013 and dated 30 March 2017.

## **169. OTHER AREA AND PLANNING RELATED MATTERS**

The Committee received and noted the report of the Chief Executive on the following matters:

### **(i) Appeals Lodged**

Appeal Start Date: 31/05/2017

**Application Number: WTPO/MAL/16/01456 (APP/TPO/X1545/6122)**

Site: Holyrood Lodge, Green Lane, Burnham-On-Crouch, Essex, CM0 8PU  
Proposal: TPO 13/1 T9 Horse Chestnut - Reduce height by 5M crown Lift by 3M cut back to boundary by 3M. T8 London Plane - Reduce height by 8M crown Lift by 6M cut back to boundary by 6M. T7 Horse Chestnut - Reduce height by 5M crown Lift by 3M cut back to boundary by 3M. T5 Horse Chestnut - Reduce height by 5M crown Lift by 3M cut back to boundary by 3M. T4 & T2 London Plane - Reduce height by 8M crown Lift by 6M cut back to boundary by 6M. T1 Horse Chestnut - Reduce height by 5M crown Lift by 3M cut back to boundary by 3M. T10 - T1 Various Species - Removal of large roots and where necessary the insertion of root barrier along boundary edge.

Appeal by: Mr David J Kennedy

Appeal against: Non Determination

Appeal procedure requested: Fast Track Appeal

Appeal Start Date: 14/06/2017

**Application Number: FUL/MAL/16/01438 (APP/X1545/W/17/3175598)**

Site: Land Adjacent To 17 Brickwall Close Burnham-On-Crouch

Proposal: Construction of 2 storey 2 bedroom house

Appeal by: Mr Jerry Thornton

Appeal against: Refusal

Appeal procedure requested: Written Representations

## **(ii) Appeal Decisions**

**FUL/MAL/16/00331 (Appeal Ref: APP/X1545/W/16/3165484)**

Proposal: Proposed construction of two chalet style houses and carport

Address: Land Adjacent The Bungalow, Southminster Road, Asheldham, Essex

Decision Level: Committee as per Officer recommendation to refuse

**APPEAL DISMISSED – 16 May 2017**

**FUL/MAL/16/00408 (Appeal Ref: APP/X1545/W/17/3161178)**

Proposal: Erection of 3 dwellings on land to the north of The Hollies and associated access from Stoney Hills

Address: Land Rear Of The Hollies, Stoney Hills, Burnham-On-Crouch, Essex

Decision Level: Committee overturned Officer recommendation to approve

**APPEAL ALLOWED– 16 May 2017**

**FUL/MAL/16/00673 (Appeal Ref: APP/X1545/W/16/3166974)**

Proposal: Change of use of tea room and storage area to dwellinghouse

Address: Tea Room - Sailing Club Clubhouse (East Of) The Quay - Burnham On Crouch

**APPEAL DISMISSED – 22 May 2017**

DECISION LEVEL: Delegated

**HOUSE/MAL/16/01091 (Appeal Ref: APP/1545/D/17/3170920)**

Proposal: Front porch, rear garden room and first floor extensions and internal alterations to existing residence.

Address: Gwalia - Burnham Road - Althorne

**APPEAL DISMISSED – 24 May 2017**

DECISION LEVEL: Delegated

**FUL/MAL/16/00445 (Appeal Ref: APP/X1545/W/17/3168271)**

Proposal: Construction of a one bedroom bungalow

Address: Land Adjacent Whispering Trees Mayland Green Mayland

Decision Level: Committee as per Officer recommendation to refuse  
**APPEAL DISMISSED – 31 May 2017**

**OUT/MAL/16/00107 (Appeal Ref: APP/X1545/W/16/33160971)**

Proposal: Construction of four 2 bedroom bungalows  
Address: Land East Of Brook Lane Brook Lane Asheldham  
Decision Level: Committee as per Officer recommendation to refuse  
**APPEAL DISMISSED – 31 May 2017**

**OUT/MAL/16/01182 (Appeal Ref: APP/X1545/W/17/3169919)**

Proposal: Construction of 2 bedroom detached residential bungalow (Resubmission)  
Address: Land Adjacent The Old Forge And Thornley Cottage - Burnham Road - Althorne  
**APPEAL DISMISSED – 31 May 2017**  
DECISION LEVEL: Committee (overturned Officer recommendation to approve)

**FUL/MAL/16/00763 (Appeal Ref: APP/X1545/W/17/3168862)**

Proposal: Proposed construction of a chalet style dwelling with attached garage  
Address: Land Adjacent Springfields - Steeple Road - Latchingdon  
**APPEAL DISMISSED – 31 May 2017**  
DECISION LEVEL: Committee (as per Officer recommendation)

**OUT/MAL/16/00418 (Appeal Ref: APP/X1545/W/16/3164833)**

Proposal: Demolition of existing garage and erection of two dwellings on land to the west of Sunnyside and associated access from Stoney Hills.  
Address: Sunnyside Stoney Hills Burnham-On-Crouch  
Decision Level: Delegated  
**APPEAL DISMISSED – 05 June 2017**  
**APPLICATION FOR PARTIAL AWARD OF COSTS MADE BY APPELLANT - ALLOWED – 05 June 2017**

**HOUSE/MAL/16/01415 (Appeal Ref: APP/X1545/D/17/3173360)**

Proposal: Proposed relocation of front entrance. Proposed internal re-configurations. Proposed pitched roof dormer to front elevation.  
Address: 7 Cedar Grove - Burnham On Crouch  
**APPEAL DISMISSED – 14 June 2017**  
DECISION LEVEL: Delegated

**OUT/MAL/16/00105 (Appeal Ref: APP/X1545/W/17/3167607)**

Proposal: Outline planning application for the provision of up to 13 dwellings, provision of public open space and a new vehicular access from Vicarage Court  
Address: Glebe Meadow Adjacent King Georges Field Pavilion Station Road Southminster  
**APPEAL ALLOWED – 14 June 2017**  
DECISION LEVEL: Committee overturned Officer recommendation to approve

**HOUSE/MAL/16/01403 (Appeal Ref: APP/X1545/W/17/3170414)**

Proposal: Change of use of existing detached barn/store for residential use as an annexe.  
Address: Yeomans 12 Mill Road Mayland  
**APPEAL ALLOWED – 14 June 2017**  
DECISION LEVEL: Delegated

**(iii) Appeals Withdrawn**

**OUT/MAL/15/00678 (Appeal Ref: APPX/1545/W/16/3148925)**

Proposal: Demolition of former Whitecap Mushroom Farm and associated outbuildings for redevelopment of up to 35 residential dwellings, including

upgrading of Mill Road to an adoptable standard. Access to be taken off Mill Road with some other matters reserved. (Resubmission of planning application ref: OUT/MAL/15/00018)

Address: Whitecap Mushroom Farm - Mill Road - Mayland

**APPEAL WITHDRAWN – 2 June 2017**

#### **170. DELEGATED PLANNING APPLICATIONS**

The Committee received and noted the list of decisions on planning applications taken by the Interim Head of Planning Services under delegated powers, circulated prior to the meeting for the period 19 May – 19 June 2017.

#### **171. EXCLUSION OF THE PUBLIC AND PRESS**

The Chairman proposed that the public be excluded from the meeting in accordance with Section 100A(4) of the Local Government Act 1972.

Councillor A S Fluker proposed that page 53 should not be confidential under the Act. In response the Group Manager - Planning Services advised that this particular page was part of the overall report which was confidential. Councillor Fluker requested that the Group Manager - Planning Services and Deputy Monitoring Officer meet with him and following agreement of this he withdrew his proposition. It was agreed that the outcome of the meeting would be circulated to all Members of the Committee.

**RESOLVED** that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

#### **172. ENFORCEMENT UPDATE**

The Committee received and noted the quarterly update on enforcement cases affecting the Committee's area. Various cases were discussed in detail and the Enforcement Officer provided updates where requested to do so and advised Members of planned action to be taken.

There being no further items of business the Chairman closed the meeting at 9.08 pm

R P F DEWICK  
CHAIRMAN



## REPORT of CHIEF EXECUTIVE

to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017

<b>Application Number</b>	<b>FUL/MAL/17/00288</b>
<b>Location</b>	Land At Remembrance Avenue Remembrance Avenue Burnham-On-Crouch Essex
<b>Proposal</b>	Development of 2 No. new dwelling houses arranged on 3 floors above ground on vacant land.
<b>Applicant</b>	Mike Lewis
<b>Agent</b>	N/A
<b>Target Decision Date</b>	29.05.2017
<b>Case Officer</b>	Yee Cheung, TEL: 01621 876220
<b>Parish</b>	<b>BURNHAM SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Council Owned Land

### 1 **RECOMMENDATION**

**REFUSE** for the reason as detailed in Section 8 of the agenda.

*To the Council: This application falls to be considered by the Area Planning Committee, but under its terms of reference if the Committee is minded to refuse permission the application will need to be determined by the Council and the Committee will recommend accordingly.*

### 2 **SITE MAP**

Please see overleaf.

Millfield

Mill Lodge

Green

Half Moon Ho

Russell Cottage

Playground

Hall

FB

El Sub Sta

Tanks

Museum

Crouch Yacht Club

The Quay House

Kings Court

Queens Court

Coronation Road

Kings Road

Regent Court

Burnham Sailing Club

Jetty

SM

Jetty

4.3m

0 0.0125 0.025 0.05 KM



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Maldon District Council 100018588 2014

Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Planning Services
Comments:	SE Committee
Date:	06/07/2017
MSA Number:	100018588

### **3 SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 Planning permission is sought to construct two dwellings. The proposed dwellings would be three-storey in height with a maximum ridge height of 11.4 metres when measured from ground level.
- 3.1.2 House 1 would measure approximately 7.9 metres in depth and 11.5 metres. At ground floor, there would be an internal garage, storeroom, a utility room, a coat room, lobby and an entrance hall with a stairwell to first floor. At first floor, there would be a sitting room, kitchen / dining room with a stairwell to second floor. Three bedrooms, a shower room and a family room are proposed on the second floor. On the third floor, there would be a bedroom, a study (which can also be used as a bedroom) and an internal terrace area.
- 3.1.3 In addition to House 1, a loggia is proposed. This loggia of approximately 2.1 metres height would connect the house and a proposed shed / summer house which would be located to the rear garden to the north eastern corner of the plot. This shed / summer house measures approximately 5.4 metres deep, 4.5 metres wide and with a ridge height of 5 metres. No details have been submitted regarding the external materials to be used in the construction of this proposed shed / summer house.
- 3.1.4 House 2 would measure approximately 7.9 metres in depth and 15.6 metres. At ground floor, there would be an internal garage, storeroom, and a utility room with a stairwell to first floor. At first floor, there would be a sitting room, kitchen / dining room with a stairwell to second floor. Three bedrooms, a shower room and a family room are proposed on the second floor. On the third floor, there would be a bedroom, a study (which can also be used as a bedroom) and a W.C / shower room.
- 3.1.5 Immediately to the north of the site is a pumping station. To the east is a ditch / drain where it runs parallel to the eastern boundary of the site and beyond this ditch / drain is a small cul-de-sac residential development known as Queens Court. To the south of the application site are new town houses and seven detached houses currently under construction. These dwellings were given planning permission on 18 December 2013 (planning reference: FUL/MAL/12/01062). The site fronts onto a large public open space with a playground.

#### **3.2 Conclusion**

- 3.2.1 The proposed development is for the construction of two detached dwellings within the defined settlement boundary for Burnham-on-Crouch. Such proposals are supported in principle within the adopted local plan, Local Development Plan and also in the light of the National Planning Policy Framework which promotes sustainable development as the site is within a residential area on vacant land and represents consolidation of both the settlement and the street scene. On this basis, there is no objection in principle to this proposed development. The proposal of two dwellings on this plot would be acceptable subject to conditions imposed.

#### **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

##### **4.1 National Planning Policy Framework 2012 including paragraphs:**

- 7, 8, 14, 17, 39, 49, 50, 56, 57, 60, 100, 103

##### **4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- S1, CON5, CC11, H1, BE1, BE13, T2, T8

##### **4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:**

The Maldon District Local Development Plan 2014-2029 was found to be sound, with modifications, by the Inspector, Mr. Simon Berkeley, as set out in his Report dated 30<sup>th</sup> June 2017. The Inspector's Report will now be considered by the Secretary of State who will make the final decision on the LDP's approval.

- S1, S6, S8, D1, D2, D3, D5, H4, T2

##### **4.4 Relevant Planning Guidance / Documents:**

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)
- Car Parking Standards
- Essex Design Guide

#### **5. MAIN CONSIDERATIONS**

##### **5.1 Principle of Development**

- 5.1.1 The proposed development is for the construction of two detached dwellings within the defined settlement boundary for Burnham-on-Crouch as shown on Maldon District Replacement Local Plan Proposals Map Inset 5A and the Maldon District Local Development Plan Map Number 4 of 4. Such proposals are supported in principle within the adopted local plan, Local Development Plan and also in the light of the National Planning Policy Framework which promotes sustainable development as the site is within a residential area on vacant land and represents consolidation of both the settlement and the street scene. On this basis, there is no objection in principle to this proposed development subject to other material considerations listed below.

##### **5.2 Design and Impact on the Character of the Area**

- 5.2.1 The proposed two dwellings would be three-storey in height. The footprint of the development would be consistent with the prevailing pattern of development in the vicinity of the site. Whilst it is noted that the development proposal would be three-storey in height, both dwellings would be approximately 1.6 metres lower than the adjacent residential development to the south of the site (CEFAS, 2013). When



viewed in the street scene, the height of the development would cascade from south to north direction and therefore would not appear out of place or prominent when viewed from the locality or in the wider context.

- 5.2.2 The two dwellings would be of contemporary design. External materials such as facing brickwork, rendering, vertical larch boarded finish for the walls and modern zinc roofs would create a distinctive development, its own identity, rather than a pastiche development reflecting on the local built form. The development of the site would also provide visual interest in the street scene.
- 5.2.3 The application site is currently vacant and the Council acknowledges that any development on this site would result in visual impact in the street scene. Having taken into account the design, siting and appearance of the development, and its relationship with other dwellings immediately next to this plot to the north, north east south east and south west, it is considered that the proposal would represent an infill development as well as forming a natural continuation of the built environment. The dwellings would also be set back from the highway to a distance in keeping with the prevailing pattern of development in the area and the wider street scene. On this basis, it is considered the proposal would not have a harmful visual impact in the locality to warrant refusal. The proposal would accord with policy BE1 of the adopted local plan and policy D1 of the Local Development Framework and advice contained in the NPPF where it seeks to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The back-to-back distance between the new and existing dwellings at Queens Court would be approximately 28 metres. In the Essex Design Guide (EDG) it recommends a back-to-back distance of 25 metres, and in this instance the proposal would exceed this requirement and therefore complies with the EDG.
- 5.3.2 The two dwellings appear to have large window openings to the front and rear elevation of the building. These openings, serving the stairwell and bathrooms appear to have been strategically placed to minimise the impact on the amenity of the existing occupiers at Queens Court with regard to overlooking and loss of privacy. The window to the stairwell is a high level window which would provide natural light to the property. The windows to the bathrooms can be conditioned to be obscured glazed should the application be approved.
- 5.3.3 On the northern flank wall of House 1, a slim line window opening is proposed to serve the sitting room, Bedroom 1 and a study. Having considered the width and the position of the windows and the orientation of House 1, it is not considered that the development would have an impact on the amenity of the existing occupiers at No. 12 Remembrance Avenue with regard to overlooking, interlooking or loss of privacy to warrant refusal. On the southern flank wall of House 1, one slim line window is proposed to serve Bedroom 4. As there are no windows proposed on the northern flank wall of House 2, it is not considered that there would be any direct overlooking or loss of privacy between the future occupiers of these two dwellings.

- 5.3.4 No first, second or third floor window openings are proposed on the flank walls of House 2 and as such the development would not have an adverse impact on the amenity of the future occupiers to the south of the site.
- 5.3.5 Based on the elevational plans for House 1 and House 2 submitted, it is considered that the development would comply with policy BE1 of the adopted local plan, policy D1 of the Local Development Plan and Government advice contained within the NPPF.

#### **5.4 Access, Parking and Highway Safety**

- 5.4.1 The Maldon District Council Vehicle Parking Standards (VPS) states that residential dwellings comprising two/three bedrooms require a maximum of two, off-street parking spaces and dwellings with four or more bedrooms would require three off-street parking spaces. This policy is also reflected in policy T2 of the Local Development Plan.
- 5.4.2 For House 1, an internal garage space and two further parking spaces are provided to south in a tandem arrangement. For House 2, an internal garage is also provided as well as two further off-street parking spaces located to the front but perpendicular to the dwelling house.
- 5.4.3 Whilst the plans submitted indicate that each dwelling would provide accommodation in the form of four dwellings, in reality, each dwelling has the potential of accommodating five bedrooms. As three parking spaces have been provided for both dwellings, the proposal would accord with the VPS and Policy T8 of the adopted local plan and policy T2 of the Local Development Plan. In this respect, the proposal would comply with the aforementioned policy and guidance. The Highway Authority has been consulted and no comments have been raised regarding the proposal.

#### **5.5 Private Amenity Space and Landscaping**

- 5.5.1 The Essex Design Guidance (EDG) advises that for a three or more bedrooms dwelling house, a minimum private garden space should be 100 square metres. The private amenity space for House 1 would be approximately 365 square metres and for House 2 would be approximately 154 square metres. As both dwellings exceed the private garden space of 100 square metres, the development proposal would comply with policy BE1 of the adopted local plan, policy D1 of the Local Development Plan and guidance contained within the EDG.
- 5.5.2 It is noted that on the Site Plan (Drawing No: 1683-02 Revision B dated 10.02.1) it shows that the existing Poplar trees on the southern boundary of the site to be retained. No other details have been submitted with regard to boundary treatment or hard and soft landscaping. However, these can be dealt with by appropriately worded conditions should the application be approved.

#### **5.6 Flood Risk**

- 5.6.1 The site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the development of 2 No. new 3 storey dwellings which is classified as

a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance.

