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CHIEF EXECUTIVE'S OFFICE
CHIEF EXECUTIVE
Fiona Marshall

27 October 2017

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **MONDAY 6 NOVEMBER 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 black ink, appearing to read 'Fiona Marshall', enclosed within a 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 6 NOVEMBER 2017

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 14)

To confirm the Minutes of the meeting of the Committee held on 9 October 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. **FUL/MAL/17/00860 - Barn Little Ashtree Farm, Steeple Road, Mayland, Essex** (Pages 15 - 28)

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

6. **RES/MAL/17/01004 - Pitt Cottages Hall Road Asheldham** (Pages 29 - 36)

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

7. **FUL/MAL/17/01010 - Land adjacent Fiddlers rest, The Endway, Althorne** (Pages 37 - 48)

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

8. **OUT/MAL/17/01099 - Land adjacent 13 Mill Road, Tillingham** (Pages 49 - 56)

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

9. **Other Area and Planning Related Matters** (Pages 57 - 58)

To receive the notification from the Planning Inspectorate of the following:

- (i) Appeals Lodged
- (ii) Appeal Decisions

10. **Delegated Planning Applications**

To receive and note the list of decisions on Planning Applications taken by the Chief Executive (to be circulated at the meeting).

11. **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 Nos. 5 – 8.
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

* 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 Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-on-Crouch Neighbourhood Development Plan (2017)*

*Note the referendum was held on 20 July 2017 and was in favour of the Plan, but the Plan will be made by Maldon District Council in September 2017. In the meantime it is treated as being in effect.

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
9 OCTOBER 2017**

PRESENT

Vice-Chairman Councillor A S Fluker
(in the chair)

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

496. CHAIRMAN'S NOTICES

The Chairman drew attention to the list of notices published on the back of the agenda. He advised Members that the sound loop was not working and therefore asked all who were to speak to do so clearly.

497. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs P A Channer CC and R P F Dewick.

498. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 11 September 2017 be approved and confirmed.

499. DISCLOSURE OF INTEREST

Councillor R Pratt disclosed a non-pecuniary interest as a Member of Essex County Council.

At this point in the meeting the Chairman advised that Agenda Item 6 - FUL/MAL/17/00713 – Land South of 97 South Street, Tillingham had been withdrawn by the Agent.

500. HOUSE/MAL/17/00336 - 4 THE SPINNAKER, ST LAWRENCE

Application Number	HOUSE/MAL/17/00336
Location	4 The Spinnaker, St Lawrence, Essex, CM0 7GR
Proposal	Convert garage into a bedroom with toilet and sink, keeping an area of storage at the front of the garage. Garage door would be functional. Window installation to the rear of the garage.
Applicant	Mrs Jayde Clarke
Agent	N/A
Target Decision Date	11.10.2017
Case Officer	Mahsa Kavyani
Parish	ST LAWRENCE
Reason for Referral to the Committee / Council	Parish Trigger

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 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 which forms part of this permission, unless otherwise agreed in writing by the Local Planning Authority.
- 3 The habitable accommodation hereby approved shall only be occupied ancillary to the occupation and use of 4 Spinnaker and shall not be sub-divided to form a separate dwelling or other such unit of independent occupation.

501. OUT/MAL/17/00713 - LAND SOUTH OF 97 SOUTH STREET, TILLINGHAM

Application Number	OUT/MAL/17/00713
Location	Land South Of 97 South Street Tillingham Essex
Proposal	Outline planning application for change of use of land to residential and construction of 14 residential dwellings
Applicant	Mr Oliver Mee - J D Mee & Sons
Agent	Sarah Threlfall - TMA Chartered Surveyors
Target Decision Date	4 October 2017
Case Officer	Yee Cheung
Parish	TILLINGHAM
Reason for Referral to the Committee / Council	Member Call In

As advised earlier by the Chairman, this application had been **WITHDRAWN** by the Agent.

502. **FUL/MAL/17/00821 - ASHELDHAM GRANGE BARN, RUSHES LANE, ASHELDHAM**

Application Number	FUL/MAL/17/00821
Location	Asheldham Grange Barn Rushes Lane Asheldham
Proposal	Removal of condition 4 on approved planning permission FUL/MAL/13/00203 (Demolition and removal of existing timber frame barn, which is the subject to two extant planning permission for change of use to residential use, and replacement with new Essex barn to be used as a dwelling)
Applicant	Mr N Kelly
Agent	Mr Mark Jackson - Mark Jackson Planning
Target Decision Date	18.09.2017
Case Officer	Hannah Bowles
Parish	Asheldham
Reason for Referral to the Committee / Council	Member Call In

It was noted from the Members' Update that further correspondence had been received from the Applicant, the main points raised were highlighted along with the Officer's response.

In response to concern raised regarding the time given for demolition of the existing timber frame barn once the new dwelling was occupied and whether this could be detrimental to the mitigation if during the bird breeding season, the Development Management Team Leader explained that there would be options around enforcement if the application was in breach of its conditions and enforcement action could be reviewed if there were mitigating circumstances.

RESOLVED that this application be **REFUSED** for the following reason:

- 1 The removal of Condition 4 would result in the retention of a barn comparable in scale and appearance to the dwelling on site. Given its scale, appearance and siting in the rural countryside, the accumulation of built form on the site is considered to harm the open and natural surroundings contrary to policy D1 of the LDP.

503. FUL/MAL/17/00840 - LAND NORTH OF ASHELDHAM HALL FARM, HALL ROAD, ASHELDHAM

Application Number	FUL/MAL/17/00840
Location	Land North Of Asheldham Hall Farm, Hall Road, Asheldham, Essex
Proposal	Erection of chalet bungalow
Applicant	Mr & Mrs D Henson
Agent	Mrs Hayley Webb - Smart Planning Ltd
Target Decision Date	5 th October 2017 (Date extension of time agreed: 13 th October 2017)
Case Officer	Anna Tastsoglou
Parish	ASHELDHAM
Reason for Referral to the Committee / Council	Member Call In

It was noted from the Members' Update that a consultation response had been received from Essex and Suffolk Water along with further information received from the Agent.

RESOLVED that this application be **REFUSED** for the following reasons:

- 1 The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the open character of the area. If developed, the site would be disconnected and isolated from the existing settlement and by reason of its location, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. Insufficient information has been submitted to demonstrate the essential need for a workers accommodation in this location and therefore, the development would be unacceptable and contrary to policies S1, S2, S8, E1 and H4, H7 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).
- 2 The proposed development, by reason of the lack of vehicle means of access to the application site would fail to meet the off-street parking requirements and would result in a detrimental impact on the parking availability, highway safety and local highway network contrary to policy T2 of the Maldon District Local Development Plan (2017), guidance contained within the Vehicle Parking Standards (2006) and Government advice contained within the National Planning Policy Framework (2012).

504. FUL/MAL/17/00860 - BARN, LITTLE ASHTREE FARM, STEEPLE ROAD, MAYLAND

Application Number	FUL/MAL/17/00860
Location	Barn Little Ashtree Farm, Steeple Road, Mayland, Essex
Proposal	Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding.
Applicant	Mr Wiffen
Agent	Andy Hall - Tyburn Consulting Limited
Target Decision Date	1 November 2017
Case Officer	Anna Tastsoglou
Parish	MAYLAND
Reason for Referral to the Committee / Council	Departure from the Local Development Plan 2017 Member Call In

The Group Manager - Planning Services advised the Committee that following a query regarding land ownership (received on the day of the meeting) and subsequent investigation by Officers the plan submitted with the application outlining the land within the applicant's ownership was incorrect. Members noted that the application was therefore invalid and could not be determined at this stage. Members were informed that once the land issue had been addressed and the application validated it would be brought back to the Committee for consideration.

505. FUL/MAL/17/00899 - LAND ADJACENT TIDEWAYS LODGE, STEEPLE ROAD, LATCHINGDON

Application Number	FUL/MAL/17/00899
Location	Land Adjacent Tideways Lodge, Steeple Road, Latchingdon
Proposal	New dwelling house
Applicant	Mr & Mrs D Winfield
Agent	Greg Wiffen - Planman
Target Decision Date	04.10.2017 (date of extension of time agreed: 11.10.2017)
Case Officer	Anna Tastsoglou
Parish	Latchingdon
Reason for Referral to the Committee / Council	Member Call In

It was noted from the Members' Update that supplementary information had been received from the Applicants and Officers responses were detailed.

Following the Officers' presentation, the Applicant Mrs Winfield addressed the Committee.

Councillor Mrs B F Acevedo, a Ward Member, advised that she had called in this application and did not agree with the Officers suggested recommendation of refusal. She provided Members with some previous history relating to this site and referred to the lawful development on the land and recent changes to the sustainability of the area due to development. She proposed that the application be approved, contrary to Officers' recommendation. This proposal was duly seconded.

