

Unrestricted Document Pack

APOLOGIES Committee Services
Tel. 01621 875791 / 876232

Council Chamber 01621 859677

PLEASE NOTE CHANGE OF VENUE

HEAD OF PAID SERVICE'S OFFICE
HEAD OF PAID SERVICE
Richard Holmes

03 August 2018

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **MONDAY 13 AUGUST 2018 at 7.30 pm.**

in the Council Chamber - Council Offices, Princes Road, Maldon.

A copy of the agenda is attached.

Yours faithfully



Head of Paid Service

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

Please note: Limited hard copies of this agenda and its related papers will be available at the meeting. Electronic copies are available via the Council's website.

THIS PAGE IS INTENTIONALLY BLANK



AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE
MONDAY 13 AUGUST 2018

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 12)

To confirm the Minutes of the meeting of the Committee held on 16 July 2018, (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. **TPO 4/18 - Paton Place, Nipsells Chase, Mayland** (Pages 13 - 20)

To consider the report of the Director of Planning and Regulatory Services, (copy enclosed).

6. **TPO 8/91 - The Orchard, Nipsells Chase, Mayland** (Pages 21 - 26)

To consider the report of the Director of Planning and Regulatory Services, (copy enclosed).

7. **FUL/MAL/18/00445 - Land Rear of 32 Steeple Road, Mayland, Essex** (Pages 27 - 40)

To consider the report of the Director of Planning and Regulatory Services, (copy enclosed).

8. **FUL/MAL/18/00787 - Land East of Goldsands Road, Southminster** (Pages 41 - 52)

To consider the report of the Director of Planning and Regulatory Services, (copy enclosed).

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

Reports for noting:

In accordance with the recent Council decision (Minute No. 542 refers), the following report is for noting and a copy has been placed in the Members' Room and on the I drive for Members' information.

- Other Area Planning and Related Matters – Appeals Lodged and Appeal Decisions
-

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. 7 – 8.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – www.maldon.gov.uk/committees

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

NOTICES

Sound Recording of Meeting

Please note that the Council will be recording any part of this meeting held in open session for subsequent publication on the Council's website. At the start of the meeting an announcement will be made about the sound recording. Members of the public attending the meeting with a view to speaking are deemed to be giving permission to be included in the recording.

Fire

In event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Television (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.

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)

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
 - 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 (as amended)
 - The Town and Country Planning (Development Management Procedure) (England) Order 2015
- 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 (as amended)
- The Neighbourhood Planning (Referendum) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

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 Traveller Sites
- Relevant government circulars
- Relevant Ministerial Statements (as referred to in the Report)

ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon Design Guide)
- Essex and Southend on Sea Replacement Waste Local Plan 2017

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2016 / 17
- Maldon Design Guide - 2017
- Central Maldon and Heybridge Masterplan - 2017
- Planning Policy Advice Note (version 5) - May 2016
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework - 2014
- Vehicle Parking Standards Supplementary Planning Document (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 –2006
- Wickham Bishops Village Design Statement – 2010
- Althorne Village Design Statement - 2015
- Woodham Walter Village Design Statement – 2017
- Various Conservation Area Appraisals

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
16 JULY 2018**

PRESENT

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

265. CHAIRMAN'S NOTICES

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

266. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R G Boyce, MBE and H E Elliott.

267. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 18 June 2018 be approved and confirmed.

268. DISCLOSURE OF INTEREST

All Members declared a non-pecuniary interest in Agenda Item 6 - TPO 4/18- Paton Place, Nipsells Chase, Mayland and Agenda Item 7 - TPO 8/19 – The Orchard, Nipsells Chase Mayland as one of applicant was a fellow member of Maldon District Council.

In addition Councillor A S Fluker declared a non –pecuniary interest in Agenda Item 5 - HOUSE/MAL/18/00448 - 85 Nipsells Chase, Mayland and Agenda Item 8 - FUL/MAL/18/00230 - Asheldham Pit, Southminster Road, Asheldham, Essex as he knew the applicants.

Councillor B S Beale, MBE, declared a non-pecuniary interest in Agenda Item 8 - FUL/MAL/18/0023 - Asheldham Pit, Southminster Road, Asheldham, Essex, as he knew the applicant.

Councillor Mrs P A Channer, CC declared a non-pecuniary interest as she was a Member of Essex County Council, a consultee on planning application matters with respect generally to highways, matters of access and education primarily.

The impact of General Data Protection Regulation (GDPR) requirements was raised. It was noted that the Director of Planning was looking into this and would report back in due course.

The Committee received the reports of the Director of Planning and Regulatory Services and determined the following planning applications, having taken into account all representations and consultation replies received, including those listed on the Members' Update circulated at the meeting.