- 5.6.2 The NPPG identifies that the Sequential Test aims to steer new development to areas with the lowest probability of flooding, with the aim to steer development towards Flood Zone 1. LPAs are required to take into account the vulnerability of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only when there is no reasonably available land within Flood Zone 1 or 2 that sites can be considered in Flood Zone 3, taking into account the vulnerability of the land use and applying the exceptions tests (where required).
- 5.6.3 In addition the Exceptions Test is also applicable and is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. This is a two part test requiring evidence to be submitted to show that the benefits of the development would outweigh the risk of flooding and that the development will be safe for its lifetime. This aspect of the test requires the submission of a Flood Risk Assessment (FRA).
- 5.6.4 As part of the application, a FRA (Phase 1 Flood Risk Assessment (FRA) dated February 2017 prepared by AMBIENTAL Technical Solutions Limited) has been submitted in support of the application. The Environment Agency has been consulted and has raised no objection to the proposal. However, this is providing that the Sequential Test and the Exception Tests are passed as set out in Paragraphs 101 and 102 of the NPPF and it is the responsibility of the Council to determine if these tests have been met.
- 5.6.5 In terms of the Sequential Test, as part of the FRA (Section 3 Page 9 of 40), no details have been submitted with regards to alternative sites for the proposed development, whether the alternative sites are suitable or reasonably available, as part of the application submission. As such, the details provided in the application are not considered to sufficiently demonstrate that there are no alternative suitable sites in the area which fall outside of Flood Zone 3a. The view is taken that there are sites available in the district as a whole where land falls outside of the highest risk Flood Zone and where permission could be obtained. In this respect, the applicant has failed to meet the requirements of the Sequential Test.
- 5.6.6 As the Sequential Test has not been passed it is necessary to undertake the Exceptions Test. The first part of the Exception Test requires the Council to be satisfied that the development provides wider sustainability benefits to the community that would outweigh flood risk. In this instance, and as noted above, the Council can demonstrate a 5 year housing land supply, and the benefits of the scheme in this instance are not considered to outweigh the harm of increased risk of flooding.
- 5.6.7 The second part of the Exception Test requires the submission of an FRA which demonstrates the development will be safe for its lifetime, without increasing flood risk elsewhere and will reduce the overall flood risk where possible. In this instance, the area benefits from flood defences such as the Shoreline Management Plan / Policy (this is explained in Section 4.7 of this report) and as such, the Environment Agency has raised no objection to the proposal.

- 5.6.8 In light of the above, the proposal would lie within Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the erection of four detached houses, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The Council can demonstrate a 5 year housing land supply, and on this basis, the benefits of the proposal would not consider to outweigh the harm of increased flooding as a result of the development.
- 5.6.9 As the Council can now demonstrate a 5 year housing land supply and this is a new material planning consideration in determining the current scheme whereas previously the CEFAS scheme to the south of the site was approved (2013) as the Council was unable to demonstrate a 5 year housing land supply at the time.
- 5.6.10 The above is further supported by a recent appeal decision at the Blackwater Marina, The Esplanade, Maylandsea, Essex (appeal reference: APP/X1545/W/17/3166607 dated 29 June 2017) where the Planning Inspector states that development proposals should be steered away from areas at the highest risk of flooding. As mentioned above, no details have been submitted to show that there are no reasonably available sites appropriate for the proposal in areas with a lower probability of flooding in the mainly rural District and therefore the proposal would fail to satisfied the Sequential Test, contrary to policy D5 of the Local Development Plan, the NPPF and the National Planning Practice Guidance.

## **5.7 Shoreline Management Plan / Policy**

- 5.7.1 It is understood that the site is currently defended and the Shoreline Management Policy (SMP) for this area has an aspiration for hold the line. The Shoreline Management Plan is the current defence to protect this area against a tidal flood with a 0.5% (1 in 200) annual probability of occurrence. However, the impacts of climate change on sea levels over the development's lifetime will gradually reduce the level of protection afforded by the defences if they are not raised within this timeline. Without the raising of the defence, the site could flood should a tide with a 0.5% (1 in 200) annual probability flood event plus climate change occur, which could be contrary to the advisory requirements of Paragraphs 059 and 060 of the National Planning Policy Framework's Planning Practice Guidance. These advise that there should be no internal flooding in 'more vulnerable' developments from a design flood. This could also present challenges to the safety of the users of the buildings and a future reliance on evacuation or emergency response.
- 5.7.2 The Essex and South Suffolk Shoreline Management Plan (SMP) has a policy of 'Hold the Line' until 2105 for Burnham on Crouch location, so it is possible that the flood defences may be raised in line with climate change to continue to protect against the future 1 in 200 annual probability flood event for the lifetime of the development. The SMP policy is aspirational rather than definitive, so whether the defences are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood defence improvements is currently evaluated though cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations. The Environment Agency advises that if the SMP policy is not taken forward the development would be unsafe in the future.

5.7.3 The Environment Agency has also commented on the Actual Risk and Residual Risk of the site and advises on the following:-

5.7.4 Actual Risk

*“The site is currently protected by flood defences with an effective crest level of 4.7m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.56m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change, which is dependent on future funding”.*

5.7.5 “If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate change flood level of 5.10m AOD, would overtop the existing defences”.

5.7.6 Residual Risk

*“The site could experience breach flood levels of up to 5.36 m AOD during 0.5% (1 in 200) annual probability including climate change breach flood event and up to 5.66 m AOD during the 0.1% (1 in 1000) annual probability including climate change breach flood event”.*

5.7.7 “Alternatively the Maldon Strategic Flood Risk Assessment (SFRA) shows the site could experience breach flood depths of up to 3 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event (up to the year 2107)”.

5.7.8 *“Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change”.*

5.7.9 *“Finished ground floor levels have been proposed at 2.17m AOD. This is below the 0.5% annual probability breach flood level including climate change of 5.36m AOD and therefore at risk of flooding by 3.19m depth in this event”.*

5.7.10 *“Finished first floor levels have been proposed at 5.40m AOD and second floor is proposed at 8.40m AOD therefore there is refuge above the 0.1% (1 in 1000) annual probability breach flood level of 4.51mAOD”.*

5.7.11 In the FRA submission, it is noted that flood resilience/resistance measures and a Flood Evacuation Plan have been proposed. The Emergency Planner is satisfied with the information provided and it is considered that an appropriately worded condition can be imposed to ensure that this plan is adhered to should the application be approved.

6. ANY RELEVANT SITE HISTORY

- No relevant planning history

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### 7.1 **Representations received from Parish / Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham Town Council	Objects for the following reasons:- 1. Layout and density 2. Overshadowing 3. Design and Appearance 4. Effect on the character / appearance of the area / landscape quality	Noted and addressed in Section 5.2 of the report

### 7.2 **Statutory Consultees and Other Organisations** (*summarised*)

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
ECC Highway Authority	This section of Remembrance Avenue does not form part of the publicly maintainable highway; consequently, from a highway and transportation perspective, the Highway Authority has no comments to make on the proposal.	Noted in Section 5.4 of the report
Environment Agency	No objection subject to conditions	Noted in Section 5.6 of the report
Anglian Water	No comments to be provided	Noted
ECC SUDs Team	No comment received at the time of writing this report	Any comments received will be reported on the Members Update

### 7.3 **Internal Consultees** (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Emergency Planner	If the Flood water evacuation plan contained within the flood risk assessment document were to be shared with residents this would suitable for this site.	Noted
Conservation Officer	No objection to the	Noted

Name of Internal Consultee	Comment	Officer Response
	proposal	

#### 7.4 Representations received from Interested Parties (*summarised*)

7.4.1 Letters were received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

- Lyn Cronin 12 Remembrance Avenue, Burnham CM0 8HA
- Mr and Mrs P Hodgeson, 3 Queens Court, Burnham CM0 8HW
- Mr and Mrs Lewis, 2 Queens Court, Burnham CM0 8HW

Supporting Comment	Officer Response
<ul style="list-style-type: none"> <li>• Having spoken to the architects and studied the plans the occupier's at No. 12 Remembrance Avenue have no objection to the two dwellings</li> <li>• The occupiers at No. 3 Queens Court are happy to support the application</li> <li>• The occupiers at No. 2 Queens Court are happy to support the application</li> </ul>	Noted

## 8 **REASON FOR REFUSAL**

- 1 The application site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the development of 2 No. new 3 storey dwellings which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The Council can demonstrate a Five Year Housing Land Supply and as such residential development should be directed to areas of low risk of flooding. The development would therefore be contrary to core planning principles and guidance contained in the National Planning Policy Framework, the National Planning Practice Guidance and policy D5 of the Maldon District Local Development Plan as it fails to pass the Sequential and Exception Tests.

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**REPORT of  
CHIEF EXECUTIVE**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017**

<b>Application Number</b>	<b>FUL/MAL/17/00384</b>
<b>Location</b>	Land Adjacent 67 Queen Street Southminster
<b>Proposal</b>	2 residential two bed cottages with associated car parking, landscaping and demolition of the existing garage.
<b>Applicant</b>	Mr Levy - Countryside Style Ltd
<b>Agent</b>	Mr C Wragg - Arcady Architects Ltd
<b>Target Decision Date</b>	23.06.2017 EOT 18.07.2017
<b>Case Officer</b>	Hannah Bowles, TEL: 01621 875733
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Parish Trigger

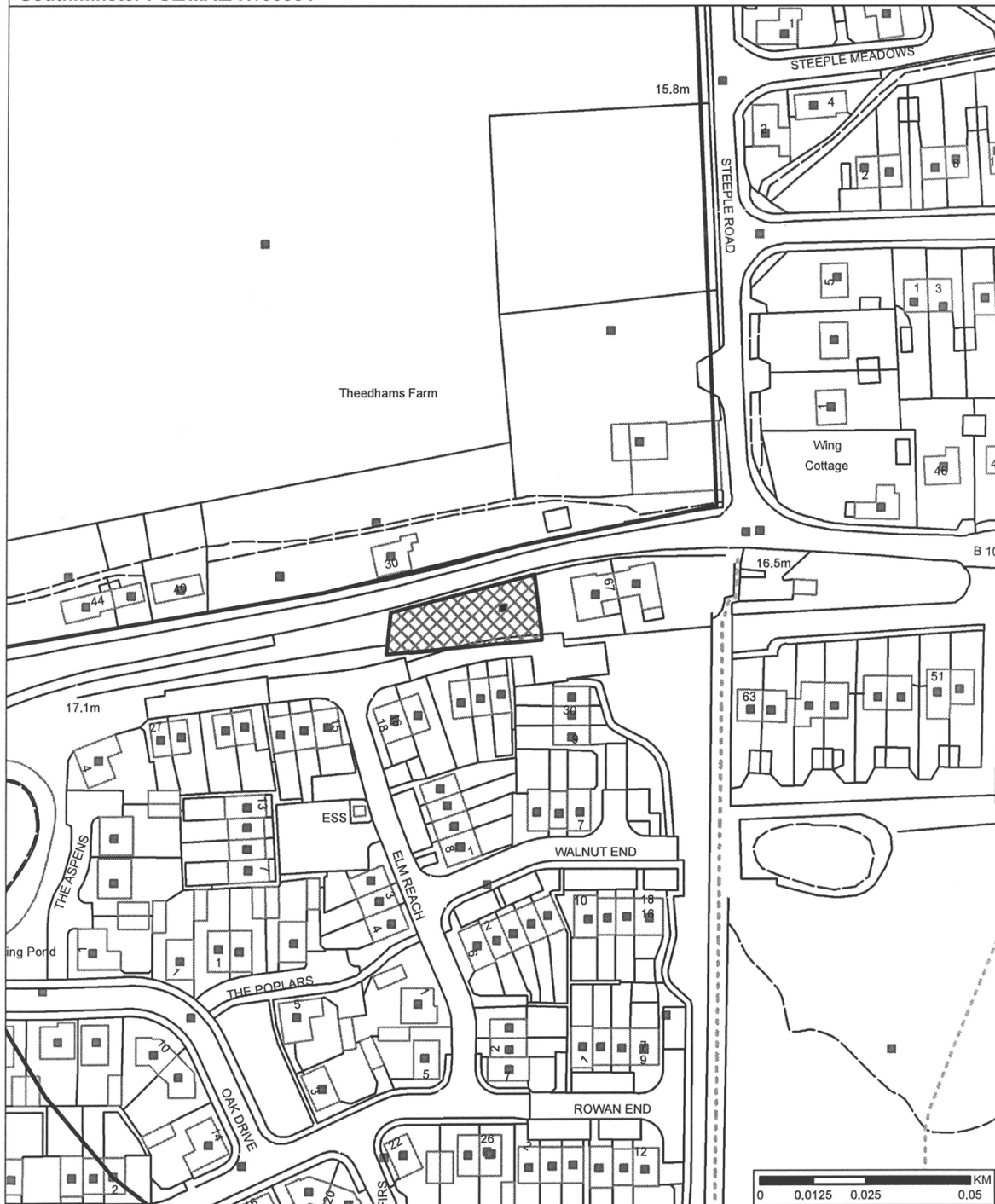
**1. RECOMMENDATION**

**APPROVE** subject to the conditions (as detailed in Section 8 of this report).

**2. SITE MAP**

Please see overleaf.

**Land Adjacent 67 Queen Street**  
**Southminster FUL/MAL/17/00384**



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Planning Services

Comments: SE Committee

Date: 06/07/2017

MSA Number: 100018588

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 The application site measuring 0.45Ha is located on the southern side of Queen Street. The site comprises an area of hardstanding used for the parking of vehicles in association with 67 Queen Street. A single pitched roof garage is observed on site and is proposed to be demolished as part of the development.
- 3.1.2 Planning permission is sought for the construction of 2 no. two bedroomed dwellinghouses. It should be noted that this application follows the grant of Outline and Reserved Matters approval for a similar scheme. The amendments to the scheme relate to Plot 2, which has been re-positioned within the plot to front the highway, redesigned internally and the proposed fenestration has been relocated. Plot 1 remains as previously approved along with the access arrangements, car parking provision and quantum of development on the plot.

#### **3.2 Conclusion**

- 3.2.1 The principle of the development, access arrangements and quantum of development on the plot are established through an extant planning permission and are not objected to. It is considered that the proposed amendments to the previously approved scheme, by reason of design would not harm the appearance or character of the dwelling or locality or have an overbearing impact on the amenity of the neighbouring residents. It is therefore considered that the proposed development is in accordance with policies BE1, BE6 and T8 of the RLP and T2, D1 and H4 of the LDP.

### **4. MAIN RELEVANT POLICIES**

#### **4.1 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- S1 Development Boundaries and New Development.
- BE1 Design of New Development and Landscaping.
- H1 Location of New Housing.
- T1 Sustainable Transport and Location of New Development.
- T2 Transport Infrastructure in New Developments.
- T8 Vehicle Parking Standards.

#### **4.2 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:**

- D1 Design Quality and Built Environment.
- T1 Sustainable Transport.
- T2 Accessibility.
- S1 Sustainable Development.
- S2 Strategic Growth.
- H4 Effective Use of Land.

#### **4.3 Relevant Planning Guidance / Documents:**

- Car Parking Standards
- Essex Design Guide

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 Planning permission and for Outline and Reserved Matters has already been granted for two dwellings on this site. As such, the principle of development has already been accepted. The determining factors in this application are whether the appearance and landscaping of the development are considered acceptable and meet the policy requirements.

### **5.2 Design and Impact on the Character of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, livable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design sought to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that the changes in design from the previously approved scheme relate solely to plot 2. The orientation of the property has been revised; the principle elevation of the proposed property faced east under the previously approved scheme and has been amended to face north, fronting the highway. The proposed fenestration has also been revised, taking into account the change in orientation.
- 5.2.3 The properties along Queen Street, to the western end of the settlement boundary are characterised by modest residential properties of detached and semi-detached cottages fronting the highway. The change in orientation of the proposed dwelling is considered to appear commensurate with the existing built form along Queen Street and the proposed dwelling that would be sited in plot 1. Furthermore, although the proposal would increase the number of windows within the proposed dwelling it is not considered that it would have a detrimental impact on the character and appearance of the surrounding area.
- 5.2.4 Therefore, it is considered that the proposal, by means of its design, including its siting, is considered acceptable in its setting and would not detract from the appearance of the locality.

### **5.3 Impact on Residential Amenity**

- 5.3.1 Policies BE1 of the RLP protects neighbouring occupiers from unacceptable development which results in a loss of amenity in relation to overlooking, overpowering or undue reduction of light to the main windows of their property. Similarly, the basis of policy D1 of the submission LDP seeks to ensure that development will protect the amenity of its surrounding area.

- 5.3.2 The previously approved scheme raised no concerns in relation to the impact on neighbouring occupiers; therefore it is only necessary to assess the impact of the change in orientation and fenestration to plot 2.
- 5.3.3 There are no adjacent neighbouring properties to the west of the site; the dwelling proposed at plot 1 would be located to the east of the site. To the south of the site, adjacent to the proposed dwellings, a housing development of 117 dwellings is nearing completion and the property overlooks the public highway to the north of the site.
- 5.3.4 Given that the property would be rotated 90 degrees; plot 2 would be located further from the newly constructed dwellings to the south of the site; approximately 13m and although it would be slightly closer to the dwelling at Plot 1 it would still be in excess of 12m. Therefore, it is not considered to form an overbearing addition or to result in a loss of light to the detriment of the neighbouring occupier. Given the distance from the neighbouring properties and the proposed landscaping it is not considered that the fenestration would give rise to significant overlooking. Therefore, no concerns are raised in relation to impact on neighbouring occupiers.

#### **5.4 Access, Parking and Highway Safety**

- 5.4.1 Adopted Policy T8 of the RLP seeks to ensure that appropriate off-street parking is provided in conjunction with new development. Likewise, Policy D1 of the LDP seeks to ensure that safe and secure vehicle parking is provided in accordance with the Council's adopted parking standards. The Parking Standards are expressed as maximum standards and Government guidance encourages the reduction in the reliance on the car and promoted methods of sustainable transport.
- 5.4.2 No alterations are proposed to the access arrangements as approved at the Outline and Reserved Matters stage and there are no new material planning considerations that would alter this stance. The area to the center of the site would accommodate off-street parking for four vehicles, two for each dwelling, in accordance with policy T8 of the Local Plan.

#### **5.5 Private Amenity Space and Landscaping**

- 5.5.1 Policy BE1 of the RLP requires that amenity space is provided that is appropriate to the type of development. In addition, the Essex Design Guide advises a suitable garden size for dwellings with two bedrooms is 50m<sup>2</sup>.
- 5.5.2 The change in orientation of plot 2 would result in a change of the shape and an increase in the size of the rear amenity space from 69m<sup>2</sup> to 72m<sup>2</sup>. No alterations are proposed to the size of the rear amenity space that would serve plot 1. Therefore, no concerns are raised.

#### **6. ANY RELEVANT SITE HISTORY**

- 16/01149/RES - Reserved matters application for the approval of appearance, landscaping and scale on approved application OUT/MAL/15/01254 (Erection of 2No. two bedroom properties with car parking and demolition of existing garage (resubmission). APPROVED 07.12.2016

- 15/01254/OUT - Erection of 2No. two bedroom properties with car parking and demolition of existing garage (resubmission) APPROVED 13.01.2016
- 15/00627/OUT - Outline planning permission for 2no. dwellinghouses REFUSED 23.09.2015.
- 14/00938/OUT - Outline planning permission with all matters reserved for the proposed erection of 3 no. two bedroom starter homes. WITHDRAWN 20.11.2014.