As a point of clarification, the Group Manager - Planning Services advised Members what the Lawful Development Certificate, referred to by Councillor Mrs Acevedo, related to and how this was a different area of land to the site relating to this application. It was noted that planning permission had not been granted on this site but the Officer outlined where permission had been granted on adjacent sites.

The Chairman then put the proposal in the name of Councillor Mrs Acevedo to the Committee and upon a vote being taken this was declared lost.

Councillor R G Boyce moved that the Officers' recommendation of refusal be agreed. This was duly seconded and upon a vote being taken agreed.

RESOLVED that this application be **REFUSED** for the following reason:

- 1 The site is not considered to be in a sustainable location. Therefore, the creation of new residential development, remote from community services and essential support facilities, would be contrary to the 'presumption in favour of sustainable development' contained in the National Planning Policy Framework and to policies S1 and S8 of the approved Maldon District Local Development Plan. The poor sustainability credentials of the site and its locality, coupled with the impact of development on the character and appearance of the rural locality contrary to policy D1 of the Maldon District Local Development Plan would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Local Plan and the National Planning Policy Framework as a whole.

506. FUL/MAL/17/00921 - 514 MOORHEN AVENUE, ST LAWRENCE

Application Number	FUL/MAL/17/00921
Location	514 Moorhen Avenue St Lawrence
Proposal	Remove existing dilapidated dwelling & replace with 2x contemporary family homes with associated parking & gardens.
Applicant	Mr Paul Miller - P & G Miller Properties
Agent	Mr Craig Pallett - BDA
Target Decision Date	04.10.2017
Case Officer	Hannah Bowles
Parish	St Lawrence
Reason for Referral to the Committee / Council	Member Call In

RESOLVED that this application be **REFUSED** for the following reason:

- 1 The proposed development is located within Flood Zone 3a which seeks to direct and intensify residential development, classified as "more vulnerable" as per the Flood Risk Vulnerability Classification, in an area with a high probability of flooding contrary to paragraphs 101 and 102 of the National Planning Policy Framework and the policy D5 of the Maldon District Local Development Plan. Furthermore, the proposal is considered to fail both the Sequential Test and the Exception Test given that the Council can demonstrate a five year housing land supply on sites which have been subject of Sequential Testing; the wider sustainability benefits to the community do not outweigh the flood risk posed and because it is not considered that that the proposed

development will be safe for its lifetime taking account of the vulnerability of its users due to the lack of a sufficient Flood Risk Assessment.

507. OTHER AREA AND PLANNING RELATED MATTERS

The Committee considered the report of the Chief Executive on the following matters:

(i) Appeals Lodged:

It was noted that the following appeals had been lodged with the Planning Inspectorate:

Appeal Start Date: 14/09/2017

Application Number: COUPA/MAL/17/00034 (APP/X1545/W/17/3180431)

Site: Barn South Of Birs Lodge - Lower Burnham Road - Latchingdon

Proposal: Prior approval of proposed change of use of agricultural building to a dwellinghouse (C3), and for associated operational development.

Appeal by: Mr B & Mrs I Wells

Appeal against: Refusal

Appeal procedure requested: Written Representations

Appeal Start Date: 27/09/2017

Application Number: FUL/MAL/17/00468 (APP/X1545/W/17/03183379)

Site: Redbraes - Summerhill - Althorne

Proposal: Demolition of existing bungalow and construction of a new residential dwelling

Appeal by: Mr Paul Collins

Appeal against: Refusal

Appeal procedure requested: Written Representations

Appeal Start Date: 26/09/2017

Application Number: FUL/MAL/16/001376 (APP/X1545/W/17/3177225)

Site: Earth Enclosure Land Adjacent To Bradwell Marina, Waterside Road, Bradwell-On-Sea, Essex

Proposal: Retention of earth enclosure

Appeal by: Port Flair Ltd

Appeal against: Refusal

Appeal procedure requested: Informal Hearing

Appeal Start Date: 26/09/2017

Enforcement Notice Reference Number: ENF/16/00303/01

Appeal Reference Number: APP/X1545/C/17/3177226

Site: Bradwell Marina, Waterside Road, Bradwell-On-Sea, Essex, CM0 7RB

Alleged Breach of Planning Control: Without planning permission the unauthorised erection of a earth embankment over 2m high at the entrance to the marina.

Appeal by: Port Flair Ltd

Grounds of Appeal: That planning permission should be granted for what is alleged in the notice, that the time given to comply with the notice is too short.

Appeal procedure requested: Informal Hearing

Appeal Start Date: 27/09/2017
Application Number: FUL/MAL/17/00027 (APP/X1545/W/17/3183374)
Site: Land Adjacent Three Ways Batts Road Steeple
Proposal: Proposed residential development comprising 7 No. two bedroom dwellings
Appeal by: Mr P Ellis
Appeal against: Refusal
Appeal procedure requested: Written Representation

Appeal Start Date: 28/09/2017
Application Number: OUT/MAL/17/00204 (APP/X1545/W/17/3181143)
Site: Land At 32A Green Lane Burnham-On-Crouch
Proposal: Outline planning application for the construction of 2no. two storey homes
Appeal by: Marion Jackson and Ronald Spooner
Appeal against: Refusal
Appeal procedure requested: Written Representations

(ii) **Appeal Decisions:**

It was noted that the following appeal decisions had been received from the Planning Inspectorate.

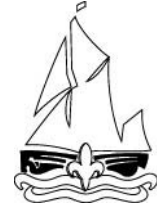
OUT/MAL/16/00915 (Appeal Ref: APP/X1545/W/17/3172993)
Proposal: Outline planning application for the demolition of one dwelling with all matters reserved for the construction of 7 dwellings comprising 2 x two bed, 2 x three bed and 3 x four bed dwelling
Address: Land Rear Of The Orchards Maldon Road Latchingdon
Decision Level: Delegated
APPEAL DISMISSED – 22 September 2017

508. DELEGATED PLANNING APPLICATIONS

The Committee received and noted the list of decisions on planning applications taken by the Chief Executive under delegated powers, circulated prior to the meeting for the period 11 September – 9 October 2017.

There being no further items of business the Chairman closed the meeting at 7.58 pm.

A S FLUKER
CHAIRMAN



**REPORT of
CHIEF EXECUTIVE**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
06 November 2017

Application Number	FUL/MAL/17/00860
Location	Barn Little Ashtree Farm Steeple Road Mayland
Proposal	Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding.
Applicant	Mr Wiffen
Agent	Andy Hall - Tyburn Consulting Limited
Target Decision Date	1 November 2017
Case Officer	Anna Tastsoglou, TEL: 01621 875741
Parish	STEEPLE
Reason for Referral to the Committee / Council	Departure from the Local Development Plan 2017 Member Call In