269. HOUSE/MAL/18/00448 - 85 NIPSELLS CLOSE, MAYLAND

Application Number	HOUSE/MAL/18/00448
Location	85 Nipsells Chase, Mayland
Proposal	Part two storey, part single storey front and side extension
Applicant	Mr David McWilliams
Agent	Mr Matthew Kitching
Target Decision Date	17.07.2018
Case Officer	Devan Lawson
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In Councillor M Helm, Reason: Public Interest

Following the Officer's presentation, Mr David McWilliam, the Applicant, addressed the Committee.

A discussion ensued regarding the proposed development and its potential impact on the existing character and appearance of both the dwelling and the surrounding area.

Councillor P G L Elliott proposed that the application be approved contrary to the Officer's recommendation as he could see no problems with the application. This was seconded by Councillor A S Fluker.

Members reviewed the drawings at length and concluded that there was no detriment to the street scene or the single storey neighbouring property. Furthermore, no external objections had been received regarding this proposal.

The Chairman put Councillor P G L Elliott's proposal, seconded by Councillor A S Fluker to the Committee, a vote was taken and the recommendation to approve, contrary to the Officer's recommendation, was carried unanimously.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with this Section 91(1) The Town & Country Planning Act 1990 (as amended)

2. The development hereby permitted shall be carried out in accordance with the following approved plans: AD/1942-DM-B-SP/LP, AD/1942-DW-A-EXIS, AD/1942-DW-B-PRO.

REASON: To ensure that the development is carried out in accordance with the details as approved.

3. The external surfaces of the extension shall be constructed of the materials to match the existing dwelling.

REASON: In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

270. TPO 4/18 - PATON PLACE, NIPSELLS CHASE, MAYLAND

Tree Preservation Officer	TPO 4/18
Location	Paton Place, Nipsells Chase, Mayland
Proposal	Confirmation of TPO 4/18
Confirmation by	11.11.2018
Case Officer	Emma Worby
Parish	MAYLAND
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

A Members' Update had been submitted providing a site map.

Following the Officer's presentation, Mr Paton, an Objector, addressed the Committee.

Members debated the merits/demerits of the preservation order and a number of concerns were raised as follows:

- that placing an order on fruit trees was very unwieldy given the need to prune at least twice a year;
- that existing oak trees over 100 years old did not have an order on them;
- that advice received from horticulturalists suggested that a Tree Preservation order was not appropriate for young fruit trees;
- that the Tree Officer should be in attendance to explain the criteria, in order to properly consider this order, and,
- that clarity was required around the Maldon District Council's definition of a Tree Preservation Order.

Councillor A S Fluker proposed that the TPO be deferred and that a site visit be arranged with the Tree Officer in attendance. Furthermore that the Tree Officer attend Committee and clear photographs outlining the areas for preservation be provided. This was seconded by Councillor Mrs P A Channer.

The Chairman put the recommendation to defer to a vote and this was carried.

RESOLVED that the Tree Preservation Order be **DEFERRED**, in order for the Tree Officer to attend Committee and for Officers to provide more information.

271. TPO 8/91 - THE ORCHARD, NIPSELLS CHASE, MAYLAND

Tree Preservation Order	TPO 8/91
Location	The Orchard, Nipsells Chase, Mayland
Proposal	Revocation of TPO 8/91
Target Decision Date	N/A
Case Officer	Emma Worby
Parish	MAYLAND
Reason for Referral to the Committee / Council	Decision on the revocation of a Tree Preservation Order as per the Council's scheme of delegation.

In light of the discussion under Item 6 - TPO 4/18 - Paton Place, Nipsells Chase, Mayland, the Chairman put the recommendation to defer Item 7 - TPO 8/91- The Orchard, Nipsells Chase, Mayland to the Committee. Upon a vote being taken the motion was carried.

RESOLVED that the revocation of the Tree Preservation Order 8/91 be **DEFERRED**, in order for the Tree Officer to attend Committee and for Officers to provide more information.

272. FUL/MAL/18/00230 - ASHELDHAM PIT, SOUTHMINSTER, ASHELDHAM, ESSEX

Application Number	FUL/MAL/18/00230
Location	Asheldham Pit, Southminster Road, Asheldham, Essex
Proposal	Erection of an education centre, tea room, 6x holiday log cabins, 1x staff/workers accommodation, 1x welfare cabin, 6x fish breeding pods and associated hard-standing, parking and access point.
Applicant	Mrs Lisa Brown
Agent	Mr Chris Moore - Plainview Planning LTD
Target Decision Date	31 st July 2018
Case Officer	Anna Tastsoglou
Parish	ASHELDHAM
Reason for Referral to the Committee / Council	Major Application Member Call In The item has been called in by Cllr Dewick on the grounds of public interest.

A Members' Update had been submitted advising that additional letters of support, objections and comments had been received post the publication of the report. It also contained comments from Economic Development and the Coast and Countryside Officer.

The Committee received the Officer's presentation.

The Chairman advised the Committee that the applicants had asked to defer the application to allow for the completion of the ecology report.