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### 7.1 **Representations received from Parish / Town Councils**

<b>Name of Parish Council</b>	<b>Comment</b>	<b>Officer Response</b>
Southminster	Refuse due to lack of pavement and poor visibility sight line. Any car parking at the site would need to be reversed onto the site so they would be able to drive out safely. Any construction vehicles would need to be parked on site due to traffic congestion/dangers and safety.	There are no changes to the proposed access from the previously approved scheme that was supported by the Parish Council. It should also be noted that the County Highways have not raised an objection and have raised no concerns in relation to Highway Safety.

### 7.2 **Statutory Consultees and Other Organisations (summarised)**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No objection subject to conditions.	Noted

### 7.3 **Internal Consultees (summarised)**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions.	Noted
Archaeology	No objection subject to conditions.	Noted

## 8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON:** To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in complete accordance with the approved drawings: 16/13/02 REV A, 16/13/03, 16/13/04 REV A, 16/13/05 REV A, 16/13/06 REV A.  
REASON: To ensure that the development is carried out in accordance with the details as approved.
3. The parking and turning area shall be carried out in accordance with drawing reference 16/13/02 dated September 2016 prior to the beneficial occupation of the development hereby approved and retained as such thereafter.  
REASON: In the interests of highway safety in accordance with policy T8 of the adopted Maldon District Replacement Local Plan, emerging policy T2 of the Submission version of the Local Development Plan and the guidance and principles of the NPPF.
4. The hard landscape works shall be carried out in accordance with drawing reference 16/13/05 dated September 2016 prior to the beneficial occupation of the development hereby approved. The soft landscape works shall be carried out in accordance with drawing reference 16/13/05 dated September 2016 within the first available planting season (October to March inclusive) following the commencement of the development. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.  
REASON: In the interests of local amenity in accordance with policy BE1 of the Maldon District Replacement Local Plan, D1 of the emerging Local Development Plan and guidance within the National Planning Policy Framework.

## **INFORMATIVE**

1. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO2 - Essex Highways,  
Springfield Highways Depot,  
Colchester Road,  
Chelmsford.  
CM2 5PU.

2. The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
  - a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
  - b) No dust emissions should leave the boundary of the site;
  - c) Consideration should be taken to restricting the duration of noisy activities

- and in locating them away from the periphery of the site;
- d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.





**REPORT of  
CHIEF EXECUTIVE**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017**

<b>Application Number</b>	<b>FUL/MAL/17/00437</b>
<b>Location</b>	White Horse Hotel, 20 North Street, Southminster
<b>Proposal</b>	Proposed replacement of barn and outbuildings with 2 Motel Style Rooms and 1 Manager's flat linked to the Public House
<b>Applicant</b>	Mr. V Heron
<b>Agent</b>	Ms. Sarah Threlfall - TMA Chartered Surveyors
<b>Target Decision Date</b>	16.06.2017 – E.O.T agreed until 21.07.2017
<b>Case Officer</b>	Julia Sargeant, TEL: 01621 875730
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Parish Trigger

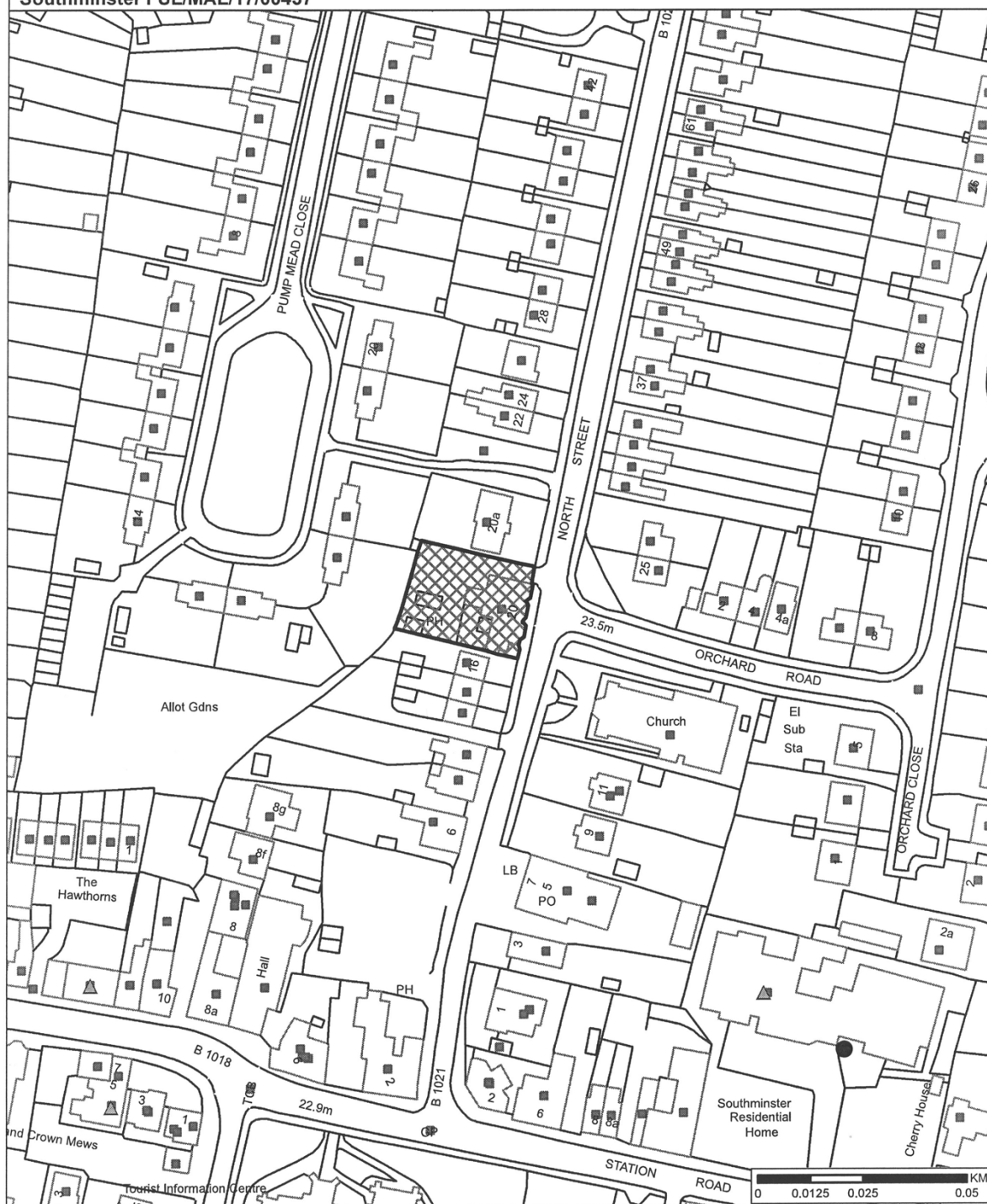
**1. RECOMMENDATION**

**APPROVE** subject to the conditions (as detailed in Section 8 of this report).

**2. SITE MAP**

Please see overleaf.

**White Horse Hotel - 20 North Street**  
**Southminster FUL/MAL/17/00437**



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 Maldon District Council 100018588 2014



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Planning Services

Comments: SE Committee

Date: 06/07/2017

MSA Number: 100018588

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 Planning permission is sought for the demolition of existing outbuildings to the rear of the White Horse Hotel and the erection of an accommodation block which would contain two motel style letting rooms and a manager's flat which would be occupied by the manager of the White Horse Hotel.
- 3.1.2 Currently on the site is a two and a half storey public house/hotel known as the White Horse Hotel which is positioned hard up against the public footway. The hotel has recently had planning permission granted under reference FUL/MAL/16/01012 for a two storey side extension. To the rear of the hotel is a yard area which contains two outbuildings as well as an area of hardstanding where a timber barn stood until it was destroyed by a fire in 2016.
- 3.1.3 The agent has submitted a statement in support of the application advising that the White Horse Hotel needs to diversify to ensure its long term viability. The proposal includes a flat for the Manager of the business. The agent has advised that the growth in the operation of the business, including the additional hotel rooms inside the building necessitates that appropriate accommodation is available for the Manager. The increased number of rooms for letting places greater emphasis on a member of staff being available on site at all times. Under the present arrangements the only overnight accommodation available for staff are the existing lettings rooms in the hotel which offers no privacy for staff and detracts from the potential income of the business.
- 3.1.4 The proposed accommodation block would be positioned along a section of the western boundary and would measure 13.7 metres wide by 6.6 metres deep for 8.1 metres of its length and 8.2 metres deep for the remaining 5.6 metres of its length. It would have a ridge height of 5.96 metres with dormer windows on the east facing elevation towards the rear of the hotel. The accommodation block would be constructed in brick with an eternity slate roof to the main section and upvc windows and doors.
- 3.1.5 The block would be split into three separate units of accommodation each containing a lounge/kitchen area and bathroom on the ground floor with a bedroom at the first floor. The larger unit of accommodation at the southern end of the row would form the accommodation for the hotel manager.
- 3.1.6 Planning permission was previously granted in 2001 for a similar scheme under reference FUL/MAL/01/00067 although this was never implemented.

#### **3.2 Conclusion**

- 3.2.1 It is considered that the proposed development, by reason of its scale and design would not harm the appearance or character of the immediate locality and would not materially harm the amenity of the neighbouring residents. In addition, the proposed development does not detrimentally impact on the provision of car parking and would

result in a boost to the local economy through additional tourist and business accommodation.

- 3.2.2 Overall it is considered that the proposal would represent a sustainable form of development and would not conflict with policies of the adopted Maldon District Replacement Local Plan, the emerging Local Development Plan or the core planning principles and guidance contained within the National Planning Policy Framework and the National Planning Practice Guidance.

#### **4 MAIN RELEVANT POLICIES**

Members' attention is drawn to the policy advice note at the beginning of this report.

##### **4.1 National Planning Policy Framework 2012 including paragraphs:**

- 17
- 19
- 56
- 58
- 59

##### **4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- S1 – Development Boundaries and New Development
- BE1 - Design of New Development and Landscaping.
- BE18 – Control of Development at a Site of Local Archaeological Value
- T8 - Vehicle Parking Standards.

##### **4.3 Maldon District Local Development Plan.**

The Maldon District Local Development Plan 2014-2029 was found to be sound, with modifications, by the Inspector, Mr. Simon Berkeley, as set out in his Report dated 30 June 2017. The Inspector's Report will now be considered by the Secretary of State who will make the final decision on the LDP's approval.

- S1 - Sustainable Development
- D1 - Design Quality and Built Environment
- D3 – Conservation and Heritage Assets
- E5 - Tourism
- T2 - Accessibility

##### **4.4 Relevant Planning Guidance / Documents:**

- National Planning Policy Guidance (NPPG)
- Essex Design Guide
- Car Parking Standards

## **5      MAIN CONSIDERATIONS**

### **5.1      Principle of Development**

- 5.1.1 The application site is located within the development boundary for Southminster where there is no objection in principle to new development. Furthermore one of the core planning principles within the National Planning Policy Framework (NPPF) is to support sustainable economic development. The NPPF also supports developments that widen the viability and vitality of town centres and providing visitor accommodation close to Southminster High Street will support activity in the area and local businesses, particularly in the evenings.
- 5.1.2 There are no specific policies within the adopted Local Plan which relate to hotel/guest accommodation within development boundaries. However submitted LDP policy E5 relates to Tourism and is relevant to this application. This policy states that The Council will be supportive of developments which contribute positively to the growth of local tourism in a sustainable manner.

### **5.2      Design and Impact on the Character of the Area**

- 5.2.1 The NPPF advises on good design and in paragraph 56 states that:

*‘The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.’*

- 5.2.2 Such design principles are dealt with by local plan policy BE1 which seeks to ensure that new development is compatible with its surroundings in terms of design, scale, layout, appearance and architectural style, and harmonise with the general character of the area in which they are set. It should be noted that design is not just about how buildings will appear visually but also how buildings function and relate to their surroundings, with regard to sustainable development. Submitted LDP policy D1 deals with design quality and the built environment and is applicable to the consideration of this application.
- 5.2.3 The proposed accommodation block would have a traditional appearance with low eaves and a low ridge height of just under 6 metres. It would appear subservient to the main hotel building whilst still referencing the architecture of the main building with the use of dormer windows and external materials. In terms of layout the accommodation block would be positioned directly behind the main hotel building along the western site boundary and would not be widely visible within the street scene. It is therefore considered that the proposed development would accord with adopted RLP policy BE1 and submitted LDP policy D1.

### **5.3      Impact on Residential Amenity**

- 5.3.1 RLP policy BE1 states that new development will be permitted if they are compatible with their surroundings, and/or improve the surrounding location in terms of the effect on the safety and or amenity of neighbouring properties or the occupiers therein. The

LDP policy relevant to this section is policy D1 which deals with Design Quality and Built Environment and considers similar residential amenity considerations.

- 5.3.2 The neighbouring properties to the application site are No.16 North Street to the south (which is under the same ownership as the application site), No. 20a North Street to the North and No.17 Pump Mead Close to the west.
- 5.3.3 The proposed development would not result in any materially harmful impacts to the occupiers of No. 20a North Street as the proposed accommodation block would be positioned 7.3 metres from the shared boundary and would not contain any windows within the north facing flank elevation. One of the parking spaces would be located adjacent to the shared northern boundary. However, given the limited vehicular movements which this proposal would generate, it is not considered that this would result in any significantly harmful impacts through noise and disturbance.
- 5.3.4 The accommodation block is proposed adjacent to the rear western boundary of the application site, with the majority of the block set approximately 1 metre from the boundary, which also forms the rear boundary to the garden associated with No. 17 Pump Mead Close. No.17 Pump Mead Close is positioned approximately 15 metres from the shared boundary. Due to the design of the proposed accommodation block with low eaves and the roof plane sloping away from No. 17 it is considered that the development would not result in an overbearing impact. No windows or rooflights are proposed within the rear of the proposed accommodation block and therefore the development will not result in any loss of privacy to the occupants of No. 17.
- 5.3.5 Looking at the potential impact upon the occupiers of No. 16 North Street it is considered that the proposal would not result in any overbearing impact or material loss of privacy due to the design of the building and it's positioning towards the rear of the garden of No.16.
- 5.3.6 In terms of land use the proposed accommodation block is considered to be appropriate within the predominantly residential area and it will not result in any materially harmful noise issues.

#### **5.4 Access, Parking and Highway Safety**

- 5.4.1 Adopted policy T8 states that new development will only be permitted if it makes provision for off-street parking in accordance with the District's adopted vehicle parking standards. The adopted parking standards for motel units is one space per bedroom.
- 5.4.2 Three off road parking spaces would be provided as part of the development which would accord with the adopted parking standards. Each motel room would have one space each and the manager's accommodation would also have one space which is considered appropriate for a one bedroom unit. Essex County Council Highways have advised that they have no comments to make on the application.
- 5.4.3 It is noted that the Parish Council have objected to the proposal due to '*lack of parking and traffic congestion within the village. The motel will have no parking for cars.*' However there is currently no off road parking for the hotel/public house and

the proposed new accommodation block will have three off road parking spaces which meets the adopted parking standards. There is therefore no objection to the development on parking grounds.

- 5.4.4 The vehicular access to the proposed development will be the existing vehicular access point to the rear courtyard area. No objection is raised to this access.

## **5.5 Private Amenity Space and Landscaping**

- 5.5.1 The proposed accommodation block would be situated to the rear of the existing White Horse Hotel, replacing existing outbuildings within the rear courtyard area. The area currently has a rather run down appearance and the erection of the accommodation block would result in an improvement to the overall appearance of the area.
- 5.5.2 No details of the hard landscaping to the area around the accommodation block and for the parking area have been submitted; this can be controlled by a planning condition to ensure they are appropriate. No additional soft landscaping is proposed as part of the development. However, given the limited space to the rear of the existing White Horse Hotel and the requirement for off street parking provision there is limited space for any additional planting.
- 5.5.3 No amenity space is proposed to serve the development; however, there is no requirement for outside amenity space to serve the hotel accommodation. In terms of the manager accommodation it is considered acceptable for no private amenity space to be provided as the accommodation is a small one bedroom unit and would not be occupied by a family. Furthermore the White Horse Hotel is situated in a sustainable location close to King George V Playing Fields and local allotment gardens. Any future occupier would therefore have access to public outdoor space in the locality.

## **5.6 Archaeology**

- 5.6.1 The proposed development is located within the historic core of Southminster, at the point where the medieval settlement expanded northwards in the post-medieval period. The 1st edition OS map shows that the hotel extended to the rear of the current building. It is probable that archaeological deposits relating to the development of both the historic settlement and the hotel itself will be disturbed or destroyed by the proposed development
- 5.6.2 Archaeological deposits are both fragile and irreplaceable and any approved development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent. It is recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent. This is in line with advice given in the National Planning Policy Framework Paragraphs 139 and 141.

## 5.7 Other Material Considerations

- 5.7.1 The Environmental Health Officer has advised that the additional letting rooms provided should not be used as permanent living accommodation and a condition is recommended to that effect. This condition is considered to meet the relevant tests set out in the NPPF (para 206) as the permanent occupation of the units as independent units of accommodation would not be considered appropriate. It is also considered that the proposed managers accommodation should be tied to the White Horse Hotel as otherwise the permanent occupation of the unit would not be considered acceptable.

## 6 ANY RELEVANT SITE HISTORY

FUL/MAL/01/00067 - Proposed demolition of outbuildings and the erection of a new building to include three bedroom units for overnight accommodation and a utility room – Approved - 29.03.2001

FUL/MAL/01/00586 - Demolition of existing single storey side projection and erection of a two storey extension to provide kitchen and 2 bedrooms together with fire escape. – Approved - 24.10.2001

FUL/MAL/16/01012 - Two storey side extension. Revision following previously approved scheme under reference FUL/MAL/01/00067 – Approved - 26.10.2016

FUL/MAL/17/00045 - Proposed replacement of barn and outbuildings with motel style rooms linked to the Public House together with change of use of part of garden of Number 16 North Street and demolition of garage to permit creation of a Manager's Flat – Withdrawn - 28.03.2017

## 7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	Recommend refusal of the application due to lack of parking and traffic congestion within the village. The motel will have no parking for cars. Concerns raised regarding congestion in North Street, which is adjacent to this property	Noted – please see section 5.4 of report.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other	Comment	Officer Response
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Agenda Item no. **7**



<b>Organisation</b>		
Essex County Council Highways	No comments to make on the application.	Noted

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Archaeology	<p>It is probable that archaeological deposits relating to the development of both the historic settlement and the hotel itself will be disturbed or destroyed by the proposed development.</p> <p>It is recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent.</p>	Please see section 5.6 of report.
Environmental Health	No objection in principle to this application. Advises that the additional letting rooms provided should not be used as permanent living accommodation and a condition is recommended to that effect.	Please see section 5.7 of report.

