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CHIEF EXECUTIVE'S OFFICE
CHIEF EXECUTIVE
Fiona Marshall

24 November 2017

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **MONDAY 4 DECEMBER 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 'F. R. 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 4 DECEMBER 2017

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 16)

To confirm the Minutes of the meeting of the Committee held on 6 November 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/17/01010 - Land Adjacent Fiddlers Rest, The Endway, Althorne, Essex**
(Pages 17 - 34)

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

6. **FUL/MAL/17/01096 - Land Adjacent 101 Maldon Road, Burnham-on-Crouch, Essex** (Pages 35 - 48)

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

7. **OUT/MAL/17/01107 - Land South of Charwood, Stoney Hills, Burnham-on-Crouch, Essex** (Pages 49 - 64)

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

8. **OUT/MAL/17/01114 - Land East of Goldsands Road, Southminster** (Pages 65 - 74)

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

9. **OUT/MAL/17/01123 - Land to the Rear of 60A Maldon Road, Burnham-on-Crouch, Essex** (Pages 75 - 88)

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

10. **Tree Preservation Order (TPO) 8/17 - 9 Barnmead Way, Burnham-on-Crouch** (Pages 89 - 114)

To consider the report of the Chief Executive, (copy enclosed).

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 No. 5 – 10.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – www.maldon.gov.uk/committees

* 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
6 NOVEMBER 2017**

PRESENT

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

557. CHAIRMAN'S NOTICES

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

558. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs P A Channer CC and N R Pudney.

559. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 9 October 2017 be approved and confirmed.

At this point the Chairman referred to the recent passing of ex-Councillor David Fisher and all present stood for a few moments in silent tribute to him.

560. DISCLOSURE OF INTEREST

Councillor A S disclosed the following in the interest of openness and transparency:

- Agenda Item 6 – RES/MAL/17/01004 Pitt Cottages, Hall Road, Asheldham: he knew the Applicant and Agent.
- Agenda Item 7 – FUL/MAL/17/01010 Land Adjacent Fiddlers Rest, The Endway, Althorne: he knew the applicant.
- Agenda Item 8 – FUL/MAL/17/01099 Land Adjacent 13 Mill Road, Tillingham: he knew the Owner.

Councillor Mrs B F Acevedo declared a non-pecuniary interest in Agenda Item 6 – RES/MAL/17/01004 Pitt Cottages, Hall Road, Asheldham as she knew the Agent. She

then declared a pecuniary interest in Agenda Item 7 – FUL/MAL/17/01010 Land Adjacent Fiddlers Rest, The Endway, Althorne as she was one of the applicants.

Councillor P G L Elliott declared an interest in Agenda Item 6 – RES/MAL/17/01004 Pitt Cottages, Hall Road, Asheldham as he knew the Agent and Agenda Item 7 – FUL/MAL/17/01010 Land Adjacent Fiddlers Rest, The Endway, Althorne as he knew the applicant.

Councillor Mrs H E Elliott declared an interest in Agenda Item 7 – FUL/MAL/17/01010 Land Adjacent Fiddlers Rest, The Endway, Althorne as she knew the applicant.

Councillor R G Boyce declared a prejudicial interest in Agenda Item 6 – RES/MAL/17/01004 Pitt Cottages, Hall Road, Asheldham as one the applicants was his son.

Councillor R Pratt declared a non-pecuniary interest as Member of Essex County Council in any matters pertinent to them.

Councillor M W Helm declared an interest in Agenda Item 7 – FUL/MAL/17/01010 Land Adjacent Fiddlers Rest, The Endway, Althorne as he knew the applicant. The Chairman commented that this applied to all Members.

Councillor B S Beale declared an interest in Agenda Item 7 – FUL/MAL/17/01010 Land Adjacent Fiddlers Rest, The Endway, Althorne as he knew the applicant.

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

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	6 December 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

It was noted from the Members' Update that consultation responses had been received from Essex County Council Highways and Environmental Health along with a further letter of objection. The Update detailed an additional condition to be included should Members be minded to approve the application. The site map had been revised following concerns raised regarding the boundary and the Target decision date had also been updated.

Following the Officers' presentation, the Agent Mr Hall addressed the Committee.

Councillor M W Helm, a Ward Member, referred to the previous application on this site which had been refused and felt that nothing had changed between that and this application apart from a recent COUPA application. He proposed that the application be refused, contrary to Officers' recommendation as the application did not comply with the Local Development Plan and was outside the village development boundary. This proposal was duly seconded.

Councillor A S Fluker raised concern about the location of building and made specific reference to the additional roof lights and the proposed finish on the outside of the dwelling. In response the Group Manager - Planning Services outlined a standard reason for refusal used and how if Members were mindful to refuse the application this could be included.

In response to a question regarding a COUPA application, the Group Manager - Planning Services explained that this was a prior approval application introduced by the Government to deal with change of use without needing planning permission, with the idea being to use redundant buildings. He explained that whilst the Council had accepted the principle of a dwelling on this site planning permission had not been granted.

The Chairman then put the proposal in the name of Councillor Helm for refusal of the application. Upon a vote being taken this was agreed.

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

- 1 The application site lies within a rural location outside of the defined settlement boundary of Steeple 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. 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. The development would therefore be unacceptable and contrary to policies S1, S2, S8, E1 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).

562. RES/MAL/17/01004 - PITT COTTAGES HALL ROAD ASHELDHAM

Following his earlier declaration Councillor R G Boyce left the meeting at this point.

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

It was noted from the Members' Update that a consultation response had been received from Essex Highways and Officers had commented in respect of the condition suggested by Highways. Three additional conditions and an informative were also detailed

Following the Officers' presentation, the Agent Mr Cussen addressed the Committee.

Councillor A S Fluker proposed that the application be approved subject to the conditions detailed in the report and Members' Update. This proposal was duly seconded and agreed.

RESOLVED that this application be **APPROVED** subject to the following 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.
- 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.

3. Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.6 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

4. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.
5. The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 1114/03. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

INFORMATIVE

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

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

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

Councillor Boyce returned to the chamber.

563. FUL/MAL/17/01010 - LAND ADJACENT FIDDLERS REST, THE ENDWAY, ALTHORNE

Following her earlier declaration Councillor Mrs B F Acevedo left the meeting at this point.

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

It was noted from the Members' Update that consultation responses had been received from Essex Highways and Althorne Parish Council.

Following the Officers' presentation Councillor Burgess on behalf of Althorne Parish Council and Mr Cussen on behalf of the Agent addressed the Committee.

Some Members supported and spoke in favour of the proposed development. In response to comments regarding planning permission granted for properties close to this site, the Group Manager - Planning Services confirmed that Officers could not approve (under delegated powers) properties outside the development boundary. The Officer when questioned regarding bus routes advised he was unable to comment but highlighted that a number of recent appeal decisions had found this area to be unsustainable.

Following further discussion particularly around the route taken by local busses, the Group Manager - Planning Services recommended that if Members felt this information should be clarified they consider deferring the application pending this information.

Reference was made by a Member to three new properties recently granted planning permission and how this related to the sustainability arguments regarding this application. Councillor A S Fluker proposed that the application be deferred, contrary to Officers' recommendation, pending receipt of information regarding the route taken (through Althorne) by the 31X bus service and other dwellings approved within the location of this site. This proposal was duly seconded and upon a vote being taken agreed.

RESOLVED that this application be **DEFERRED** to a future meeting of this Committee pending receipt of information regarding the route taken (through Althorne) by the 31X bus service and other dwellings approved within the location of this site.

Councillor Mrs Acevedo returned to the chamber.

564. OUT/MAL/17/01099 - LAND ADJACENT 13 MILL ROAD, TILLINGHAM

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

It was noted from the Members' Update that an additional letter of objection had been received.

Following the Officers' presentation, the Applicant, Miss rook addressed the Committee.

Councillor R P F Dewick, a Ward Member, commented how Members had previously been told that sycamore trees were a weed. He provided some detail regarding the issues surrounding this tree, the adjacent paddock and the safety of the animals who were kept in the paddock. Councillor Dewick proposed that the application be approved, contrary to Officers' recommendation, the tree removed and replaced with a non-poisonous tree. This proposal was duly seconded.

In response to the proposal the Group Manager - Planning Services advised that as this application was for a variation to condition 5 of a previous permission, if Members were minded to approve it would be necessary to impose the original conditions along with any other conditions. He suggested that this be delegated to Officers to clarify, if approval was agreed.

The Chairman then put the proposal in the name of Councillor Dewick to the Committee and upon a vote being taken this was agreed.

RESOLVED that this application be **APPROVED** subject to conditions as detailed below, the detail of which is delegated to Officers to confirm.

- 1 The development shall be carried out in accordance with plans and particulars relating to the layout, scale, appearance and the landscaping of the site (hereinafter called "the reserved matters"), for which approval shall be obtained from the Local Planning Authority in writing before any development is begun. The development shall be carried out fully in accordance with the details as approved.
- 2 Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 21 June 2019.
- 3 The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.
- 4 Prior to the commencement of the development details of the surface 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.
- 5 With the exception of the sycamore tree the subject of this application, 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 to be retained has been erected as per BS5837:2012(Trees in relation to construction), details of which shall have gained the prior written approval of the local planning authority. 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.
- 6 No development shall take commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the Local Planning Authority. The screening as approved shall be constructed prior to the first occupation of the development to which it relates and be retained as such thereafter.
- 7 No development shall take place until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials and details as approved.
- 8 The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses. The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant that tree or plant, or any tree or plant planted in its replacement, is removed, 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.
- 9 Prior to the first occupation of the development, the vehicular access at its junction with the highway shall not be less than 3 metres in width and shall be provided with an appropriate dropped kerb crossing of the footway.
- 10 Prior to the first occupation of the development a 1.5 metre by 1.5 metre pedestrian visibility splay, as measured from, and long the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction of perpetuity. These visibility splays must not form part of the vehicular surface of the access.
- 11 No surface water from the application site shall be discharged onto the highway.
- 12 No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary of the site.

- 13 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.
- 14 If the sycamore tree the subject of this planning permission is removed, it shall be replaced by 31 December 2018 with a new native tree in accordance with details which shall have been submitted in writing to and gained the prior written approval of the local planning authority. If within a period of five years from the date of the planting of the replacement tree, or any tree planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree 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.

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 All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made to Essex County Council on 0845 603 7631.

565. 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: 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

(ii) Appeal Decision

It was noted that the following appeal decision had been received from the Planning Inspectorate:

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

566. 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 10 October – 6 November 2017.

In response to a question regarding application AGR/MAL/17/01131 Members were advised of the reasons why this application was refused.

There being no further items of business the Chairman closed the meeting at 8.19 pm.

R P F DEWICK
CHAIRMAN



**REPORT of
CHIEF EXECUTIVE**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 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 875822
Parish	ALTHORNE
Reason for Referral to the Committee / Council	Councillor / Member of Staff

1. **DEFERRAL**

This planning application was deferred from the South Eastern Area Planning Committee on 6 November 2017, in order for further information in relation to the sustainability and planning history of the area to be provided.

2. **RECOMMENDATION**

REFUSE for the reasons as detailed in Section 9 of this report.

3. **SITE MAP**

Please see overleaf.

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



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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 17/01010/FUL

Date: 21/11/2017

MSA Number: 100018588



4. SUMMARY

4.1 Proposal / brief overview, including any relevant background information

- 4.1.1 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.
- 4.1.2 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.
- 4.1.3 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.
- 4.1.4 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.
- 4.1.5 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.
- 4.1.6 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.

4.2 Conclusion

- 4.2.1 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 National Planning Policy Framework (NPPF).

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:

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

5.2 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

5.3 Relevant Planning Guidance / Documents:

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

6. MAIN CONSIDERATIONS

6.1 Principle of Development

6.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan 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)).

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

6.1.3 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.

- 6.1.4 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.
- 6.1.5 Further to this, within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasises the need to plan positively for appropriate new development. 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 Local Development Plan (LDP) which emphasises the need for sustainable development.
- 6.1.6 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.
- 6.1.7 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 Local Development Plan.
- 6.1.8 As previously noted, a previous application for similar development was dismissed at appeal on 15 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'.

- 6.1.9 The bus stop which is located around 200m from the application site, still runs a limited service with five buses stopping at this bus stop between the hours of 07:24 and 17:27 and six buses stopping on the opposite side of the road between the hours of 6:36 and 16:44. Furthermore the buses only run on school days / term times. Therefore, the above position of the Inspectorate is still considered relevant for this application.
- 6.1.10 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.
- 6.1.11 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 31 May 2017.
- 6.1.12 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.
- 6.1.13 As requested details of other applications within the vicinity of the site since the determination of the appeal at the application site are included at **APPENDICES 1 and 2**.
- 6.1.14 It must be noted that no comparable (in terms of polices position) planning applications for a new dwelling(s) have been granted by the Council or at appeal since the determination of the last appeal at this site. This weighs heavily against this application. Notwithstanding this, an application for a prior approval has been allowed (referenced above). This was approved under permitted development and is provided through the use of existing agricultural buildings. The policy requirements and government guidance are not material considerations when assessing and determining such applications. It has been evidenced at appeal that such decisions are of very limited weight when determining a planning application.

6.2 Housing Need

- 6.2.1 The proposal would provide a one three bedroom dwelling.
- 6.2.2 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.
- 6.2.3 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.
- 6.2.4 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.
- 6.2.5 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.

6.3 Design and Impact on the Character of the Area

- 6.3.1 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.
- 6.3.2 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.
- 6.3.3 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.
- 6.3.4 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.

- 6.3.5 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.
- 6.3.6 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.
- 6.3.7 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.
- 6.3.8 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'*.
- 6.3.9 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.

6.4 Impact on Residential Amenity

- 6.4.1 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.
- 6.4.2 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.
- 6.4.3 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 as a toilet. Therefore, no concerns are raised in relation to a loss of privacy.
- 6.4.4 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.

6.5 Access, Parking and Highway Safety

- 6.5.1 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 maximize 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.
- 6.5.2 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.
- 6.5.3 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.

6.6 Private Amenity Space and Landscaping

- 6.6.1 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.
- 6.6.2 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.
- 6.6.3 The existing dwelling at Fiddlers Rest would also retain sufficient private amenity space and off road parking to meet the requirements of its occupants.

7. 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 chain link 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

8. CONSULTATIONS AND REPRESENTATIONS RECEIVED

8.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Althorne Parish Council	No response received at the time of writing.	

8.2 Internal Consultees

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

8.3 Representations received from Interested Parties

8.3.1 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

Supporting Comment	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.	

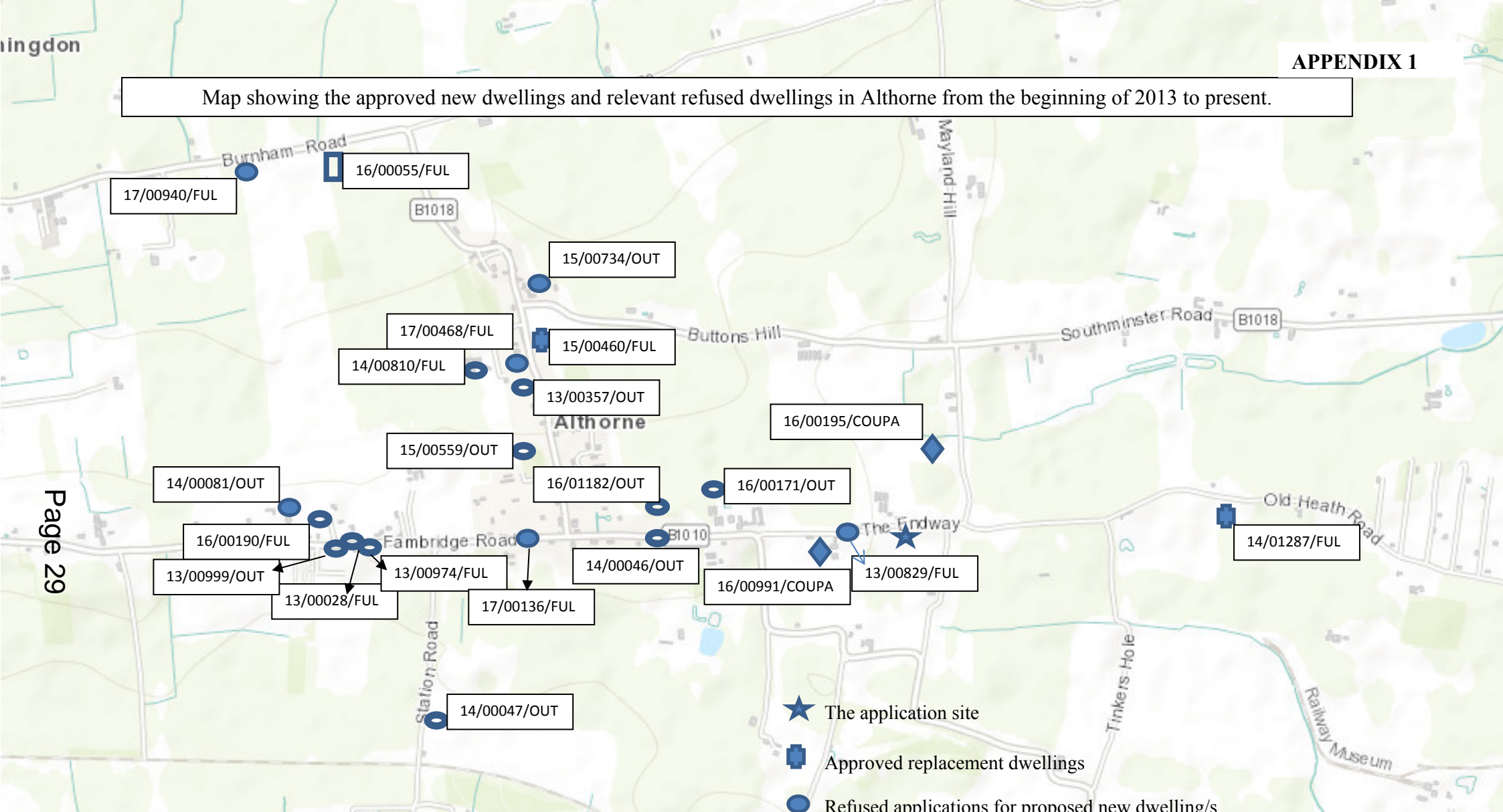
9. REASONS FOR REFUSAL

- 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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Map showing the approved new dwellings and relevant refused dwellings in Althorne from the beginning of 2013 to present.