Councillor A S Fluker, in response, said that more information, not just the ecology report, was required before the application could be considered. He proposed that the application be deferred and this was seconded by Councillor M W Helm.

The Chairman put the proposal to a vote and the recommendation to defer was carried.

RESOLVED that the application be **DEFERRED**, in order for the applicant to submit more information.

273. ANY OTHER ITEMS OF BUSINESS

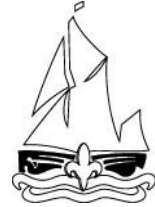
The Chairman drew Members' attention to the reports for noting on the agenda. He advised the Committee that these were available on the I drive and in the Members' Room.

RESOLVED that this was **NOTED**.

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

R P F DEWICK
CHAIRMAN

This page is intentionally left blank



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 AUGUST 2018**

Tree Preservation Officer	TPO 4/18
Location	Paton Place, Nipsells Chase, Mayland
Proposal	Confirmation of TPO 4/18
Confirmation by	11.11.2018
Case Officer	Emma Worby
Parish	MAYLAND
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

1. RECOMMENDATION

CONFIRM Tree Preservation Order (TPO) 4/18 without any modifications.

Please be aware that this item was deferred for consideration at the previous South East Area Planning Committee Meeting of 23 August 2017 in order for a site visit to take place, clarification to be provided on certain matters and a Tree Consultant to be in attendance when the item is considered. The following report has been updated to incorporate the previous Members' Update.

In relation to the clarification that was sought with respect to woodlands it is advised that the National Planning Practice Guidance sets out that:

"The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order."

In relation to fruit trees, the NPPG sets out that:

"The authority's consent is not required for carrying out work on a tree subject to an Order and cultivated for the production of fruit in the course of a business or trade if the work is in the interests of that business or trade."

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details	
TPO 4/18			
<p>Copyright</p> <p>For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p> MALDON DISTRICT COUNCIL</p> <p>www.maldon.gov.uk</p>		<p>Scale: 1:2,000</p> <p>Organisation: Not Set</p> <p>Department: Not Set</p> <p>Comments: EW</p> <p>Date: 20/11/2017</p> <p>MSA Number: 100018588</p>	

3. SUMMARY

3.1 An objection has been received relating to the serving of TPO 4/18 on twelve individual trees, three groups of trees and one woodland at Paton Place, Nipsells Chase, Mayland. The TPO protects the following trees:

- W1 – hawthorn with wild cherry, oak, apple pear and sloe trees
- G1 – 26 apple, 1 pear, 4 cherry and 5 plum trees
- G2 – 22 hornbeam trees
- G3 – 4 cypress trees
- T1, T2, T3, T4, T5, T7, T8, T9, T10, T11, T12, T13 – oak trees

3.2 This TPO is to replace a blanket area TPO 8/91. The current proposal is a more specific TPO that includes woodland, two groups of trees and twelve individual trees whose removal would have a significant negative impact on the local environment and its enjoyment by the public.

3.3 The objections remain unresolved; therefore the question of whether or not to confirm the TPO has been brought before members to determine

3.4 The Site

3.4.1 The trees which are subject to this TPO are located on the area of land that has recently been named as Paton Place and the woodland to the west between Nipsells Chase and North Drive. The area is located outside of the settlement boundary of Mayland. It is also listed as a local wildlife site ‘Nipsells Chase Scrub’ in the Local Development Plan (LDP) Policy N2, Natural Environment and Green Infrastructure.

3.5 Ownership

3.5.1 Land registry searches have been undertaken. All land affected is believed to be privately owned and all interested parties have been given the opportunity to comment on the serving of the TPO.

4. MAIN RELEVANT POLICIES

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

4.1 Corporate Plan 2015-2019

- Corporate Goals: 2. Protecting and shaping the District – 2.b. Protection and enhancement of the District’s distinctive character, natural environment and heritage assets.

4.2 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)

4.3 Government Guidelines

- 4.3.1 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.
- 4.3.2 If Members decide to confirm TPO 4/18, 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.
- 4.3.3 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.