## 8 **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON:** To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice as well as the submitted detailed specifications.  
**REASON:** To ensure that the development is carried out in accordance with the details as approved in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and policy D1 of the submitted Maldon District Local Development Plan.
3. No development shall commence until full details of the new brickwork, including brick type, the bond, mix and colour of the mortar has been submitted to and

approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.

REASON: To ensure the external appearance of the development is appropriate to the locality in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and policy D1 of the submitted Maldon District Local Development Plan

4. No development shall commence until details of the materials to be used for the hard surfacing of the site have been submitted to and approved in writing by the local planning authority. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority.

REASON: To ensure the external appearance of the development is appropriate to the locality in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and policy D1 of the submitted Maldon District Local Development Plan.

5. The development hereby permitted shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area(s) shall be retained in this form at all times. The vehicle parking area(s) shall not be used for any purpose other than the parking of vehicles that are related to the use of the approved development unless otherwise agreed with the Local Planning Authority.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with policy T8 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and policy T2 of the submitted Maldon District Local Development Plan.

6. A) No demolition/development or groundworks shall commence until a Written Scheme of Investigation, in response to an archaeological brief, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

REASON: To protect the site which is of archaeological interest in accordance with policy BE18 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and Policy D3 of the submitted Maldon District Local Development Plan.

7. The manager's accommodation unit shall not be occupied other than by a person solely or mainly employed, or last employed in the business The White Horse Hotel a widow or widower of such a person, or any resident dependants.  
REASON: To ensure the appropriate use of the manager's accommodation in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and Policies D1 and E5 of the submitted Maldon District Local Development Plan..
8. The accommodation block hereby permitted shall be used for those purposes ancillary to the use of 'The White Horse Hotel' and not as a separate or independent unit of residential accommodation.  
REASON: To ensure that the accommodation remains ancillary to 'The White Horse Hotel' and does not create a separate or independent unit in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and Policies D1 and E5 of the submitted Maldon District Local Development Plan.
9. The owners/operators of the White Horse Hotel shall maintain an up to date register of the names of all occupiers of individual holiday/motel accommodation units on the site together with their dates of arrival and departure, and main home addresses. The register shall be made available at all times for inspection and copying by the local planning authority for recording keeping purposes  
REASON: To ensure that the accommodation remains ancillary to 'The White Horse Hotel' and does not create a separate or independent unit in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and Policies D1 and E5 of the submitted Maldon District Local Development Plan.
10. No individual unit of holiday/motel accommodation shall be occupied by the same person or persons for a period exceeding 28 days duration.  
REASON: To ensure that the accommodation remains ancillary to 'The White Horse Hotel' and does not create a separate or independent unit in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and Policies D1 and E5 of the submitted Maldon District Local Development Plan.

## **INFORMATIVE**

- 1 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
  - a. No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
  - b. No dust emissions should leave the boundary of the site;
  - c. Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
  - d. Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

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**REPORT of  
CHIEF EXECUTIVE**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017**

<b>Application Number</b>	<b>FUL/MAL/17/00439</b>
<b>Location</b>	Units 6-8 and 9-10 Hall Road Industrial Estate, Hall Road, Southminster
<b>Proposal</b>	Proposed replacement of light industrial/business buildings with 10 dwelling houses
<b>Applicant</b>	Mr Paul Laycock - Hall Road Developments Ltd
<b>Agent</b>	Ms Sarah Threlfall - TMA Chartered Surveyors
<b>Target Decision Date</b>	21.07.2017
<b>Case Officer</b>	Julia Sargeant, TEL: 01621 875851
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Major Application

**1. RECOMMENDATION**

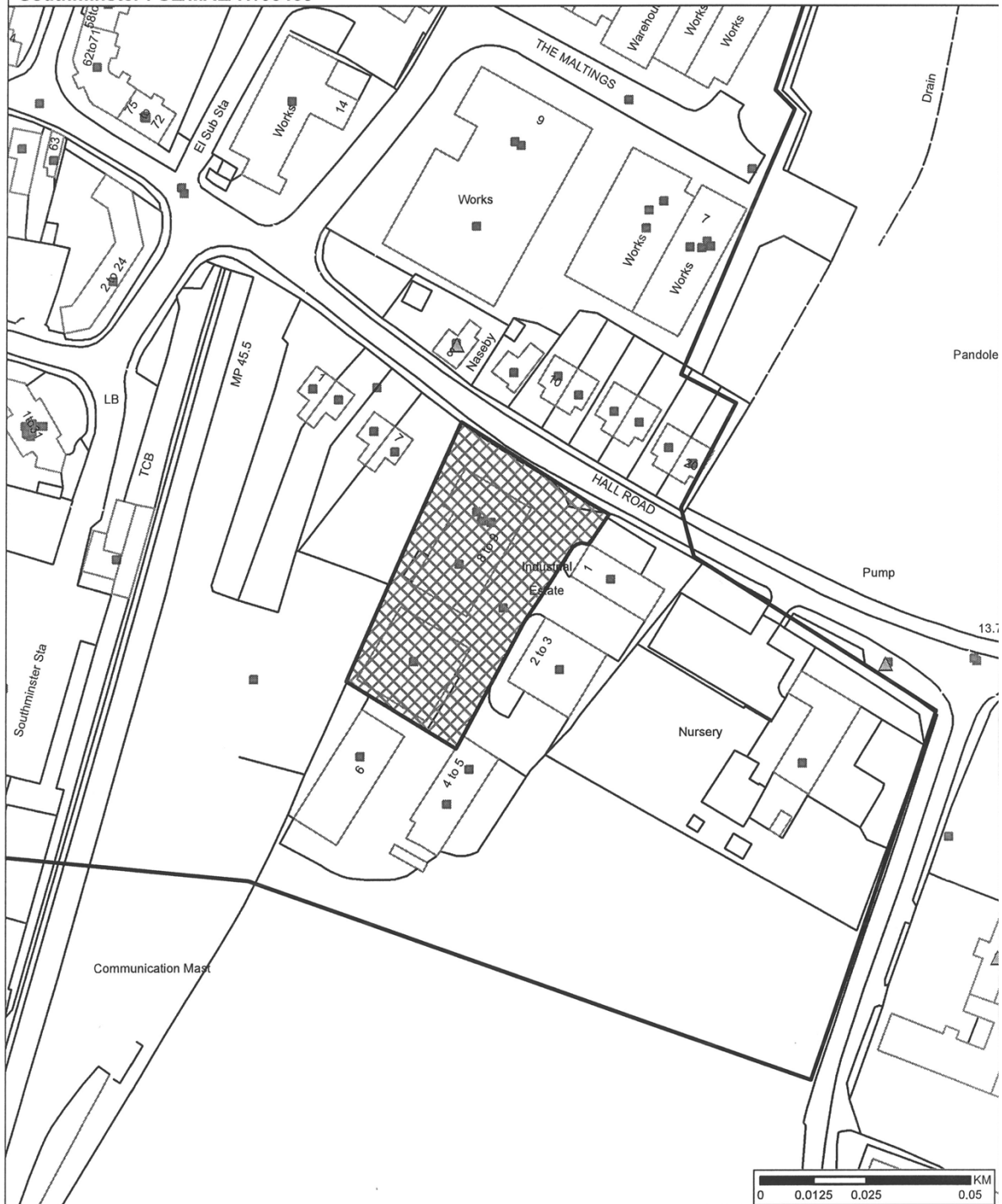
**REFUSE** for the reasons as detailed in Section 8 of this report.


**2. SITE MAP**

Please see overleaf.

# Units 6-8 And 9-10 Hall Road Industrial Estate - Hall Road

## Southminster FUL/MAL/17/00439



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	Organisation:	Maldon District Council
	Department:	Planning Services
	Comments:	SE Committee
	Date:	06/07/2017
	MSA Number:	100018588
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### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 Planning permission is sought for the demolition of the existing industrial units and the erection of ten residential dwellings. The application site is located within the Hall Road Industrial Estate which is an allocated employment site as per policy E1 of the adopted Maldon District Replacement Local Plan (RLP) and policy E1 of the submitted Maldon District Local Development Plan (LDP). The application site is also located within the development boundary for Southminster.
- 3.1.2 The application site comprises the north western section of the Hall Road Industrial Estate and contains two single storey industrial buildings, each of which are subdivided into separate units as well as the main access road. One of the industrial units fronts faces onto Hall Road as well as the internal access road with the second one located centrally within the industrial estate facing onto the access road. The existing industrial unit which fronts onto Hall Road is known as units 9-10 and is a prefabricated building which was partially occupied at the time of the site visit. The second industrial unit is known as units 6-8 and is of metal profile sheeting construction and has suffered fire damage and is unoccupied.
- 3.1.3 To the east and south of the application site is the remainder of the Hall Road Industrial Estate which contains four further industrial buildings forming five units in total. The majority of the remainder of the units are occupied with businesses operating from the site including R Glass Ltd, Southminster MOT & Service Centre Ltd and R And F Insulations Limited.
- 3.1.4 To the west of the application site is a row of four semi-detached two storey dwellings with Southminster railway station located beyond them. Opposite the application site on the northern side of Hall Road is a row of two storey residential dwellings, the majority of which are semi-detached.
- 3.1.5 The proposed development would replace the existing industrial units with ten residential dwellings. The dwellings would be erected in two blocks, one facing north across Hall Road which would contain four dwellings, and one facing east into the industrial estate which would contain six dwellings. The dwellings would contain integral garages with accommodation set over three floors. They would be constructed with a brick finish, anthracite grey windows, timber doors and a flat roof with a parapet wall. The proposed dwellings are of a modern design with an industrial appearance.
- 3.1.6 The block of four dwellings fronting onto Hall Road (units 1-4) would measure 23.26m across with the mid terrace buildings measuring 5.75m wide and the end terraces 5.88m wide by 12.3m deep with the roof reaching a maximum height of 8.75m. The block of six dwellings fronting into the industrial estate (units 5-10) would measure 34.76m across with the mid terrace buildings measuring 5.75m wide and the end terraces 5.88m wide by 13.1m deep with the roof reaching a maximum height of 8.75m.

- 3.1.7 Units 1-4 would each benefit from a single integral garage at ground floor level as well as a kitchen/diner and wc. At first floor level there would be a large living room with Juliet balcony to the rear and at second floor level there would be three bedrooms and a bathroom. The third bedroom is marked as a home study or bedroom. Each dwelling would have a further off road parking space to the front on a driveway and a rear private amenity space is proposed to the rear which would measure between 45 m<sup>2</sup> and 63 m<sup>2</sup>.
- 3.1.8 Units 5-10 would each benefit from a double integral garage at ground floor level as well as a snug and wc. At first floor level there would be a living room as well as kitchen/diner with Juliet balcony to the rear serving the kitchen/diner and at second floor level there would be three bedrooms and a bathroom. The third bedroom is marked as a home study or bedroom. Each dwelling would have a private rear amenity space measuring between 36 m<sup>2</sup> and 54 m<sup>2</sup>.

### **3.2 Conclusion**

- 3.2.1 The main issue is whether the development can be considered to be sustainable by way of meeting all three dimensions as set out in Paragraph 7 of the NPPF. However, this proposal does not meet the economic, social or environmental dimensions of sustainable development for the reasons set out below.
- 3.2.2 In terms of the economic dimension of sustainable development the proposal would result in the loss of part of an allocated employment site for residential development. Having regard to the guidance within the NPPF, the RLP policies and the LDP policies it is considered that the loss of part of an allocated employment site for a residential development is not justified in this instance.
- 3.2.3 In terms of the social dimension of sustainable development the application is not offering any affordable housing, would result in adverse impacts upon the occupiers of neighbouring dwellings and would potentially result in future occupiers being subject to unacceptable levels of noise which would be detrimentally harmful to their residential amenity.
- 3.2.4 When considering the environmental dimension of sustainable development it is necessary to look at the environment of the application site and how the proposed development would impact upon it. In this instance the proposed development would not respond to the existing character of the area or the local context and would not harmonise with the character of the area. Due to the unsympathetic design, appearance, scale and bulk of the proposal the development would appear dominant within the street scene and would have an unacceptable impact on the character of the site and surrounding area
- 3.2.5 When considering the test set out in paragraph 14 of the NPPF it is considered that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of the proposal.
- 3.2.6 Overall it is considered that the proposal would not represent a sustainable form of development and would conflict with policies of the adopted Maldon District Replacement Local Plan, the submitted Local Development Plan as well as the core



planning principles and guidance contained within the National Planning Policy Framework and the National Planning Practice Guidance.

#### **4 MAIN RELEVANT POLICIES**

Members' attention is drawn to the policy advice note at the beginning of this report.

##### **4.1 National Planning Policy Framework 2012 including paragraphs:**

- 7, 14, 17, 19, 21, 22, 50, 56, 58, 60, 61, 64, 123

##### **4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- S1 – Development Boundaries and New Development
- CON5 – Pollution Prevention  
CON6 – Contamination
- CC5 – Protection of Wildlife at Risk on Development Sites
- H1 – Location of New Housing
- H6 – Housing Density
- H9 – Affordable Housing
- E1 – Protection of Existing Allocated Employment Areas
- E6 – Protection of Existing Employment Uses
- BE1 - Design of New Development and Landscaping.
- T1 – Sustainable Transport and Location of New Development
- T2 – Transport Infrastructure in New Developments
- T8 - Vehicle Parking Standards.

##### **4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:** The Maldon District Local Development Plan 2014-2029 was found to be sound, with modifications, by the Inspector, Mr. Simon Berkeley, as set out in his Report dated 30th June 2017. The Inspector's Report will now be considered by the Secretary of State who will make the final decision on the LDP's approval.

- S1 - Sustainable Development
- D1 - Design Quality and Built Environment
- E1 - Employment
- H1 – Affordable Housing
- H2 – Housing Mix
- H4 – Effective Use of Land
- N2 - Natural Environment and Biodiversity
- T1 – Sustainable Transport
- T2 - Accessibility

##### **4.4 Relevant Planning Guidance / Documents:**

- National Planning Policy Guidance (NPPG)

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- Essex Design Guide
- Car Parking Standards

#### **4.5 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing**

- 30% Affordable Housing

### **5 MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 The starting point for assessing this application is the development plan in force for the District which is the Maldon District Replacement Local Plan (RLP). Strategically the site is located within the defined development boundary of Southminster where RLP policy S1 allows for development. The application site is also located within the Hall Road Industrial Estate which is a protected employment site under RLP policy E1. This employment allocation identifies that this site would be appropriate for B1 and B2 uses. Policy E1 states that allocated employment sites will be reserved for employment development. RLP policy E6 deals with the protection of existing employment uses and therefore the re-development of the site which involves the loss of the existing employment use and redevelopment with residential will have to be assessed against this policy.
- 5.1.2 The NPPF (paragraph 216) states that decision makers should give weight to relevant policies in emerging plans according to the stage of preparation, the extent of unresolved objections to relevant policies, and the degree of consistency with the NPPF.
- 5.1.3 The Maldon District Local Development Plan (LDP) has completed the Submission Examination stage. The January 2017 Examination was in respect to matters not Examined at the first Examination, and matters that arose from the Main Modifications Consultation in September 2016.
- 5.1.4 The Maldon District Local Development Plan 2014-2029 was found to be sound, with modifications, by the Inspector, Mr. Simon Berkeley, as set out in his Report dated 30th June 2017. The Inspector's Report will now be considered by the Secretary of State who will make the final decision on the LDP's approval.
- 5.1.5 At this time it is considered that the Plan is at an advanced stage and can be afforded significant weight.
- 5.1.6 LDP policy E1 retains the application site as part of an allocated employment site and identifies the appropriate uses for the site as B1, B2 and B8. This policy goes on to state that designated employment areas will be retained and protected for Class B uses unless it can be demonstrated that there is no reasonable prospect for the site to be used for these purposes. The development will therefore, be assessed against this policy as well as the adopted RLP policies in relation to loss of employment land.

- 5.1.7 The proposal also has to be considered under national planning guidance and within the NPPF there is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s changes to the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF. The development therefore has to be assessed as a whole to determine whether it represents sustainable development.

## 5.2 Sustainability

- 5.2.1 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where the development plan is ‘absent, silent or relevant policies are out of date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’.
- 5.2.2 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through the pre-amble to policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan.
- 5.2.3 The application site is located within the parish of Southminster which is defined within the LDP as a larger village. The LDP defines a larger village as ‘*defined settlements with a limited range of services and opportunities for employment, retail and education. They serve a limited local catchment and contain a lower level of access to public transport.*’
- 5.2.4 Economically the construction phase of the development would provide employment and the development itself would provide 10 dwellings with residents that will financially contribute to the local economy. However the proposed development would result in the loss of the existing employment units which have a floorspace of 900m<sup>2</sup> and the issues associated with the loss of these employment units is explored in detail further below.
- 5.2.5 Socially the proposal would provide additional dwellings within the town of Southminster. However, the provision set out in the submitted LDP policy H1 requires a provision of 30% affordable housing as the floor area of the proposed dwellings exceeds 1,000m<sup>2</sup>. The development is not offering any affordable housing, but instead is offering 40% of the dwellings to be offered to local residents first (as nominated by the Parish Council) and the issues associated with this is explored further below.
- 5.2.6 In environmental terms the application site comprises previously developed brownfield land with existing buildings and hardstanding on site. One of the units is still currently occupied and appears in relatively good repair, although it is dated in appearance. However the second unit has suffered fire damage and is unoccupied.

There were areas of the second unit which were open to the elements with planting in and around with some biodiversity benefits. Subject to appropriate planning conditions the proposal is likely to have a negligible impact on ecological resources.

- 5.2.7 Environmentally the accessibility of the site also needs to be considered. Paragraph 37 of the NPPF states that planning policies (and hence planning decisions) should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities. The NPPF also requires local planning authorities to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 5.2.8 Southminster has a good range of services and facilities with a selection of shops and an employment area located close to the application site. The High Street and associated amenities is located approximately 500 metres from the application site, with the local primary school approximately 700 metres from the application site. Southminster is served by a number of bus routes as well as benefiting from being on a train line with links to London. The train station located to the west of the application site. Future residents would therefore have access to a range of services and facilities as well as public transport links.
- 5.2.9 Having regard to the above the site is considered acceptable in terms of access to services and facilities.
- 5.2.10 The issue whether the proposed development is considered to be sustainable in accordance with all three principles set out in the NPPF will be examined fully within the contents of this report.