- ★ The application site
- Approved replacement dwellings
- Refused applications for proposed new dwelling/s
- Refused application and dismissed at appeal for proposed new dwelling/s
- Approved Agricultural workers dwelling
- ◆ Approved Prior Approval for a Proposed Change of Use of Agricultural Building to a Dwellinghouse

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Summary of applications shown on Appendix 1 - Approved new dwellings and relevant refused dwellings in Althorne from the beginning of 2013 to present.

■ Approved replacement dwellings:

14/01287/FUL: Appleby Old Heath Road Althorne

Proposal for a replacement detached house with cart lodge & part conversion of existing outbuilding for a home office & gym.

15/00460/FUL: Peyton Cottage Summerhill Althorne

Demolition of existing house and replace with new build part two and single storey house.

- The principle of replacement dwellings are established and are assessed under different policies to this proposal.

● Refused applications for proposed new dwelling/s:

17/00468/FUL: Redbraes Summerhill Althorne

Demolition of existing bungalow and construction of a new residential dwelling.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area - 22.06.2017

Please note this application was not assessed as a replacement dwelling due to the abandonment of the residential use.

17/00940/FUL: Land At Former Maldon Fencing Co Burnham Road Althorne

Residential development comprising 8No. bungalows.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area - 11.10.2017

17/00136/FUL: Land Adjacent Crouch Hall Fambridge Road Althorne - Provision of lifetime's home bungalow.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area and coastal zone. - 11.04.2017

15/00734/OUT: Winterdale Manor Burnham Road Althorne

The conversion of Winterdale Manor and redevelopment of the site to provide up to 9 x dwellings.

- This application was refused for four reasons; one of them being due to 'the development would have an urbanising effect on the rural character of the area and would result in an unwelcome visual intrusion into the open and undeveloped countryside.' - 21.10.2015

14/00081/OUT: Crouch View Fambridge Road Althorne

Application for outline planning permission to demolish existing dwelling and construct 2 No. dwellings with detached garages.

- Refused due to being within an unsustainability location and the impact on the character and visual appearance of the area. - 20.03.2014

13/00829/FUL: Land East Of 1 Red Brick Cottages The Endway Althorne

Erection of detached two bedroom bungalow with driveway and parking.

- This application was refused for three reasons two of them are relevant to this application; one being the detrimental impact to the landscape character of the rural countryside and the other being the unsustainability of the location. - 20.01.2014

13/00028/FUL: Land Rear Of 2 River View Terrace Fambridge Road Althorne

Two detached dwelling units including garaging to Plot 1.

- Refused due to being within an unsustainability location and the harmful impact on the rural character and appearance of the area. - 21.03.2013

➔ Refused application and dismissed at appeal for proposed new dwelling/s:

16/00190/FUL: High View Fambridge Road Althorne

Demolition of existing property & outbuildings and erection of a replacement dwelling.

- This application is a replacement dwelling refused on design and is not comparable to the application site. - 11.04.2016 – Appeal dismissed - 02.09.2016

16/01182/OUT: Land Adjacent The Old Forge And Thornley Cottage Burnham Road

Construction of 2 bedroom detached residential bungalow (Resubmission).

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area - 18.01.2017 – Appeal dismissed and reason for refusal was upheld by the Inspector. - 31.05.2017

16/00171/OUT: Mansion House Farm Burnham Road Althorne

Demolition of all buildings on site (save for C19th former dairy building which is a non-designated heritage asset on the site frontage) and residential redevelopment for 48 dwellings, new access and associated works to include on site open space, sustainable urban drainage and associated strategic landscaping.

- This application was refused for three reasons one of which is relevant to this application; the relevant reason for refusal states that it would be an ‘intrusive form of unsustainable development, remote from day to day services and facilities, out of character with this rural location and the rural setting of the village. - 18.05.2016 - Appeal dismissed and the relevant reason for refusal was upheld by the Inspector. - 08.05.2017

15/00559/OUT: Land Rear Of The Thicket Summerhill Althorne

Outline application for proposed new 2 bedroom home with the matter of access for determination.

- This application was refused for four reasons; two of them are relevant to this application. The relevant reasons for refusal relate the unsustainability of the area and the visual intrusion into the open and undeveloped countryside. - 08.07.2015 – Appeal dismissed and relevant reasons for refusal were upheld by the Inspector. - 26.05.2016

14/00810/FUL: Stitches Farm Lower Chase Althorne

Replacement of existing flat above garage with a two bedroom bungalow including repositioning on site.

- Refused due to the unwelcome visual intrusion into the open and undeveloped countryside. - 11.11.2014 – Appeal dismissed and the reason for refusal were upheld by the Inspector - 20.08.2015

14/00047/OUT: Land Adjacent Althorne House Station Road Althorne

Construction of three dwellings, all matters reserved at Land North of Althorne Station Road.

- Refused due to being within an unsustainable location and the harmful impact on the rural countryside - 27.05.2014 – Appeal dismissed and the reasons for refusal were upheld by the Inspector - 18.02.2015

14/00046/OUT: Land Adjacent Cliffords Farm Burnham Road Althorne

Construction of four dwellings, all matters reserved at Land at Burnham Road, Althorne.

- Refused due to being within an unsustainable location and the harmful impact on the rural countryside - 27.05.2014 – Appeal dismissed and the reasons for refusal were upheld by the Inspector - 29.12.2014

13/00999/OUT: Land Adjacent 1 River View Terrace Fambridge Road Althorne

Erection of dwelling.

- This application was refused for two reasons; one is relevant to this application. The relevant reason for refusal was due to being within an unsustainable location and the harmful impact on the rural landscape. - 19.12.2013 – Appeal dismissed and the reasons for refusal were upheld by the Inspector - 05.06.2014

13/00974/FUL: 6 River View Terrace Fambridge Road Althorne

Demolition of extension for provision of 2no. semi-detached dwellings.

- Refused due to being within an unsustainable location and the harmful impact on the rural landscape. - 20.01.2014 – Appeal dismissed and reason for refusal was upheld by the inspector. - 20.01.2014

13/00357/OUT: Catherine Cottage Summerhill Althorne

New dwelling house.

- Refused due to being within an unsustainable location and the harmful impact on the rural landscape. - 12.06.2013 – Appeal dismissed and reason for refusal was upheld by the inspector. - 29.01.2014

Approved Agricultural workers dwelling:

16/00055/FUL: Land North West Of Stitches Farm Lower Chase Althorne

Re-siting of an Agricultural Workers Dwelling approved at FUL/MAL/14/01008.

- Agricultural workers dwellings fall within one of the categories listed within policy S8 as an exception to development within the countryside and are assessed under different policies to this proposal.

Approved Prior Approval for a Proposed Change of Use of Agricultural Building to a Dwellinghouse:

16/00991/COUPA: Maythorne Mushrooms The Endway Althorne

Prior approval for proposed change of use of agricultural building to three dwellinghouses (C3), and for associated operational development.

16/00195/COUPA: Cow Shed Dairy Farm Dairy Farm Road

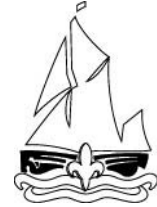
Prior approval of proposed change of use of agricultural building to a dwellinghouse (C3), and for associated operational development.

- These applications are not planning applications assessed against the Local Development Plan. They are assessed against a set of criteria within the legislation that does not take into account the sustainability of the area. As such would these approvals are given minimal weight in determining this current scheme.

Officer notes

It is clear from the above approved and refused applications, that no dwellings comparable to this proposal, outside of the settlement boundaries of Althorne have been approved planning permission, since the previous refusal and dismissed appeal on the application site (ref:

12/00016/FUL). It should also be noted that the Councils position is strengthened by the ability to demonstrate a five year housing land supply as many of the earlier appeal decision, including the one determined at the application site were dismissed at a time when the Council could not identify a five-year supply of deliverable housing land.



**REPORT of
CHIEF EXECUTIVE**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 2017**

Application Number	FUL/MAL/17/01096
Location	Land Adjacent 101 Maldon Road Burnham-On-Crouch Essex
Proposal	Proposed new detached dwelling house
Applicant	Mr E J Dominic Savio
Agent	Greg Wiffen - Planman
Target Decision Date	22 November 2017
Case Officer	Hannah Bowles, TEL: 01621 875822
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Chief Executive Call In

1. CHIEF EXECUTIVE CALL IN

- 1.1 This application is brought before the Area Planning Committee as the Chief Executive has called the application in due to an anomaly caused due to the removal of the parish trigger and subsequent change to the Member call in process. This will be a consistent approach taken in similar situations, during this transitional period.

2. RECOMMENDATION

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

3. SITE MAP

Please see overleaf.

Land Adjacent 101 Maldon Road, Burnham-on-Crouch
FUL/MAL/17/01096



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 Maldon District Council 100018588 2014



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 17/01096/FUL

Date: 21/11/2017

MSA Number: 100018588

4. SUMMARY

4.1 Proposal / brief overview, including any relevant background information

- 4.1.1 The application site is located on the southern side of Maldon Road within the settlement boundary of Burnham-On-Crouch. The site currently forms part of the residential curtilage of the property known as 101 Maldon Road and accommodates a detached garage that serves the existing dwelling on site. The development along the southern side of Maldon Road is mainly residential dwellings which vary in terms of house type, architectural style and features, finish materials and scale. Ormiston Rivers Academy is located opposite the site and there are residential dwellings to the rear.
- 4.1.2 Planning permission is sought for the division of the plot and erection of a two storey dwellinghouse. The dwelling would measure 8.5m in width, a maximum of 14.2m in depth including a single storey rear element and a two storey gable end projection located to the front. It would measure a maximum of 7.9m in height to the ridge and 5.1m in height to the eaves. The dwelling would accommodate a porch, study, sitting room, WC and an open plan dining / kitchen / living room at ground floor and four bedrooms, one with an en-suite and a family bathroom at first floor. The application follows the withdrawal of application reference FUL/MAL/17/00561.
- 4.1.3 The Burnham-on-Crouch Neighbourhood Development Plan (NDP) states ‘Policy HO.1 supports new residential development where it complies with other policies in this Plan and the wider development plan’.

4.2 Conclusion

- 4.2.1 The proposed development is considered to assimilate into the streetscene to an acceptable degree, it would not significantly impact the neighbouring occupiers to such a degree as to warrant a reason for refusal and the site provides adequate parking provision and amenity space, in accordance with policies S1, S8, D1, H4 and T2.

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:

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

5.2 Maldon District Local Development Plan 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

5.3 Relevant Planning Guidance / Documents:

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

4.4 Burnham-On-Crouch Neighborhood Development Plan

- H0.1 - New Development
- H0.2 - Range and Type of New Residential Development
- HC.2 - New Development Features
- H0.8 – Housing Design Principles

6. MAIN CONSIDERATIONS

6.1 Principle of Development

6.1.1 The site is located within the settlement boundary of Burnham-on-Crouch as identified in the Local Development Plan. Policy S8 is the strategic policy that would apply to this site, allowing development to be directed to sites within settlement boundaries to prevent urban sprawl beyond existing settlements and to protect the District's landscape. On this basis the general principle of development in this locality would be acceptable subject to other material considerations which will be discussed below. These material considerations would also include the impact on the character and appearance of the area, highway safety, and impact on the amenity of the neighbouring residential properties.

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 seek to create a high quality built environment for all types of development.

6.2.2 The proposed dwelling would measure 8.5m in width, a maximum of 14.2m in depth including a single storey rear element and a two storey gable end projection located to the front of the dwelling. It would measure a maximum of 7.9m in height to the ridge and 5.1m in height to eaves. The proposed dwelling would be finished with a hipped roof, with a two storey front gable end projection and two gable end projections to the rear, there would also be a single storey flat roofed element to the rear of the dwelling.

6.2.3 The southern side of Maldon Road is residential in nature and the surrounding area to the application site is not considered to have a particularly defined or strict character given that it is made up of wide range of dwellings differing in house type,

architectural design and features, finish materials and layout. There are bungalows and two storey dwellings, detached and semi-detached properties, large dwellings set within spacious plots and smaller dwellings set within narrow plots. The ridge heights and roofscapes vary along the road. It is noted that this section of Maldon Road is largely fronted by soft boundary treatments with hedgerows and trees prevalent along the road frontage.

- 6.2.4 The application site has a maximum width 12.7 metres. Site widths along this stretch of Maldon Road range from around 9 metres to 28 metres. The siting and layout of the proposed development consists of the subdivision of the existing site from north to south with the proposed dwelling located in-line with the existing linear pattern of development, fronting Maldon Road. Whilst the proposed dwelling would be situated close to the eastern boundary at 1.6m and western boundary at 2.1m, given that the distances between properties and plot sizes along Maldon Road vary dramatically and the presence of comparable developments in terms of siting and layout, namely no. 107A and 109 which are detached properties which are situated close to the shared boundaries of the site and each other; it is not considered that the siting and layout of the proposed development appears out of keeping or cramped when viewing the site from public vistas.
- 6.2.5 In terms of design, the proposed dwelling is considered to be of adequate architectural merit, traditional in appearance and symmetrical when viewed from the front, with a central gable end projection and two bay windows either side. The front gable projection references those present at numbers 105 and 107 Maldon Road and the proposed roofform is not considered to be out of keeping in its setting given the variation of roofforms present along Maldon Road, especially at no. 101 which is of an unusual design. In terms of scale and bulk, the proposed dwelling would have a ridge height 0.38m taller than the dwelling at no. 101 and in line with the dwelling at no. 99. In terms of width the proposed dwelling is comparable, just slightly smaller than that at no. 101 and whilst the single storey rear element projects 2.2m further than the rear elevation of no. 101, given the modest projection and height of 2.9m to the top of the flat roof the depth is considered acceptable.
- 6.2.6 The proposed finish materials include the use of cladding, which is not a material present within the vicinity of the site. This material is not considered acceptable in this location. To ensure the use of acceptable materials a condition could be imposed, should the application be approved, to ensure details and samples are submitted to the Council prior to the commencement of the development.
- 6.2.7 Therefore, for the above reasons, the proposed development is considered to assimilate into the streetscene to an acceptable level in compliance with policies D1 and H4.

6.3 Impact on Residential Amenity

- 6.3.1 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 overlooking, loss of daylight to the main windows of the neighbouring dwelling and domination to the detriment of the neighbouring occupiers.

- 6.3.2 The application site has three adjacent neighbouring properties . To the east of the application site is no. 101 Maldon Road, to the west is no. 99 Maldon Road and to the rear of the application site is 103A Maldon Road.
- 6.3.3 The proposed dwelling would be located around 1.6m from the shared boundary with no. 101 and around a minimum of 2.2m from the existing dwelling. In terms of overlooking, there would be two windows located within the eastern side elevation of the proposed dwelling at ground floor that would face onto three existing windows located within the western side elevation of the existing dwelling. However, the proposed windows are to be obscure glazed, which could be secured via a condition, should the application be approved. This would mitigate any unacceptable levels of overlooking. In terms of a loss of light, the main windows affected are the three windows at ground floor level and one window at first floor level on the western side elevation. Two of the ground floor windows serve a lounge however; these windows are secondary sources of light, as the lounge is also served by French doors and windows located on the rear elevation. The third window at ground floor serves a study which is not considered habitable accommodation. Therefore a loss of light to these windows is not considered significant enough to warrant a reason for refusal. The window at first floor serves a bedroom the proposed dwelling would be located around 2.6m from the window. It is noted that this window would suffer a loss of light however, given the distance of 2.6m between the window and wall of the proposed dwelling, it is not considered that the loss of light would be significant enough to warrant a reason for refusal. It is noted that the dwelling is in close proximity to no. 101 and would therefore have an impact on the first floor bedroom window in the side elevation. However, on it is not considered that the proposed dwelling would form an overbearing addition to the detriment of the neighbouring occupiers; given the distance and that the dwelling is of a comparable scale. It is also be noted that the applicant owns no. 101 and therefore the impact would be self-imposed.
- 6.3.4 The proposed dwelling would be located around 2.1m from the shared boundary with no. 99 and the proposed dwelling would be located around 6.7m from the existing dwelling at no. 99. In terms of overlooking there are three windows proposed within the western side elevation of the proposed development, these windows are proposed to be obscure glazed and that would mitigate any significant overlooking. The proposed rear facing windows look out onto the private amenity space that would serve the existing dwelling; views of the rear garden at no. 99 could be afforded from the rear facing windows. However, it is not considered to significantly affect the living conditions of the neighbouring occupiers. In terms of a loss of light and forming an overbearing addition, given the distance of 6.7m from the existing dwelling at no. 99 it is not considered that a significant loss of light would occur to the main windows of the neighbouring dwelling.
- 6.3.5 The proposed dwelling is located 16m from the shared boundary with no. 103 Maldon Road and 29.8m from the dwelling on site. Give the distance; it is not considered that a loss of light, overlooking or an overbearing impact would occur to the detriment of this neighbouring property.
- 6.3.6 Therefore, for the above reasons, the proposed development is not considered to significantly impact the neighbouring occupiers as to warrant a reason for refusal.