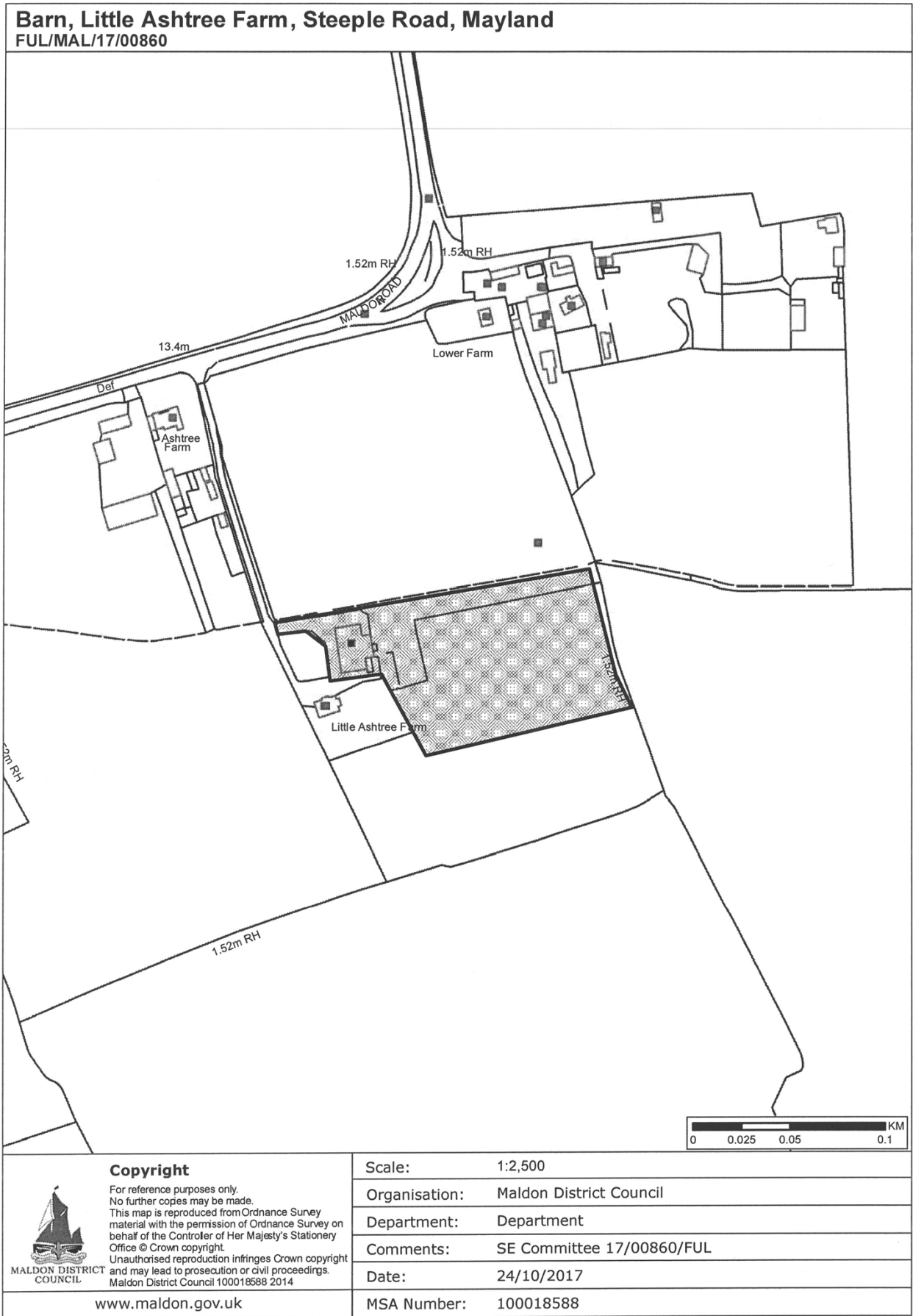
1. EXECUTIVE SUMMARY

- 1 *Following the receipt of a letter submitted by a neighbour, a couple of hours prior to the last South Eastern Area Planning Committee meeting on 9 October 2017, raising concerns regarding the accuracy of the location plan submitted . A land registry search confirmed that the application site shown by the location plan submitted included an area outside the ownership of the applicant and the incorrect certificate was submitted. On that basis the application was invalid.*
- 2 *Amended plans outlining the land within the applicant’s ownership have been submitted and on that basis the application is now considered to be valid.*
- 3 *Together with the amended location plans, amended floor plans and elevations have been submitted showing the relocation of the two bedroom windows on the south elevation being repositioned to the east and west elevations.*
- 4 *The application is therefore assessed below on the basis of the amended plans. The plans are currently the subject of public consultation. Any correspondence received will be provided within the Members’ Update.*

2. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 9 of this report).

3. SITE MAP



4. SUMMARY

4.1 **Proposal / brief overview, including any relevant background information**

4.1.1 Site description

4.1.1.1 The site is located beyond the defined settlement boundary for Mayland or Steeple. The access to the site is provided via Steeple Road linked to a private track to the south of Steeple Road. The land surrounding the site is agricultural in character with a residential dwelling to the southwest of the application site.

4.1.1.2 The site currently comprises an existing agricultural outbuilding with a main east to west gabled roof, with asymmetrical mono-pitched projections to the north and south. The main entrance is adjacent to the existing vehicular entrance to the dwelling known as Little Ashtree Farm. Externally the building is clad in concrete profiled sheeting and to the south is finished with close boarded timber cladding. The building currently has limited fenestration.

4.1.1.3 The building sits within an area slightly smaller than one hectare (9540sqm) and it has a footprint of 404sqm.

4.1.2 Description of proposal

4.1.2.1 Planning permission is sought to convert an existing detached agricultural building to a residential dwelling and alter its external elevations to install windows and rooflights and replacement wall and roof cladding.

4.1.2.2 New openings are proposed to be installed at all elevations and roof lights would be installed to the north and south elevations.

4.1.2.3 Externally the building is proposed to be finished in cedar lap weatherboard (Marley) cladding, MetaSlate profile space cladding roof and timber framed windows and doors.

4.1.2.4 Internally the building would measure 420sqm and it would accommodate a living area, a kitchen / dining area, a utility, four en-suite bedrooms, a boot room and a WC at ground floor and a TV lounge at first floor.

4.1.2.5 The alterations incorporated to the current proposal in relation to the previously approved prior approval application include the following:

- Two additional windows have been introduced to the front (west) elevation.
- The windows to the rear (east) elevation have been repositioned and an additional window has been introduced.
- The full-height glazed doors to the north side elevation have been reduced in size altered in design terms.
- A number of rooflights have been introduced to the roof.

4.1.3 Background of the application

4.1.3.1 It is noted that applications (Ref. nos: FUL/MAL/12/00249 and FUL/MAL/15/00976) to convert the existing barn to a dwelling were refused, by reason of the location of the proposed dwelling outside the defined settlement boundary. A prior approval application (Ref. no.: COUPA/MAL/16/00308) was then submitted to convert the agricultural building to a dwellinghouse. The application assessed against the government legislation and it was found to be acceptable subject to conditions. The current application has been submitted to the Council given that the development is proposed to be carried out not in accordance with the plans previously submitted and approved.

4.2 **Conclusion**

4.2.1 The proposed development is located outside the settlement boundary for Steeple or Mayland and thus, is in principle contrary to policies that seek to direct new residential development to established settlements. However, the conversion of the agricultural building to a residential dwelling was recently approved under prior approval (COUPA/MAL/16/00308). Therefore, on the basis of the previous decision, it is considered that the principle of a residential use in this location has been set and the proposal would not result in additional detrimental harm to the character of the area to such a degree as to warrant the refusal of the application. The development would be acceptable in terms of design, impact on the residential amenity of the neighbours and the future occupiers. The development would not have detrimental impact on the highway network and safety. Therefore, the development subject to appropriate conditions is considered to be acceptable.

5. MAIN RELEVANT POLICIES

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

5.1 **National Planning Policy Framework 2012 including paragraphs:**

- 7 Three dimensions to sustainable development
- 8 Roles of sustainable development
- 14 Presumption in favour of sustainable development
- 17 Core planning principles
- 29-41 Promoting sustainable transport
- 47-55 Delivering a wide choice of high quality homes
- 56-68 Requiring good design
- 109-125 Conserving and enhancing the natural environment
- 196-197 Determining applications

5.2 **Maldon District Local Development Plan approved by the Secretary of State in July 2017:**

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside

- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

5.3 Relevant Planning Guidance / Documents:

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

6. MAIN CONSIDERATIONS

6.1 Principle of Development

- 6.1.1 The application site lies beyond the development boundaries of Steeple or Mayland. The site is located within the open countryside, approximately 600m away from the settlement boundary of Mayland which is the closest village to the application site.
- 6.1.2 Policies S1, S2 and S8 of the approved Maldon District Local Development Plan (LDP) seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 6.1.3 Although the proposed development would be contrary to the abovementioned policies of the LDP, as noted above, a prior approval application for the conversion of the barn to a dwellinghouse was previously approved and therefore, the principle of the use of the agricultural building as a residential unit has been allowed. In this particular instance, whilst there are still concerns regarding the unsuitable location of the application site to be used as residential dwelling, it is not considered reasonable for the application to be refused in principle.
- 6.1.4 The sole difference between the current development and the previously approved prior approval application (with the exception of the alteration to the external elevations) is the size of the application site, which now includes a significantly larger area to the rear of the application site. Although the application site would go further out towards the countryside than the previously approved application, given that the built form would not be extended, the proposed development would not have a material difference from the previous application, such as to warrant refusal on the grounds of principle of the development.

6.2 Design and Impact on the Character of the Area

- 6.2.1 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.
- 6.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF 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*”.
- 6.2.3 Paragraph 64 also states that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.
- 6.2.4 This principle of good quality design is reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - b) *Height, size, scale, form, massing and proportion;*
 - c) *Landscape setting, townscape setting and skylines;*
 - d) *Layout, orientation, and density;*
 - e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
 - f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
 - g) *Energy and resource efficiency.*
- 6.2.5 The external alterations proposed to the previously approved application are limited and not materially harmful to the appearance of the existing barn. The introduction of some additional fenestration to the building is considered to add some architectural interest and is preferred in design terms, given that the development would not result in large areas of blank walls. There appears to be consistency in the configuration and proportions of the windows and thus, overall the revised external appearance of the building is considered acceptable.
- 6.2.6 With regard to the proposed external finishing materials, although they would not match the used materials of the adjacent dwellings, given that the appearance of the dwelling when finished would be significantly better from the current appearance of the barn as existing, on balance, no objection is raised to the use of different type of materials.
- 6.2.7 The refuse store has been shown to be located to the north of the building in line with the principle elevation of the proposed dwelling. In order to avoid unsightly views of

refuse to the front of a building, it is good practice for the bin store to be sited to the rear of the properties. An informative would be added as a reminder for the applicant.

- 6.2.8 In light of the above, it is considered that the development would be acceptable in terms of its design and impact on the character of the wider area.
- 6.2.9 It is noted that the converted property would be significantly large in scale and any extensions of the unit would further and unacceptably enlarge its scale. This would impact on the open character of the countryside and it would lead to a domestication affect. For that reason, it is considered that the permitted development rights for residential properties should be removed from this particular development.