### **5.3 Loss of Allocated Employment Land**

- 5.3.1 From the RLP Proposals Map the application site is shown as a protected allocated employment site where RLP policy E1 would apply. This employment allocation identifies that this site, which falls within the Hall Road employment area on the Proposals Map, would be appropriate for B1 and B2 uses. RLP Policy E1 states that allocated employment sites will be reserved for employment development. The LDP policy E1 retains this site as a protected employment site and states that the site is appropriate for B1, B2 and B8 uses.
- 5.3.2 The application site currently contains 2 existing single storey buildings which are subdivided into five separate units. Currently the site provides 900m<sup>2</sup> of internal floorspace for B use employment. One of the existing buildings has suffered fire damage and is unoccupied and in poor condition. The second building is dated but appears in reasonable condition and is partially occupied.
- 5.3.3 The proposal would result in the loss of all the employment floorspace on the application site and its replacement with ten residential dwellings. RLP Policy E6 and submitted LDP policy E1 deal with the protection of existing employment uses and therefore the re-development of the site which involves the loss of the existing employment use will have to be assessed against these policies. Furthermore, as part

of the LDP it has been acknowledged that the District requires a greater amount of employment generating land.

- 5.3.4 For this site the RLP and LDP position is clear in that planning applications for development should only be permitted for employment purposes if they accord with the allocated use class. The site is specifically allocated for B1, B2 and B8 employment uses (with Sui Generis uses of an employment nature also acceptable). The site should therefore, only be used for employment purposes to accord with the RLP as well as the LDP. Furthermore the LDP policies have been prepared in line with the NPPF requirements and are supported by a comprehensive and up-to-date evidence base, Sustainability Appraisal and extensive public consultation.
- 5.3.5 Paragraph 19 of the NPPF states that *“the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system”*. Through paragraph 22 of the NPPF it states that: *“planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”*.
- 5.3.6 The Employment Evidence and Policy Update (July 2015) assess the Hall Road Industrial Estate in Southminster and gives it a composite market appeal score of 17.5 out of 30 and advises that it should be retained as a local employment centre. The Policy Update further advises that there are a limited number of employment sites spread throughout the District, which is due to the dispersed nature of local employment. Any decrease in the number of these sites would have a detrimental impact on the ability of the area to provide opportunities for businesses in the District to start up and grow. This is particularly important given the district’s greater reliance on smaller businesses rather than larger ones. Furthermore, the study concluded that there is an identified need for eleven ha more employment land within the District and emerging Policy E1 sets out an intention to identify and allocate additional sites. Both saved Policy E6 and emerging Policy E1 therefore seek to resist the loss of existing employment sites unless at least one of a series of criteria is met.
- 5.3.7 RLP E6 states that development which would cause the loss of an employment site will not be permitted unless certain criteria are met. The criteria relate to harming the character and amenities of the area, the benefits of the alternative use proposed to the community and the marketing that has been undertaken. Emerging policy E1 also has similar criteria for the loss of an employment site.
- 5.3.8 The present use of the site does not irreparably harm the character and amenities of the adjacent area. The buildings are already in existence and do not harm the character of the surrounding area. The site is located within a protected employment zone where B1, B2 and B8 uses are considered acceptable in principle.

- 5.3.9 RLP E6 allows the loss of existing employment uses where the site would have a greater benefit to the community if an alternative use were permitted. The explanatory text to Policy E6 states this could be through provision of local services, community and leisure facilities reference is also made to the provision of affordable housing. The current proposal would provide a new residential development which would include market housing but no affordable housing; market housing is not regarded as an appropriate alternative use under Policy E6.
- 5.3.10 RLP E6 requires evidence of marketing of the application site for at least three months and that there is a confirmation of a lack of interest. Emerging LDP policy E1 has a similar approach to protecting employment uses to RLP policy E6, although the requirements for marketing takes a long term view of the site and states that the marketing should also take into account the potential for the site to form a redevelopment opportunity for other Class B uses or Sui Generis uses of an employment nature. LDP policy E1 also goes on to state that it should be 'demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for employment use.'
- 5.3.11 A planning statement relating to emerging employment policy E1 has been submitted in support of this application. Within this statement it states '*Units 6-8 and 9-10 Hall Road Industrial Estate, Southminster were first placed on the market for sale in September 2015. Surveys of the buildings indicated that the fire damaged Units 6-8 would need to be redeveloped and since Units 9-10 were no longer economically viable the site was acquired at a value based on its future redevelopment potential.*' The report concludes that in relation to marketing '*The site has been marketed effectively at a rate which is comparable to local market value for its exiting use, or as redevelopment opportunity for other Class B uses or sui generis uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into the account the site's existing and potential long term market demand for an employment use.*' The submitted statement also goes on to criticise The Employment Evidence and Policy Update (July 2015) in terms of its assessment of the Hall Road Industrial site as well as conclude that as '*The Hall Road Industrial Estate at Southminster comprises less than 1% of the existing employment land in the district of Maldon and it is therefore immaterial to the future economic prosperity of the district.*'
- 5.3.12 No specific details of the marketing exercise such as the price asked, dates of the marketing, or means of marketing have been submitted. Furthermore it is not clear if all the units were marketed together or independently, or whether they have been marketed for lease as well as sale. When the application site was visited there were some marketing boards up advertising property for sale but this did not relate to the entire application site and no further details have been submitted. The marketing details submitted therefore are not sufficient to meet the criteria of RLP policy E6 or emerging LDP policy E1.
- 5.3.13 Although the site is relatively small in comparison to other employment sites it is important to the economic prosperity of the District to retain existing employment sites unless it can be demonstrated that they are no longer required (as per policy E6 and emerging LDP policy E1), which has not been done in this instance.

Furthermore, there is a need for employment generating sites of varying size and scales to maintain a thriving and prosperous economy in the District. Part of the application site is still occupied and the remainder of the employment site is almost all occupied by existing businesses. Within a recent appeal decision relating to the loss of one rural employment unit at the Old Dairy in Great Totham, which was not allocated, the Inspector stated *‘the loss of any site which is currently operating as B1/B2/B8 uses requires clear and substantive justification.’*

- 5.3.14 Furthermore, a more recent appeal decision at the Blackwater Marina (FUL/MAL/16/00814) the Inspector stated that *“the proposed dwellings would not be a greater benefit to the local community, the first 2 criteria in LP Policy E6 and ELP Policy E1 would not be met”* and would result in an “unacceptable loss of land in employment use” and *“contrary to the Framework, which aims to encourage sustainable economic growth”*.
- 5.3.15 The agent has referred to the granting of planning consent in 2013 under the reference OUT/MAL/12/00437 at the former South West Business Park, Scotts Hill, Southminster for residential development. However these developments are materially different and consent OUT/MAL/12/00437 was granted when the council could not demonstrate a five year housing land supply. This decision is considered to be of limited weight when determining this application.
- 5.3.16 Overall, having regard to the guidance within the NPPF, RLP policies and the LDP policies it is considered that the loss of the allocated employment site for residential development is not justified in this instance. The application therefore fails the economic test of sustainability as set out in the NPPF.

## **5.4 Housing Land Supply**

- 5.4.1 Paragraph 47 of the NPPF requires local planning authorities to identify an annual supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer as appropriate to comply with national policy.
- 5.4.2 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years’ worth of housing against the Council’s identified housing requirements. The latest FYHLS statement was published in August 2016 and supersedes the previous version dated July 2015.
- 5.4.3 The Statement concludes that 2,353 dwellings are deemed to be deliverable over the next five years (including an allowance for a 5% local slippage rate which has been applied to the total number of housing deemed deliverable in the next five years). Assessed against the requirement to deliver 1,946 dwellings in the next five years based on the District’s objectively assessed needs for housing (including a 5% buffer which has been applied in accordance with NPPF paragraph 47) and shortfall in delivery since 2014, the District can currently demonstrate 6.04 years supply of housing land. This represents a significant improvement to the previous assessment in the May 2016 Planning Policy Advice Note.

- 5.4.4 Since the Council published the July 2015 FYHLS Statement, in the 16 appeals where the Council's FYHLS position has been determined, 11 appeals concluded that the Council could demonstrate a FYHLS. The updated August 2016 FYHLS Statement will further strengthen the Council's FYHLS position.
- 5.4.5 The Council can therefore demonstrate 6.04 years housing land supply against its identified housing targets.
- 5.4.6 As such, the Council is satisfied that the current Five-Year Housing Land position means that Paragraph 49 on the NPPF is not engaged and planning applications should now be considered on this basis. With a demonstrable housing land supply, the Council is in a stronger position to refuse development proposals which do not accord with the Local Development Plan (LDP), and importantly a stronger position to refuse applications which could threaten the delivery of sites allocated in the LDP and associated infrastructure. This position however does not automatically prohibit all development outside of settlement boundaries. Planning applications should be assessed on their own merits, taking into account relevant planning policies in the adopted local plan, LDP, NPPF and other material considerations.

## **5.5 Housing Need, Mix and Affordable Housing**

- 5.5.1 There are no policies in the current Local Plan regarding housing mix but the submitted LDP policy H2 on housing mix requires all development *'to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable section, particularly for the ageing population'*. The Strategic Housing Market Assessment (SHMA) provides the evidence base to the policy. Paragraph 50 of the NPPF requires local authorities to *"plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community"* and *"identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand"*.
- 5.5.2 The Council's Strategic Housing Market Assessment (SHMA) identifies that for all housing types one and two bedroom units are required to balance the District's housing stock, which currently provides an unbalanced number of large dwellings. This is particularly relevant for affordable housing units where one and two bedroom units are required. For market sector housing this includes one, two and three bedroom units with a surplus of four bedroom plus units in the District.
- 5.5.3 The proposed development would provide ten, three bedroom properties of a townhouse design and form. The proposed dwellings would have a combined floor area of over 1,000m<sup>2</sup> and as per emerging policy H1 would need to provide 30% affordable housing to be policy compliant. The scheme as it stands does not currently offer any affordable housing, and instead offers heads of terms to ensure that four units (40% of the proposed dwellings) are offered initially for sale to local people or those with strong local connections. This does not meet the policy requirements of emerging LDP policy H1 and the proposal to offer 40% of the units for sale to local people initially is not a requirement of RLP or LDP policy and would not meet the tests set out in paragraph 204 of the NPPF.



- 5.5.4 Failure to meet the requirements of LDP policy H1 represents a departure from the Council's evidenced need for affordable housing provision in this part of the District.
- 5.5.5 It is considered that policy H1 of the LDP can be given significant weight due to the advanced stage of the LDP and in this location; the LDP policy H1 requires 30% affordable housing to be provided, to meet the Council's strategic objectives on affordable housing and the needs of the present and future generations of the District. As the proposal offers no affordable housing the application is unacceptable on the basis of the lack of affordable housing provision. The application therefore fails the social test of sustainability as set out in the NPPF.
- 5.5.6 It is understood that the applicant is currently in discussion with Strategic Housing regarding the affordable housing position and any update will be provided via members update.

## **5.6 Layout, Scale, Design and Impact on Character and Appearance of the Area**

- 5.6.1 The NPPF advises on good design and in paragraph 56 states that:

*'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'*

- 5.6.2 Such design principles are dealt with by local plan policy BE1 which seeks to ensure that new development is compatible with its surroundings in terms of design, scale, layout, appearance and architectural style, and harmonise with the general character of the area in which they are set. It should be noted that design is not just about how buildings will appear visually but also how buildings function and relate to their surroundings, with regard to sustainable development. Submitted LDP policy D1 deals with design quality and the built environment and is applicable to the consideration of this application.
- 5.6.3 The proposed residential development would take the form of modern flat roofed three storey townhouses split into two blocks. One block would front directly onto Hall Road and the second into the industrial estate.
- 5.6.4 The area surrounding the application site is a mix of residential and commercial with the site being located within the Hall Road Industrial Estate and in close proximity to the Maltings Industrial Estate. Directly opposite the application site is a row of predominantly semi-detached two storey dwellings which appear to date from approximately the 1970's with two detached dwellings, one of which is a Grade II listed dwelling (No.8 Hall Road) which is currently being restored by the owner. Adjacent to the site on the southern side of Hall Road is a further row of two storey semi-detached dwellings with front dormer windows which appear to date from the 1920/30's. Within this area of Hall Road the built form is a mixture of single storey and two storey. Further west where Hall Road meets Station Road there is a modern three storey residential development. It is clear when travelling east along Hall Road that when you reach the application site you are reaching the edge of the settlement as

development becomes of a lower density, set back further from the highway, with more soft landscaping.

- 5.6.5 The proposed development would introduce a development of significant scale and bulk into the street scene. The block of residential units proposed facing onto Hall Road would measure 23.26 metres wide reaching up to a height of 8.75 with a flat roof. The block facing into the industrial estate would also be highly visible from Hall Road and would measure 34.76 metres wide also reaching 8.75 metres in height with a flat roof. The proposed dwellings are of a modern design with an industrial appearance, however design and form of the proposed dwellings makes no reference to the existing character of the area or existing built form.
- 5.6.6 The NPPF at paragraph 60 states that '*planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative...*' in this instance it is not considered that the proposed development is innovative or original. Furthermore paragraph 60 goes on to state that '*it is, however, proper to seek to promote or reinforce local distinctiveness.*'
- 5.6.7 The proposed dwelling would appear as a large and visually bland form of development. The architectural style is of limited merit and lack visual interest. The elevation treatment has limited architectural detailing to break up the built form and expanse of development and whilst it is noted that the application has proposed a combination of materials; the minimal set back and location is not considered to have resulted in a cohesive development that would offer betterment to the character and appearance of the area.
- 5.6.8 The proposed development would not respond to the existing character of the area or the local context and would not harmonise with the character of the area. Due to the unsympathetic design, appearance, scale and bulk of the proposal the development would appear dominant within the street scene and would have an unacceptable impact on the character of the site and surrounding area. The proposed development is therefore contrary to RLP policy BE1 and submitted LDP policy D1.

## **5.7 Impact on Residential Amenity**

- 5.7.1 RLP policy BE1 states that new development will be permitted if they are compatible with their surroundings, and/or improve the surrounding location in terms of the effect on the safety and or amenity of neighbouring properties or the occupiers therein. The LDP policy relevant to this section is policy D1 which deals with Design Quality and Built Environment and considers similar residential amenity considerations.
- 5.7.2 The nearest residential neighbouring properties to the application site are the row of semi-detached dwellings to the west with No. 7 Hall Road being the immediate neighbour to the west as well as the residential dwellings opposite (No's 8-20 (even) Hall Road).
- 5.7.3 When looking at the development in terms of the proposed land use and in terms of noise and disturbance the proposed development is unlikely to give rise to any more noise and disturbance than the existing lawful use of the site. Construction noise and disturbance could be minimised through a construction management condition.

- 5.7.4 Looking at the impact of the development upon the dwellings on the opposite side of the road it is considered that the proposal would not result in any materially harmful impacts due to the distance between the development and the existing dwellings and because any views would be towards the front of the existing dwellings which are already visible within the public domain.
- 5.7.5 Looking at the impact of the development upon the occupiers of No. 7 Hall Road it can be seen that the proposed block of four dwellings fronting onto Hall Road would be positioned between 1.9 and 3.3 metres from the shared boundary of the site with plot 4 proposed closest to No. 7. This boundary is currently relatively open at the front as it appears that a row of mature trees have recently been cut down to a height of approximately 1.8 metres. No. 7 Hall Road is itself set between 9 and 10 metres from the shared boundary.
- 5.7.6 Two windows are proposed within the west facing elevation of plot 4 which would serve the living room at first floor level and the bathroom at second floor level. These would allow views directly into the garden of No. 7 Hall Road and towards existing windows within the east facing flank elevation of No. 7 Hall Road. As the windows proposed within the side elevation of the development either serve a non-habitable room or are not the primary window to the room they could be conditioned to be obscure glazed and fixed shut (with the exception of a top hung fanlight). However, this would not address the perceived loss of privacy which would occur towards the occupants of No. 7.
- 5.7.7 The proposed dwellings would all benefit from Juliet balconies to their rear elevations serving the living rooms at first floor level as well as large windows serving the master bedrooms at second floor level. These openings to the rear of the dwelling proposed on plot 4 would allow views to the rear of the garden associated with No. 7 Hall Road resulting in a further loss of privacy which is exacerbated due to the three storey nature of the proposed development.
- 5.7.8 The dwellings proposed within plots 5-10 which front onto the industrial estate would back onto the rear garden associated with No. 7 Hall Road with the dwellings proposed on plots 5 and 6 backing directly onto No. 7 Hall Road's rear garden. These dwellings would be positioned between 9.6 and 10.6 metres from the shared boundary. Again these dwellings would benefit from Juliet balconies to their rear elevations serving the kitchen/diner at first floor level as well as large windows serving the master bedrooms at second floor level. These openings to the rear of the dwellings proposed on plots 5 and 6 (as well as plot 7, but to a lesser extent) would directly overlook the private rear garden area of No. 7 Hall Road resulting in a material loss of privacy to the occupiers of No. 7 Hall Road. Given the scale of the proposed development and the large windows proposed on the second floor the development would also result in some loss of privacy to No. 5 Hall Road.
- 5.7.9 Overall given the amount and scale of the development proposed adjacent to No. 7 Hall Road as well as the orientation of the site to the east of No. 7 Hall Road it is considered that the development would result in an overbearing impact upon the occupiers of No. 7 Hall Road and would represent an intrusive development that would result in overlooking, loss of light and loss of privacy which would have a

serious and adverse effect on the amenities enjoyed by occupiers of the neighbouring property. The development would therefore be contrary to RLP policy BE1 and submitted LDP policy D1.

- 5.7.10 The impact of the development upon occupiers of the industrial units on the wider Hall Road industrial site has also been raised as a concern within letters of representation. It is reasonable to assess the impact on non-domestic buildings where occupants have a reasonable expectation of receiving daylight, which would normally include small workshops and offices. The block of units facing into the industrial site would be situated between 5 and 11 metres from neighbouring industrial units. However given the position of the proposed residential units to the north and west of the existing units they would not materially reduce the amount of light into the neighbouring units.