6.4 Access, Parking and Highway Safety

- 6.4.1 Policy D1 of the approved Local Development Plan (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.
- 6.4.2 The proposed development would result in an additional vehicle access onto Maldon Road. The Highway Authority has been consulted and raised no objection to the proposal in terms of highway safety, subject to conditions.
- 6.4.3 The recommended parking provision standard for a four bedroom dwelling is a maximum of three car parking spaces. There is an area to the front of the proposed dwelling measuring 10m by 12.7m which could accommodate space to park three cars, in accordance with the recommended standard.
- 6.4.4 The proposed development would result in the division of the existing plot which accommodates no. 101 and removal of the existing garage which serves this property which would result in a loss of parking provision. However, there would still be a space measuring 11.2m by 11.6m to the front of the dwelling which could accommodate three car parking spaces on site.

6.5 Private Amenity Space and Landscaping

- 6.5.1 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.
- 6.5.2 The proposed development would result in the division of the plot which accommodates no. 101; this would result in the loss of part of the private rear amenity space. However, the remaining space to the rear of the dwelling would measure 209sq.m, which is in excess of the recommended standard.
- 6.5.3 The rear amenity space to serve the proposed dwelling would measure 143sq.m. This is in excess of the recommended standard and therefore, no concerns are raised in relation to private amenity space.
- 6.5.4 Detailed landscaping details have not been submitted as part of the application. A condition will be imposed, should the application be approved, to ensure the details are submitted and approved by the Local Planning Authority (LPA).

6.6 Land Ownership

- 6.6.1 Land ownership issues have been raised by a neighbouring property and a Land Registry plan submitted to substantiate the claim. However, it appears that the boundary line shown on the submitted location plan is in line with the Land Registry plan submitted by the neighbours. This has however been raised with the applicant and an update will be provided within the Members' Update. The primary purpose of

ownership certificate 'B' being signed is to ensure the relevant parties are notified of the development and have the right to comment, which has happened through the consultation letters sent and public notice erected at the site.

7. ANY RELEVANT SITE HISTORY

- **FUL/MAL/17/00561** - Proposed new detached dwelling house. Withdrawn - 12.07.2017.

8. CONSULTATIONS AND REPRESENTATIONS RECEIVED

8.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-On-Crouch Town Council	The proposed dwelling house would be out of character with the surrounding area and contrary to LDP policy D4 and NDP policy HO8.	Please see section 5.2 of the Officers report. Policy D4 is not considered relevant to this application. The application has been assessed against the policies within the NDP and it is considered to be compliant. In the absence of the specific criteria that the Town Council consider it to fail on, I am unable to fully address the objection.

8.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
County Highways	No objection subject to conditions.	Please see conditions.

8.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Please see conditions.

8.4 Representations received from Interested Parties (*summarised*)

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

- David & Elizabeth Chapman - 103A Maldon Road Burnham-On-Crouch

- Trevor Hammans - 99 Maldon Road Burnham-On-Crouch
- Janet Hammans 99 Maldon Road Burnham-On-Crouch
- Carol Hughes 103B Maldon Road Burnham On Crouch

Objection Comment	Officer Response
Land Ownership Issues	Please see section 6.6 of the Officers report.
Large property on small plot	Please see section 6.2 of the Officers report.
Change to landscape if all the trees were to be removed	Please see section 6.5 of the Officers report.
Loss of non-residential space for no. 101 if garage is removed	The garage is a residential garage and there is no requirement to protect or provide ancillary space.
Loss of light and outlook	Please see paragraph 6.3 of the Officers report.
No two storey building should even be considered next to 101, particularly in such close proximity.	Please see paragraph 6.2 and 6.3 of the Officers report.
No detached properties along Maldon Road without a garage.	Please see section 6.2 of the Officers report.
Out of keeping.	Please see section 5.2 of the Officers report.
Overpowering.	Please see section 6.3 of the Officers report.
Tiny garden.	Please see section 6.5 of the Officers report
No. 101 would be devalued financially.	This is not a material planning consideration.
Could result in a loss of all the trees on site.	Please see section 6.5 of the Officers report.
Highway safety issues.	Please see section 6.4 of the Officers report.
Concerns raised in relation to highway safety during the construction of the development.	There is no evidence that highway safety would be demonstrably impacted on during the construction of the development above any other development.
Loss of wildlife.	There is no basis to believe that protected species use the site and the landscaping details for the scheme will be conditioned, should the application be approved.
The developer brought the land to make a huge and quick profit. The developer is not a member of our community. The developer makes no contribution financially to the town nor do they have a personal investment in the town.	These are not material planning considerations. The planning application is assessed on its planning merits.

Objection Comment	Officer Response
I would like MDC to ensure our boundary fence stays intact. We do not want trespassers on our land.	This is a civil matter and would not be the responsibility of the LPA.
Loss of hedge fronting Maldon Road.	Please see section 6.2 of the Officers report.
The streetscene drawing is misleading as it does not give a clear view of the existing dwellings.	The streetscene drawing is adequate. A site visit has been conducted by the Case Officer who is aware of the surrounding dwellings.
Visual harm caused to the surrounding area.	Please see section 6.2 of the Officers report.
Inadequate visibility splays.	The Highways Authority has not raised an objection to the visibility splay, which will be secured via a condition.
It appears that the developer is determined to get the application approved by building a relationship with the Case Officer.	This accusation is unfounded and every application is determined by the Council on its planning merits.
Plan inaccuracies.	These issues have been resolved and a location plan with the correct land outlined in blue has been submitted.

9. **PROPOSED CONDITIONS**

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice as well as the submitted detailed specifications.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance policy D1 of the Local Development Plan.
- 3 No development shall commence until full details of the materials to be used in the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details as approved.
REASON: To protect the amenity and character of the area in accordance with policy D1 of the Local Development Plan.
- 4 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 protect the amenity and character of the area in accordance with policy D1 of the Local Development Plan.

- 5 Prior to occupation of the proposed dwelling, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and no more than 6 metres, and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy T2 of the Local Development Plan.

- 6 Prior to occupation of the proposed dwelling and as shown in Drawing no SI 5 (Proposed block plan showing visibility splays), the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy T2 of the Local Development Plan.

- 7 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

REASON: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest of highway safety in accordance with policy T2 of the Local Development Plan.

- 8 Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be identified clear of the highway. Details are to be submitted to and approved in writing by the Local Planning Authority and the development is to be carried out in accordance with the approved details.

REASON: To ensure that appropriate loading/unloading facilities are available so that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy T2 of the Local Development Plan.

- 9 Prior to the commencement of the development details of the surface water 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. The scheme shall ensure that for a minimum:
- The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s).

You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the Local Planning Authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

REASON: To ensure the adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the National Planning Policy Framework and policy D5 of the Maldon District Local Development Plan.

- 10 Prior to the first occupation of the building hereby permitted, the windows in the east and west side elevations shall be glazed with opaque glass and of a non- openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.

REASON: To protect the amenity of the neighbouring occupiers in accordance with policy D1 of the Local Development Plan.

INFORMATIVES

- 1 Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.

- 2 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:

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

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**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 2017**

Application Number	OUT/MAL/17/01107
Location	Land South Of Charwood Stoney Hills Burnham-On-Crouch Essex
Proposal	Proposed construction of 5 bungalows
Applicant	Think Green Energy Ltd
Agent	Cussen Construction Consultants
Target Decision Date	18 th December 2017
Case Officer	Anna Tastsoglou, TEL: 01621 875741
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the Local Development Plan 2017 Previous Committee Decision

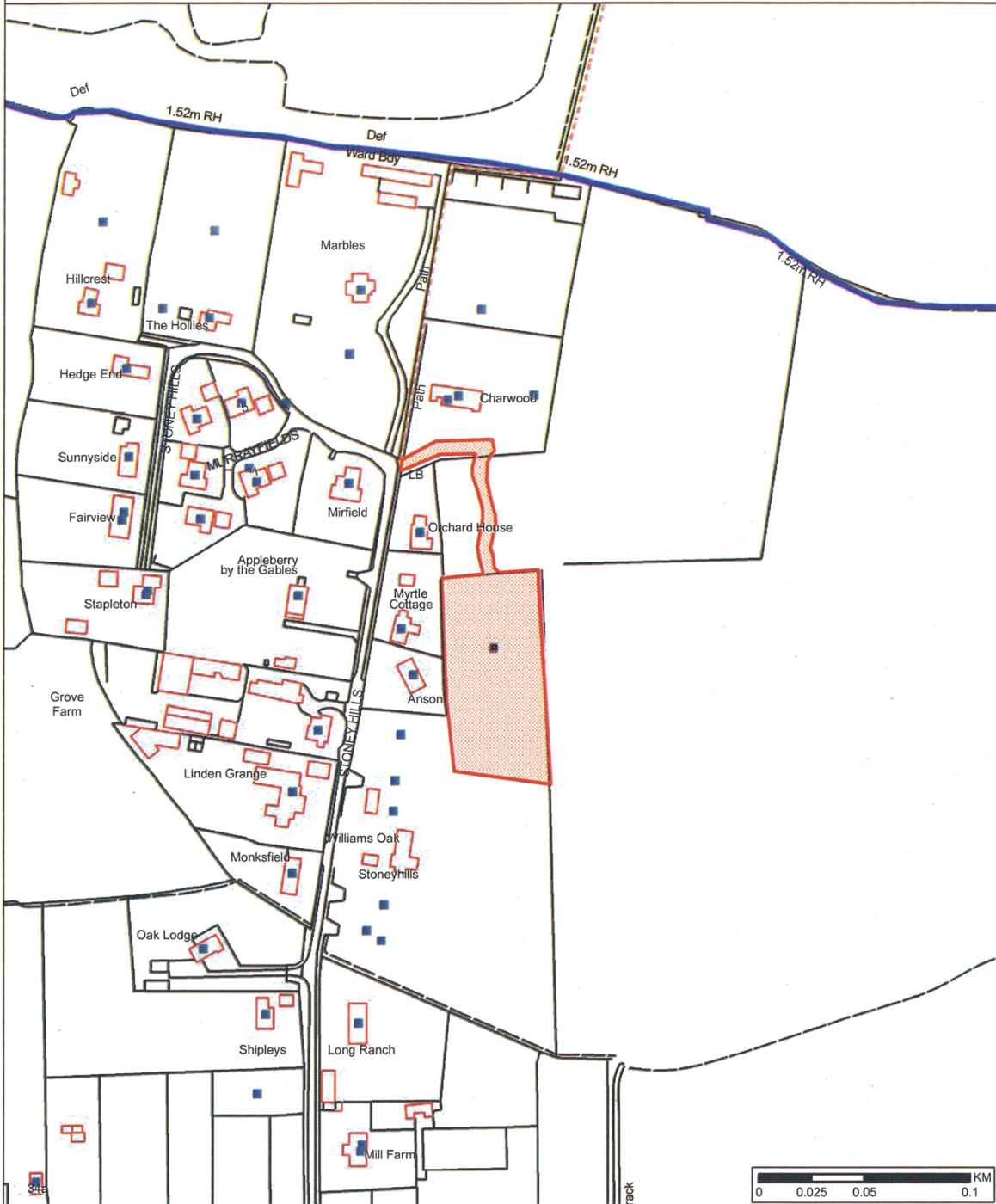
1. RECOMMENDATION

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


2. SITE MAP

Please see overleaf.

Land South of Charwood, Stoney Hills, Burnham-on-Crouch
OUT/MAL/17/01107



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 Maldon District Council 100018588 2014


MALDON DISTRICT COUNCIL

www.maldon.gov.uk

Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	SE Committee 17/01107/OUT
Date:	21/11/2017
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 Site description

3.1.2 The site abuts the rear boundaries of Myrtle Cottage, Anson and High Cook House and it shares the access point from the eastern side of Stoney Hills with Charwood, a large detached house located within the northeast corner of the Stoney Hills area. The site is located around 60m to the south of the shared access.

3.1.3 Currently the site is mainly covered by shrubs and grass and hedges along the north and east boundary of the site. Between Charwood and the application site there is a field. To the east there is open countryside. An informal public footway traverses the site.

3.1.4 Stoney Hills is located outside of the settlement boundary of Burnham-on-Crouch and comprises of mainly large detached dwellings, set within large plots. The area has been the subject of many redevelopment proposals over recent years which have changed its character from a rural character to a more suburban style. The properties within the wider area are mainly individual detached bungalows which vary in terms of style, scale and form. There is no distinctive character or consistency with dwelling style in the area. Although the positioning of the houses would have been more linear in the past, following the redevelopment of the area, the front building line is no longer uniform and a number of properties have been granted in backland locations of off private roads. Overall the character of the area has been turned into a more suburban residential area, with a large number of properties being accessed via cul de sacs.

3.1.5 Description of proposal

3.1.6 Outline planning permission with all matters reserved is sought to erect five bungalows with associated off-street parking, amenity space and landscaping. A new cul de sac, providing access to the proposed dwellings is also proposed to be formed.

3.1.7 An indicative layout has been submitted along with a Design and Access Statement in support of the application.

3.1.8 The site is approximately 0.49ha. The proposed dwellings would have a footprint of 166.5sqm and would be served by an average of 487sqm amenity space.

3.1.9 As shown on the indicative site plan, a total of eight off-street parking spaces would be provided on site, two of which would be for visitor parking. Pedestrian access would be formed along either side of the proposed cul de sac.

3.1.10 The application constitutes the resubmission of an application (OUT/MAL/17/00752) that was previously refused. The amendments incorporated to the current proposal include the reduction of the number of units from six to five and the increase in the average amenity area provided.

3.1.11 Background of the application

3.1.12 It is noted that an application (Ref.no.: OUT/MAL/1700383) to erect two bungalows at the land South of Charwood was previously approved by the South Eastern Area Planning Committee (19 June 2017). The current application has the same access point with the previously approved application; however, the size of the application has been increased towards the south to include an additional 0.13ha.

3.1.13 An outline application (OUT/MAL/1700752) was thereafter submitted proposing the erection of six bungalows. The application presented to Members of South Eastern Area Planning Committee with an officer recommendation for approval. The officers' recommendation was overturned at committee to refuse the application for the following reason:

- *The proposed development is located outside of the defined settlement boundaries of the Maldon District and would represent an intensive and urban form of development that would be materially harmful to the character of the application site and the surrounding area. The proposal is therefore contrary to the National Planning Policy Framework, Maldon District Local Development Plan (2017) policies S1, S8, D1, H4 and policies HO.1 and H0.8 of the Burnham-on-Crouch Neighbourhood Development Plan (2017).*

3.2 **Conclusion**

3.2.1 The proposed development is located outside the settlement boundary for Burnham-on-Crouch; it must be noted that the Council's policies seek to direct new residential development to established settlements. However, recent appeal decisions and approvals have resulted in a relatively large number of new dwellings being permitted in the area which has resulted in a change to its character and appearance and more urban nature. Although an application was previously refused by Members of the Committee, the number of units proposed on site has now been reduced to five and on balance, given the history of the area, it is considered that the impact of the development has been reduced to an acceptable level and would not result in a detrimental harm to the character of the area to such a degree as to warrant the refusal of the application. Other materials planning considerations would be fully assessed at the reserved matters stage.

4. **MAIN RELEVANT POLICIES**

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

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

- 7 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

4.2 Approved Maldon District Local Development Plan (MDLDP) (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

4.3 Burnham-on-Crouch Neighbourhood Development Plan (7 September 2017):

- Policy HO.1 – New Residential Development
- Policy HO.8 – Housing Design Principles

4.4 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The application site lies beyond the development boundaries of Burnham-on-Crouch. Stoney Hills forms a separate ‘suburban’ style development extending into the open countryside.

5.1.2 Policies S1, S2 and S8 of the approved Maldon District Local Development Plan 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.

5.1.3 Policy HO.1 of the Burnham Neighbourhood Plan states that *“Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan”*.