6.3 Impact on Residential Amenity

- 6.3.1 Policies D1 and H4 of the approved LDP seek to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 6.3.2 No extensions are proposed to the existing building, which will be of the same dimensions, height and position with the current building. As such, the development would not have a detrimental impact on the amenity of the neighbouring dwellings, in terms of loss of light or domination.
- 6.3.3 With regard to overlooking, an approximate 9m distance would be maintained between the bathroom window to the south elevation of the application dwelling and the neighbouring dwelling to the south. This window would be obscure glazed and inward opening. As noted above, two bedroom windows previously shown on the south elevation have been removed from this elevation and therefore, the development would not result in overlooking on the neighbour property to the south.
- 6.3.4 The proposed development, by reason of its location and relationship with the neighbouring dwellings, would not have a greater impact on the amenity of any other nearby neighbour. The impact of the development on the residential amenity is therefore considered acceptable.

6.4 Access, Parking and Highway Safety

- 6.4.1 The access to the application site, as noted above, would be via a private service track linked with Steeple Road. The access to the site has not been amended from the previous proposal, which was assessed and found to be acceptable.
- 6.4.2 Although parking provision has not been shown on the submitted plans, the application site has a long driveway and front hard surfaced frontage, which is capable of accommodating a minimum of four vehicles. Therefore, no objection is raised in terms of off-street car parking provision.
- 6.4.3 The property has an existing established access to vehicles which is wide enough to allow egress and exit from the site without causing obstruction to the private drive.

6.5 Private Amenity Space and Landscaping

- 6.5.1 An approximate 8,550sqm of amenity space would be provided to the future occupiers of the dwelling, which by far exceeds the minimum outdoor amenity space requirements.
- 6.5.2 The provision of landscaping would be required in order to soften the appearance of the development. This element of the proposal would be dealt with by condition.
- 6.5.3 There is existing hedgerow along the northern boundary of the application site, which is considered to positively contribute to the countryside character of the area and it also provides a good link with other hedgerow networks. For that reason, it is considered necessary to be protected. This will be secured by condition.

7. ANY RELEVANT SITE HISTORY

- **FUL/MAL/12/00249** - Alterations and conversion of existing barn to dwelling. Planning permission granted.
- **FUL/MAL/13/00370** - Demolition of existing barn and erection of new barn style residential dwelling. Planning permission refused.
- **FUL/MAL/15/00976** - Conversion of existing barn to dwelling with associated alterations. Planning permission refused.
- **COUPA/MAL/16/00308** - Conversion of an agricultural building to one new residential dwelling. Prior approval granted.
- **FUL/MAL/17/00419** - Variation of condition 2 on approved application COUPA/MAL/16/00308 (Conversion of an agricultural building to one new residential dwelling). Planning permission refused.

8. CONSULTATIONS AND REPRESENTATIONS RECEIVED

8.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Steeple Parish Council	Steeple Parish Council supports the application.	Comment noted.

8.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC) Highway Authority	No objections subject to condition in relation to submission of details regarding foul drainage scheme.	Condition added (08).

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	It is also requested that a questionnaire about the previous use of the barn previously sent to the applicant to be return to Environmental Health Services.	

8.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to condition in relation to submission of details of surface water and foul drainage scheme. It is also noted that a questionnaire about previous use of the barn has been sent to the applicant from the Environmental Health Services, which should be returned.	Comments noted. Condition 9 of the officer's report has been amended to accord with the recommended condition.

8.4 Representations received from Interested Parties (*summarised*)

8.4.1 A letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

- Sandra McClaren, Little Ashtree Frm, Steeple Road, Mayland

Objection Comment	Officer Response
The proposed conversion of the barn is different from that approved in 2012, maintaining the lean to projection. That would result in the building being in close proximity to the shared boundary with the dwelling to the south.	It is noted that no extensions are proposed to be erected to the existing building. Furthermore, an application (COUPA/MAL/16/00308) maintaining the footprint of the existing building was previously approved. As such, the building would not come closer to the shared boundary with Little Ashtree Farm and it would not be dissimilar to the footprint of an already approved application.
The building should be a minimum of 1m away from the boundary.	It is noted that there is no restriction in planning regarding the distance that a building should have from the boundary of the application site.

Objection Comment	Officer Response
The erection of a 1.8m high fence would not allow windows to open outwards and would impact on the living conditions of the future occupiers.	The bathroom window to the south elevation would be inward opening and the previously proposed bedroom windows would now be located to the west and east elevations. Thus, there is no need for the erection of a fence along the shared boundary and the bedroom would benefit from adequate outlook, ventilation and light.
Overlooking from the windows and loss of private amenity.	Please refer to paragraph 5.3.3.
Works have commenced on site.	It is noted that the application has extant permission to be converted to a dwellinghouse (COUPA/MAL/16/00308). As long as the works comply with this permission, there is no breach in planning. Internal works that require building regulations are not a planning matter.
The applicant has opened a window to the elevation facing Steeple Road.	It is noted that this window is shown on the proposed elevation of application reference COUPA/MAL/16/00308 and as noted above, this permission is still extant. Furthermore, there is no planning law preventing works being applied for retrospectively as the proposals must still be considered on their merits.
There are inconsistencies between the plans and elevations. In particular a window to bedroom 4 is shown on the floor plan and not on the rear elevation.	This comment was made for the previously submitted plans, which however, had no inaccuracies.
The existing hedgerow to the north of the barn should remain.	A condition is recommended to be imposed (06) to retain the existing hedgerow along the northern boundary.
The plans submitted show an inaccurate site area.	As noted above the plans submitted show a revised location plan outlining correctly the land within the applicant's ownership.
The officer gives significant weight to the prior approval application (COUPA/MAL/16/00308) and not the application (FUL/MAL/15/00976) that was refused prior to the submission of the prior approval application. The prior approval was not assessed against	Significant weight is given to the prior approval application as it has extant permission to convert the barn to a dwelling. This sets a precedent of acceptable development.

Objection Comment	Officer Response
planning policy.	
The proposed landscaping and boundary treatment proposed by the Council cannot be implemented, given that there is no gap between the south elevation of the barn and the boundary. The applicant would need to reduce the size of the barn in order to be able to accommodate landscaping.	The comment was noted and amended plans have been submitted showing no gap between the elevation and boundary line. The bedroom windows have been repositioned and there would be no need for the imposition of a condition in relation to landscaping and boundary treatment along the south elevation of the site.

8.4.2 Following publication of the previous Officers Report, Mr A Hall (agent of the applicant) responded to the comments raised by the objector, as follows:

- The current submission seeks to amend details forming part of the ‘prior approval’ application (COUPA/MAL/16/00308), which shows the existing building being retained in its current position and would be unaltered.
- It is acknowledged that one elevation of the existing building is located on the property boundary. As such, there are technical issues that will need to be addressed as part of the Building Regulations process, however, we do not feel that this is a material planning issue.
- Concerning the issue of overlooking, it should be noted that the current proposals are not dissimilar to those contained within the ‘prior approval’ consent. The extant scheme shows two bedrooms with windows on the South elevation and the current scheme contains three, one of which is a bathroom window and it would be glazed in obscure glass. **[Officer comment: However, it is noted that this has been amended.]**
- The objection states that a new opening has been created for benefit the current application. I confirm that this is an existing opening. The applicant exposed the aperture whilst undertaking preparatory works in relation to the ‘prior approval’ scheme.
- The applicant have commenced with preliminary works which they are entitled to undertake under the extant consent (COUPA/MAL/16/00308).
- For the avoidance of doubt, the metal tank referred to within the objection is a foul water treatment unit (a septic tank).
- The objection makes reference to new windows being shown on the plans, but not on the elevation drawings. This is not the case.
- Reference is made to the existing hedge, which will not be affected by the current application.

9. 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 approved drawings 10.84/001 Rev B (existing floor and roof plans), 10.84/002 Rev A (existing elevations and section), 10.84/103 Rev B (block plan), 10.84/102 Rev C (proposed elevations and section) & 10.84/101 Rev B (proposed floor and roof plans).
REASON: To ensure the development is carried out in accordance with the details as approved.
- 3 The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed within the application.
REASON: To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan.
- 4 No development shall take place until details of the boundary treatment 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 and be retained as such in perpetuity.
REASON: To ensure the external appearance of the development is appropriate to the locality and that the development would protect the amenities of the neighbouring occupiers in accordance with policy D1 of the approved Maldon District Local Development Plan.
- 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, 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, 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: To ensure the external appearance of the development is appropriate to the locality in accordance with the National Planning Policy Framework and policy D1 of the approved Maldon District Local Development Plan.