5. MAIN CONSIDERATIONS

- 5.1 The trees which are the subject of the proposed TPO 4/18 are located at Paton Place between Nipsells Chase and North Drive and on the land behind Sea View Parade. The trees at this location are currently protected under the TPO 8/91 which is an 'area order' however, in line with government guidance, the Council believes this should be updated to better suit the characteristics of the current site. This is because the area order only covers trees standing at the time the TPO was made in 1991 but does not identify what trees are covered; this could lead to uncertainty about whether particular trees were present at the time of making the TPO and therefore TPO 4/18 would give a more accurate picture of the trees on the site. The government guidance document 'Tree Preservation Orders: A Guide to the Law and Good Practice' states that in the Secretary of State's view LPAs are encouraged to resurvey their existing TPOs which include the area classification with a view to replacing them with individual or group classifications where appropriate. Furthermore, the site has significantly changed since 1991 and it is considered that trees located on-site post 1991 now have a positive impact on the area.
- 5.2 The east part of the site nearest to Nipsells Chase is open in nature with a number of oak and fruit trees. The west part of the site, bordering properties on North Drive, is a more dense woodland area. There is a public right of way to the north of the area covered by the TPO linking the roads North Drive and Nipsells Chase however the majority of this path does not appear to be in use and is overgrown.
- 5.3 TPO 17/17 was served on 21.11.2017 for a similar area of land. In the process of considering appropriateness of confirming the TPO it was noted that a small number of trees to the north had not been included within the new TPO but were protected through the original TPO 8/91. The Council has therefore, decided to withdraw TPO 17/17 and serve a new TPO to include these other trees.
- 5.4 The trees on this site were assessed by an external consultant using the Tree Evaluation Method for Preservation Orders (TEMPO) with the trees scoring between 12 and 14 resulting in the conclusion being reached that a TPO would be defensible.

- 5.5 Woodland as described by the Forestry Commission, is 'land under stands of trees, with a canopy cover of at least 20% (or having the potential to achieve this), including integral open space and including felled areas that are awaiting restocking.' The quality of woodland depends on many things, amongst which are the age/species ranges of the trees, the presence and species diversity of ground flora and shrub layer. The TPO does not place any additional burden upon the owner to carry out works, it does however, require a formal application to be submitted and approved before carrying out works that may involve felling of trees and changes in the vegetative character of the area. If the owner prefers to submit a management plan, an application for a programme of works over time can be approved for up to a 5 year period.
- 5.6 Within the objection to the TPO (summarised below) it was stated that the woodland order W1 is not comprised of trees however the qualified arboriculturalist who assessed the site listed the present tree species as hawthorn with wild cherry, oak, apple, pear and sloe. Furthermore the existing area TPO 8/91 on the site also covers the area now listed as W1. The trees within this area in 1991 were specified as willow, oak, thorn and conifer. The objection also questions the amenity value and expediency of the group order G1. These two points have been assessed using the TEMPO methodology mentioned in section 5.4 and scored satisfactorily to warrant the issuing of a TPO. A second external tree consultant was asked to review the TPO and confirmed that the woodland is worthy of a TPO.
- 5.7 The area of trees and woodland covered by this TPO is large in size and is visible in the public realm from Nipsells Chase, Sea View Parade and North Drive. There are also a number of residential properties surrounding the site on both Nipsells Chase and North Drive. Due to the size of the site and its public location it is considered that the trees have a positive impact on the character of the area and their amenity value is considered to be significant. Therefore, the trees and woodland are considered to be important to the character of Mayland because of the large area they cover, their prominent position and their high amenity value.

6. ANY RELEVANT SITE HISTORY

Land South West of Nipsells Chase:

- **WTPO/14/01276** - TPO 08/91 Area 1 - Area marked by pink boundary on plan - Remove Blackthorn, Hawthorn and area of diseased/dead Elm. Retain 1-2m wide rooting area of boundary vegetation. Clear a 3m x 4m area for new access gate. T1 Blackthorn - Remove. T2 Hawthorn – Remove – Approved.
- **WTPO/14/00657** - TPO 08/91 - Area 1. Erect fence along line marked in red on plan JEP/MDC/TPOM/14/01 removing to ground level, any trees along this line. On plan land labelled EX14344 - all trees apart from viable fruit trees and perimeter trees plus any significant 'quality' to be cut down to ground level i.e.. roots removed to create a partially clear area which will then be planted with trees such as Horse Chestnut, Beech, Hazel, Sycamore et al. Viable fruit trees to be dealt with on an individual basis and selective pruning undertaken, where necessary and none removed. Area A as on plan - filter out the existing trees to produce an appropriate density. Further information submitted to clarify trees to be removed - Plan 1 re EX14344 and plan 3 re Area A. Trees to remain shown on Plan 2 re EX14344 and Plan 4 re Area A – Approved.

- **WTPO/08/00724** - TPO 08/91 Area 1 - If necessary, remove some trees to enable erection of boundary fence, others along boundary to be coppiced to hedge. Area A on plan - remove all trees apart from viable fruit trees and perimeter trees. Area B - coppice 50% of trees. (NB TPO only applies to trees that existed as trees at the time of serving 1991) – Approved.