## **5.8 Access, Parking and Highway Safety**

- 5.8.1 This section of the report needs to be assessed with RLP policies T1, T2, and T8 as well as the NPPF. The submitted LDP policies relevant to this section are T1 and T2. Also applicable are Maldon's adopted Vehicle Parking Standards.
- 5.8.2 The dwellings proposed fronting onto Hall Road would take vehicular access directly from the highway with two parking spaces proposed per dwelling (one in the garage and one on the driveway). The dwellings fronting onto the industrial estate would take their vehicular access off the private internal access road which serves the industrial estate with two parking spaces proposed per dwelling (both in garages in a tandem layout).
- 5.8.3 It is stated within the application that *'the site will be accessed from the existing entrance which has clear sight lines in the both directions along Hall Road. Each dwelling has two car parking spaces including integral garages with space for bicycle storage. Inside the site a new access road will be re-constructed to accommodate the requisite level of traffic.'*
- 5.8.4 Essex County Council Highways have been consulted on the application and have advised that from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to appropriate planning conditions. However the Highways department have advised that for Units 5 to 10 (accessed from the industrial estate road), the proposed garages are not set back an appropriate distance. Consequently, cars may park across the footway and encroach onto the estate's carriageway. The Highways Authority recommend that the layout is amended to prevent this, but given the industrial estate road does not form part of the highway the issue does not affect their consultation response. A number of representations have been received from individuals also concerned about the vehicular access being shared by the industrial estate and proposed units 5-10.
- 5.8.5 In terms of parking requirements the adopted Maldon District Council Vehicle Parking Standards SPD and policy T8 of the adopted Local Plan requires two spaces per two or three bedroom unit. Policy D1 of the Local Development Plan also requires safe and secure parking to be provided in accordance with the adopted parking standards. Looking at the plans it can be seen that the proposal meets the adopted

parking standards as two spaces are provided per unit. However the parking provided for units 5-10 are entirely within the garage units with no driveways large enough to park a car on. This is not an ideal arrangement as it is more likely that occupiers and visitors will park along and across the access road and footway as raised by the Highway Authority within their response.

- 5.8.6 Use of the private industrial estate access road is also not an ideal arrangement for a residential development, although it does not in itself warrant a reason for refusal in relation to this scheme. However the poor parking arrangement for the development coupled with the shared access with the industrial estate do not weigh in favour of the application and add to the material considerations regarding the application.

## **5.9 Housing density**

- 5.9.1 The NPPF takes precedence as the more up to date policy position than RLP policy H6 which set density levels of between 30-50 dwellings per hectare. However, the NPPF is silent on housing density instead advising local planning authorities to set their own approach to reflect local circumstances. Submitted LDP policy H4 on effective use of land considers a design-led approach is most applicable taking into account the location of the proposed development. The density of the development based upon 10 dwellings being provided on the site would equate to approximately 45 d.p.h.
- 5.9.2 In terms of submitted LDP policy H4 this policy states that development will be design-led and will seek to optimise the use of land having regard to (amongst other things) the location and the setting of the site, the existing character of the area, parking standards and impacts upon the amenities of neighbouring properties. In this instance it is considered that the density of the development is not acceptable as the development does not reflect the character of the area, does not offer an ideal parking arrangement and will result in significant adverse impacts upon the amenities of neighbouring property.

## **5.10 Private Amenity Space and Landscaping**

- 5.10.1 RLP policy BE1 parts e) and f) both require amenity space and landscaping provision for new developments. The development proposes ten 3 bedroom dwellings. The Essex Design Guide (EDG) provides the supplementary planning guidance (SPG) for minimum private amenity space levels. The EDG states that 3 or more bedroomed houses should have a private amenity space of at least 100m<sup>2</sup>.
- 5.10.2 The proposed dwellings would each have a rear garden of between 35m<sup>2</sup> and 62m<sup>2</sup> with the majority having around 45m<sup>2</sup>. Furthermore the majority of the proposed rear garden areas would be directly overlooked by adjacent properties and would not benefit from any private sitting out areas. The provision of amenity space is therefore considered to be unacceptable and contrary to the guidance within the EDG. The lack of sufficient private amenity space again highlights the inappropriate density of development for family dwellings of the scale proposed.
- 5.10.3 There is limited existing landscaping on site with only one hedgerow along the northern boundary of the site with Hall Road. The application states that sections of

this hedgerow would be retained around the proposed vehicular access points for the dwellings which would front onto Hall Road. Further soft landscaping could be controlled through the use of a planning condition.

## **5.11 Flood risk and drainage**

- 5.11.1 The NPPF provides the most up to date policy position when assessing flood risk and supersedes any out dated RLP policies on flood risk. Policy D5 of the submitted LDP provides local flood risk considerations and seeks to direct development to the lower risk zones.
- 5.11.2 The application site is located within Flood Zone 1 which is the low risk zone where development is considered acceptable. The application form states that both foul sewage and surface water drainage will be disposed of via the main sewer. Anglian Water has been consulted on the application and has advised that there is capacity within the system for these flows. It would be preferable to see some use of sustainable drainage system methods for the disposal of surface water drainage, although it is acknowledged that the site is currently hardstanding and the development is unlikely to result in any additional run-off to the existing built form.

## **5.12 Noise**

- 5.12.1 Environmental Health has advised that they have concerns regarding noise impact and the proposed residential use of the site. Noise could cause serious adverse effects to future occupants, and the Environmental Health Officer has advised that whilst they will investigate complaints of nuisance arising from commercial and industrial premises these premises will have a defence of best practicable means. This could effectively mean that only a percentage of noise or other disturbances could be remedied should complaints arise once the development is completed and occupied. Additionally the current character of the area would need to be considered when investigating nuisance and the industrial area would influence this.
- 5.12.2 Bullet point 3 of Paragraph 123 of the NPPF states that;  
*‘Planning policies should recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established’*
- 5.12.3 The NPPG on noise also states that;  
*‘The potential effect on an existing business of a new residential development being located close to it should be carefully considered as the existing noise levels from the business may be regarded as unacceptable by the new residents and subject to enforcement action.’*
- 5.12.4 The agent has responded to Environmental Health’s consultation response by referring to a location plan mapping out the potential noise pollutants noted within the Environmental Health Officer’s comments on the application (which has been requested but not received to date). The agent also noted that as part of the MOT garage licensing, no works to vehicles may be undertaken outside of the garage.

However no full noise assessment has been submitted and there are further industrial units in full use on the site.

- 5.12.5 It is therefore considered that insufficient information has been submitted to demonstrate that future residents would not be subject to unacceptable noise. There are no suitable conditions that would ensure these concerns are sufficiently mitigated. The proposed development would therefore be contrary to RLP policies BE1 and CON5, LDP policy D2 and the provisions and guidance contained within the NPPF and NPPG. This concern is considered to be similar in nature to a reason for refusal that was successfully defended at appeal recently for similar development at the Blackwater Marina Development (Ref: FUL/MAL/16/00814).

### **5.13 Contamination**

- 5.13.1 The majority of the application site comprises an existing industrial estate and as detailed in the submitted Phase I Environmental Assessment a detailed phase II intrusive investigation of the site is required.
- 5.13.2 Environmental Health has been consulted on the application and advises that the severity of the contamination will depend largely on the length of time that the site buildings have operated on a concrete slab that may have protected the ground underneath and the condition of the slab. There is potential for soils beneath the slab to contain contaminants and this area will need to be included within the investigation. It should also be noted that Environmental Health Officers have been made aware that historically tanks may have been installed on this site and it has also been alleged that at one time a unit on the site was conducting an operation involving the anodising of aluminium. As part of this process it has been alleged that there were underground etching tanks which may still be present and may contain hazardous substances which should also form part of the further investigation.
- 5.13.3 The issue of contamination and the requirement for further investigation can be dealt with through the use of planning conditions.

### **5.14 Nature Conservation**

- 5.14.1 Paragraph 109 of the NPPF states that ‘the planning system should contribute to and enhance the natural and local environment by..... recognising the wider benefits or ecosystem services.....and minimising impacts upon biodiversity and providing net gains in biodiversity where possible’. RLP policy CC5 seeks to protect animals and plants protected under law unless steps for their protection are satisfactory through the planning application process. The submitted LDP policy N2 on natural environment and biodiversity is also applicable.
- 5.14.2 The application site is a brownfield site which is mainly laid to hardstanding with existing industrial units present. However brownfield sites can often be home to protected species and provide a range of habitat for wildlife.
- 5.14.3 No ecological survey or assessment has been submitted to support the application. It is necessary to assess the application against Natural England’s standing advice to determine whether the site contains any habitat for protected or priority species.

- 5.14.4 There is limited vegetation on the site. However units 6-8 have suffered fire damage and are open to the elements in places with some planting in and around and are unoccupied. It is therefore necessary to check whether this could potentially allow for bat roosting or bird nesting opportunities. Looking at the standing advice on Natural England's website it advises that bats are unlikely to use a building if it is '*prefabricated with steel and sheet materials*' as well as if it '*is an active industrial premises*'. Units 6-8 are prefabricated corrugated metal units and whilst not in active industrial use themselves they are on an active industrial estate close to existing businesses with associated noise and lights. It is therefore considered on the basis of the standing advice that survey work for bats is not required in this instance.
- 5.14.5 When assessing the development against the criteria for wild birds the development does not involve any of the development types listed on the standing advice note as requiring survey work. Therefore no survey work for wild or nesting birds is required in this instance.
- 5.14.6 Appropriate planning conditions could be attached to any consent to ensure that appropriate biodiversity enhancements are provided as part of the development such as bird boxes and planting although there is limited space on site for landscaping.

## **5.15 Designated Heritage Assets**

- 5.15.1 The application site is located approximately 15 metres from No. 8 Hall Road which is a Grade II listed Georgian timber-framed 1 ½ storey cottage located on the opposite side of Hall Road to the application site. Old maps show that the cottage was once relatively isolated, but is now surrounded by later housing and industrial estates. The significance of the listed building can be said to derive from its age, reasonable state of preservation, its modest form, quality traditional materials, and its presence in the streetscene.
- 5.15.2 The Conservation Officer has been consulted on this application and had advised that the development would not cause material harm to the setting of the listed cottage, due to the relationship between the sites and the distance that separates them.
- 5.15.3 In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The Conservation Officer has advised that this proposal is consistent with this objective.

## **5.16 Other Material Considerations**

- 5.16.1 It is noted within letters of representation received that issues regarding rights of access across the estate road have been raised. Rights of access are not a planning consideration and planning decisions do not impact upon rights of way or alter land registry documentation.



## 6 ANY RELEVANT SITE HISTORY

None

## 7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Southminster Parish Council	Recommend refusal of the application as it is a unhealthy mix in a designated industrial zone	Noted

### 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Anglian Water	<p>There are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>The foul drainage from this development is in the catchment of Southminster Water Recycling Centre that will have available capacity for these flows.</p> <p>The sewerage system at present has available capacity for flows from a gravity connection to the public foul sewer</p>	Please see section 5.11 of report.
Essex County Council Highways	<p>From a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions relating to:</p> <ul style="list-style-type: none"><li>- Construction of the accesses onto Hall Road;</li><li>- Provision of pedestrian visibility splays;</li><li>- No unbound material within 6m of highway;</li></ul>	Please see section 5.8 of report.

Agenda Item no. **8**

	<ul style="list-style-type: none"> <li>- Any new boundary planting on Hall Road to be planted a minimum of 1 metre back from the highway boundary and any visibility splay;</li> <li>- provision and implementation of a Residential Travel Information Pack for sustainable transport for each dwelling;</li> <li>- submission of a Construction Management Plan</li> </ul>	
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### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	Advise that it would not cause material harm to the setting of the listed cottage (No. 8 Hall Road), due to the relationship between the sites and the distance that separates them.	Please see section 5.15 of report.
Environmental Health	Has concerns with regard to this application to allow residential development on a working Industrial Estate. Concerns relate to contamination and noise.	Please see sections 5.12 and 5.13 of report.
Housing	Strategic Housing Services does not support this application.	Please see section 5.5 of report.

### 7.4 Representations received from Interested Parties

7.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

- Chris & Tania Lynam Southminster MOT And Service Centre Unit 4 Hall Road Industrial Estate
- Mr Ian Edwards 3 Hall Road Southminster Essex
- Mr Phillip Taylor R And F Insulations Limited Unit 5 Hall Road Industrial Estate
- Mrs Anne Brown 7 Hall Road Station Cottages Southminster
- Mr Andrew Snowdon Burdons Manor Road Dengie Southminster
- Tony Davis R Glass Limited Units 2 To 3 Hall Road Industrial Estate
- Mr Kamil Wojtowicz 5 Station Cottages Hall Road Southminster
- Mrs V Amos Naseby 8A Hall Road Southminster
- Martyn Ball 8 Hall Road Southminster Essex

- Mr Rohit Mehta Oceandal Trading Co Unit 10 Hall Road Industrial Estate Hall Road Southminster

<b>Objection Comment</b>	<b>Officer Response</b>
Lack of any physical boundary between proposed dwellings and existing industrial estate. Concerns raised regarding access road being used by future residents due to safety and congestion issues.	Application has to be determined as submitted. Please see section 5.8 of report in terms of access.
Future residents may park on estate road and block access to lorries.	Please see section 5.8 of report.
Not safe to have residents and children so close to the industrial estate road and vehicles manoeuvring without a barrier.	As above and please see section 5.8 of report.
Hall road industrial Estate, is currently designated for light industrial works. As such it excludes general public, this will be included in all risk assessments for all external activities.	Noted.
Right of access over the estate road should be removed if planning permission is granted and land registry amended. The application site has its own separate access which should be used.	Please see section 5.16 of report.
Increased traffic coming out of an industrial estate may be a danger to pedestrians from adjacent pre-school and others.	Please see section 5.8 of report.
Plans show integral "in line" double garages. These are impracticable in reality. Cars from residents owning more than one vehicle and their visitors, will probably be parked exterior to the dwelling.	Please see section 5.8 of report.
New housing must not be at the expense of commercial units.	Please see section 5.3 of report.
The loss of commercial sites would be detrimental to the future growth of business and employment in the area.	Please see section 5.3 of report.
New employment land is not coming forward which strengthens the need to protect and retain what we have.	Please see section 5.3 of report.
Concerns over the implications of the development upon the existing businesses on the site.	Please see section 5.3 of report.
Have occupied Unit 10 since 2003 and have always employed local people and created jobs. Approval will have an	Please see section 5.3 of report.

adverse effect on the community and the proposed development is not in keeping with the context or scale of the local industrial area.	
Noise generated by a normal garage would not be appropriate with residential properties so close.	Please see section 5.12 of report.
The proposal will have environmental health impacts such as the use of hazardous materials or ground contamination as indicated by Consultee comments.	Please see section 5.13 of report.
10 dwellings on the proposed site is unrealistic, it does not give enough space for each property, hence the need to access via the industrial estate.	Please see section 5.9 of report.
Over-development of small site may restrict emergency access to industrial units.	Noted - Please see section 5.9 of report.
Replacing a single story industrial unit with a three story building adjacent to our unit will block light and outlook into offices. (unit 5)	Please see section 5.7 of report.
Our unit provides 24hr emergency service to the Asbestos industry. The close proximity may create unacceptable noise pollution to residents. (unit 5)	Please see section 5.12 of report.
The proposed architecture is not in keeping with surrounding residential properties, specifically all are of two storey pitched roof construction.	Please see section 5.6 of report.
Poor design of proposed dwellings.	Please see section 5.6 of report.
The proposed dwelling house(s) design would cause neighbouring gardens to be directly overlooked by No. 5 -10 removing the privacy currently enjoyed.	Please see section 5.7 of report.
The sheer bulk of the proposed design/development would cause a significant loss of light which is currently enjoyed in neighbouring rear gardens.	Please see section 5.7 of report.
The proposed 4 properties that front onto the road will restrict the light into the side windows of the immediate neighbouring property.	Please see section 5.7 of report.
Development will result in loss of light and overlooking of dwellings opposite.	Please see section 5.7 of report.
There is a need for 2 bedroom properties not 3 bedroom properties.	Please see section 5.5 of report.

7.4.2 Letters were received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

- Mr Tom Stubbings Stubbings And Son Unit 4 Witchards Scotts Hill Southminster
- Mr Kevin Tyson 17 Coombe Road Southminster Essex
- Mr Colin Croud 1 Ravenstor Cottages Main Road St Lawrence Southminster

<b>Supporting Comment</b>	<b>Officer Response</b>
We don't need industrial units around here got enough empty ones already.	Please see section 5.3 of report.
Houses will be built regardless and its so much better to have new houses built where old derelict burnt out units are rather than losing farm land.	Please see section 5.3 of report.
The units are an eyesore - would much rather look at some nice houses than half burnt units.	Please see section 5.6 of report.
if they are kept as industrial or rebuilt then they will incur as many if not more lorries. Ample Parking according to the drawings is provided for each house.	Please see section 5.8 of report.
With the train links etc it makes perfect sense to put houses there.	Please see section 5.3 of report.
10 nicely built houses as opposed to mass built monstrosities gets my vote every day.	Please see section 5.6 of report.

## **8 PROPOSED REASONS FOR REFUSAL**

- 1 The application site is allocated within the adopted Maldon District Replacement Local Plan as a protected employment site and within the submitted Maldon District Local Development Plan remains a protected employment site. The proposed development would result in the loss of the site for employment purposes and insufficient information has been submitted to justify this loss. The proposed development would therefore be contrary to policies E1 and E6 of the adopted Maldon District Replacement Local Plan, policy E1 of the submitted Maldon District Local Development Plan and the guidance and provisions of the National Planning Policy Framework, in particular Paragraphs 7, 19, 21 and 22.
- 2 The proposed development would not meet the requirements for affordable housing provision in this part of the District. The development would not therefore contribute to a strong vibrant community because it would not provide a supply of housing required to meet the needs of present and future generations and as such is not considered to represent sustainable development contrary to policy H9 of the adopted Maldon District Replacement Local Plan, policy H1 of the submitted Maldon District Local Development Plan and the guidance and provisions of the National Planning Policy Framework, in particular Paragraphs No. 7, 14, 17 and 50.
- 3 The application site is located within an allocated industrial site and the development of this site for housing would be likely to result in future occupiers being subject to

unacceptable levels of noise. This would have a significant adverse impact upon the health, quality of life and wellbeing of the future occupiers of these proposed dwellings resulting in poor living conditions. It is considered that the site's proposed future development would introduce residential properties in a much closer proximity to this existing noise source than the majority of nearby properties. As such the proposal is not considered to represent sustainable development and would be contrary to policies BE1 and CON5 of the adopted Maldon District Replacement Local Plan, policies D1 and D2 of the submitted Maldon District Local Development Plan and the guidance and provisions of the National Planning Policy Framework, in particular Paragraphs No. 7, 14 and 123.