- 6 The existing hedgerow along the northern boundary of the application site shall be retained in perpetuity, unless otherwise agreed in writing by the local planning authority.
REASON: To ensure the external appearance of the development is appropriate to the locality and to protect the natural environment in accordance with the National Planning Policy Framework and policies D1 and N2 of the approved Maldon District Local Development Plan.
- 7 The development hereby permitted shall not be occupied until details of the vehicle parking, including any parking spaces for the mobility impaired, have been submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the approved plans and 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 the National Planning Policy Framework and policy T2 of the approved Maldon District Local Development Plan.
- 8 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the Local Planning Authority.
REASON: In the interests of the amenity of the area in accordance with policy D1 of the Maldon District Local Development Plan.
- 9 Prior to the commencement of the development details of the surface water and foul drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.
REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Local Development Plan.

INFORMATIVES

- 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.
- 2 **Waste Management**
 The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site

road is constructed to accommodate the size and weight of the Council's collection vehicles.

You are also advised that refuse store should be stored to the rear of the property rather than the front.

- 3 You are advised that three off-street parking spaces shall be provided for the proposed dwelling.



**REPORT of
CHIEF EXECUTIVE**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
06 November 2017

Application Number	RES/MAL/17/01004
Location	Pitt Cottages Hall Road Asheldham Essex
Proposal	Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/14/00993 (Proposed new two bedroom home).
Applicant	Robert Boyce & Nicola Bartlett
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	31 October 2017
Case Officer	Hannah Bowles, TEL: 01621 875733
Parish	ASHELDHAM
Reason for Referral to the Committee / Council	Councillor / Member of Staff

1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see overleaf.

Pitt Cottages, Hall Road, Asheldham
RES/MAL/17/01004



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee 17/01004/RES
	Date:	24/10/2017
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the east side of Hall Road within a rural location outside of a defined settlement boundary. The application site currently forms part of the curtilage of 2 Pitt Cottages which neighbours the application site to the north-west. Asheldham Quarry borders the site to the north, with the designated Scheduled Monument of Asheldham Camp located immediately to the south.
- 3.1.2 Following the grant of Outline planning permission with all matters reserved for the erection of a two bedroomed dwelling (ref: OUT/MAL/14/00993), this proposal represents the Reserved Matters details which are access, scale, appearance, landscaping and layout.
- 3.1.3 The proposed dwelling would front Hall Road and would measure 8.2m in width and a maximum of 7.7m in depth. It would be finished with a hipped roof measuring 4.9m to the eaves and 7.3m to the ridge. It would accommodate an open plan kitchen / dining / lounge area and a WC at ground floor and two bedrooms and a family bathroom at first floor.

3.2 Conclusion

- 3.2.1 The proposal is considered acceptable in terms of the reserved matters from outline application OUT/MAL/14/00993 and would accord with policies S1, S8, D1, D2, D3, H2 and H4 of the Local Development Plan (LDP) and the provision and guidance as contained within the National Planning Policy Framework (NPPF).

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:

- 14 Presumption in favour of sustainable development
- 17 Core Planning Principles
- 56-68 Requiring Good Design
- 55 Housing

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H4 Effective Use of Land
- N1 Natural Environment and Biodiversity
- T1 Sustainable Transport

- T2 Accessibility

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 Outline planning permission (ref: OUT/MAL/14/00993) was granted on 28.01.2015 for a two bedroomed detached dwelling on the application site. Therefore, the principle of the development of the site for a dwelling is acceptable.
- 5.1.2 The application subject of this report is a reserved matters application for the approval of access, appearance, landscaping, layout and scale in relation to approved outline planning application OUT/MAL/14/00993.

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 measure 8.2m in width and a maximum of 7.7m in depth. It would be finished with a hipped roof measuring 4.9m to the eaves and 7.3m to the ridge. There would be a two storey gable end projection to the front. The proposed dwelling would front Hall Road and would be of an appropriate setting in relation to the building line and layout within the immediate area.
- 5.2.3 Notwithstanding the fact that the proposed development would introduce a new detached dwelling into a rural area outside and beyond a defined settlement boundary, the dwelling is considered to assimilate into the streetscene to an acceptable level. The hipped roof references those at Pitts Cottages and there are front gable ends present within close proximity to the site. In terms of scale, although larger in terms of width and height than the neighbouring cottages, given the distance of around 20m between the properties, it is not considered that the proposed development would dominate or dwarf Pitts Cottages and the separation distance justifies the dwelling having a different scale and appearance.
- 5.2.4 Furthermore, given the distance from Asheldham Camp it is not considered that the proposed development would have an impact on the setting of the nearby Scheduled Monument.
- 5.2.5 The proposal is therefore considered to accord with approved policy D1 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account domination, overlooking and a loss of light to the main windows of the neighbouring dwelling.
- 5.3.2 There is one adjacent neighbouring dwelling to the northwest of the application site; no. 2 Pitt Cottages. The proposed dwelling would be located around 4m from the shared boundary and around 20m from the existing dwelling.
- 5.3.3 The proposed dwelling is not considered to result in a loss of light to the main windows of the neighbouring dwelling or form an overbearing or dominant development, given the distance of around 20m.
- 5.3.4 In terms of overlooking, there is one window located on the side elevation of the proposed dwelling on the first floor of the front gable on the northwest side elevation. Given the distance of around 23m from the window to the neighbouring dwelling, it is not considered that the proposed development would result in significant overlooking to the detriment of the neighbouring occupiers.
- 5.3.5 The proposal is therefore considered to accord with approved policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Maldon District Council Supplementary Planning Document (SPD) states that residential dwellings comprising two bedrooms require a maximum of two car parking spaces. The plans show a parking and turning area that would have provision to accommodate two car parking spaces in accordance with the recommended standard.
- 5.4.3 The Highways Authority has not yet responded with their comments. However, it is not considered that an objection would arise in relation to highway safety. Any response received and suggested conditions will be reported on the Members' Update.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private amenity space. In addition, the adopted Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms and 50sq.m. for a two bedroomed dwelling.
- 5.5.2 The proposed rear amenity space would be provided in excess of 100sq.m. which is above the recommended standard of 50sq.m. for a two bedroomed dwelling.

- 5.5.3 In terms of landscaping; condition 7 of the approved outline permission required that full details of the hard and soft landscape works to be carried out should have been submitted at the reserved matters application stage. Some details have been submitted and are shown on the proposed site plan however, this information is not sufficient to satisfy the condition. Therefore, a re-worded condition will be implemented under this application to ensure the information is provided prior to the commencement of the development should the application be approved.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/14/00993** – Proposed new two bedroom home – Approved – 28.01.2017.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No comment.	Noted.

7.2 Representations received from Interested Parties (*summarised*)

- 7.2.1 There were no letters of representation received.

8. PROPOSED CONDITIONS:

1. The development hereby permitted shall be carried out in complete accordance with the approved drawings: 1114/03, 1114/04, 1114/05 A, 1114/06 Received 24/10/2017.
REASON: To ensure that the development is carried out in accordance with the details as approved.
2. No development shall take place until full details of both hard and soft landscape works to be carried out shall be 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, 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.
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.

REASON: To protect the rural character of the area in accordance with policy D1 of the Maldon District Local Development Plan.

INFORMATIVE

Please note that it is necessary to comply with all conditions that are imposed upon OUT/MAL/14/00993 and RES/MAL/17/01004.

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**REPORT of
CHIEF EXECUTIVE**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
06 November 2017

Application Number	FUL/MAL/17/01010
Location	Land Adjacent Fiddlers Rest The Endway Althorne Essex
Proposal	Demolition of existing sheds with road side frontage and development of a new, separate dwelling within the existing garden curtilage.
Applicant	Mr & Mrs Acevedo
Agent	Mrs Lynne Fornieles - Febo Designs
Target Decision Date	14 November 2017
Case Officer	Hannah Bowles, TEL: 01621 875733
Parish	ALTHORNE
Reason for Referral to the Committee / Council	Councillor / Member of Staff