Land North of Riversleigh:

- **DD/17/01060** - T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5 day dead and dangerous trees notice - Approved

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Interested Parties**

- 7.1.1 One letter was received **objecting** to the TPO 4/18, the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<p>No objections to the individually listed oak trees T1-T13 inclusively or the hornbeams which comprise G2.</p> <p>It is difficult to understand why the trees in G1 are considered now to have or in the future be likely to attain sufficient amenity value so as to warrant preservation in the public interest.</p> <p>The trees in G1 have recently been planted and there is no expedient need to make them a subject of a TPO. I object to protection being applied to G1.</p> <p>The woodland W1 is not comprised of ‘trees’ or referable as ‘woodland’. It is a scrub of thicketed thorn and damson and therefore cannot be called woodland. TPOs do not protect plants that are not properly referable as trees and therefore W1 is ultra vires and cannot stand.</p>	<p>Comments noted</p> <p>G1 scored ‘3 - fair/satisfactory’ in the TEMPO amenity assessment which suggests that it would be ‘suitable’ for a TPO. Although G1 on its own may not be considered of suitable amenity value to warrant a TPO, the group of trees contribute to the amenity value of the site as a whole and therefore are considered suitable for preservation.</p> <p>The TEMPO assessment for W1 lists the tree species as hawthorn with wild cherry, oak, apple, pear and sloe, which are all considered to be acknowledged as trees (see site photo).</p>

- 7.1.2 A further two letters of objection were received for the previous TPO 17/17 which was withdrawn. However, as TPO 17/17 related to the same area and trees, the objections have still been considered in the table above.

- 7.1.3 No letters were received **in support** of the TPO 4/18, however, one letter was received in support of the previous TPO 17/17 and therefore this will still be considered. The reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
We strongly support a tree preservation order on these trees as they have a major impact on the local wildlife including short eared owls, kestrels, sparrow hawks and woodpeckers.	Comments noted

- 7.1.4 No letters were received **commenting** on the TPO 4/18, however, one letter was received commenting on the previous TPO 17/17 and therefore will still be considered. This letter is summarised in the table below:

Comment	Officer Response
I agree with good old oak trees being preserved but they must be allowed to breathe and be healthy and not smothered. Disease will be rife if choked. They will grow too tall if not cleared at ground level.	Comments noted

8. CONCLUSION

- 8.1 The trees and woodland, which are the subject of this TPO, offer a significant contribution to the character and appearance of the area on Nipsells Chase in Mayland, due to their prominent positioning and the large area they cover.
- 8.2 Therefore it is considered that the TPO should be confirmed to ensure that the local planning authority can assess any proposed works to the trees or felling of the trees which may affect the health or amenity value of the site.

9. SITE PHOTOS

Please see overleaf:

View into Paton Place from Nipsells Chase:



View in woodland area (W1):





**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 AUGUST 2018**

Tree Preservation Order	TPO 8/91
Location	The Orchard, Nipsells Chase, Mayland
Proposal	Revocation of TPO 8/91
Target Decision Date	N/A
Case Officer	Emma Worby
Parish	MAYLAND
Reason for Referral to the Committee / Council	Decision on the revocation of a Tree Preservation Order as per the Council's scheme of delegation.

1. RECOMMENDATION

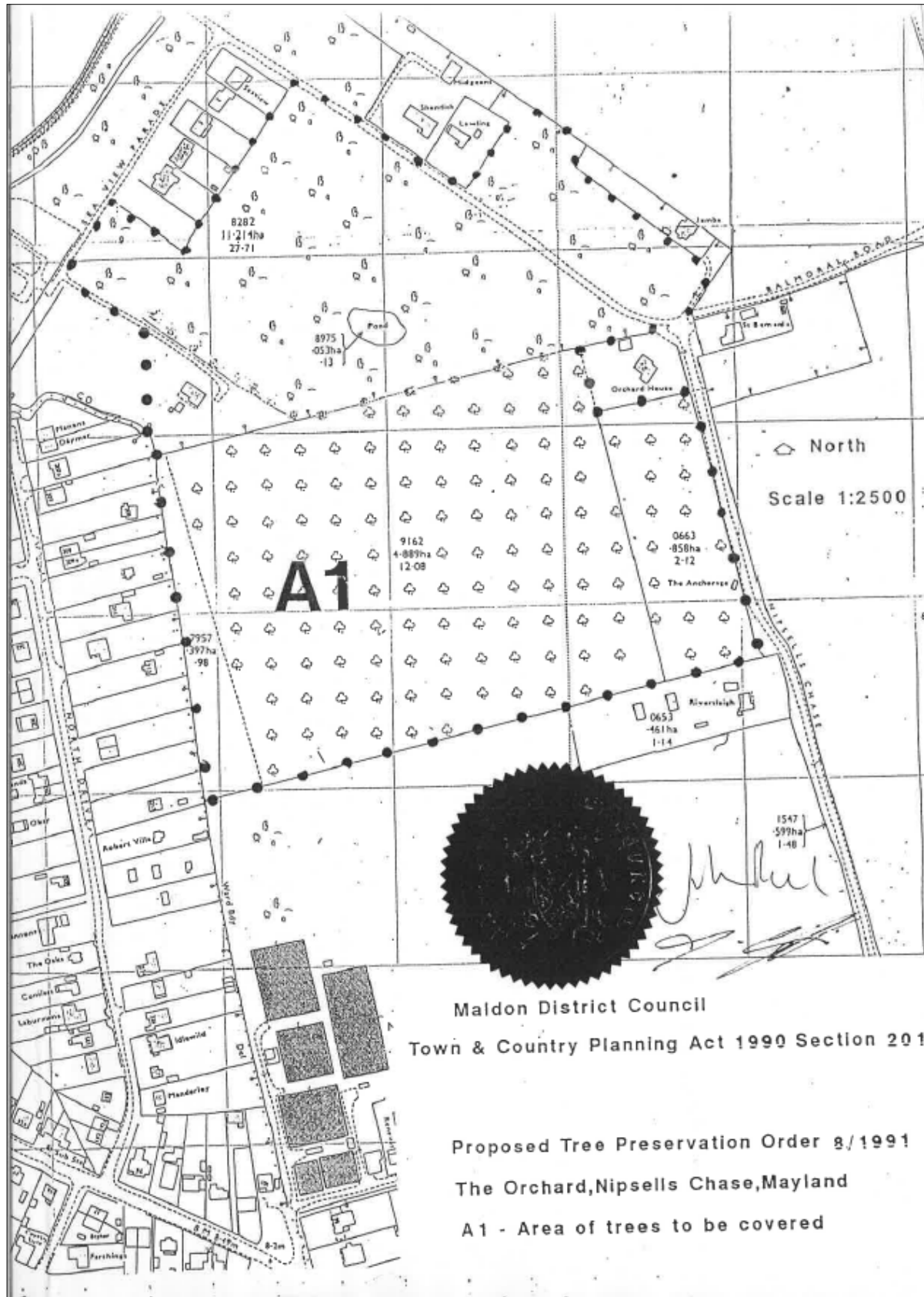
REVOKE Tree Preservation Order (TPO) 8/91 subject to the confirmation of TPO 4/18.