- 5.1.4 It is noted that a number of new dwellings have been approved in the area in recent years, some of which on appeal. On each occasion it has been acknowledged that whilst the local highway is not adopted and provides no dedicated facilities for pedestrians, the area is considered to be in a sustainable location. It has also been acknowledged that the character of the area has evolved over time so it is no longer an area of scattered residential development but a more suburban residential one.
- 5.1.5 In August 2016, an appeal against the refusal of planning permission for 4 x two bed bungalows on the land to the north of Charwood was allowed on appeal. In determining the appeal the Inspector considered that the character of the site was residential curtilage and that the proposed development would not impinge on the character of the adjacent rural area. The Inspector also in relation to the character of Stoney Hills stated that *“The original character of Stoney Hills was predominantly single dwellings within large plots, but changes that have occurred over time have led to a less homogeneous appearance across the area”*. A similar approach has been taken by inspectors who have recently allowed appeals against refusals for three dwellings to the rear of “The Hollies” (Ref. FUL/MAL14/00591), a further three dwellings to the rear of “Hillcrest” (Ref. OUT/MAL/16/00196) which lie a short distance to the west and an additional 5 bungalows between Appleberry and Linden Lea (Ref. OUT/MAL/15/01082). It must be noted that when allowed the appeal for the rear of the “Hollies” the Inspector stated *“I find the appeal site as part of an established residential area. It can be readily distinguished from the countryside to the rear, which is far more open and agricultural in character”*. In addition, on 15 January 2015 the Council approved an application for a dwelling to the east of Charwood (Ref. OUT/MAL/14/01049). This final application has allowed the further expansion to the east of the urban grain, which is in a notional line with the eastern boundary of the application site.
- 5.1.6 As noted above, an application to erect two bungalows within part of the application site was previously approved by the Local Planning Authority. It is therefore considered that the acceptability in principle of additional residential accommodation in this location has previously been established. However, it was decided that the application for six dwellings should be refused on the grounds of the location outside the development boundary and its urban form of development, which was considered to be harmful to the character of the surrounding area. It should be noted that a number of dwellings have been allowed to the rear of existing dwellings and accessed from private roads which have changed the urban grain of the area.
- 5.1.7 The number of dwellings proposed on site has been reduced. The dwellings proposed on site are not proposed to be larger than those previously refused and therefore the built coverage would be reduced. The proposed residential accommodation would be of similar proportions and configuration to other nearby recently approved residential developments and following the reduction of the units proposed on site it would result in dwellings contained within larger plots and benefiting from larger amenity areas which would soften the appearance of the site and add to its appearance as a transitional form of development between Stoney Hills and the countryside beyond. As such, on balance, it is considered that the urbanising impact of the development has been reduced.
- 5.1.8 Given the recent planning and appeal decisions within Stoney Hills, the principle of development for residential purposes is considered acceptable in the area.

- 5.1.9 Whilst the submitted layout is only indicative, it is reasonable to conclude that given the size and configuration of the site, five bungalows are likely to be able to be accommodated within the site, without resulting in a development being at odds or harmful to its surroundings. The Council's Strategic Housing Market Assessment identifies that there is a particular need for smaller units and so the form of this development is to be welcomed.
- 5.1.10 The proposed dwellings would be sited in line with the eastern boundary line of the development located within the grounds of Charwoods and the two bungalow development previously approved on site. Therefore, the proposal would not result in the extension of built form or development out further towards the countryside, which extends to the east of the site, than that has already been granted permission. The principle of the current proposal is similar in nature to other developments recently allowed by inspectors at various sites throughout Stoney Hills. Thus, the development is considered to be, on balance, acceptable.

5.2 Design and Impact on the Character of the Area

- 5.2.1 Policy H4 of the MDLDP states that *"All development will be design-led and will seek to optimise the use of land having regard to the following considerations:*

- 1) *The location and the setting of the site;*
- 2) *The existing character and density of the surrounding area;*
- 3) *Accessibility to local services and facilities;*
- 4) *The capacity of local infrastructure;*
- 5) *Parking standards;*
- 6) *Proximity to public transport; and*
- 7) *The impacts upon the amenities of neighbouring properties."*

- 5.2.2 The application is for an outline planning permission with all matters reserved for future consideration. All that is before the Council is an indicative site plan, an application form and a Design and Access Statement, providing limited information regarding the design, scale and overall appearance of the proposed five bungalows. A reserved matters application would be required to be submitted, if outline approval is to be granted and detailed matters of layout, scale and design would be dealt with at that stage.

- 5.2.3 As stated previously, the character of the area has significantly changed over recent years as planning permissions have been granted or appeals upheld on a number of sites within the wider area around the application site, so that the area is no longer characterised by scattered development where infilling has taken place. This has been noted and highlighted by a number of inspectors. Whilst the increased number of dwellings proposed (from two to five) on a larger site (0.13ha larger than the previous application site), would add to the creation a more urban character, given that similar proposals were considered acceptable in the past from the inspectors and the Council and that the number of dwellings proposed on site has been reduced from the previously refused application, it is not considered that the current application should be refused on the basis of impact of the development on the character and appearance of the area.

- 5.2.4 In light of the above and taking into account the reduction of the proposed units, it is considered that the development, as currently proposed, would not be out of keeping with the character of the area and it would not result in a harmfully greater impact to the grain of the area.

5.3 Impact on Residential Amenity

- 5.3.1 Policy D1 and H4 of the approved MDLDP seeks 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.
- 5.3.2 Given the size and siting of the proposed bungalows in conjunction with the size of the site, it is considered unlikely that there will be any demonstrable harm relating to overlooking, overshadowing or domination that cannot be resolved at the reserved matters stage.

5.4 Access, Parking and Highway Safety

- 5.4.1 The principle of an access from Stoney Hills for the development of this land and that to the north has already been established and the issue of off-street parking will be dealt with at the reserved matters stage. However, it is noted that as shown on the indicative site plan, limited off-street parking spaces are proposed to be provided for the development. Given the location of the properties outside the defined settlement boundary and the distance to the nearest local amenities and services, it is considered that the provision of at least two off-street parking spaces per dwelling would be required to meet the needs of the future occupiers. This is a matter that will be fully assessed at the reserved matters stage and thus, given the size of the site, it is not considered reasonable to form a reason for refusal of the current application. A condition (6) has been imposed in that respect.
- 5.4.2 The Essex County Highways has requested an informative to ensure that there would be no obstruction to the public footpath that runs along the north part of the access point.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Private amenity and landscaping issues would be dealt with in detail by way of reserved matters submissions. However, the site is likely to be capable of accommodating an acceptable level of private amenity space to meet the needs of the future occupiers. The size of the proposed dwellings would be also large enough to provide a good level of accommodation.
- 5.5.2 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 as part of the submission of a reserved matters application.

5.6 Other Material Considerations

- 5.6.1 Concerns were previously raised with regard to the presence of protected species and contamination of the land. Both issues at recent appeal decisions for comparable sites have not been considered to be appropriate reasons for refusal. A pre-commencement

condition in relation to submission of an ecological survey would be imposed as well as a condition requiring to carry out an investigation and risk assessment, in the event that contamination is found on site.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/17/00383** - Proposed construction of two bungalows. Planning permission granted by members of the Development Control Committee on 19 June 2017.
- **OUT/MAL/17/00752** - Proposed construction of 6 bungalows. Planning permission refused for the following reason:
 - The proposed development is located outside of the defined settlement boundaries of the Maldon District and would represent an intensive and urban form of development that would be materially harmful to the character of the application site and the surrounding area. The proposal is therefore contrary to the National Planning Policy Framework, Maldon District Local Development Plan (2017) policies S1, S8, D1, H4 and policies HO.1 and H0.8 of the Burnham-on-Crouch Neighbourhood Development Plan (2017).

Wider area

- **OUT/MAL15/00978** - Land Rear Of Charwood Stoney Hills - Outline planning permission for a proposed development of 4no. two bedroom bungalows. – REFUSED [22.12.2015] – APPEAL ALLOWED [19.10.2016]
- **RES/MAL/15/00718** – Land Adjacent Charwood Stoney Hills - Reserved Matters application for the approval of appearance, landscaping and layout for the erection of one new dwelling. Following Approved Outline Planning Permission OUT/MAL/14/01049 - APPROVED [18.09.2015]
- **OUT/MAL/14/01049** – Land Adjacent Charwood Stoney Hills - One new dwelling - APPROVED [16.01.2015]
- **OUT/MAL/13/00674** – Land Adjacent Charwood Stoney Hills - Erection of one new dwelling - REFUSED [01.10.2013]
- **OUT/MAL/17/00103** – Land Rear Of Charwood Stoney Hills - Proposed development of two bungalows - APPROVED [11.04.2017]
- **FUL/MAL/14/00610** – Land Adjacent Myrtle Cottage Stoney Hills - Proposed new dwelling house - APPROVED [22.09.2014]
- **FUL/MAL/12/00775** – Myrtle Cottage Stoney Hills – New dwelling house – APPROVED [08.11.2012]
- **OUT/MAL/14/01152** – Land South Of Anson Stoney Hills - Two storey dwelling of an area of 232 square metres or 2500 sq feet – APPROVED [12.02.2015]
- **RES/MAL/15/00839** - Land South Of Anson Stoney Hills - Reserved Matters application for the approval of appearance, landscaping, layout and scale for a two storey dwelling of an area of 232 square metres or 2500 sq feet. Following approved outline planning permission OUT/MAL/14/01152 – APPROVED [12.10.2015]
- **FUL/MAL/14/00662** – Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – REFUSED [02.09.2014]

- **FUL/MAL/14/00956** – Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – APPROVED [12.02.2014]
- **OUT/MAL/12/01038** – Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – APPROVED [12.03.2013]
- **OUT/MAL/15/00420** – Land Opposite Linden Lea Stoney Hills - Outline application for one dwelling including determination of access – REFUSED [02.09.2014] APPEAL ALLOWED [21.07.2016]
- **RES/MAL/16/01187** – Land Opposite Linden Lea Stoney Hills - Reserved matters application for the approval of appearance, landscaping, layout and scale OUT/MAL/15/00420 – APPROVED [22.12.2016]
- **OUT/MAL/15/00445** – Outline application for one dwelling including determination of access – ALLOWED ON APPEAL [31.10.2016]
- **OUT/MAL/15/01082** – Outline application for the erection of five bungalows in lieu of existing commercial and agricultural buildings. ALLOWED ON APPEAL [31.10.2016]

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Burnham- On- Crouch Town Council	No comments received at the time of writing of the report.	

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC) Highway Authority	Stoney Hills is a private road and therefore, the Highway Authority raised no objection to the proposal. The addition of two informatives has been requested, one in relation to unobstruction of the Public Footpath and the second regarding prior arrangement with the Highway Authority of any work that affects the highway.	Comments noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection in principle. Contaminated land conditions shall be applied along with conditions about surface and foul water drainage.	Comments noted. Please see section 5.6 of the report

7.4 Representations received from Interested Parties

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

- Nick Wood, Marbles Hills, Stoney Hills, Burnham-on-Crouch

Objection Comment	Officer Response
The development would be out of keeping with the rural character of the area.	Refer to sections ‘Principle of development’ and ‘Impact on the character of the area’ of the report.
Concerns raised in relation to different approach taken (refusal) to other development proposal within the District (such as Tillingham and Southminster) and Stoney Hills, where applications are approved.	It is noted that each application is assessed on its own merits. Furthermore, appeal decisions are material planning considerations and therefore, should be taken into consideration when determining an application.
The proposed development is inappropriate, unsustainable and unsympathetic.	The comments are addressed in sections 5.1 and 5.2.
Contrived development due to access arrangements.	The comments are addressed in section 5.4.
Mill Road is not designed for the additional traffic that would be generated by the development.	The Highways Authority has been consulted and raised no objections on the impact of the development on Mill Road.
Wildlife habitats and vegetation would be affected by the development.	Comments noted – secured by condition.
The development would adversely impact upon the amenities of the neighbours.	The comments are addressed in section 5.3.

8. PROPOSED CONDITIONS

Conditions:

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

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

The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- 2 No development shall take place including any demolition or clearance works, until a comprehensive ecological survey of the site has been undertaken to ascertain if any protected species are present. The results of the survey shall be submitted to and approved in writing by the local planning authority along with details of the provision and implementation of ecological mitigation to protect any protected species if found to be present. The development shall be carried out and completed in accordance with the approved mitigation scheme.
REASON: To ensure that protected species are not harmed during the course of development and that appropriate mitigation measures are in place to protect any species found to be present on site in accordance with Policy N2 of the Maldon District Local Development Plan as submitted, and Government guidance as contained within The National Planning Policy Framework.
- 3 As part of the reserved matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the Local Planning Authority. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained in perpetuity as such thereafter.
REASON: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Replacement Local Plan (MDRLP).
- 4 Unless otherwise shown to be removed on the approved plan all of the hedgerow boundaries shall be retained and maintained at all times thereafter.
REASON: To ensure that protected species are not harmed during the course of development and in the interest of the visual amenity of the area in accordance with policy D1 and N2 of the Maldon District Local Development Plan as submitted, and Government guidance as contained within The National Planning Policy Framework.
- 5 The landscaping details referred to in Condition1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

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

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

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

REASON: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan.

- 6 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.

REASON: To ensure appropriate parking is provided in accordance with the Council's adopted Vehicle Parking Standards.

- 7 No development shall commence until details of existing ground levels and proposed finished ground, and its relation to the adjoining land, and floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 8 The development shall be single storey only comprising of one floor of accommodation and no more than 5 dwellings. The total floor area of the proposed bungalows and associated outbuildings shall not exceed 999sqm.

REASON: To ensure that the development is as applied for and that it does not exceed the minimum threshold for affordable housing contribution in accordance with Policy H1 of the approved Maldon District Development Local Plan.

- 9 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared. This must be conducted in accordance with the Department for Environment, Food and Rural Affairs (DEFRA) and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

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

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 10 Development shall not commence until a scheme for the provision and implementation of surface water drainage incorporating Sustainable Urban Drainage Schemes (SUDs) and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the development.
REASON: To avoid the risk of surface water flooding of adjacent land in accordance with policy D5 of the Maldon District Local Development Plan.
- 11 Development shall not commence until details of foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the development.
REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the 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.

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

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

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

- 4 You are advised that at least two off-street parking spaces shall be provided per dwelling, should the proposed bungalows comprise accommodation larger than one bedroom dwellings.

- 5 You are advised that public's rights and ease of passage over public footpath no 5 (Burnham-on-Crouch parish) shall be maintained free and unobstructed at all times.
- 6 All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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**REPORT of
CHIEF EXECUTVE**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 2017**

Application Number	OUT/MAL/17/01114
Location	Land East Of Goldsands Road Southminster
Proposal	Outline application for proposed agricultural workers dwelling with appearance and landscaping matters reserved. Dwelling to be tied to use by agricultural worker.
Applicant	Mr John Fisher - D.J.Fisher (Farms) Limited
Agent	Mr Mike Otter - GPO Designs Ltd
Target Decision Date	14.12.2017
Case Officer	Hannah Bowles, TEL: 01621 875822
Parish	SOUTHMINSTER
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 East Of Goldsands Road, Southminster
OUT/MAL/17/01114



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	Scale:	1:2,500
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee 17/01114/OUT
	Date:	21/11/2017
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 on the eastern side of Goldsands Road, outside of the settlement boundary of St Lawrence. The application site is a parcel of undeveloped land measuring 0.19 hectares and is currently part of an arable field. The surrounding area is rural in nature with open countryside to the north, east and south of the application site and fishing pits located opposite the site.
- 3.1.2 Outline planning permission with some matters reserved is sought for the erection of an agricultural workers dwelling.
- 3.1.3 The proposed dwelling would measure 10.1m in height to the ridge, 5.3m in height to the eaves, 19m in width and a maximum of 13.7m in depth. The proposed dwelling would accommodate a kitchen / family room, utility room, living room, study and WC at ground floor and five bedrooms and three bathrooms at first floor. The outline application procedure allows for applicants to identify specific matters for consideration which include the principle of the development, layout, access, scale, appearance and landscaping. The applicant has identified that this application is to consider the principle of the development, access, layout and scale. The considerations of appearance and landscaping will form the subsequent reserved matters application should outline planning permission be granted for this proposal. Nevertheless all material planning considerations are relevant, where applicable, to this application.

3.2 Conclusion

- 3.2.1 The proposed development of an agricultural workers dwelling is considered unacceptable in this instance. The proposed development fails to accord with the guidance within the National Planning Policy Framework (NPPF) and policy H7, S8 and D1 of the Local Development Plan (LDP). The evidence supplied is not considered adequate to sufficiently justify the functional need or viability of the business. It is not considered that the harm caused by the erection of a dwelling in an unsustainable location is outweighed by the need for an agricultural workers dwelling. Furthermore, the harm to the open and undeveloped countryside is significantly exuberated by the excessive scale of the proposed dwelling.

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 approved by the Secretary of State:

- D1 - Design Quality and Built Environment
- N2 - Natural Environment and Biodiversity
- T1 - Sustainable Transport
- T2 - Accessibility
- S1 - Sustainable Development
- S2 - Strategic Growth
- S7 - Prosperous Rural Communities
- S8 - Settlement Boundaries and the Countryside
- H4 - Effective Use of Land
- H7 - Agricultural and Essential Workers Dwelling

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 Development Plan unless material considerations indicate otherwise [Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990) and paragraph 196 of the NPPF].
- 5.1.2 Planning permission is sought for a new dwelling outside of the development boundary for Southminster.
- 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

dwelling is proposed for the use of an agricultural worker, which is listed under Policy S8 (g) and therefore the principle of development would depend on the compliance of the proposed developed with Policy H7 of the LDP. Similarly, the NPPF states that dwellings can be erected within the countryside where there is an “essential need for a rural worker to live permanently at or near their place of work in the countryside.”

5.1.5 Policy H7 of the LDP states the following:

‘Permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:

- 1) Evidence has been submitted to the satisfaction of the Council that there is an existing agricultural, forestry, fishery or other commercial equine business-related functional need for a full-time worker in that location;
- 2) There are no suitable alternative dwellings available, or which could be made available in the area to serve the identified functional need;
- 3) It can be demonstrated that the enterprise is, or will be in the case of new businesses, a viable business with secure future prospects;
- 4) The size and nature of the proposed structure is commensurate with the needs of the enterprise concerned; and
- 5) The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area, and is acceptable when considered against other planning requirements.