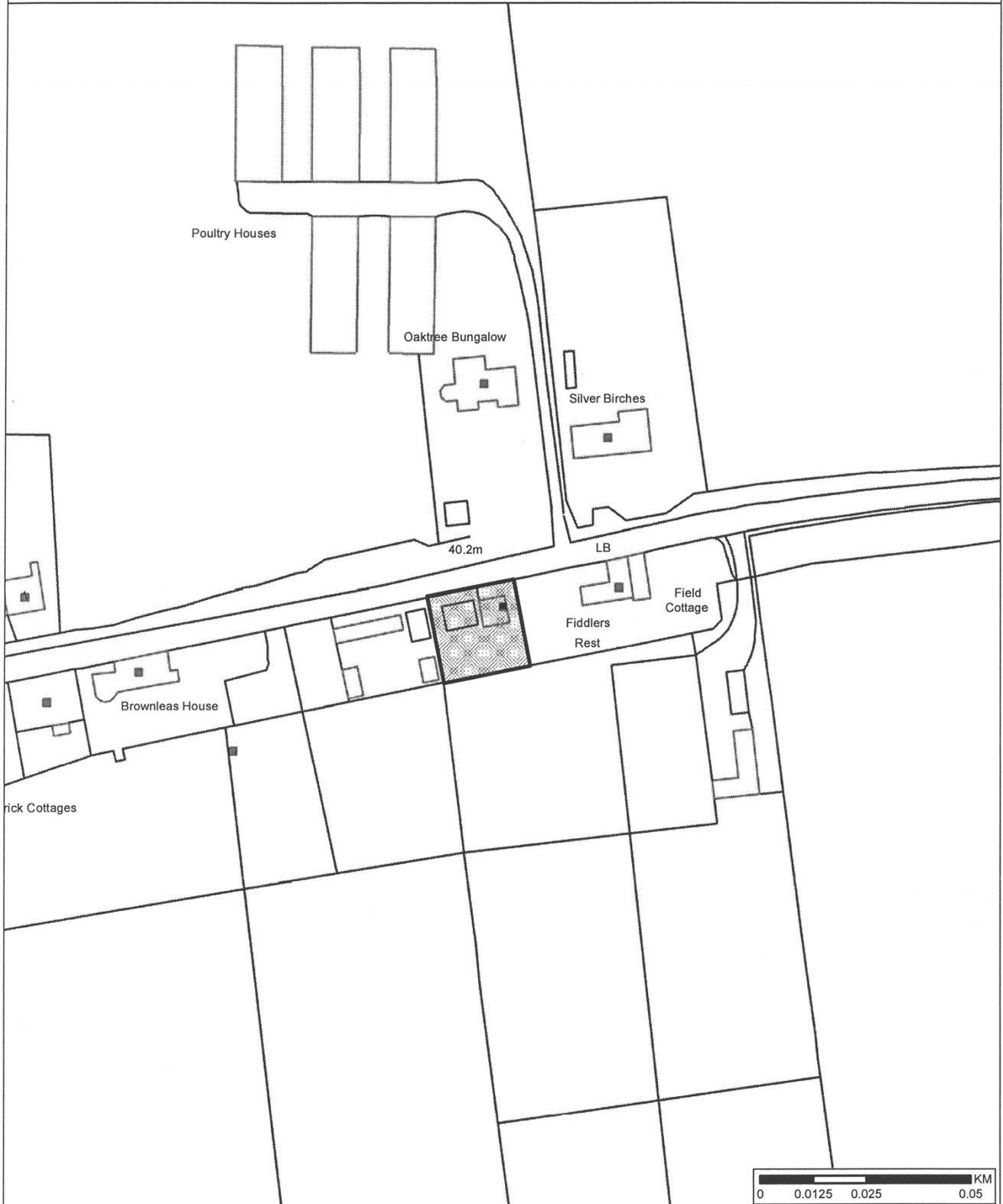
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see overleaf.

Land Adjacent Fiddlers Rest, The Endway, Althorne
FUL/MAL/17/01010



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee 17/01010/FUL
	Date:	26/10/2017
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located along the southern side of The Endway outside of the development boundary for Althorne. The site is located in a rural and open setting characterised by clusters of low density development along the road, which forms a small developed area surrounded by open countryside at the application site.
- 3.1.2 The application site is located within the domestic curtilage of Fiddlers Rest which is a detached, two storey, white weatherboard dwelling. The host dwelling lies to the east of the application site. To the west is a residential dwelling Brownleas House, whose outbuildings are located adjacent to the western site boundary. A detached two storey dwelling known as Oaktree Bungalow is located opposite the application site. There is open and undeveloped land to the rear of the application site. Currently the site accommodates two outbuildings. The western boundary of the site is defined by a 1.8 metre high timber fence which screens the application site from Brownleas House. The southern boundary of the site is defined by post and rail fencing with the eastern boundary currently open and undefined. The front northern boundary is defined by a hedgerow.
- 3.1.3 Planning permission is sought for the erection of a two storey dwelling on land to the west of Fiddlers Rest. The proposed dwelling would measure a maximum of 9.9 metres wide by 8.3 metres deep. It would be 6.3m in height to the ridge and 4.7m in height to the eaves. It would be finished with render and weatherboard walls, painted softwood windows and similar tiles to those used on the dwelling of Fiddlers Rest.
- 3.1.4 The proposed dwelling would provide an open plan kitchen / sitting room / dining room, hallway and WC at ground floor level and three bedrooms, one with an en-suite and a family bathroom at first floor level.
- 3.1.5 The dwelling would be positioned around 1.5 metres from the western boundary of the site around 5 metres from the eastern boundary and the front elevation of the dwelling would be positioned around 5 metres from the front boundary of the site.
- 3.1.6 It should be noted that an application for a similar scheme was refused on the application site in 2012 and the appeal dismissed in 2013 (ref: FUL/MAL/12/00016). This is a material consideration when determining this application.

3.2 Conclusion

- 3.2.1 The application site lies outside the defined settlement boundary of Althorne wherein both Local Development Plan Policies and Government Guidance points towards the continued restraint of new development in the countryside, unless it would represent sustainable development or there would be overriding benefits. In this instance it is considered that the proposal would represent an unsustainable form of development contrary to both local plan policies and the principles of the NPPF.

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:

- 8
- 14
- 17
- 29-41
- 47-55
- 56-68

4.2 Maldon District Local Development Plan approved by the Secretary of State:

- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- T1 Sustainable Transport
- E3 Community Services and Facilities
- H2 Housing Mix
- H4 Effective Use of Land
- T2 Accessibility
- N2 Natural Environment and Biodiversity

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 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)).

5.1.2 Planning permission is sought for a new dwelling outside of the development boundary for Althorne.

5.1.3 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. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 5.1.4 In relation to the above, the site is located in the countryside where policies of restraint apply. Policy S8 seeks to support sustainable development in settlement boundaries and to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy states that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and the development is for one of the development types listed within that policy. The proposed residential dwelling would not fall within any of the categories listed within policy S8. Therefore, the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.
- 5.1.5 Further to this, within the National Planning Policy Framework (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. In this regard, there are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the LDP which emphasises the need for sustainable development.
- 5.1.6 In economic terms, it is reasonable to assume that there may be some support for local trade from the development. This would however be extremely limited given the scale of the proposal of one dwelling. Equally, there is no guarantee that the limited construction works required for this development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minor. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 5.1.7 In social terms, development should assist in supporting a strong vibrant and healthy community. The application site lies approximately 900 metres to the east of the defined development boundary of Althorne and does not have access to a bus stop or local services within the vicinity. Local services are very limited and bus services are infrequent. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities, contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the LDP.
- 5.1.8 As previously noted, a previous application for similar development was dismissed at appeal on the 15th February 2013. The above stance in relation to sustainability is commensurate with the appeal decision. It was noted by the Inspector that in terms of sustainability, *'There are no shops or services immediately in The Endway. There is no bus stop directly outside the appeal site with a community bus stop (which runs a*

limited service) about 200m from the appeal site and a stop for the main bus services about 600m from the appeal site on Fambridge Road. In addition there are no public footpaths or street lighting along the route to the closest community bus stop, which would promote car use at night. Footpaths do not begin until further west on Fambridge Road where the main bus stop is located. The frequency of the buses at the nearest stop would not be sufficient for future occupiers to use as a regular alternative to the car.'

- 5.1.9 Although different policies of restraint apply since the determination of the previous scheme, the approved LDP reiterates the importance of protecting the character and appearance of rural localities and encouraging new development in areas where there are alternative modes of transport available. Furthermore, there are no new services available in Althorne which would overcome the concerns and comments made by the Inspector and no new applications for new residential units have been approved in the immediate vicinity.
- 5.1.10 Weight is given to the appeal decision at Land Adjacent The Old Forge and Thornley Cottage Burnham Road which was dismissed at appeal (ref: OUT/MAL/16/01182). This appeal site is located around 900m west from the application site and is located adjacent to the settlement boundary of Althorne, within closer proximity to the services and facilities offered in the village. As such, the current site is considered to be more remote and unsustainable than the appeal which was dismissed on 31st May 2017.
- 5.1.11 A change of use of agricultural building to three dwellings was granted prior approval at Maythorne Mushrooms, The Endway, Althorne, in April 2016. However, this is not a planning application assessed against the development plan, and as such would be given minimal weight in determining this current scheme.

5.2 Housing Need

- 5.2.1 The proposal would provide a one three bedroom dwelling.
- 5.2.2 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.3 Policy H2 of the LDP and its preamble, which when read alongside the evidence base from the SHMA, shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units, and around 71% of all owner occupied properties having three or more bedrooms.
- 5.2.4 The Council is therefore encouraged in policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal provides a three bedroom dwelling.
- 5.2.5 As the Council can now 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 provision of an additional dwelling which is not aligned

with the Council's needs is considered to make a negligible contribution in respect of social sustainability.