Please be aware that this item was deferred for consideration at the previous South East Area Planning Committee Meeting of 23 August 2017 in order for a site visit to take place, clarification to be provided and a Tree Consultant to be in attendance when the item is considered.

2. SITE MAP

Please see overleaf.

Area Covered by TPO 8/91



3. SUMMARY

- 3.1 The trees located at The Orchard, Nipsells Chase, Mayland are currently protected under the area classification TPO 8/91. An 'area order' covers all the trees within the specified area at the time of serving the order. Any new trees which are planted or that grow after the TPO is served are not protected. In line with government guidance the council believes that this TPO should be updated to better suit the current site and the TPO 4/18 has been served for the same site, intended to replace the TPO 8/91.
- 3.2 In line with the scheme of delegation, the revocation of the TPO 8/91 has been brought before members to decide.
- 3.3 **The Site**
- 3.3.1 The site referred to as The Orchard runs between the dwelling Riversleigh on Nipsells Chase up to the rear of the properties on Seaview Parade and to the rear of the properties on North Drive.

4. MAIN RELEVANT POLICIES

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

4.1 Corporate Plan 2015-2019:

- Corporate Goals: 2. Protecting and shaping the District – 2.b. Protection and enhancement of the District's distinctive character, natural environment and heritage assets.

4.2 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)

4.3 Government Guidelines

- 4.3.1 The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that:

Where an authority revokes an order they shall—

- (a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation;
- (b) notify the persons interested in the land affected by the order that the order has been revoked; and
- (c) withdraw from public inspection the copy of the original order made available in accordance with regulation 5.

- 4.3.2 Government guidelines advise that before revoking a TPO the Local Planning Authority are not required to publicise their intention to do so or consult local people or groups.

5. MAIN CONSIDERATIONS

- 5.1 The area of land which is the subject of the existing TPO 8/91, is located on Nipsells Chase in Mayland. The TPO is currently an area classification which protects all trees in place when the TPO was served, which in this case is 1991. The drawbacks of an area classification include the possibility that trees will be included in the TPO which do not merit protection and the difficulty in determining which trees were standing at the time the TPO was served. Recent government guidance states that 'In the Secretary of State's view the area classification should only be used in emergencies, and then only as a temporary measure until the trees in the area can be assessed properly and reclassified. LPAs are encouraged to resurvey their existing TPOs which include the area classification with a view to replacing them with individual or group classifications where appropriate.'
- 5.2 In line with the above guidance, the site was re-assessed by a qualified arboriculturalist and a new TPO 4/18 was served in a similar location. This included a woodland section, three groups of trees and twelve individually listed trees. The confirmation of the TPO 4/18 is also being decided by members of the South East Area Planning Committee. Therefore, as it is recommended that the new and updated TPO for this location be confirmed, the current TPO 8/91 is outdated and is no longer required.
- 5.3 It is noted that a public consultation was not carried out prior to this request to revoke TPO 8/91 as it is not a statutory requirement. However should the TPO be revoked then all interested parties will be notified and served the revocation order which is required under the Town and Country (Tree Preservation)(England) Regulations 2012.