- 4 The proposed development, by reason of its position, size, design and external appearance, would represent an intrusive development, out of scale and character with the prevailing pattern of development in the locality to the detriment of the character and appearance of the area. The proposal would be contrary to policy BE1 of the adopted Maldon District Replacement Local Plan, policies D1 and H4 of the submitted Maldon District Local Development Plan, and the provisions and guidance contained within the National Planning Policy Framework, in particular paragraphs 56, 61 and 64
- 5 The proposed development, due to the lack of private amenity space, would not provide an acceptable level of amenity space for the use and enjoyment of the future occupiers of the dwellings and, as such, is contrary to the requirements set out by policy BE1 of the adopted Maldon District Replacement Local Plan and D1 of the submitted Local Development Plan and would result in an under provision of private amenity space for dwellings of this size.
- 6 The proposed development due to its scale, siting and design would have a serious and adverse impact on the amenity enjoyed by occupiers of adjacent neighbouring properties contrary to policy BE1 of the adopted Maldon District Replacement Local Plan, policies D1 and H4 of the submitted Maldon District Local Development Plan, and the provisions and guidance contained within the National Planning Policy Framework.
- 7 Due to the incongruous design, unacceptable level of private amenity space, impact on the amenity of adjacent neighbouring occupiers and detrimental impact on the free flowing of traffic, the development is considered to result in overdevelopment of the site contrary to to policy BE1 of the adopted Maldon District Replacement Local Plan, policies D1 and H4 of the submitted Maldon District Local Development Plan, and the provisions and guidance contained within the National Planning Policy Framework.



**REPORT of  
CHIEF EXECUTIVE  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017**

<b>Application Number</b>	FUL/MAL/17/00496
<b>Location</b>	Land Adjacent To Little Rushes Rushes Lane Asheldham
<b>Proposal</b>	Proposed detached 2 bedroom bungalow. Change of land use to C3.
<b>Applicant</b>	Mr & Mrs Darren Robinson
<b>Agent</b>	Mr Anthony Cussen - Cussen Construction Consultants
<b>Target Decision Date</b>	07.07.2017
<b>Case Officer</b>	Hannah Bowles, TEL: 01621 875733
<b>Parish</b>	<b>ASHELDHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In

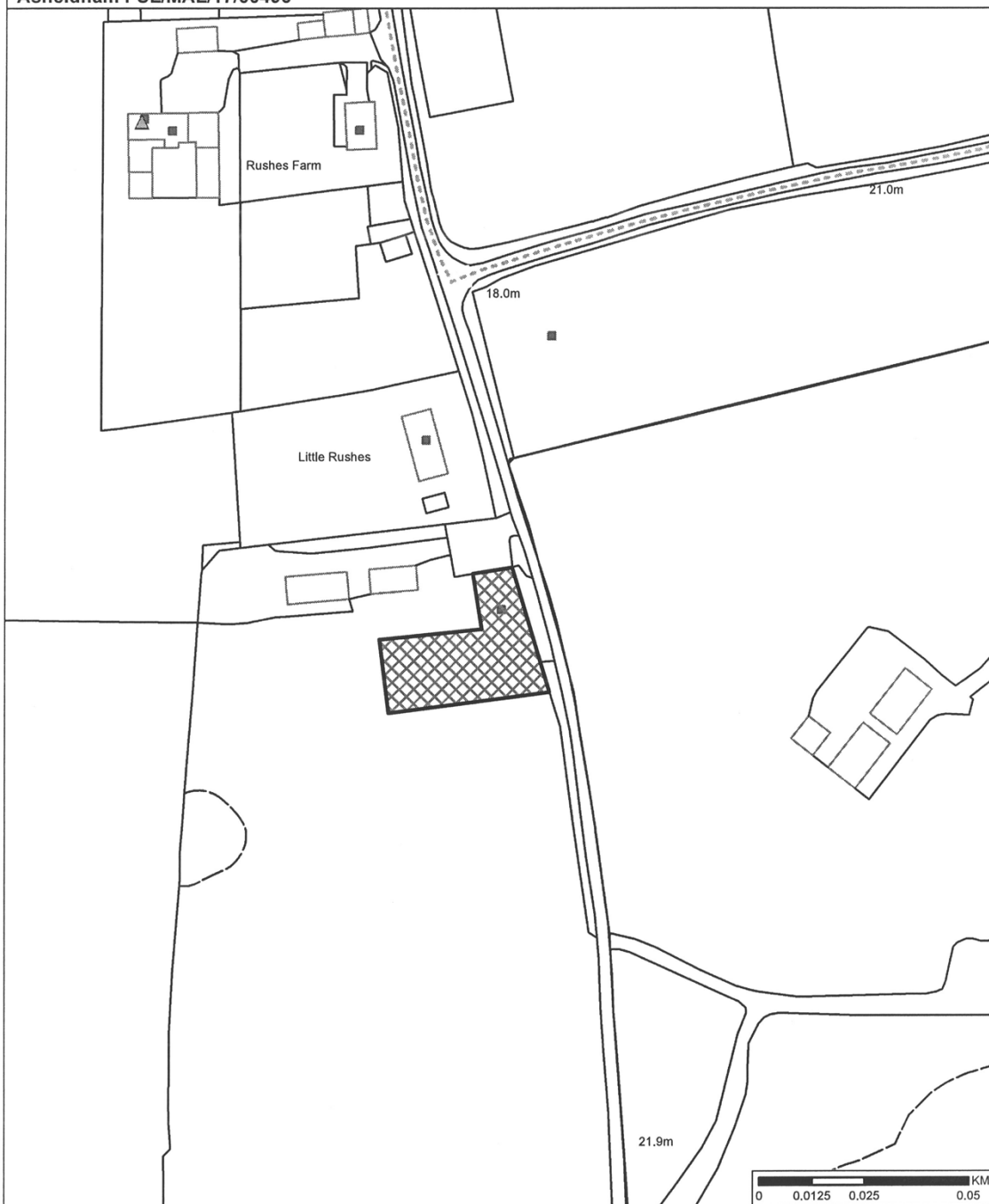
**1. RECOMMENDATION**

**REFUSE** for the reasons as detailed in Section 8 of this report.

**2. SITE MAP**

Please see overleaf.

**Land Adjacent To Little Ruses - Ruses Lane**  
**Asheldham FUL/MAL/17/00496**



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 Maldon District Council 100018588 2014

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Scale: 1:1,250

Organisation: Maldon District Council

Department: Planning Services

Comments: SE Committee

Date: 06/07/2017

MSA Number: 100018588



### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 The application site is outside of a defined settlement boundary, located on the west side of Rushes Lane, which is an un-adopted single track lane some 600 metres from the adopted public highway. The site measures 0.09 sq metres and forms the north east corner of a large field which is currently grassland. To the south is a small barn and “Little Rushes” a bungalow and garage which is owned and occupied by the applicant. Further to the north is another dwelling (Rushes Farm). On the opposite side the lane there are flooded mineral workings (Local Nature Reserve) and another open paddock. To the west and south there is open countryside.
- 3.1.2 The application seeks planning permission for a detached two bedroom bungalow set within an “L” shaped plot. The access is from an open area associated with Little Rushes. The dwelling has a footprint of 10 metres by 11.9 metres and an open parking area to the front.
- 3.1.3 It should be noted that this application is a resubmission of a previously refused application (reference 16/01503/FUL). No amendments to the previously refused scheme are proposed.

#### **3.2 Conclusion**

- 3.2.1 The proposed development is remote from community support facilities and would facilitate unsustainable transport patterns. Furthermore, the development would have an urbanising effect on the rural character of the area and would result in an unwelcome visual intrusion and encroachment into the open and undeveloped countryside, to the detriment of the character and appearance of the area contrary to policies CC6 and BE1 of the adopted Maldon District Replacement Local Plan, S1, S8 and D1 of the Maldon District Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.

### **4. MAIN RELEVANT POLICIES**

Members’ attention is drawn to the list of background papers attached to the agenda.

#### **4.1 National Planning Policy Framework 2012 including paragraphs:**

- 17
- 47
- 55
- 56
- 111
- 118
- 109

#### **4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- BE1 Design of Development and Landscaping
- S2 Development outside of settlement boundaries

- H1 Location of new development
- CC6 Landscape protection

#### **4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:**

- D1 Design Quality and Built Environment
- S1 Sustainable development
- S8 Settlement boundaries and the countryside
- H4 Effective use of land.
- D1 Design quality and built environment
- N2 Natural environment and biodiversity

The Maldon District Local Development Plan has completed the Submission Examination stage. The January 2017 Examination was in respect to matters not Examined at the first Examination, and matters that arose from the Main Modifications Consultation in September 2016.

Post-Examination Modifications were published for public consultation in March 2017 and the consultation ended on 28th April 2017. A total of 43 responses were received, which have been sent to the Inspector for his consideration in his Report. His Report is due to be submitted to the Secretary of State in Spring/Summer 2017 and the Council aims to have the Plan adopted in the early Autumn 2017.

There remains a risk that the Inspector considers that further Examination is needed if the responses to the Post-Examination modifications raise new matters (as a consequence of the modifications) which have not previously been examined. However, the Post-Examination modifications, when read concurrently with the Main Modification and Additional Modifications consulted on in September 2016, only relate to matters which have been considered at the Examinations in 2015 and January 2017. Therefore, it was a focussed consultation and no new matters previously not examined or matters already examined will be considered by the Inspector.

#### **4.4 Relevant Planning Guidance / Documents:**

- Car Parking Standards
- Essex Design Guide
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 Asheldham does not have a settlement boundary as defined by RLP policy S2 and LDP policy S8. Asheldham is defined as ‘other village’ in the settlement hierarchy detailed within policy S8 of the LDP. The settlement hierarchy reflects the current status and function of the villages within the District; “other villages” do not have a defined settlement boundary and have limited or no services and facilities. These

policies seek to direct new housing development within established settlements. Allocations are made in the development plan in order to protect the appearance and character of the rural areas as well as promote sustainable forms of development.

- 5.1.2 Asheldham comprises a loose knit form of development strung along the B1021. It is acknowledged that some bus services run along this road. However, the application site is located adjacent to a private track which is 600 metres from this road. The track (which is also a public footpath) is unmade and unlit and would not be attractive to pedestrians or cyclists at all times. It is therefore likely that the occupants of the proposed dwelling would be heavily reliant on the use of the private motor vehicle for all their day to day needs. It is considered that the proposed development would be in an unsustainable location.
- 5.1.3 In the past, the Council has not been able to demonstrate that there is a 5 year supply of housing land as required by para 47 of the NPPF. That is no longer the case and the latest version published in August 2016 confirms that there is the equivalent of 6 years supply of housing land which secures compliance with para 47 of the NPPF and that appropriate weight may be given to RLP policies S2 and H1. In terms of the NPPF the proposal does not align with the core principles set out in para 17 as the site is not brownfield and the intrinsic qualities of the countryside will be harmed. Furthermore no exceptional circumstances have been advanced to justify an isolated dwelling as required by para 55.
- 5.1.4 The above position is commensurate with the previously refused application 16/01503/FUL and dismissed appeal, APP/X1545/W/15/3139664, which proposed a 3 bedroom dwelling on land opposite Little Rushes.

## **5.2 Design and Impact on the Character of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design sought to create a high quality built environment for all types of development.
- 5.2.2 The proposed dwelling would be located within the corner of a large field; there are no established boundaries, natural or otherwise that mark the southern or western boundaries. Apart from Little Rushes to the north, the adjacent area is open countryside with extensive views to surrounding areas. The application is “full” and the design of the dwelling is a standard bland suburban bungalow which has not drawn any specific local or rural references other than the nearby bungalow which itself does not reflect local vernacular. The dwelling and its domestic paraphernalia would, in this exposed location, adversely affect the character and appearance of the rural landscape contrary to the requirements of RLP policy CC6. In terms of its context the site does not form part of a recognisable grouping of development and when considered with its accessibility would be seen as relatively isolated in the context of NPPF para 55.
- 5.2.3 In the supporting statement the applicant’s agent in the supporting design and access statement advises that “This application is made in response to a recent planning inspectors decision which granted approval for two single storey 3 bedroom dwellings

at nearby number 1 Pitt Cottages, Hall Road, Asheldham”. This appeal site is located 500 metres from the application site and lies on the main road through the settlement close to other groups of houses on the bus route. However no reference is made to another appeal submitted by the same agent for the current applicant in respect of a proposed dwelling 30 metres to the north east on the opposite side of Rushes Lane (Planning ref OUT/MAL/15/00596 - Appeal ref: APP/X1545/W/15/ 3139664). In dismissing the appeal the inspector concluded that the site was not in a sustainable location and that a dwelling in this locality would cause substantial harm to the appearance and character of the countryside.

### **5.3 Impact on Residential Amenity**

- 5.3.1 Policy BE1 of the RLP protects neighbouring occupiers from unacceptable development which results in a loss of amenity in relation to overlooking, overpowering or undue reduction of light to the main windows of their property. Similarly, the basis of policy D1 of the submission LDP seeks to ensure that development will protect the amenity of its surrounding area.
- 5.3.2 No concerns were raised within the previous application in relation to a detrimental impact on residential amenity, given the distance from neighbouring occupiers. There are no new material planning considerations that would alter this stance.

### **5.4 Access, Parking and Highway Safety**

- 5.4.1 Policy T8 seeks to provide appropriate off-street parking provision in accordance with the District’s adopted vehicle parking standards (Adopted Supplementary Planning Document (SPD) July 2006). The adopted parking standard requirement for a two bedroom dwelling is two off-street parking spaces.
- 5.4.2 No concerns were raised within the previous application in relation to access, parking or highway safety. There are no new material planning considerations that would alter this stance.

### **5.5 Private Amenity Space and Landscaping**

- 5.5.1 Policy BE1 of the RLP requires that amenity space is provided that is appropriate to the type of development. In addition, the Essex Design Guide advises a suitable garden size for dwellings with three or more bedrooms is 100sq m.
- 5.5.2 No concerns were raised within the previous application in relation to private amenity space. There are no new material planning considerations that would alter this stance.

## **6. ANY RELEVANT SITE HISTORY**

16/01503/FUL - Proposed detached 2 bedroomed bungalow. Change of land use to C3 was Refused on 09/02/2017 for the following reason:

*‘Policy S2 seeks to provide control over the development of new dwellings in rural areas beyond defined settlement boundaries and to ensure that new residential developments are in appropriate locations. The proposal is therefore contrary policy S2 of the Maldon District Replacement Local Plan as the site lies within a rural area*

*outside of a settlement boundary and is remote from services and facilities needed for everyday living. The development, by way of its intrusive nature into the rural landscape, detrimental impact upon the landscape character and harmful nature of an urban residential development is considered contrary to policies BE1 and CC6 of the adopted Local Plan, emerging policies D1, H4 and S8 of the Local Development Plan as submitted and the guidance and provision contained within the National Planning Policy Framework.'*

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### **7.1 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions	Noted

### **7.2 External Consultees**

<b>Name of External Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
County Highways	Rushes Lane is a private road; therefore, from a highway and transportation perspective, the Highway Authority has no comments to make on the proposal.	Noted

## **8. REASON FOR REFUSAL**

- 1 Policy S2 seeks to provide control over the development of new dwellings in rural areas beyond defined settlement boundaries and to ensure that new residential developments are in appropriate locations. The proposal is therefore contrary policy S2 of the Maldon District Replacement Local Plan as the site lies within a rural area outside of a settlement boundary and is remote from services and facilities needed for everyday living. The development, by way of its intrusive nature into the rural landscape, detrimental impact upon the landscape character and harmful nature of an urban residential development is considered contrary to policies BE1 and CC6 of the adopted Local Plan, emerging policies D1, H4 and S8 of the Local Development Plan as submitted and the guidance and provision contained within the National Planning Policy Framework.

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## **REPORT of CHIEF EXECUTIVE**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017**

### **TREE PRESERVATION ORDER (TPO) 2/17 - LAND REAR OF 24-54 MALDON ROAD AND SOUTH OF GREEN LANE, BURNHAM-ON-CROUCH**

#### **1. PURPOSE OF THE REPORT**

- 1.1 Objections have been received relating to the serving of TPO 2/17 - Land rear of 24 – 54 Maldon Road and south of Green Lane, Burnham-on-Crouch. The TPO protects an area of emerging woodland with some mature trees, developing shrub layer and ground flora. The majority of the area has been designated as woodland in the TPO, with a small area to the rear of the Woodford's Garage being designated as an Area. The objections have not been resolved, therefore the question of whether or not to confirm the TPO has been brought before Members to decide.

#### **2. AREA FOR DECISION/ACTION**

- 2.1 In 2016 a planning application 16/01189 was received proposing the use of a wooded area to the rear of Woodford's garage be changed to a parking area for use in connection with the garage and a car hire firm, this application was refused. Subsequently clearance of trees commenced on the area in question with the permission of the land-owner who is also part-owner of the wider area of land covered by TPO 2/17. Following the refusal of 16/01189 a 2m high fence was erected around the parcel of land to which the application had pertained, with large double gates leading out into the wider woodland area. The area affected by the application was a small part of the larger woodland. TPO 2/17 was served to prevent further tree removal and damage to the flora in the area. A Woodland designation was applied to the larger part of the site. A Woodland designation in a TPO protects the woodland as a whole, it is all-inclusive from the seed bank in the soil to the trees, including all vegetation in between. An Area designation was applied to the trees remaining within the fenced off area. The Area designation protects the trees that are present when the order is served.

##### **2.1.1 Ownership**

The parcel of land in question, including the fenced in area to the rear of Woodford's garage is in joint ownership:

Mr G Smith, 37 North St, Southminster CM0 7DG – Owns A1 and part of W1.  
Beverley Ayres, 31 Cherry Orchard, Southminster CM0 7HE – Part owner of W1  
Elsie Partridge, 19A Hillside Rd, Burnham on Crouch CM0 8EY – Part owner of W1.

### **2.1.2 Objections**

Objections to the serving of the TPO have been received from Mr Smith and Ms Ayres.

- a) Mr Smith has objected to the serving of TPO 2/17. He has not cited any individual grounds for his objection, however he mentions his difficulty in managing the land, especially around the boundaries where neighbours cause problems with tipping garden waste, lighting fires and stealing land.  
**[APPENDIX 1]**

- b) Ms Ayres has objected to the serving of TPO 2/17 as follows:

The land has always been classed as Freehold property and it has always been the intention that eventually it would be used for building land.

The woodland referred to is simply a case of trees self-seeding over a period of time. It has never been cultivated as a woodland.

**[APPENDIX 1]**

### **2.1.3 Tree Officer's response to points of objection**

- a) The TPO does not preclude reasonable works to manage the land, provided an application is made and approved. Neighbours were served with the TPO, any actions by neighbours that breach the TPO may be subject to enforcement action. The concern that neighbours may breach the TPO, is not a reason to not confirm a TPO.
- b) The trees and vegetation on the land is a material consideration in the determining of any planning application. However, the trees being protected by a TPO would mean that their protection was of greater weight when determining any future applications. The trees would also be protected prior to the determination of an application; without the TPO, they are not.

The trees and vegetation on the land have developed into a young woodland structure through natural succession. This is how many new woodlands develop, rather than being cultivated. Naturally generated woodland will develop in association with species of flora and fauna that will naturally colonise during its development. Cultivated woodland will not have the benefit of this gradual association, so may be slower to develop in variety and quality of species and ecological benefits.