5.3 Design and Impact on the Character of the Area

- 5.3.1 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 seek to create a high quality built environment for all types of development.
- 5.3.2 The application site is located on the southern side of The Endway outside of the defined development boundary for Althorne. The Endway is characterised by low density development with soft landscaping with residential dwellings located sporadically along either side of the road following the road layout as a form of ribbon development. Policy S8 of the Local Development Plan advises that the countryside will be protected for its own sake, particularly for its values, including landscape. The application site is located within the rural countryside although there are dwellings to the north, east and west forming a small developed area surrounded by open countryside.
- 5.3.3 Although there are a limited number of dwellings within the immediate surrounding area, they are all a mixture of different architectural styles and both two storey dwellings and bungalows are present. 'Oaktree Bungalow' opposite the application site is a two storey brick built dwelling on a 'H' shaped footprint, Fiddlers Rest is a two storey weather boarded dwelling, and 'Brownleas House' is a two storey rendered dwelling.
- 5.3.4 The proposal would result in the demolition of the existing single storey outbuildings and erection of a two storey dwelling. The replacement of these single storey outbuildings with a two storey dwelling would significantly change the character and appearance of the site and its relationship with the existing dwelling and streetscene. At present these outbuildings appear as subservient buildings to the primary residence at the site. Therefore, the proposed introduction of a residential dwelling would have a significant and harmful impact upon the rural character and appearance of the area.
- 5.3.5 The proposed dwelling would be set in a smaller plot than the surrounding dwellings which is considered to exacerbate the impact of the development on the open and rural nature of the site. Furthermore, the proposed dwelling is two storey, which would have a significantly greater impact upon the rural character and appearance of this locality than the existing single storey outbuildings.
- 5.3.6 In terms of the design of the proposed development, it is considered to appear sympathetic to other built form evident along The Endway, the proposed dwelling would pick up architectural references from Fiddlers Rest which is a two storey detached dwelling with a staggered front elevation. In terms of scale, bulk and height it is not considered to appear as an overbearing or dominant form of development when viewed from the streetscene.
- 5.3.7 It is considered that the principle of the siting of a dwelling on a site, in a rural location, that is currently occupied by single storey outbuildings which appear

subservient to Fiddlers Rest would result in an urbanisation of the site extending the urban and developed character of the settlement into the countryside, creating a form of development which would detract from the rural and open character, appearance and natural beauty of the locality. The intrusion of domestic paraphernalia would create urbanised clutter, harmful to the rural countryside setting. This would fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural locality.

- 5.3.8 The above position is commensurate with the view taken by the Inspector for the previously dismissed appeal. It was stated that *'The appeal site contains single storey outbuildings associated with Fiddlers Rest and sits adjacent to outbuildings for the nearby dwelling to the west. The site is firmly part of the rural setting of the main dwelling and is set behind a hedge (which had been reduced in height at the time of my visit). The existing outbuildings sit comfortably within and form part of the rural character of the area. The proposal would intrude into and compromise the space around the existing dwelling. The effect would be the creation of a form of development harmful to the open rural character of the area. This change would not safeguard the intrinsic rural character of The Endway.'*
- 5.3.9 Although different policies are in place and the appeal was determined in 2013, the stance taken by the Inspector at that time is considered relevant as no new residential dwellings have been approved within the immediate vicinity of the site. Therefore, the character of the area has not changed so significantly since the determination of the previous application on the site to overcome the concerns raised in terms of character and appearance.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, and loss of light to the main windows of the neighbouring dwellings.
- 5.4.2 The proposed dwelling would be located around 1.5 metres from the western boundary of the site and around 8 metres from the dwelling of Brownleas House. It would be around 5 metres from the eastern boundary of the site and 25 metres from the dwelling at Fiddlers Rest.
- 5.4.3 There are no side facing windows located at first floor level, there is one window proposed within eastern side elevation at ground floor level, which is proposed to be obscure glazed as it would serve a toilet. Therefore, no concerns are raised in relation to a loss of privacy.
- 5.4.4 Given the distance between the site boundaries and the proposed dwelling and the relationship with nearby dwellings, it is not considered that the development would result in a loss of light to the main windows of the neighbouring properties or have an overbearing impact to the detriment of the neighbouring dwellings.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise

connectivity within the development and to the surrounding areas, including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.5.2 The recommended standard for a three bedroom dwelling is a maximum of two car parking spaces. There is a parking area shown on the proposed plans to the east of the proposed dwelling which would have sufficient space to park two vehicles. Furthermore, Fiddlers Rest would also retain sufficient car parking provision.
- 5.5.3 The proposed access point to the dwelling would be where the existing garage currently sits. Therefore, a new access point would not be created and it is considered that the proposed development would not represent a danger to highway safety.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide Supplementary Planning Document (SPD) advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms.
- 5.6.2 The proposed dwelling would have a private rear amenity space in excess of 100sq.m., which would accord with the standard set out within the Essex Design Guide.
- 5.6.3 The existing dwelling at Fiddlers Rest would also retain sufficient private amenity space and off road parking to meet the requirements of its occupants.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/99/00428** - Proposed erection of play equipment in rear garden (retrospective application) – approved No Conditions - 27.07.1999.
- **FUL/MAL/99/00690** - Proposed enclosed swimming pool extension to dwelling – Approved - 03.11.1999.
- **FUL/MAL/99/00778** - Proposed replacement of existing chainlink fence with ranch style fence – Approved - 30.11.1999.
- **FUL/MAL/12/00016** - Demolition of existing sheds with road side frontage and development of a new separate dwelling within the existing garden curtilage. – Refused - 05.04.2012 – Appeal Dismissed - 15.02.2013.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections to the proposal subject to the inclusion of conditions and informatives.	Noted.

7.2 Representations received from Interested Parties (*summarised*)

7.2.1 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:

- Ms Elizabeth Castle - 4 The Endway Althorne
- Mr J Castle - 3 The Endway Althorne
- Mrs L Castle - 3 The Endway Althorne
- Mr D Conn - 5 The Endway Althorne
- Mr L Conn - 5 The Endway Althorne
- Mr R Conn - 5 The Endway Althorne
- Mrs Samantha Conn - 5 The Endway Althorne
- Mr B Foreman - Silver Birches The Endway Althorne
- Mrs M Foreman - Silver Birches The Endway Althorne
- Andrew Powl - 1-3 Maythorne The Endway
- Mrs L Howard – Brownleaves The Endway Althorne
- Alen Powl – 3 Mill Road, Mayland, Essex
- Susan Powl, Clearview, The Endway, Althorne
- Andrea Podevin – Clearview, The Endway, Althorne
- Mr G Howard, Brownleaves, The Endway, Althorne
- S E Grimes – Harmony, The Endway, Althorne
- Peter Grimes – Harmony, The Endway, Althorne
- Alan Downing – Oaktree, The Endway, Althorne
- Eileen Downing – Oaktree Bungalow, The Endway, Althorne

Supporting Comments	Officer Response
A house would be an improvement on the existing dilapidated buildings.	Noted.
The development would give a much improved view of the countryside beyond.	
The house is attractive and in keeping. There is ample parking and a good garden size.	

8. **REASONS FOR REFUSAL**

- 1 The development of this site for housing is remote from essential support facilities, community services, is inaccessible by a range of transport and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development. Furthermore, the poor sustainability credentials of the site and its locality in combination with the fact that the location of the site would not encourage sustainable travel patterns would significantly and demonstrably outweigh the benefits of the

proposal when assessed against the Maldon District Local Development Plan policies S1, S8, D1, H4, T1 and T2 of the and guidance contained within the National Planning Policy Framework.

- 2 The introduction of a residential dwelling and associated paraphernalia on the site would represent the inappropriate urbanisation of the site and would have a harmful impact on the rural and open character of the area. The proposal is therefore considered to result in demonstrable harm to the character and appearance of the locality contrary to policies S8, D1 and H4 of the Maldon District Local Development Plan as well as the principles and guidance contained within the National Planning Policy Framework.

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**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
6 NOVEMBER 2017**

Application Number	OUT/MAL/17/01099
Location	Land Adjacent 13 Mill Road Tillingham Essex
Proposal	Variation of condition 5 of planning permission OUT/MAL/16/00528 (Application for outline planning permission for two residential units and associated garages with access off Mill Road - Renewal of 13/00366/OUT) to allow the removal of one sycamore tree.
Applicant	Miss Christine Rook
Agent	None
Target Decision Date	8 November 2017
Case Officer	Kathryn Mathews, TEL: 01621 875805
Parish	TILLINGHAM
Reason for Referral to the Committee / Council	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 13 Mill Road, Tillingham
OUT/MAL/17/01099



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 Maldon District Council 100018588 2014



www.maldon.gov.uk

Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	SE Committee 17/01099/RES
Date:	24/10/2017
MSA Number:	100018588

3. SUMMARY

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

3.1.1 The application site currently comprises part of the residential curtilage of 13 Mill Road and lies to the east of the dwelling. To the east of the site are open agricultural fields, whilst the northern boundary adjoins the village allotments. Vehicle access to the site is from Mill Road. The site is located outside the development boundary for Tillingham.