6. ANY RELEVANT SITE HISTORY

Land South West of Nipsells Chase:

- **WTPO/14/01276** - TPO 08/91 Area 1 - Area marked by pink boundary on plan - Remove Blackthorn, Hawthorn and area of diseased/dead Elm. Retain 1-2m wide rooting area of boundary vegetation. Clear a 3m x 4m area for new access gate. T1 Blackthorn - Remove. T2 Hawthorn – Remove – Approved.
- **WTPO/14/00657** - TPO 08/91 - Area 1. Erect fence along line marked in red on plan JEP/MDC/TPOM/14/01 removing to ground level, any trees along this line. On plan land labelled EX14344 - all trees apart from viable fruit trees and perimeter trees plus any significant 'quality' to be cut down to ground level i.e.. roots removed to create a partially clear area which will then be planted with trees such as Horse Chestnut, Beech, Hazel, Sycamore et al. Viable fruit trees to be dealt with on an individual basis and selective pruning undertaken, where necessary and none removed. Area A as on plan - filter out the existing trees to produce an appropriate density. Further information submitted to clarify trees to be removed - Plan 1 re EX14344 and plan 3 re Area A. Trees to remain shown on Plan 2 re EX14344 and Plan 4 re Area A – Approved.
 - **WTPO/08/00724** - TPO 08/91 Area 1 - If necessary, remove some trees to enable erection of boundary fence, others along boundary to be coppiced to hedge. Area A on plan - remove all trees apart from viable fruit trees and perimeter trees. Area B - coppice 50% of trees. (NB TPO only applies to trees that existed as trees at the time of serving 1991) – Approved.

Land North of Riversleigh:

- **DD/17/01060** - T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5 day dead and dangerous trees notice - Approved.

7. **CONCLUSION**

7.1 TPO 8/91 is intended to be updated by the serving of the new TPO 4/18 in line with government guidance to review all area TPOs with a view to replacing them with individual or group classifications where appropriate.

7.2 The serving of TPO 4/18 does not automatically supersede TPO 8/91. Therefore it is considered that the TPO 8/91 should be revoked to ensure that the trees within this location have effective protection against any proposed works or felling which may affect the amenity value that they provide without the confusion of two TPOs covering the same location.

This page is intentionally left blank



**REPORT of
THE DIRECTOR OF PLANNING AND REGULATORY SERVICES**
to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 AUGUST 2018

Application Number	FUL/MAL/18/00445
Location	Land Rear of 32 Steeple Road Mayland
Proposal	Erection of 2No. bungalows and attached garages.
Applicant	Mr Penny – Penny Homes Ltd
Agent	Andrew Pipe – Andrew Pipe Associates
Target Decision Date	EOT: 14.08.2018
Case Officer	Devan Lawson Tel: 01621 875845
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In Cllr. Channer, Cllr. Helm Reason: Public Interest, Local knowledge and nearby planning history.