5.1.6 The applicant has submitted a planning statement and financial appraisal to demonstrate compliance with the stipulations 1, 2 and 3.

5.1.7 Functional Need

5.1.7.1 Within the planning statement it states that DJ Fisher Farms Ltd is predominantly an arable farming business who currently farm 2,800 acres of land. The main office and farm are located at Hall Farm, Goldsands Road Southminster around 200m to the north of the application site. It is stated that the dwelling would be used by the farm manager, who currently resides in a property off site and not owned by DJ Fisher Farms. It has been stated that *‘It is essential that the farm manager is housed within the site of the main operations of the business for the following reasons:*

1. *Peak Season. During peak season, between July-October, extra labour is employed and it is sometimes necessary for operations to go on for 24-hour days, working around the weather. This will mean the farm manager will need to be available to deal with machinery breakdowns, equipment failures, labour issues, health and safety and farm security around the clock.*
2. *Grain Drying. The farm houses several grain driers which need to be monitored during summer months and turned off as humidity levels rise during the night.*
3. *Irrigation Water from the onsite reservoir is fed through a series of hydrants situated on the farm track in front of the proposed building. This equipment must be periodically moved (typically in the early morning and early evening to minimise evaporation).*

4. *Crop Spraying. There are times that crop spraying is needed to be done during the early hours of the morning to avoid volatilisation and late into the night where weather windows are tight’.*

5.1.7.2 The supporting text of Policy H7 goes onto state that ‘The Council will support permanent (or temporary) accommodation in the countryside in exceptional circumstances to sustain the effective operation of a viable rural business. Evidence will be required within an application to outline why accommodation is required to support the business in that particular location. Any evidence provided should seek to establish, to the Council’s satisfaction, that the business needs one or more workers to be readily available at most times, for example to provide essential care to animals or processes at short notice. The application must demonstrate that new residential accommodation on that site is essential, rather than convenient, for the enterprise.’

5.1.7.3 The above evidence supplied to the Council does not demonstrate an essential need for a member of staff to be located on the farm. The applicant’s submissions make it clear that the agricultural operation is arable and therefore there are no livestock or other animals at the site that would require such immediate attention that would justify an agricultural worker needing to live within sight and sound of the agricultural activities. Whilst it would be convenient, it is considered that it has not been demonstrated why the proposed dwelling is essential in order to sustain the effective operation of the business, especially considering the farm manager, who would reside in the proposed dwelling, is currently remote from the farm. Therefore, it is considered that the application fails to comply with this stipulation.

5.1.8 Alternative dwellings

5.1.8.1 Given that it is not considered that there is a functional need for the proposed dwelling on the farm, there are several properties for sale and rent within Southminster that could be utilised for the farm manager.

5.1.8.2 In addition to this, the site plan no. NDCM07JW_FP1.1 shows eight dwellings along Goldsands Road in ownership of the applicant, no information as to why these dwellings could not be used has been supplied to the Council. Therefore, it is considered that the application fails to comply with this stipulation.

5.1.9 Viable business

5.1.9.1 A financial appraisal of DJ Fisher Farms LtdD by Whirledge and Nott has been submitted to the Council. The assessment has been undertaken by a professional member of the Royal Institution of Chartered Surveyors and a Fellow of the Association of Agricultural Valuers. It concludes that the business has a turnover in line with the income expected from an agricultural business of this size and that has generated a profit for the last five years and is therefore a viable business. The Council would expect to see evidence to substantiate the conclusions within the appraisal. It is noted that the applicant’s submissions include details of the turnover of the enterprise, but also sets out that the turnover is subject to significant fluctuations. An indication of costs is given, but it is not clear if this is all of the costs that are incurred by the enterprise. It is also noted that the applicant’s submissions highlight that diversification of the operations and the change of use of buildings within the control of the applicant has enabled the operation to be profitable and it is stated that the

would have been viable without these other sources of income which do not derive a functional need to live at the site thereby relying solely on farming income and ‘renewables’. It is not clear if the operation would be viable without the financial input from renewables. It is stated that the business has been profitable for at least five years, but it is not clear whether this would remain the case if the development costs associated with the erection of a five bedroom dwelling are factored into the financial appraisal. Overall, in the absence of the profit figure being quoted, it is considered that it has not been demonstrated to the Local Planning Authority that the criteria 3 of policy H7 has been met.

5.1.10 Size and nature

5.1.11 The justification provided for the size and nature of the dwelling is ‘The business needs a reasonable sized property to accommodate the current manager’s wife and three children. It is also important for the business to be able to provide a good farm house to attract a good standard of manager that is willing to work long unsociable hours, in a demanding job, for modest agricultural pay’. On the basis that the dwelling would meet the needs of the current manager, his wife and their three children, it is assumed that a four bedroom dwelling would be adequate, at most. Examples of job adverts from similar businesses showing provisions of on farm accommodation was also provided. It appears that the accommodation is being proposed to meet the needs of the current farm manager who is stated to be a director of the company. It is therefore assumed that there would be no need to attract a new farm manager and as such the employment adverts at other farms (which offer three bedroom accommodation for a farm manager, not 5 bedroom accommodation) is of limited relevance to the proposal that is being considered by the Local Planning Authority. There does not appear to be a need for extra accommodation to be provided speculatively.

5.1.12 The application proposes a dwelling measuring 10.1m in height to the ridge, 5.3m in height to the eaves, 19m in width and a maximum of 13.7m in depth. It would accommodate a kitchen/family room, utility room, living room, study and WC at ground floor and five bedrooms and three bathrooms at first floor.

5.1.13 It is not considered that the above mentioned statement by the applicant justifies the need for a dwelling of the proposed height, width and level of accommodation, moreover it is considered that the size of the dwelling is commensurate with the requirements of the business. Therefore, it is considered that the application fails to comply with this stipulation.

5.1.13 Compliance with stipulation 5 of policy H7 is assessed in 5.2 of the Officer report.

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 seek to create a high quality built environment for all types of development. In addition, policy H7 states that ‘The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and

appearance of the area, and is acceptable when considered against other planning requirements.’

- 5.2.2 The application is outline in nature with appearance and landscaping reserved for consideration at a later date. However, access, layout and scale must be considered as part of the outline application.
- 5.2.3 The proposed dwelling would measure 10.1m in height to the ridge, 5.3m in height to the eaves, 19m in width and a maximum of 13.7m in depth. Although appearance is a consideration for a later date indicative elevation plans have been submitted as part of the application. The proposed dwelling in plan view is ‘H’ shaped and is largely symmetrical; there are two front and rear gable ends, a front porch, side porch and single storey rear element.
- 5.2.4 The application site fronts onto the existing road network and has a rural character given that it is a section of an undeveloped agricultural field. The site is surrounded by open and undeveloped land with the closest built form being in excess of 100m. The site contributes to the countryside setting, ensuring the character is maintained along this stretch of Goldsands Road. It is therefore considered that the encroachment of built form on this site, and resultant loss of this section of undeveloped countryside, would cause significant harm to the countryside and its intrinsic characteristics. The harm would be significantly exuberated by the excessively large dwelling with a ridge height of 10.1m and a width of 19m it is considered no effort has been made to minimise the adverse impact upon the character and appearance of the area contrary to policy H7 and D1 of 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 privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 The appearance of the proposed development is a consideration for a later date and therefore a full assessment of the impact of the proposed development on the neighbouring occupiers cannot be fully assessed at this stage. However, the application site is an isolated plot with no immediately adjacent neighbouring properties, with the closest residential dwelling in excess of 120m from the proposed development. Therefore, it is unlikely that the proposed dwelling would result in overlooking, a loss of light or would form an overbearing development to the detriment of the neighbouring occupiers.

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 Access to the proposed development would be taken from Goldsands Road; The Highway Authority has been consulted and raised no objection to the proposed access in relation to highway safety subject to conditions.

5.4.3 In order to comply with policy T2 for off-street parking provision in accordance with the Council's adopted Parking Standards; the number of spaces provided depends upon the number of bedrooms for each dwelling. Given that the proposed dwelling shown on the indicative floor plan would accommodate five bedrooms the recommended standard is a maximum of three car parking spaces. An area of hardstanding is proposed to the front and side of the proposed dwelling, it has space to accommodate three cars plus a turning area. Therefore, no concerns are raised.

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 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.

5.5.2 Due to the size of the site, the rear amenity space would be in excess of 400sq.m and therefore would be in accordance with D1 of the LDP. The landscaping for the site will be considered as part of a reserved matters application at a later stage.

6. ANY RELEVANT SITE HISTORY

6.1 None.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	No response received at the time of writing this report.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council – Highway Authority	No objection subject to conditions.	Noted.

7.3 Internal Consultees

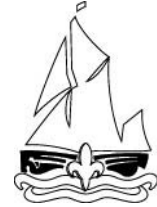
Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Noted.

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

8. REASONS FOR REFUSAL

- 1 The proposed development would result in the erection of a dwelling outside the settlement boundary of Southminster in an unsustainable location, remote from community services and essential support services/facilities and inaccessible by a range of means of transport. Moreover the layout and scale of the proposed development would have a significant and material detrimental impact on the character and appearance of the surrounding countryside. Inadequate evidence has been provided to demonstrate that an essential functional need exists for an agricultural workers dwelling to be erected at the site, that the existing agricultural operation is viable and that the size of the dwelling is commensurate with the needs of the agricultural holding and it is therefore considered that the harm identified is not outweighed by other material planning considerations. The proposal is therefore contrary to policies S1, S8, H7, T1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.



**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 2017**

Application Number	OUT/MAL/17/01123
Location	Land To The Rear Of 60A Maldon Road, Burnham-On-Crouch, Essex
Proposal	Proposed erection of 6 residential dwellings and ancillary works with shared surface access off Green Lane and pedestrian/ cycle link to Maldon Road.
Applicant	Dr Hamid Latif
Agent	Mr David Devries
Target Decision Date	24 November 2017
Case Officer	Anna Tastsoglou, TEL: 01621 975741
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the Local Development Plan 2017

1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Land To The Rear Of 60A, Maldon Road, Burnham-on-Crouch
OUT/MAL/17/011213



 <p>MALDON DISTRICT COUNCIL</p> <p>www.maldon.gov.uk</p>	<p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	<p>Scale: 1:2,500</p>
	<p>Organisation: Maldon District Council</p>	<p>Department: Department</p>
	<p>Comments: SE Committee 17/01123/OUT</p>	<p>Date: 21/11/2017</p>
	<p>MSA Number: 100018588</p>	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The application site lies to the north side of properties no's 58 - 62 Maldon Road and to the south of two recently approved dwellings onto Green Lane. One of these two dwellings was already erected at the time of the site visit. The site which totals 0.9 hectares encompasses a parcel of land which is broadly open and flat and it is covered by grass and a group of trees. There are some outbuildings to the rear of the garden to No 58.

3.1.2 No's 58 and 60A form part of a linear layout comprising of large detached dwellings fronting Maldon Road and contained within large plots. The settlement boundary is shown running behind the dwellings but not including the whole depth of the rear gardens. To the west of the site is an area of woodland and to the east open grassland.

3.1.3 The site as shown on the location plan submitted would be accessed from both Maldon Road and Green Lane, albeit with pedestrian/cycle access only to Maldon Road.

3.1.4 It is noted that the area around and mainly to the east of the application site is undergoing considerable change, given that large scale developments that have been granted permission to the east (the area forms one of the strategic development sites in Burnham) and smaller scale developments to the north including the erection of two dwellings onto Green Lane.

3.1.5 Description of proposal

3.1.5.1 Outline planning permission with all matters reserved is sought to erect six dwellings, form vehicular access off Green Lane between the two recently approved dwellings onto Green Lane and from pedestrian/cycle access off Maldon Road, between no's 60 and 60A.

3.1.5.2 The site has a trapezium shape measuring a maximum of 132.46m deep by 75m wide.

3.1.5.3 An indicative plan has been submitted with the application which shows a 3 metres wide pedestrian/cycle access off Maldon Road and a 6m wide vehicular access off Green Lane. The road within the housing development would traverse the site. Four dwellings have been shown to the west of the road and two to the south.

3.1.5.4 A planning statement has also been submitted in support of the application, where it is stated that although all matters are reserved for a future submission, the design intention is that the dwellings would be traditional two / two and a half storeys, with rooms in the roof.

3.1.6 Background of the application

3.1.6.1 It is noted that two applications proposing the erection of 6 dwellings were previously refused (OUT/MAL/14/01200 and OUT/MAL/16/00120), with the second one

allowed on appeal. The differences between the previous applications and the current proposal are, as follows:

- The boundary of the application site has been amended. No. 58 Maldon Road is no longer included within the application site. The application site, where the proposed houses are to be erected, is slightly smaller than the one for earlier applications, as an area measuring 34m by 37m has been excluded.
- The dwelling at no. 58 is no longer proposed to be demolished.
- A new vehicular access has been shown to the north of the site connecting it with Green Lane.
- A footpath has been shown between no's 60 and 60A. That was previously proposed to be conjoined with the vehicle access off Maldon Road.

3.1.6.2 Prior to the decision of the Inspector to allow the appeal, an application for the erection of twelve dwellings, was refused, on the grounds of the contrived isolated and backland form of development, which was considered to result in a development that would not respect the existing pattern and urban grain. The application site of the current proposal, except from the access, is the same with this last submission, which was allowed at appeal.

3.2 Conclusion

3.2.1 The proposed development is located outside the settlement boundary for Burnham-on-Crouch and so is in principle contrary to policies that seek to direct new residential development to established settlements. However, a recent appeal decision (Appeal ref: APP/X1545/W/16/3160991) for a similar proposal was allowed on 23 January 2017. On the basis of the recent appeal decision where the principle of six dwellings in that location was considered acceptable, no objection is raised to the principle of the development or impact of the development on the character and appearance of the area. Other material planning considerations would be fully assessed at the reserved matters stage.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2012 including paragraphs:

- 7 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

4.2 Approved Maldon District Local Development Plan (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

4.3 Burnham-on-Crouch Neighbourhood Development Plan (7 September 2017):

- Policy HO.1 – New Residential Development
- Policy HO.8 – Housing Design Principles

4.4 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The application site lies beyond the development boundaries of Burnham-on-Crouch and therefore within the Countryside. Policies S1, S2 and S8 of the approved Maldon District Local Development Plan 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.

5.1.2 Policy HO.1 of the Burnham Neighbourhood Plan states that *“Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan”*.

5.1.3 The site is located outside the development boundary, to the rear of properties along Maldon Road which broadly has a linear built form with a large area to the rear of houses along Maldon Road being undeveloped. However, there are examples of backland development, such as Pinnars Close, The Hawthorns and Corinthia Mews. Furthermore, the area to the north of Maldon Road is undergoing considerable

development and that was recognised by the Inspector. In particular, a large development to the east of the application site was recently approved, which, if developed, would become more urban in character (Planning Application Ref FUL/MAL/16/00093 for 180 dwellings within an allocation of Natural and Semi Natural Open Space abutting the application site to the east). The Inspector considered that there is nothing to suggest that this development would not proceed and therefore, the proposed development for six houses within the application site, would not be contrived, isolated or overly prominent when viewed from Green Lane or elsewhere.

- 5.1.4 Although there are differences in terms of the access and the layout proposed as part of the current application when compared to these included with the scheme recently allowed at appeal, given that both applications are outline with all matters reserved, it is considered that the similarities of the two schemes are more significant than the differences. The Inspector's decision is a material consideration and therefore, it is considered that the provision of six houses in this location is acceptable in principle and it would not result in a materially harmful impact on the character of the surrounding area.
- 5.1.5 The site would be visible from Green Lane; however, it would maintain a reasonable set back from the highway, similar to the development to the east. As shown on the indicative plan, a high level of the existing vegetation would be retained, including further soft landscaping and therefore, a development would be largely concealed and a large part of the site would remain undeveloped.
- 5.1.6 Whilst the submitted layout is only indicative, it is reasonable to conclude that given the size and configuration of the site, six dwellings are likely to be able to be accommodated within the site, without resulting in a development being at odds or harmful to its surroundings.
- 5.1.7 The development would not extend further out to the west, towards the open countryside, from the previously submitted application. No objection was previously raised regarding the sustainability of the site, in terms of access to public transportation or services/facilities. Thus, the development is considered to be, acceptable in principle.