3.1.2 Outline planning permission (reference 13/00366/OUT) for two residential units and associated garages with access off Mill Road was renewed under reference OUT/MAL/16/00528. The only matter for consideration was in relation to access. Landscaping, appearance, layout and scale were reserved matters.

3.1.3 Condition 5 of planning permission 16/00528/OUT requires the following:-

5. *No trees within the site shall be felled, cut back, damaged or removed, unless otherwise first agreed in writing with the Local Planning Authority. No development shall commence until information has been submitted and approved in writing by the Local Planning Authority in accordance with the requirements of BS:5837:2012 in relation to tree retention and protection as follows:*

- *Tree survey detailing works required;*
- *Trees to be retained;*
- *Tree retention protection plan;*
- *Tree constraints plan;*
- *Arboricultural implication assessment;*
- *Arboricultural method statement (including drainage service runs and construction of hard surfaces).*

No development shall commence until fencing and ground protection to protect the trees shall be erected, details to be submitted and approved as per BS5837:2012, and ground protection been erected details of which shall have been submitted to the Local Planning Authority for written approval. The ground protection shall be laid as per Arboricultural method statement in accordance with British Standard BS5837:2012 (Trees in relation to construction) unless otherwise agreed in writing. The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the Local Planning Authority.

REASON

To secure the retention of the trees within the site in interests of visual amenity and the character of the area in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan.

3.1.3 The current planning application seeks a variation of the above condition to allow the removal of one sycamore tree. The application is the same as that recently refused planning permission (reference OUT/MAL/17/00872) (see below).

3.2 **Conclusion**

3.2.1 Having assessed the proposal, it is considered that the proposed development would be unacceptable. The proposal would be harmful to the character and appearance of the area, contrary to the relevant Policies of the Approved Local Development Plan and it is recommended that planning permission is refused.

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:**

- Core Planning Principles
- Section 7 Requiring Good Design
- Section 11 Conserving and Enhancing the Natural Environment

4.2 **Maldon District Approved Local Development Plan 2017:**

- Policy S1 – Sustainable Development
- Policy D1 - Design Quality and the Built Environment
- Policy N2 – Natural Environment, Geodiversity and Biodiversity
- Policy H4 – Effective Use of Land

4.3 **Relevant Planning Guidance / Documents:**

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

5. **MAIN CONSIDERATIONS**

5.1 The main issue which requires consideration as part of the determination of this application is the impact of the proposed tree removal on the character and appearance of the area.

5.2 **Character and Appearance**

5.2.1 The sycamore tree the subject of this application makes a positive contribution to the character and appearance of the area and is one of the better quality existing trees with an attractive shape. This tree is likely to have a screening/softening contribution once the land is developed. The tree is early mature, approximately 25-40 years old, and appears to be in good health.

5.2.2 As a result, the removal of this tree would be harmful to the character and appearance of the area, contrary to Policies H4 and D1 of the LDP, and reduce the ability to

mitigate the visual impact of the development that has been granted outline planning permission (OUT/MAL/16/00528). The Arboriculturalist supports this view.

- 5.2.3 As part of the current application, the applicant has stated that they would be willing to replace the sycamore tree with a different species but a replacement tree would take many years to replace the positive contribution the existing tree makes to the character and appearance of the area.

5.3 **Other Considerations**

- 5.3.1 The applicant is the owner of the neighbouring land who seeks to gain authorisation for the removal of the sycamore tree identified, on the basis that the tree's seeds and saplings are poisonous and potentially fatal to their horses who graze the adjoining field. They have advised that one of their horses has already been very sick. The application is accompanied by letters of support from Redwings Horse Sanctuary and Blaircourt Equine Veterinary Clinic Ltd.
- 5.3.2. Whilst Officers sympathise with the neighbouring horse owner, it cannot be concluded from the information available that complete removal of the tree is justified in order to minimise the risk to the health of their horses from sycamore seeds and saplings. The British Horse Society and the Royal Society for the Prevention of Cruelty to Animals (RSPCA) identify the seedlings and saplings of sycamore trees as being potentially hazardous if consumed by horses, advising that horses are most at risk during the autumn and late spring. However, they do not recommend that the trees are removed. Instead, they make reference to minimising exposure of horses to the seeds through, for example, cordoning off the area around the tree, collecting leaves, seeds and saplings, not overstocking pasture and supplementing feed if necessary, and checking the horses twice a day.
- 5.3.3. On the basis of the above, it is considered that the reasons for the proposal can only be afforded limited weight in the determination of the current application and do not outweigh the harm the removal of the tree would have on the character and appearance of the area.
- 5.3.4. The Parish Council previously objected to the proposal (OUT/MAL/17/00872) on the basis of CC5 'Protection of wildlife at risk on development site'. Policy CC5 was a policy contained in the now replaced 2005 Local Plan. Policy N2 'Natural Environment, Geodiversity and Biodiversity' is the equivalent policy in the current LDP. The sycamore tree, other than the potential to provide for nesting birds, is not known to provide habitat for any protected species and, therefore, a refusal of planning permission on the basis of wildlife loss could not be sustained in this case.

6. **ANY RELEVANT SITE HISTORY**

- **OUT/MAL/13/00366** - Two residential dwellings and associated garages with access off Mill Road. Approved.
- **OUT/MAL/16/00528** - Application for outline planning permission for two residential units and associated garages with access off Mill Road (Renewal of OUT/MAL 13/00366/OUT). Approved.

- **DET/MAL/17/05068** - Compliance with conditions notification
OUT/MAL/16/00528 (Application for outline planning permission for two residential units and associated garages with access off Mill Road - Renewal of OUT/MAL 13/00366) Condition 5 - No trees within the site shall be felled, cut back, damaged or removed. Refused.
- **OUT/MAL/17/00872/OUT** - Variation of condition 5 of planning permission
OUT/MAL/16/00528 (Application for outline planning permission for two residential units and associated garages with access off Mill Road - Renewal of OUT/MAL/13/00366) to allow the removal of one sycamore tree. Refused.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tillingham Parish Council	No response received at the time of writing report but the Parish Council objected to the previous application for the same proposal (reference OUT/MAL/17/00872) on the basis of CC5 Protection of wildlife at risk on development site	Noted (refer to 'Other Considerations' section of report).

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Arboriculturalist	No response received at the time of writing report but, in response to the previous planning application for the same proposal (reference OUT/MAL/17/00872), the following advice was provided:- <i>The Sycamore in question is early mature on the northeast corner of the development site and as such, may be an important tree when viewed as a whole with the finished layout of the development which has outline permission. The tree appears to be in good</i>	Noted (refer to 'Character and Appearance' section of report).

Name of Internal Consultee	Comment	Officer Response
	<i>health, it is an attractive shape and should be retained until such time as the reserved matters are submitted for consideration.</i>	
Environmental Health	No objection.	Noted.

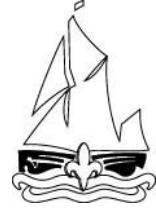
7.3 Representations received from Interested Parties

7.3.1 No letters of representation have been received.

8. PROPOSED REASON FOR REFUSAL

1. The sycamore tree the subject of this application makes a positive contribution to the character and appearance of the area, is one of the better quality existing trees with an attractive shape and appears to be in good health. This tree is likely to have a screening/softening contribution once the land is developed. Therefore, the removal of this tree would be harmful to the character and appearance of the area, contrary to the NPPF (Section 7), NPPG and Policies H4 and D1 of the Maldon District Approved Local Development Plan

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**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
6 NOVEMBER 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: 09/10/2017

Enforcement Notice Reference Number: ENF/17/00081/01

Appeal Reference Number: APP/X1545/C/17/3182492

Site: Land Adjacent The Old School House Southminster Road Mayland

Alleged Breach of Planning Control: Without planning permission

the unauthorised erection of fencing and gates and the unauthorised creation of a hard surfaced area.

Appeal by: Mr Jason Boutwell

Grounds of Appeal: Ground A

That planning permission should be granted for what is alleged in the notice

Ground F

that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections

Ground G

that the time given to comply with the notice is too short.

Appeal procedure requested: Written Representations/Informal Hearing/Public Inquiry

Appeal Start Date: 09/10/2017

Application Number: OUT/MAL/16/00224 (APP/X1545/W/17/3182361)

Site: Whitecap Mushroom Farm - Mill Road - Mayland

Proposal: Demolition of former Mushroom Farm and associated buildings and erection of up to 35 dwellings with associated landscaping, open space and upgrading of Mill Road to adoptable standard

Appeal by: Mr Alen Powl

Appeal against: Refusal

Appeal procedure requested: Informal Hearing

ITEM 2 APPEAL DECISIONS

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

WTPO/MAL/16/01456 (Appeal Ref: APP/TPO/X1545/6122)

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 - T11 Various Species - Removal of large roots and where necessary the insertion of root barrier along boundary edge.

Address: Holyrood Lodge, Green Lane, Burnham-On-Crouch, Essex, CM0 8PU

Decision Level: Non Determination

APPEAL DISMISSED – 24 October 2017