### **2.1.4 Site Assessment**

The land in question is approximately 2.5ha. The majority of the land is covered by trees of different ages, varying from young saplings to mature high canopy trees. The portion to the east is partly open meadow, surrounded by trees. Woodland as described by the Forestry Commission, is 'land under stands of trees, with a canopy cover of at least 20% (or having the potential to achieve this), including integral open space and including felled areas that are awaiting restocking.'



The quality of woodland depends on many things, amongst which are the age/species ranges of the trees, the presence and species diversity of ground flora and shrub layer.

A public Right of Way passes north to south, linking Maldon Road and Green Lane, through the centre of the land and this appears to be well used

The TPO does not place any additional burden upon the owner to carry out works, it does however require a formal application to be submitted and approved before carrying out works that may involve felling of trees and changes in the vegetative character of the area. If the owner prefers to submit a management plan, an application for a programme of works over time can be approved for up to a 5 year period.

### **2.1.5 Planning History**

**15/01064** - Formation of 26 No vehicle parking spaces for use in connection with garage and car hire company. – Withdrawn.

**15/01216** - Formation of 19 No vehicle parking spaces for use in connection with garage and car hire company. – Refused.

Reason for refusal:

1. The proposal due to its location, scale, design and consequent loss of vegetation result in a development that would be visually intrusive and so adversely affect the character and appearance of the local landscape to the detriment of the amenities of local residents and users of the nearby public footpath. In addition the noise and general disturbance arising from the car parking would adversely affect the occupiers of neighbouring residential properties. As such the proposal would be contrary to the requirements of policies BE1 and CC6 of the Maldon District Replacement Local Plan.
2. It has been established that the site may provide a habitat for protected species and that further surveys need to be undertaken to ascertain whether this is the case and what measures can be taken to secure the protection of these species. No such surveys have been undertaken and so due to this lack of assurance that protected species will not be harmed the proposal is contrary to the requirements of policy CC5 of the Maldon District Replacement Local Plan.

**16/01189** - To extend existing car parking into land rear of Woodfords Garage creating 19no parking spaces. – Refused.

Reason for refusal:

The proposal due to its location, scale, design and consequent loss of vegetation result in a development that would be visually intrusive and so adversely affect the character and appearance of the local landscape to the detriment of the amenities of local residents and users of the nearby public footpath. In addition the noise and general disturbance arising from the car parking would adversely affect the occupiers of neighbouring residential properties. As such the proposal would be contrary to the requirements of policies BE1 and CC6 of the Maldon District Replacement Local Plan.

### **3. CORPORATE OBJECTIVES**

#### **2 Protecting and shaping the district and balancing the future needs of the community**

- The right balance between protecting the natural environment and supporting development opportunities.
- A natural and built historic environment that is safeguarded and enhanced.

#### **4 Delivering good quality, cost effective and valued services in a transparent way**

### **4. IMPLICATIONS**

- 4.1 Government guidelines advise that: The LPA is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

If Members decide to Confirm TPO 2/17, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:

1. that the TPO is not within the powers of the Act, or
2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.

There are costs involved in this procedure which can be awarded. An application must be made within 6 weeks of the date the TPO was confirmed.

### **5. CONCLUSIONS**

#### **5.1 Tree Officer's Summary**

- The land is an attractive wooded area which has the potential to improve in appearance and quality in time
- The woodland is not currently under a management plan and felling works have recently taken place prior to a development application being submitted
- The woodland may be under threat from actions by neighbours
- There is public access through the land in question, therefore the woodland has amenity value
- The loss or minimisation of this maturing area will have a detrimental effect on the rural character of the immediate area
- Whilst not directly related to the criteria for making a TPO, the benefits that this green wooded area brings are wider spread than the limits of the site, through the connections to the green corridor network in the wider countryside

## **6. RECOMMENDATION**

**Confirm TPO 2/17 without modification.**

Background Papers:

Objections – Appendix 1

Site photos - Appendix 2

TPO 2/17 - Appendix 3

Enquiries to: Jackie Gilbert, Tree Officer 01621 876277

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## **APPENDIX 1**

Objection from Mr G Smith

Objection from Berveley Ayres

To whom it may concern,

As the landowner of plot A1 and part landowner of plot W1 (the land to the rear of 24-54 Maldon Rd., Burnham-on-Crouch) I need to make my position clear. I strongly object to the TPO (No.2/17) you have placed on the land between Maldon Road and Green Lane – some of the reasons are clearly listed here below. Just to clarify one point, the land mentioned above, is not woodland and never has been.

I took advice and got a very well-known local planner/tree surgeon, D.F. Clark to carry out the work necessary to meet my current demands on the land. I understand he deals with your local council on a regular basis. I found his work ethic and knowledge were to a high standard and he assured me he had worked within the limitations of the land available.

I believe the footpath meets the government guide lines for footpaths. Most people use that particular footpath as a toilet for their dogs leaving their mess behind in the process.

I have had numerous problems, some as recently as 3 months ago, with neighbours living in Maldon Road and still it continues. They have put gates up in fence lines into my field, cut wood and burnt rubbish on my land. No.36 Maldon Road has caused fire scorching and tree damage to elm trees (*see picture opposite*). These trees somehow are still standing today.



A particular problem is residents throwing their rubbish and grass cuttings over the fence onto my land. One neighbour, several years ago, stole a large portion of my land and put up a new fence to protect it!

I am convinced that a lot of the problems listed above have been caused because of the dense vegetation. I can no longer get to, or see my fence lines/boundaries and the neighbours are aware of this! I have never involved the council in these matters, but in retrospect perhaps I should have done so. However, the police have been involved a couple of times.

One of my main worries is the whole field catching fire, particularly in the summer months with the vegetation being so dry. School children from the nearby Ormiston Rivers Academy use the field in the summer months to hide in the meadow grass to skip school. I have found cigarette packets and even needles in the grass.

You probably are reading this thinking – is this Maldon Road? Yes, it is – I can assure you!

I am sure that common sense will prevail in the handling of this dispute and the final outcome will be a satisfactory solution to suit us all.

I have been contacted over the years by several 'undesirable mobile families' who have showed an interest in the ground. I would hate to think that one day this land should accommodate such an event, but when 'push comes to shove' you never know!

Regards  
Graham 'Tiff' Smith



**Jackie Gilbert**

---

**From:** [REDACTED]  
**Sent:** 17 March 2017 15:40  
**To:** Jackie Gilbert  
**Subject:** Tree Preservation Order No.2/17

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Tree Preservation Order No.2/17**  
**Land rear of 24 to 54 Maldon Road and South of Green Lane, Burnham-on-Crouch**

**Objections to above Order**

I am part landowner of the land marked W1 on your map and wish to state my objections to the TPO which has been placed on the land.

This land has always been classed as freehold property and it has always been our intention that eventually it would be used for building land. The woodland you refer to is simply a case of trees self seeding over a period of time. It has never been cultivated as woodland.

I trust that this matter will be resolved and the council will not find it necessary to make this Order permanent.

Please acknowledge receipt of this email. Thank you.

Beverley Ayres  
17 March 2017.



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)



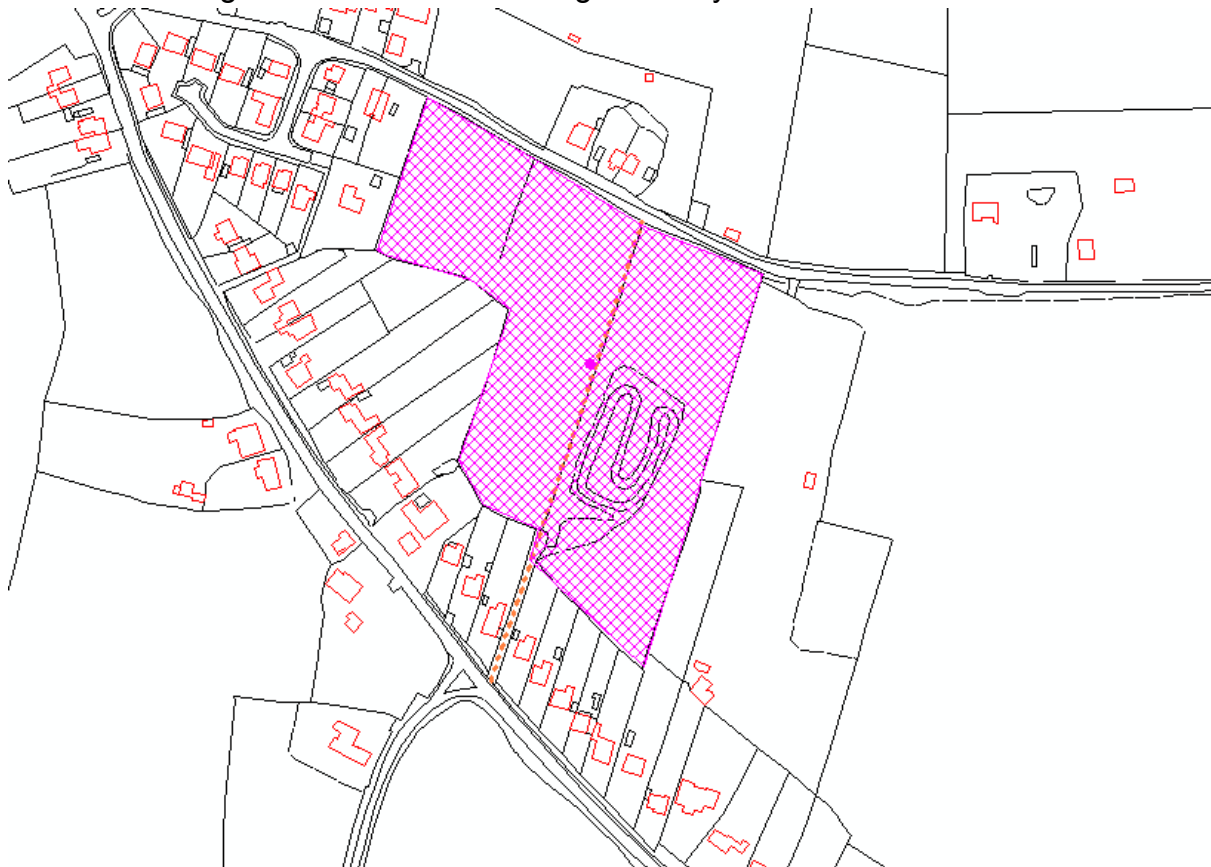


## **APPENDIX 2**

Images and photos of the site.

## APPENDIX 2

The site. Orange dotted line = Public Right of Way





## APPENDIX 2

Area of tree felling to rear of Woodford's Garage, facing west.



Public Right of Way through the site. facing north.





## APPENDIX 2

View across meadow area from PRow. facing east.



New fence showing double gate, width arrowed, facing west.





## APPENDIX 2

New fence, cleared area to the right, facing west.



View from inside the fenced off area, facing north.





## APPENDIX 2

View from Maldon Road, facing north. The crowns seen above the rooftops are the trees within the fenced area (Area 1) and the first trees in Woodland 1, beyond the fenced area.



## **APPENDIX 3**

TPO 2/17

## **Town and Country Planning Act 1990**

### **The Maldon District Council Tree Preservation Order 2/17**

**Title: Land rear of 24 to 54 Maldon Road and south of Green Lane, Burnham on Crouch**

The Maldon District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

#### **Citation**

1. This Order may be cited as the Maldon district Council TPO 2/17.

#### **Interpretation**

- 2.— (1) In this Order “the authority” means the Maldon District Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

#### **Effect**

- 3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### **Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 2<sup>nd</sup> day of February 2017

Signed on behalf of Maldon District Council:



Fiona Marshall  
Chief Executive  
Authorised by the Council to sign in that behalf.



## SCHEDULE 2/17

### Specification of trees

#### Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

#### Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
A1	Trees (of whatever species) within the area marked A1 on the map	

#### Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

#### Woodlands

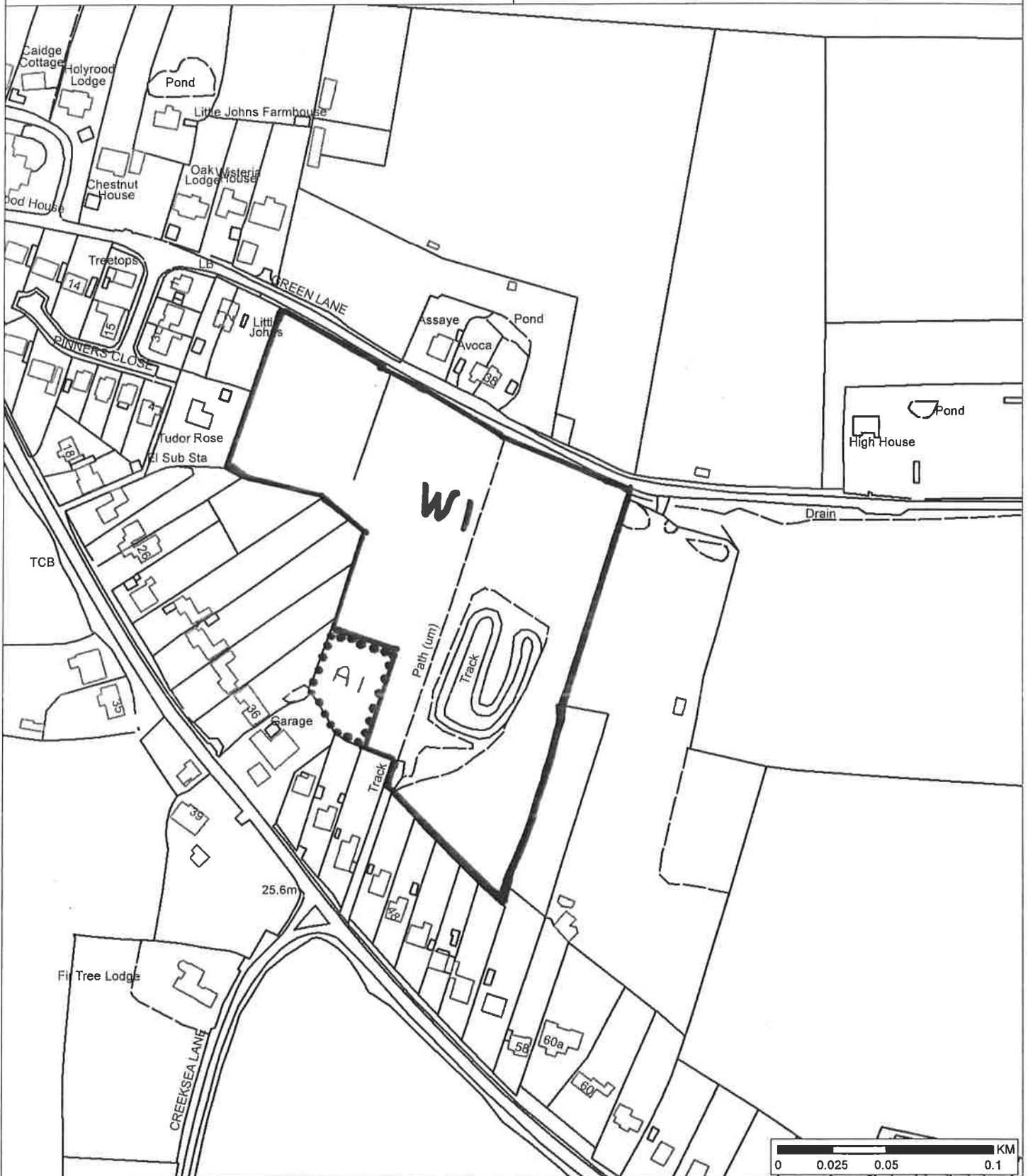
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Secondary Woodland with mature trees, mainly Broadleaf.	

# Tree Preservation Order

Details

**TPO 2/17 Land rear of 24 to 54 Maldon Road**  
**Burnham on Crouch**



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Scale: 1:2,500

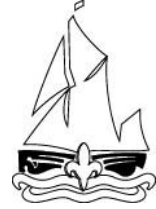
Organisation: Maldon District Council

Department: Community and Leisure Serv

Comments: J L Gilbert

Date: 02/02/2017

MSA Number: 100018588



**REPORT of  
CHIEF EXECUTIVE**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JULY 2017**

**OTHER AREA PLANNING AND RELATED MATTERS**

**ITEM 1      APPEALS LODGED**

**ITEM 2      APPEAL DECISIONS**

## ITEM 1      APPEALS LODGED

Notification has been received from the Planning Inspectorate of the following appeal lodged:

**Appeal Start Date:** 03/07/2017

**Application Number:** OUT/MAL/16/00915 (APP/X1545/W/17/3172993)

**Site:** Land Rear Of The Orchards, Maldon Road, Latchingdon, Essex

**Proposal:** Outline planning application for the demolition of one dwelling with all matters reserved for the construction of 7 dwellings comprising 2 x two bed, 2 x three bed and 3 x four bed dwellings

**Appeal by:** Mr & Mrs Brett

**Appeal against:** Refusal

**Appeal procedure requested:** Written Representations

## ITEM 2      APPEAL DECISIONS

Notification has been received from the Planning Inspectorate of the follow appeal decisions.

OUT/MAL/16/00105 (Appeal Ref: APP/X1545/W/17/3167607)

**Proposal:** Outline planning application for the provision of up to 13 dwellings, provision of public open space and a new vehicular access from Vicarage Court

**Address:** Glebe Meadow Adjacent King Georges Field Pavilion Station Road Southminster

**Decision Level:** Committee overturned Officer recommendation to approve

**APPEAL ALLOWED – 14 June 2017**

HOUSE/MAL/16/01403 (Appeal Ref: APP/X1545/W/17/3170414)

**Proposal:** Change of use of existing detached barn/store for residential use as an annexe.

**Address:** Yeomans 12 Mill Road Mayland

**Decision Level:** Delegated

**APPEAL ALLOWED – 14 June 2017**

HOUSE/MAL/16/01397 (Appeal Ref: APP/X1545/D/17/3171681)

**Proposal:** Proposed side extension

**Address:** Amaethon - Grange Road - Tillingham

**APPEAL DISMISSED – 20 June 2017**

**DECISION LEVEL:** Delegated

HOUSE/MAL/16/01250 (Appeal Ref: APP/X1545/D/17/3171464)

**Proposal:** Two storey side and single storey front and rear extensions

**Address:** 4 Railway Cottages, Station Road, Althorne, Essex, CM3 6DG

**Decision Level:** Delegated

**APPEAL DISMISSED – 21 June 2017**

FUL/MAL/16/00814 (Appeal Ref: APP/X1545/W/17/3166607)

**Proposal:** Residential development (four detached houses)

**Address:** Blackwater Marina, Esplanade, Mayland, Essex, CM3 6AL

**Decision Level:** Delegated

**APPEAL DISMISSED – 29 June 2017**