5.2 Design and Impact on the Character of the Area

- 5.2.1 Policy H4 of the Maldon District Local Development Plan (MDLDP) states that "*All development will be design-led and will seek to optimise the use of land having regard to the following considerations:*
- 1) *The location and the setting of the site;*
 - 2) *The existing character and density of the surrounding area;*
 - 3) *Accessibility to local services and facilities;*
 - 4) *The capacity of local infrastructure;*
 - 5) *Parking standards;*
 - 6) *Proximity to public transport; and*
 - 7) *The impacts upon the amenities of neighbouring properties."*

- 5.2.2 The application is for an outline planning permission with all matters reserved for future consideration. A reserved matters application would be required to be submitted, if outline approval is to be granted and detailed matters of layout, scale and design and access would be dealt with at that stage.
- 5.2.3 As stated above, the character following the construction of the approved developments adjacent to the site would be materially altered from a rural to a more urban nature. Therefore, the pattern of the proposed dwelling within the application site would not be at odds with the grain of the surrounding area. Whilst the development would be visible from public vantage points it is considered that by reason of the nearby developments and the appropriate number of dwellings proposed within such an area, the proposal would not result in significant harm to the wider area.
- 5.2.4 In terms of the amended vehicular access proposed off Green Lane, although this is to be agreed at reserved matters stage, it is considered that it would avoid the creation of a gap within the streetscene of Maldon Road, which was previously considered to result in a disruption of its linear character. Although a similar gap would be created onto Green Lane, given the broadly underdeveloped character of Green Lane in comparison to Maldon Road, it is considered that the impact would be less than that caused by the previously proposed gap onto Maldon Road.
- 5.2.5 The proposed pedestrian access off Maldon Road would not result in an unacceptable gap between the dwellings and as shown on the indicative block plan, soft landscaping would be incorporated. Similarly, a level of soft landscaping has been shown on either side of the proposed vehicle access. This plan is indicative; however, it shows that soft landscaping would be outside the application boundary. This is therefore given little weight as it cannot be secured in the long-term.
- 5.2.6 Although indicative, the block plan submitted can demonstrate that the proposed development would be of low density achieving spacious gaps between the dwellings and high levels of soft landscaping. The Inspector considered that *“Such a verdant layout would assist in integrating the development with the softer, more rural character of Green Lane and the countryside beyond”*.
- 5.2.7 In light of the above, it is considered that the development, as currently proposed, would not be out of keeping with the character of the area and it would not result in a greater impact to the grain of the area such that to warrant refusal of the outline application on these grounds.

5.3 Impact on Residential Amenity

- 5.3.1 Policy D1 and H4 of the approved MDLDP seeks 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.
- 5.3.2 The application has been submitted in outline and so the detailed layout and design of the housing would be determined at the reserved matters stage. Given the size and siting of the proposed development in conjunction with the size of the site, it is considered unlikely that there will be any demonstrable harm arising in terms of

overlooking, overshadowing or domination that cannot be resolved at the reserved matters stage.

- 5.3.3 The proposed access is to be formed between two recently approved dwellings (one already built) onto Green Lane. Whilst these two properties would be exposed to noise and disturbance generated from traffic from the development, the Environmental Health team has raised no objection. A similar arrangement was previously proposed between properties 56 and 60 Maldon Road and no objection was raised in the previous applications in that respect.

5.4 Access, Parking and Highway Safety

- 5.4.1 Whilst access is a reserved matter, given the boundaries of the application site, the point of access will be as shown. The highway authority has not raised an objection to the formation of the access onto Green Lane. The indicative plan suggests that there will be ample off street parking or garaging for all units when considered against the Council's adopted parking standards.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Private amenity and landscaping issues would be dealt with in detail by way of reserved matters submissions. However, the site is likely to be capable of accommodating an acceptable level of private amenity space to meet the needs of the future occupiers. Furthermore, the formal rear garden area for No 60A would not be affected.
- 5.5.2 The size of the proposed dwellings, as shown on the indicative plan, would be large enough to provide a good level of accommodation.
- 5.5.3 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 as part of the submission of a reserved matters application.

5.6 Other matters

5.6.1 Archaeology

- 5.6.1.1 The proposed development site has the potential to impact on archaeological remains. A Historic Environment Officer has been consulted and stated that the site is located within a zone of high Palaeolithic potential. Archaeological deposits are both fragile and irreplaceable and any permitted development on site should therefore be preceded by a programme of archaeological investigation. This would be secured by condition.

5.6.2 Impact on previous permissions

- 5.6.2.1 It is noted that the current proposal would provide an access off Green Lane between two recently approved dwellings (FUL/MAL/15/01046 and FUL/MAL/16/01481). As shown on the submitted indicative block plan the development, if implemented as shown, would affect the ability of the aforementioned application to comply with their conditions. It is noted that this would result in potential breach of condition to

implement the developments in accordance with their approved plans. An informative would be added as a reminder for the applicant.

5.6.3 Sustainable Urban Drainage Schemes (SUDs)

5.6.3 It is noted that a condition in relation to the submission of details of SUDs has been imposed, which was not part of the conditions imposed at appeal (OUT/MAL/16/00120). Since the determination of this appeal, the LDP has been approved, which requires developments to minimize the risk of flooding through appropriate measures such as SUDSs (Policy D5) and therefore, it is considered reasonable this condition be imposed for the current proposal.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/07/01317** - Change of use of land to part residential (garden retreat) retention of outbuilding: Approved 12/02/08.
- **OUT/MAL/14/01200** - Outline planning for proposed demolition of No. 58 Maldon Road and the erection of six new dwellings of 232-350 sq metres on land at the rear of 60a Maldon Road and change of land use to C3. Maldon Road and change of land use to C3: Refused 12/03/15
- **OUT/MAL/16/00120** - Demolition of 58 Maldon Road and erection of 6 residential units with ancillary works including new vehicular and pedestrian access off Maldon Road (Re-submission of OUT/MAL/14/01200): Appeal allowed 16.02.2017.
- **OUT/MAL/16/01246** - Proposed demolition of No.58 Maldon Road and the erection of 12 residential units of 80-240Sqm with ancillary works including new vehicular and pedestrian access off Maldon Road on land forming part of the rear garden to No.60a Maldon Road. Refused 16.01.2017.

Wider Area:

- **FUL/MAL/16/01481** - Erection of a four bedroom detached chalet style dwelling. Approved 14.03.2017.
- **FUL/MAL/ 15/01046** - Application for the erection of a four bedroom detached dwelling, revised application following refusal FUL/MAL/14/01216. Allowed on appeal 30.06.2016.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

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

Name of Parish / Town Council	Comment	Officer Response
Burnham-On- Crouch Town Council	No comments received at the time of writing of the report.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council(ECC) Highway Authority	No objection subject to conditions.	Comments noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions regarding SuDS and foul drainage.	Comments noted.
Archaeology	The site is located within a zone of high Palaeolithic potential and therefore, a programme of archaeological investigation should be submitted.	Comments noted and condition imposed.
Essex and Suffolk Water	No objection subject to compliance with their requirements.	Comments noted.

7.4 Representations received from Interested Parties

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

- Mr Terry and Mrs Valerie Hatcliff, 24 green Lane, Burnham-on-Crouch, Essex, CM0 8PX

Objection Comment	Officer Response
The proposed six houses would be over and above the 3 major developments planned for the town.	Please refer to 'Principle of development' and 'Impact on the character of the area' sections of the report.
The development along Green Lane has reduced the attractiveness of the previously rural character of the road.	Please refer to 'Impact on the character of the area' section of the report.
Green Lane is a predominantly one-track country lane and the proposed development would increase passing traffic and will destroy the road surface.	The Highways Authority has been consulted and raised no objection to the proposed development.
Concerns are raised regarding the external finishing materials.	External finishes are matters that area reserved for a future submission.

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

- Mr Ian Parsons, 58 Maldon Road, Burnham-on-Crouch, Essex, CM0 8NR

Supporting Comment	Officer Response
The site is well related to the existing town and additionally adjoining the proposed allocations.	Comments noted.
The site has been previously acknowledged by officers to be in a sustainable location.	
The site is not part of the wider countryside.	
The development would be for local people and it would not result in squeezed development.	
The development would not interrupt the rhythm of the street scene and would be sympathetic to its surroundings.	
An application for a similar proposal was previously allowed on appeal.	
The previously proposed demolition on no. 58 Maldon Road is no longer part of the proposal.	

8. **PROPOSED CONDITIONS**

Conditions:

- 1 The development shall be carried out in accordance with plans and particulars relating to the layout, access, scale, appearance and landscaping of the site (hereinafter called "the reserved matters"), for which approval shall be obtained from the Local Planning Authority in writing before any development is begun. The development shall be carried out fully in accordance with the details as approved.
REASON: The application as submitted does not give particulars sufficient for consideration of the reserved matters.
- 2 Application(s) for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3 The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.
REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 4 Prior to their use in the construction of the development, details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in

writing by the Local Planning Authority. The development shall be carried out using the materials and details as approved.

REASON: To ensure that the details of the development are satisfactory in accordance with policies D1 and H4 of the Maldon District Replacement Local Plan.

- 5 Any boundary screening approved pursuant to the submission of reserved matters shall be constructed, erected or planted prior to the first use/occupation of the development to which it relates and shall thereafter be retained in its approved form.

REASON: To ensure that the details of the development are satisfactory in accordance with policies D1 and H4 of the Maldon District Replacement Local Plan.

- 6 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel washing facilities
- Measures to control the emission of dust, noise and dirt during construction
- Hours and days of construction operations.

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with BE1 and T2 of the adopted Replacement Local Plan, and policies D1 and T2 of the submitted Local Development Plan.

- 7 No demolition/development or ground works shall commence until a Written Scheme of Archaeological Investigation, in response to an archaeological brief, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording
- The programme for post investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and records of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation.

REASON: To protect the site which is of archaeological interest, in accordance with policy D3 of the approved Local Development Plan.

- 8 No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition (7).

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under this

condition (7) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

REASON: To protect the site which is of archaeological interest, in accordance with policy D3 of the approved Local Development Plan.

- 9 Any hard landscape works approved pursuant to the submission of the reserved matters 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.

Any soft landscape works approved pursuant to the submission of the reserved matters 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 that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan.

- 10 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.

REASON: To ensure appropriate parking is provided in accordance with the Council's adopted Vehicle Parking Standards.

- 11 The development shall comprise of no more than 6 dwellings. The total floor area of the proposed bungalows and associated outbuildings shall not exceed 999sqm.

REASON: To ensure that the development is as applied for and that it does not exceed the minimum threshold for affordable housing contribution in accordance with Policy H1 of the approved Maldon District Development Local Plan.

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

REASON: To avoid the risk of surface water flooding of adjacent land in accordance with policy D5 of the Maldon District Local Development Plan.

- 13 Prior to the commencement of the development details of the surface water and foul water drainage scheme to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The approved

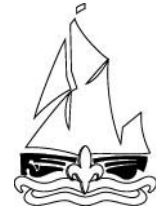
scheme shall be implemented in full prior to the first occupation of the development.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan.

- 14 Prior to occupation of the third dwelling, the proposed footpaths as detailed in the submitted in the drawing 06A shall be constructed and completed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that safe and direct walking and cycling access is provided in accordance with policy T2 of the Maldon District Local Development Plan.

17/17/



REPORT of CHIEF EXECUTIVE

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 2017**

TREE PRESERVATION ORDER (TPO) 8/17 - 9 BARNMEAD WAY, BURNHAM- ON-CROUCH

1. PURPOSE OF THE REPORT

- 1.1 Objections have been received relating to the serving of TPO 8/17 on trees at 9 Barnmead Way, Burnham-on-Crouch (**APPENDIX 1**). The TPO protects two Oriental Plane trees in the rear garden of 9 Barnmead Way, these are numbered T1 and T2. The objections remain unresolved, therefore the question of whether or not to confirm the TPO has been brought before members to decide.

2. RECOMMENDATION

That Tree Preservation Order 8/17 at 9 Barnmead Way, Burnham-on-Crouch be confirmed without modification.

3. SUMMARY OF KEY ISSUES

- 3.1 In June 2017 a proposal to carry out works to the trees (**APPENDIX 2**) was received from the owner. The proposal was to Pollard the trees, the trees had not been pollarded in the past, although crown reduction works had previously been carried out as partial management of the tree.

3.2 Ownership

- 3.2.1 The trees are in the rear garden of Mr and Mrs Harman 9 Barnmead Way, Burnham-on-Crouch. They are both on, or directly adjacent to, the eastern boundary and as such overhang the rear gardens of neighbours at 1 Woodcutters and 7 Barnmead Way. In their unmanaged state, the crown of T1 also encroaches slightly upon 5 Beauchamps.

3.3 Objections

- 3.3.1 Objections to the serving of the TPO have been received from Mr and Mrs Harman of 9 Barnmead Way who have also collected signatures from several other properties in Barnmead Way, Woodcutters and Beauchamps. The petition submitted by Mr and Mrs Harman is attached (**APPENDIX 3**). Also appended is a plan showing the location of the signatories, those served with the TPO and the location of the trees in question (**APPENDIX 4**)

3.3.2 A summary of the objections raised in Mr and Mrs Harman's covering letter are as follows:

1. The trees are not in a conservation area.
2. The trees are not an endangered species.
3. The trees have not been managed, various arboriculturalists consulted are of the opinion that the trees are too large for the garden.
4. There is concern that roots may be under the foundations of properties because of the size and high winds caused by climate change, the trees would be vulnerable to damage, with dead wood and loose limbs breaking away, causing damage to their own and neighbours gardens.
5. According to Kew Gardens, hairs from the fruits can cause bronchial problems, two of the arboriculturalists have supported this.
6. Branches are a metre away from the children's bedroom window.
7. The trees do not have amenity value, being more of a hazard and a risk.
8. Point 6 references incorrect information provided by the Council in response to an enquiry and reiterates points made in the letter.

3.3.3 Details of objectors on the petition (26 signatures):

- Nicola Harman, 9 Barnmead Way, Burnham-on-Crouch
- Marc Harman, 9 Barnmead Way, Burnham-on-Crouch
- Julie Torrance, 11 Barnmead Way, Burnham-on-Crouch
- Peter Finch, 17 Barnmead Way, Burnham-on-Crouch
- Hazel Avery, 15 Barnmead Way, Burnham-on-Crouch
- Robin Avery, 15 Barnmead Way, Burnham-on-Crouch
- Kathy Lidbury, 7 Barnmead Way, Burnham-on-Crouch
- Derek Lidbury, 7 Barnmead Way, Burnham-on-Crouch
- Linda McEwan, 6 Barnmead Way, Burnham-on-Crouch
- John McEwan, 6 Barnmead Way, Burnham-on-Crouch
- Val Sims, 1 Barnmead Way, Burnham-on-Crouch
- Dean Moody, 3 Barnmead Way, Burnham-on-Crouch
- Lisa Rolph, 5 Barnmead Way, Burnham-on-Crouch
- Georgia Rolph, 5 Barnmead Way, Burnham-on-Crouch
- Kelly Nicholls, 1 Woodcutters, Burnham-on-Crouch
- Andrew Nicholls, 1 Woodcutters, Burnham-on-Crouch
- Keith Hobson, 5 Beauchamps, Burnham-on-Crouch
- Janet Hobson, 5 Beauchamps, Burnham-on-Crouch
- Terri Axcell, 4 Beauchamps, Burnham-on-Crouch
- Dennis Axcell, 4 Beauchamps, Burnham-on-Crouch
- Brenda Rands, 7 Beauchamps, Burnham-on-Crouch
- Edmund Rands, 7 Beauchamps, Burnham-on-Crouch
- Clive yeoman, 8 Beauchamps, Burnham-on-Crouch

- Ron Woodham, 6 Beauchamps, Burnham-on-Crouch
- Tim Williams, 34 Beauchamps, Burnham-on-Crouch
- Mandy Williams, 34 Beauchamps, Burnham-on-Crouch

3.3.4 See **APPENDIX 4** for a plan of the locations of the properties in relation to the trees.

3.3.5 In addition to signing the petition, a separate letter of objection has been received from Mrs Lidbury of 7 Barnmead Way. A summary of her objections are as follows:

1. One of the trees overhangs her garden, blocking light to the greenhouse and attracting Wood Pigeons that cover the greenhouse and garden in bird waste.
2. The canopy prevents rain from getting to her garden, making it very dry.
3. The loss of growing space is very inconvenient.
4. The tree is not an ancient one and does not pre-date the development.
5. She understands that the original owners of 9 Barnmead planted the two trees. She feels it is not a suitable species for rear gardens.
6. In high winds the tree thrashes about alarmingly, a branch previously broke off, this could easily happen again with potentially fatal consequences. She is concerned that the whole tree could become uprooted and fall on a house.
7. Mrs Lidbury also refers to the characteristic fruits of the species and the potential irritant they may cause.
8. Mrs Lidbury questions the amenity value the trees provide, set against the dis-benefits to the people live nearby.

3.4 **Tree Officer's response to points of objections:**

3.4.1 Mr and Mrs Harman, 9 Barnmead Way:

1. This is not relevant to the serving of a TPO.
2. This is not relevant to the serving of a TPO.
3. It is agreed that they need to be managed. The TPO was served in response to proposed excessive works that would cause damage to the trees, potentially impacting negatively on neighbouring property and remove the amenity value that the trees provide. The presence of tree roots becomes relevant if other contributing factors are present, such as shrinkable, desiccated clay of a plastic nature. Damage to property has not been raised thus far, other than concerns that the ends of limbs may make contact with roof tiles etc. Furthermore, case law expressly states that other methods should be considered when a TPO is in place, before undertaking excessive works that reduce the amenity value of the trees.
4. The young leaves and fruits develop fine hairs which are present during the spring and lost by early summer. These are characteristic of the species which includes London Plane trees. The hairs can be problematic to some people if the foliage is disturbed, for example during tree surgery, therefore many tree surgeons will wait till later in the season to carry out crown works. This effect can be reduced or even negated by regular, appropriate management.

5. The trees are visible from several angles and distances, able to be viewed above the rooftops of houses in Beauchamps and Barnmead Way. When assessed using TEMPO (Tree Evaluation Method for Preservation Orders - Julian Forbes-Laird), a method of evaluation widely used by Local Authorities, the trees scored 19 which is in the highest score Range (**APPENDIX 5**).
6. The Council has no record of providing guidance with regard to the trees being within a conservation area. However the council does have records of discussions with a local Tree Surgeon with reference to these trees being retained under planning conditions.

3.4.2 Mrs Lidbury, 7 Barnmead Way:

1. Correct management would reduce this problem, if not remove it.
2. The age of the trees is not relevant to the amenity value. The specimen is large and has been managed better in the past. Appropriate management will enable them to be retained whilst reducing the impact upon neighbours.
3. Appropriate management will reduce likelihood of limb failure and ensure the trees remain healthy.
4. Appropriate management will reduce the potential for irritant from hairs. The TEMPO assessment puts sets the TPO value of the trees as very high. Large trees need to be appropriately managed to reduce negative impact upon neighbours.

4. SITE ASSESSMENT

- 4.1 The two trees subject of TPO are in the rear garden of 9 Barnmead Way on eastern boundary of the garden. 9 Barnmead Way has a sizeable garden, being approximately 18 x 19m, however the trees have not been managed for some years, and therefore the lower crowns are likely to impact upon the available space in the garden. The crowns overhang the boundary and overhang part of the rear garden of 1 Woodcutters and a small portion of the crown of T2 overhangs the northwest corner of the rear garden of 7 Barnmead Way. In addition there is some encroachment to the garage roof of 5 Beauchamps.
- 4.2 In previous years both trees have been managed by periodical crown reduction and crown lifting where necessary, in particular T1 which is closest to adjacent properties i.e.: 1 Woodcutters and 5 Beauchamps. This method of management has previously helped to control the size of the crowns, preventing contact with buildings and reducing the impact on neighbouring properties, without losing the amenity value that the trees provide. It is appropriate for the trees to continue being managed in this way.
- 4.3 The recent proposal was to ‘Pollard’ the two trees. Pollarding involves the removal of the branches of a tree and repeat pruning to the same point, developing a ‘knuckle’ stunting the natural growth of the crown. This is a regime that is initiated when the tree is young and the cuts involved are small and easier for the tree to cope with. To initiate a Pollard regime on a mature tree will have a significant impact upon its health and appearance. It is likely to result in a lowering of its health levels and thus may

result in the tree(s) becoming susceptible to disease and decay with an associated increased risk of limb failure. The large wounds that would result are likely to decay, rather than callous over. This proposal of works is directly in conflict with the advice contained in BS3998:2010 – Tree works – Recommendations which is referenced in all permitted or controlled tree work matters dealt with by the Council.

4.4 **Planning History**

- **MAL/326/78** - 4 Detached Chalet Houses
Condition 9 refers to retention of trees.

5. **CONCLUSION**

5.1 **Tree Officer's Summary**

- The trees are large and significant in the immediate landscape.
- They have high amenity value, scoring 19 when assessed using TEMPO.
- They are in a rear garden and can be managed sensitively, minimising negative impact upon their health and upon the people living with and around them.
- The serving of a TPO does not prevent applications for suitable works being submitted. A TPO application can be submitted by anyone.

6. **IMPACT ON CORPORATE GOALS**

6.1 This report impacts on the following:

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

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

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

7. **IMPLICATIONS**

7.1 Government guidelines advise that: The Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

7.2 If Members decide to confirm TPO 8/17, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:

1. that the TPO is not within the powers of the Act, or

2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 7.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

Background Papers: None.

Enquiries to: Ian Harrison, Development Management Team Leader, (Tel: 01621 875751).

Town and Country Planning Act 1990
The Maldon District Council Tree Preservation Order 8/17
Title: 9 Barnmead Way, Burnham on Crouch

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

Citation

1. This Order may be cited as the Maldon district Council TPO 8/17.

Interpretation

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

Effect

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

Application to trees to be planted pursuant to a condition

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

Dated this 29th day of June 2017

Signed on behalf of Maldon District Council:



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

Tree Preservation Order

Details APPENDIX 1

T1 + T2 - ORIENTAL PLANE

TPO 8/17 9 Barnmead Way

Burnham on Crouch



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Maldon District Council 100018588 2014

Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Community and Leisure Serv
Comments:	Not Set
Date:	29/06/2017
MSA Number:	100018588



www.maldon.gov.uk

SCHEDULE

Specification of trees TPO 8/17

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1 & T2	Oriental Plane	Rear garden, east boundary.

Trees specified by reference to an area

(within a dotted black line on the map)

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

Groups of trees

(within a broken black line on the map)

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

Woodlands

(within a continuous black line on the map)

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

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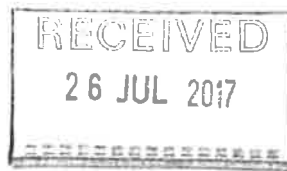
Photos from Beauchamps and Woodcutters – View of T1



Photos from Barnmead Way – View of T2



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Mr and Mrs Harman
9 Barnmead Way
Burnham on Crouch
Essex, CM0 8QD
26 July 2017

Dear Jackie Gilbert

Your ref: TPO 8/17

Town and Country Planning Act 1990 – Section 330

District of Maldon Tree Preservation order 8/17 at 9 Barnmead Way, Burnham on Crouch

Please see enclosed completed Notice of Tree Preservation Order and a petition from local residents.

We object to the Tree Preservation Order imposed, as the residents of the property and land owners into which the two oriental planes (will now be referred to T1 and T2).

We would like the Planning Department to consider the following objections for the Tree Preservation Order for both T1 and T2:

1. T1 and T2 are not in a conservation area.
2. According to Kew Gardens *Platanus Orientalis* (Oriental Planes) are not an endangered species nor are they native British or Essex trees with any significant historical interest. Therefore there is not a requirement to protect T1 and T2 for their uniqueness and vulnerability.
3. All of the arboriculturalists (5 different experts) we had to look at the trees and advise us on appropriate maintenance said they were significantly too large for a small residential garden. T1 and T2 are on a boundary line with number 7 Barnmead Way and 1 Woodcutters. All 3 properties are suffering from the branches touching their houses and greenhouse (7 Barnmead). T1 and T2 used to be managed and kept within a reasonable size, however the previous occupier of 9 Barnmead Way did not attempt to crop them in their 5 years residence and as they are prolific growers the trees now stand at approximately 60 meters tall with a very large canopy that covers best part of 3 residential gardens the root system on these trees are believed to match the crown of the tree so will be under the foundations of at least 3 properties. These trees can grow to 90 meters tall. Our garden is only 25 meter square. According to horticultural description of these trees their use is for parkland, country estates and other urban large spaces. Not for a small residential garden. Because of the large canopies of the trees, it also makes them vulnerable in high winds (which we are having an increasing amount due to climate change), and dead wood debris and sometimes loose limbs are breaking away causing damage to our own and neighbouring gardens. It is a risk waiting to do serious damage or accident.

4. According to Kew gardens the hairs from the fruits of the trees can cause bronchial problems in people. 2 of the arboriculturalists said they would only work on the trees when they are not in fruit or flower because they are a health hazard when breathing in the spores for their employees. These branches are a meter away from our bedroom window where my 5 and 3 year old sleeps. I do wonder if the amount of times my children have fallen ill with colds and chest infections over the past couple of months have any correlation with the trees and their spores?
5. The council have made the order because "they provide amenity value to the surrounding area". In whose opinion? I submit a petition from local residents who disagree with the council. They do not add value other than from an ecological one. As the owners of T1 and T2, we want to eventually replace these trees with a more suitable selection of buddleias, and our collection of acers and native trees. Amongst a herbaceous border with native flowers and shrubs to provide valuable food and habitat for butterflies, insects, our resident wild hedgehog amongst other wildlife. We are keen gardeners and like our children to be involved as much as possible we understand about the importance of trees but these really are not suitable for the area and are seen to be more of a hazard and a risk to the surrounding area.
6. The council have proposed that our planning application dated 06 June 2017 (for which it is now clear that we did not need to do as we were given incorrect guidance from yourself about being in a conservation area) for T1 and T2 to be pollarded may prove detrimental to the health and appearance of T1 and T2.

T1 and T2 as discussed in point 3 are too big for a residential garden. They are a health risk to people when in flower and fruit see point 4. These trees cannot be left to just grow to their maturity at 90 meters. These trees are meant to be in parks and large open area (point 1). They need to eventually be removed and replaced with suitable ecological fauna and flora (point 5).

In summary, we clearly object to the Tree Preservation Order for T1 and T2 as they do not add amenity value to the area and they are the wrong trees by way of size and potential health hazard to those who breathe in the spores. The trees have no part to play in a small garden and need to be removed in manageable stages, as to not to disturb and weaken any more than what the root system has already damaged to the foundations of the surrounding houses and public roads and footpaths.

The trees will be replaced with trees and other plants that would benefit the local eco-system.

Looking forward to an objective response.

Yours sincerely

A black rectangular redaction box covering the signature of the sender.

Mr and Mrs Harman

Petition to object to the Maldon District Council Tree Preservation Order no 8/17,

9 Barnmead Way, Burnham on Crouch



The Council has made the order because: The trees provide amenity value to the surrounding area. Works have been proposed that may prove detrimental to their health and appearance.

Petition summary and background:

In summary, we object to the Tree Preservation Order for the 2 Oriental Planes, that reside on the boundary of 9 Barnmead Way, for the following reasons:

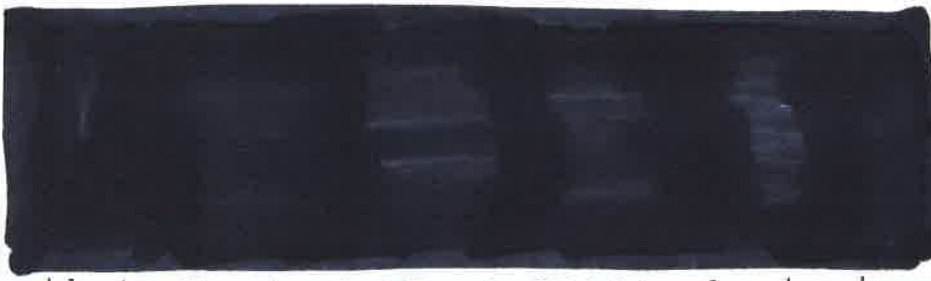
1. The trees do not add amenity value to the area. They are far too large for a small 25 meter square residential garden. The trees' canopies cover the best part of 3 gardens and are very close to the residential buildings. According to most horticulturalists, Oriental Planes are not suitable for small residential gardens they are for open park land and country estates.
2. The fruits on the trees have a potential health hazard to those who breathe in the spores. There has been a link made to bronchial problems and a couple of tree surgeons have refused to work on the trees whilst they have fruit as a potential hazard.
3. Apart from benefiting the eco system, the trees are not a native nor do they offer any historical benefit to the area.
4. The residents would prefer the total removal of the trees in manageable stages, as to not to disturb and weaken any more than what the root system has already damaged, to the foundations of the surrounding houses, public roads and footpaths. This is with an understanding that the occupiers of 9 Barnmead Way will replace the trees with other trees, fauna and flora that would contribute to a sustainable and healthy eco system for our local and native wildlife.

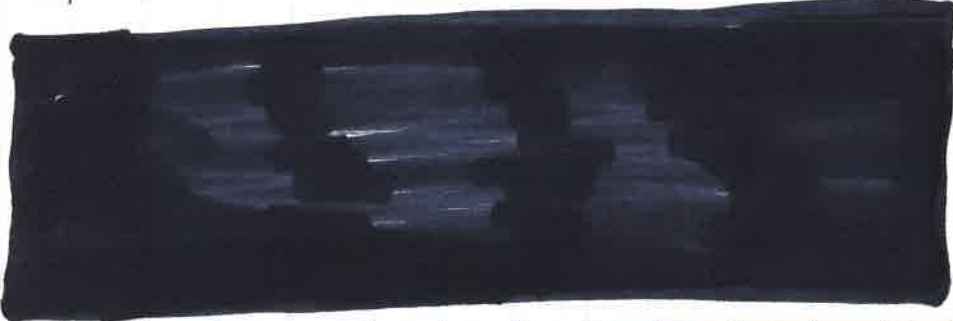
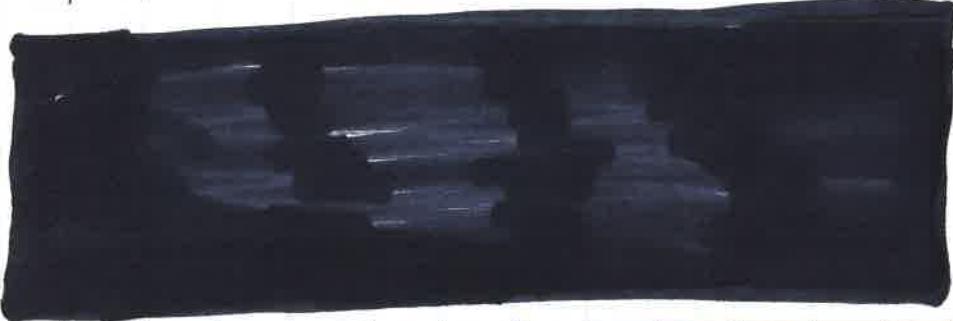
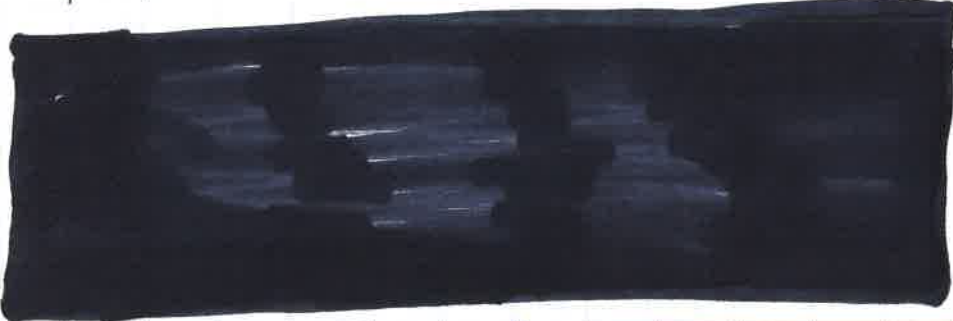
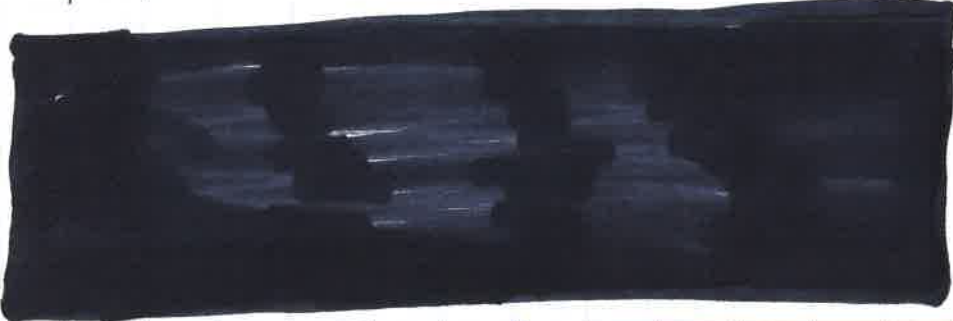
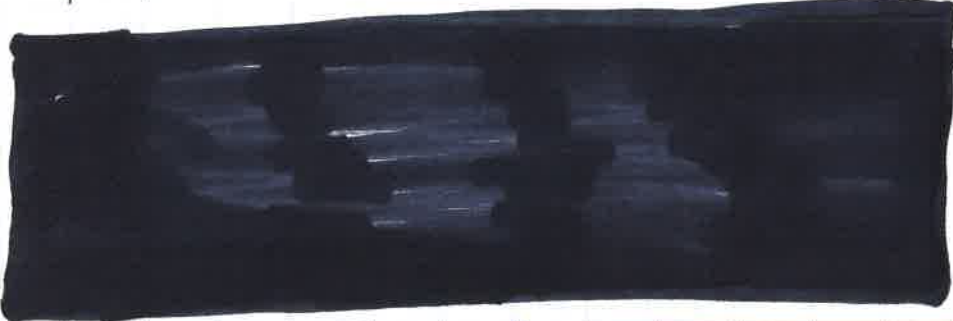
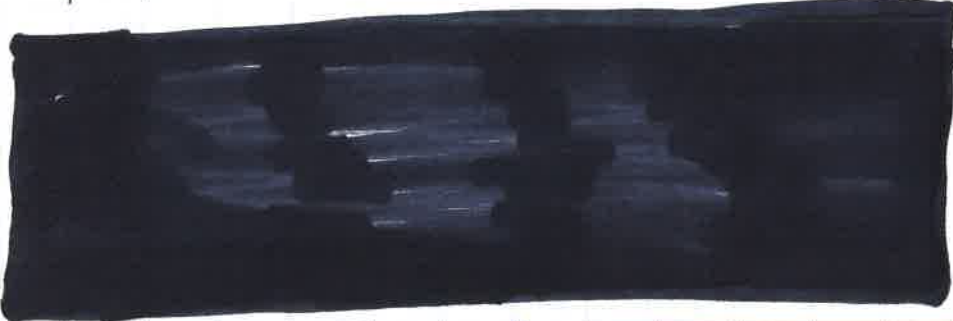
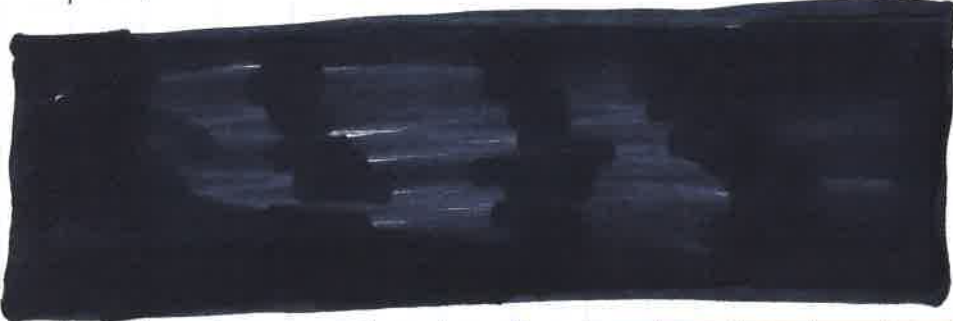
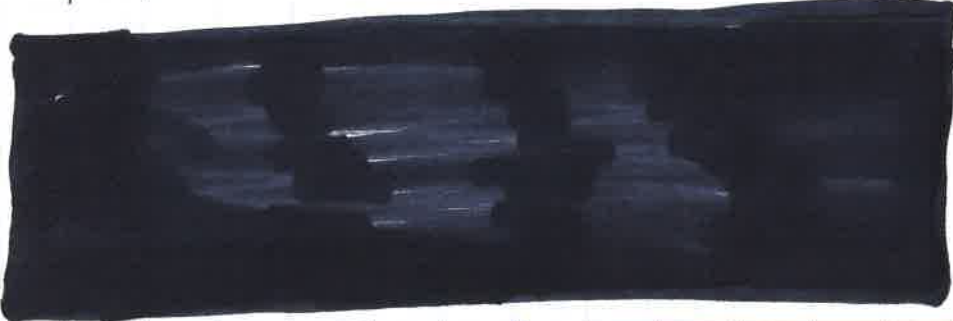
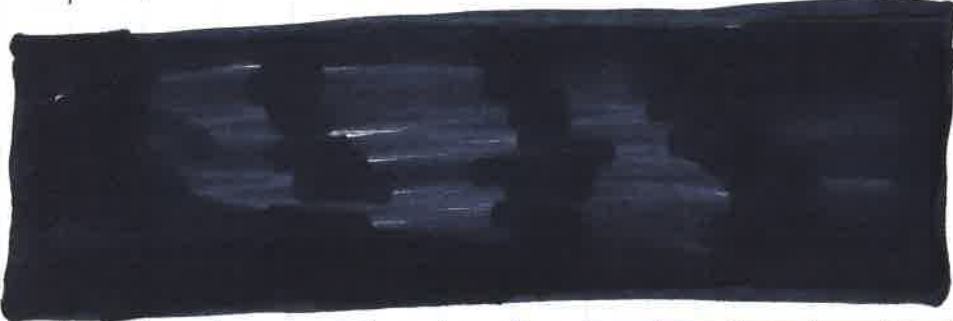
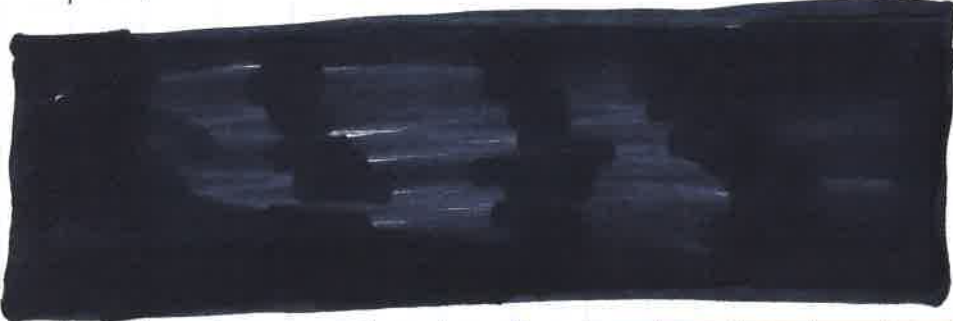
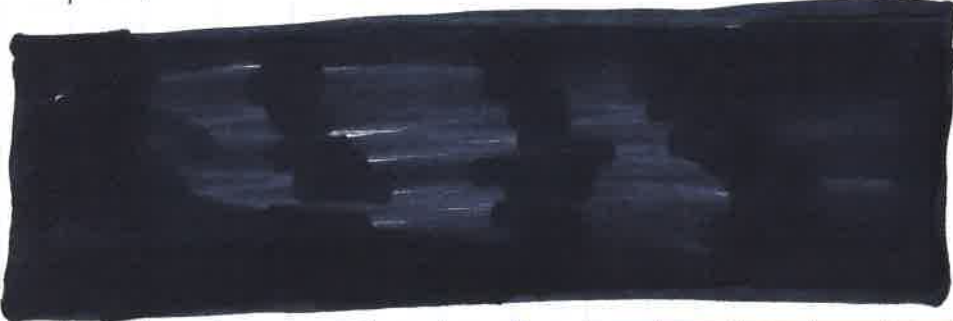
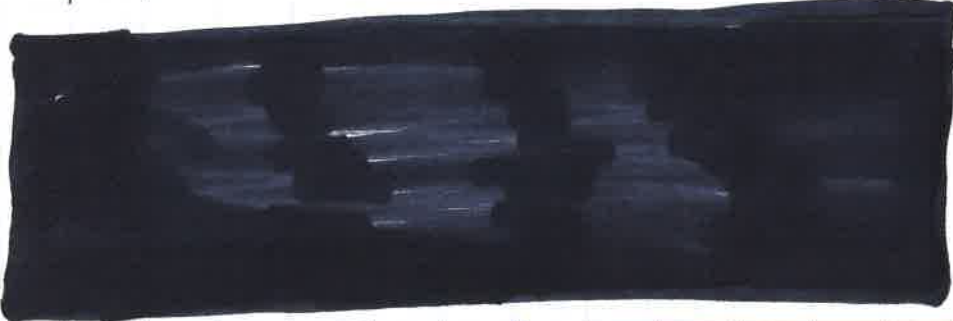
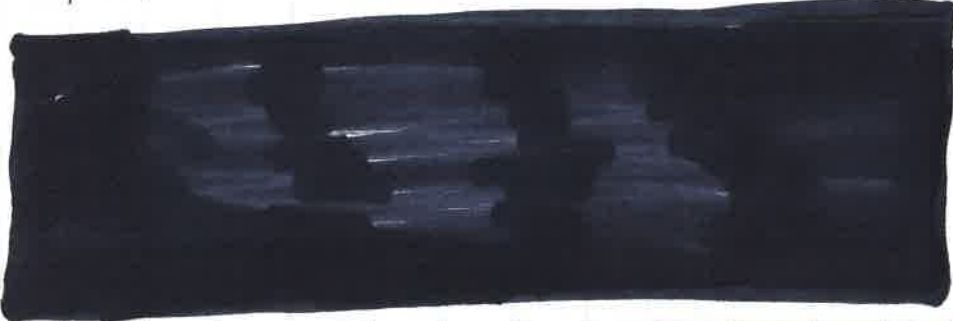
Action petitioned for:

We, the undersigned, are concerned residents who urge the Planning Department, Maldon District Council to reconsider the proposed Tree Preservation Order no 8/17 under the terms of A Guide to Tree Preservation Procedures. On the basis that they do not add amenity value to the surrounding area. They are a hazard because of their size to property and a potential health risk which is airborne when the trees are in fruit.

Town and Country Planning Act 1990 – Section 330 Petition for the objection of District of Maldon Tree Preservation order 8/17 at 9 Barnmead Way, Burnham on Crouch

Page 1

Printed name	Signature	Address	Comment	Date
KELLY NICHOLS		1 WOODCUTTERS CMO 8PE	THE TREES ARE VERY DANGEROUS	20/7/17
Andrew Niccours		~	To large & hitting My House	20/7/17
KEITH HOBSON		5 BEAUCHAMPS CMO 8PR	THE TREES ARE VERY DANGEROUS & I'M NEED OF TRIMMING TO A SAFE SIZE.	21/7/17
JANET HOBSON		5 BEAUCHAMPS CMO 8PR	THE TREES ARE IN DESPERATE NEED OF TRIMMING	21/7/17
MRS TERRI AXCELL		4 BEAUCHAMPS CMO 8PR	TOO LARGE & DANGEROUS TO LOCAL HOUSING NEEDS.	21/7/17
DEMIS AXCELL		4 BEAUCHAMPS CMO 8PR	Health hazard, danger to people & property.	21/7/17
BRENDA RANDS		7 BEAUCHAMPS CMO 8PR	Tree too tall	21/7/17
EDMUND RAMS		7 BEAUCHAMPS CMO 8PR	NEED TRIMMING	21/7/17
CHINE YEGHAN		8 BEAUCHAMPS CMO 8PR	TO TALL HEALTH HAZARD HAVE NEED TO WANT FOR INJURY OF ADJACENT PROPERTY BEFORE COUNCIL ACT.	21/7/17
RON WOODHAM		6, BEAUCHAMPS.	LOSS OF STABILIZE SIGNS SAY INFORMED ME IT WAS DUE TO THIS TREE. TOO TALL	21/7/17
TIM WILLIAMS		34 Beauchamps CMO 8PR	This is an eyesore	22/07/17
MANDY WILLIAMS		" "	" "	22/07/17
Georgia Rolph		5 Barnmead way CMO 8AD	To tall and is a wealth hazard.	25/7/17

Printed name	Signature	Address	Comment	Date
NICOLA HARMAN		9 Barnmead Way . B.O.C.	The trees do not add amenity value and need to be removed.	20/7/17
MARC HARMAN		9 Barnmead Way . B.O.C.	The trees are too big for garden and cure health hazard. TAKE MORNING LIGHT & LEAVED CAUSE PROBLEMS.	20/7/17
JULIE TORRANCE		11 BARNMEAD WAY B.O.C.		22/7/17
PETER FINCH		17 BARNMEAD WAY	This tree is too large for the situation	22/7/17
Hazel Ayres		15 Barnmead Way	Tree too large for garden	22/7/17
Ryan Ayres		" " "	" " "	22/7/17
KATHY LIDBURY		7 BARNMEAD WAY	NOT A LOCAL AMENITY VERY MUCH A LOCAL NOISANCE	22/7/17
PEGGY LIDBURY		" " "	TAKES LIGHT OUT OF GARDEN TOO BIG FOR GARDEN	23/7/17
LINDA McLEWAN		6, Barnmead Way	Far too big for garden	23/7/17
JOHN McLEWAN		" " "	100 large for a garden.	25.7.17
VAN SING		1. Barnmead Way	" " " in garden	22/7/17
DEAN MASON		3 BARNMEAD WAY	TO ALLOW MORE SUN IN THE GARDEN	25/7/17
LISA ROLPH		5 BARNMEAD WAY	TO CLEAR FOR HOUSE GARDEN	25/7/17

**7 Barnmead Way
Burnham on Crouch
CM0 8QD**

10 July 2017

Ms Jackie Gilbert
Tree Officer
Maldon District Council
Princes Road
Maldon
CM9 5DL



Dear Ms Gilbert

**Tree Preservation Order no 8/17
9 Barnmead Way, Burnham on Crouch**

Further to your letter dated 29 June 2017, I would like to make the following points:

- I realise that the trees on this plan are not drawn to scale but would, nevertheless, point out that they are not by any means contained within the boundaries of 9 Barnmead Way. The Tree no 2 overhangs my garden by several metres, blocking valuable light from my greenhouse and providing perches for wood pigeons whose guano thickly covers the greenhouse roof and surrounding areas of flower beds and lawns. Additionally the canopy provides a rain shadow and the roots draw moisture from the ground creating permanent drought conditions in a substantial area of my small garden. As I am a very keen gardener this loss of good growing space is very inconvenient.
- The tree in question is not an ancient one pre-dating the housing development. It was planted by the original purchasers of no 9 in the early eighties and was large but far from mature when I moved to no 7 in 1987. It has grown very fast and although I do not know its current size *Platanus orientalis* grows to 30 metres or more and has a spreading crown. I understand it is a popular shade tree in parks across the world but it is definitely not suitable for a very small suburban garden with close neighbours where it blocks all of the sky that would otherwise be visible from my sitting room window.
- In high winds this huge tree thrashes about alarmingly. Some years ago a large branch broke off in a storm and landed in the garden of no 9. Having happened once, this could easily happen again with potentially fatal consequences. With the increasing frequency of damaging high winds it is certainly not impossible that the entire tree could be uprooted and fall on any one of the surrounding houses where the risk of death or severe injury to the occupants would be virtually certain, especially if it happened at night.

- The tree also produces fibrous fruit which are known to produce an allergic reaction in some people and can be especially problematic for children. Since the houses in Barnmead Way and Woodcutters are family sized houses this poses a substantial health issue.
- Your guide to tree preservation indicates that an order is likely to be placed on a tree that brings 'significant amenity benefit to the local area'. I would suggest that in this case the benefit is in fact extremely limited since the tree is tucked in a corner of a short, quiet cul-de-sac and is seen by very few people. Set against the extremely significant dis-benefits it brings to those who live nearby it would seem unreasonable for the Council to confirm the proposed preservation order.

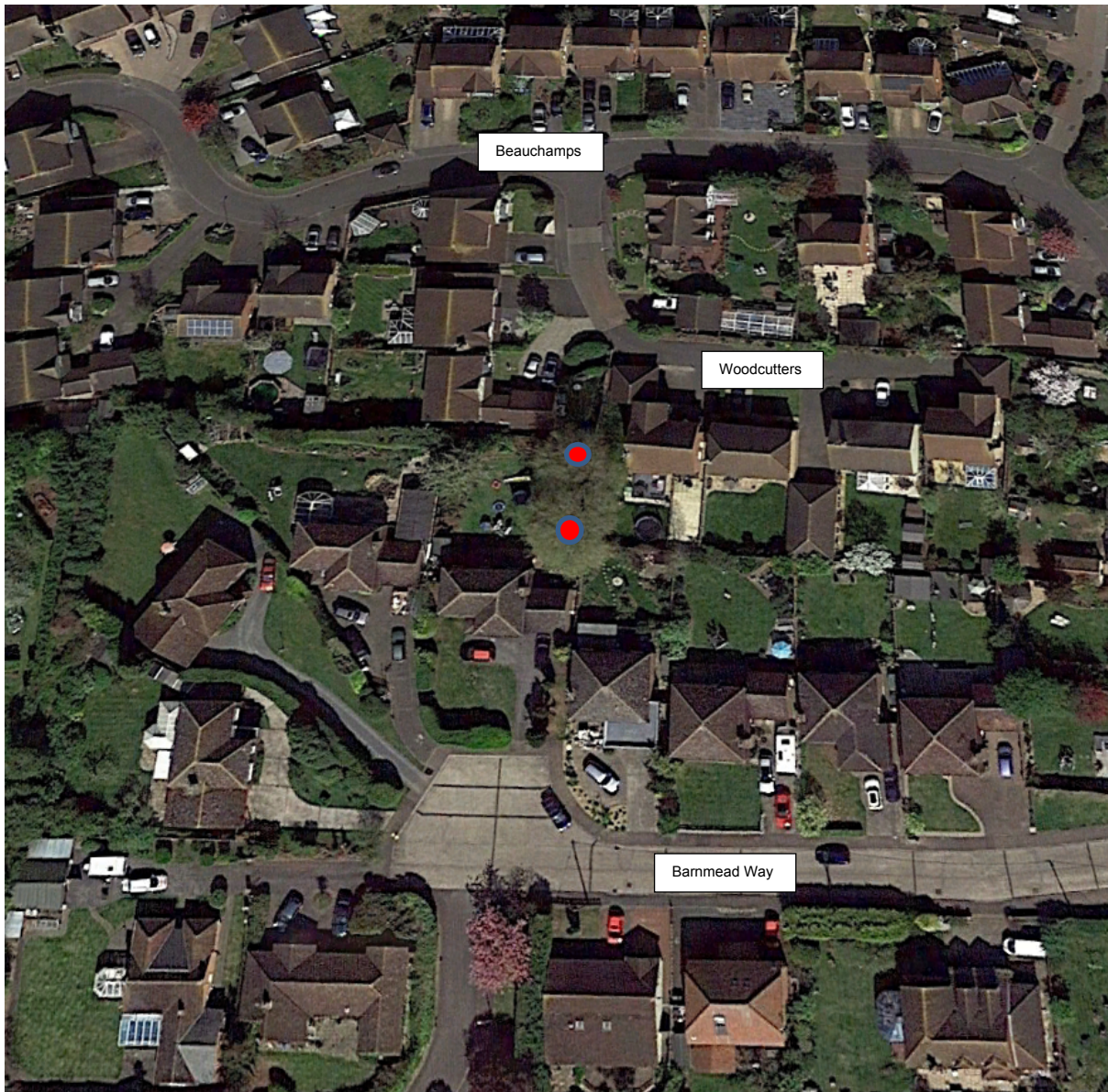
Yours truly

A large black rectangular redaction box covering the signature of Kathy Lidbury.

Kathy Lidbury

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Plan showing location of T1 and T2 shown by ●



- ☀ = Petitioners
- 🌿 = Approximate extent of current crown coverage T1 and T2
- = Those served with TPO 8/17.



TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 29/6/17 Surveyor: *Shun*

Tree details T1 + T2 (Score applies to both as individuals.)
 TPO Ref (if applicable): / Tree/Group No: T1+T2, Species: Oriental plane
 Owner (if known): → Location: Near garden of 9 Barnwood Way

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

Score & Notes
 (3)

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

Score & Notes
 (4)

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes
 (5)

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes (2) *T1 has been reduced in the past but this has not affected form. Both are Statueque and attractive with very few mechanical issues.*

(12)

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes (5) *protected by planning condition - proposal received for excessive, unclear works - 'pollard'*

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Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:
 19

Decision:
 TPO

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