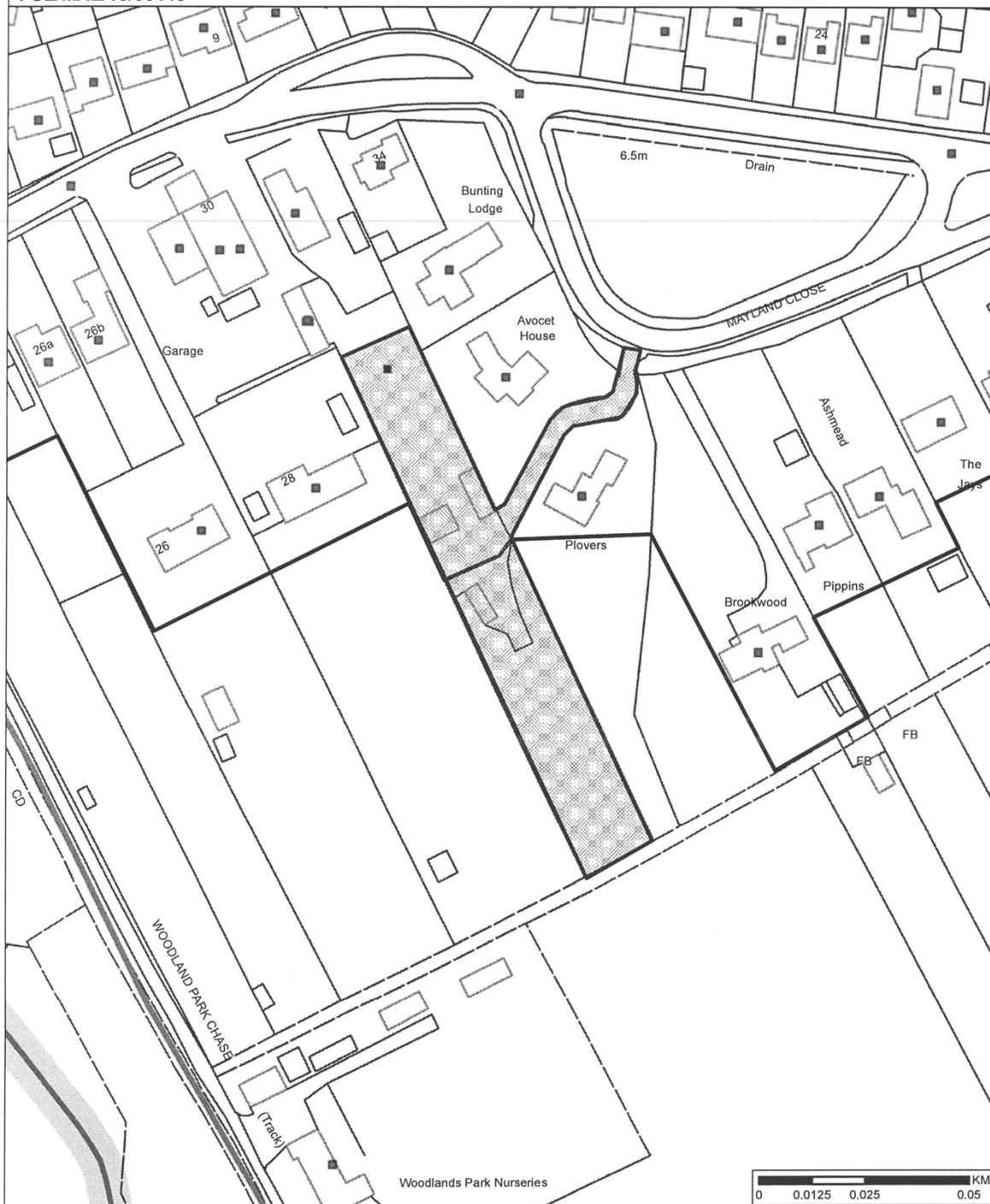
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Land Rear Of 32 Steeple Road, Mayland
FUL/MAL/18/00445



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 Stationary Office © Crown copyright.
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
Maldon District Council 100018588 2014



www.maldon.gov.uk

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee

Date: 31/07/2018

MSA Number: 100018588

3. SUMMARY

3.1 Application Site

- 3.1.1 The application site is situated to the southern side of Steeple Road, behind the rear garden of No. 32 Steeple Road and to the western side of Mayland Close, sited behind The Plovers and Avocet House, Mayland Close. There is an existing access to the site situated on the southwestern side of Mayland Close, which also serves The Plovers Mayland Close. The main area of the site is situated 52m from Mayland Close and measures 134m in depth and 20m in width. It has a total area of 2840m². The northern 1400m² of the site including the access is situated within the settlement boundary. The southern 1440m² of the site is situated outside of the settlement boundary.
- 3.1.2 The southern part of the site is currently overgrown with a number of dilapidated structures including a caravan and timber building. The northern part of the site appears to be used for the parking of vehicles in association with the use of the neighbouring site, Mill Motors. It is also noted that there is a structure situated to the western side of the site which is believed to currently be used as a spray painting unit.
- 3.1.3 Steeple Road and Mayland Close are made up of an eclectic mix of dwellings; there is no prevailing pattern of development in the immediate or wider vicinity of the site. Although the dwellings differ in house type, scale, architectural features and finish materials they are traditional in terms of style and design. The properties within the immediate vicinity of the site are set within reasonably large plots and front onto public highways.

3.2 Proposal

- 3.2.1 Planning permission is sought to erect 2 bungalows with detached double garages, sited to the rear of No. 32 Steeple Road and The Plovers and Avocet House Mayland Close. It is noted that the application plans show that the dwellings will have three bedrooms. However, given the provision of a study it is considered that there is potential for four bedrooms to be provided. The dwellings would be accessed via the southwestern side of Mayland Close along an existing driveway which is also used by the occupiers of Plovers.
- 3.2.2 The bulk of the properties will measure 8.9m in depth and 19.4m in width. Each property will have a front porch projection measuring 2.5m in depth and 3.5m in width which will serve the entrance to the properties. The bungalows will have an eaves height of 2.3m and a maximum height of 6m to the top of the gablet roof and will be constructed from brick, render and plain roof tiles.
- 3.2.3 The proposed detached double garages will be situated opposite the site access and will measure 6.5m in width and 6m in depth. They will have an eaves height of 2.3m and an overall height to the ridge of the gable roof measuring 4.8m. As well as the garage doors situated on the front elevations there will be a single door access on the side elevation of each garage.
- 3.2.4 Each dwelling will be provided with two open parking spaces and two spaces within the double garages.

3.3 Conclusion

- 3.3.1 The proposed dwelling on plot 1 to the south of the site would be sited outside of the defined development boundary and would result in the development of greenfield land, contrary to policy S8. Furthermore, there has been no information provided in accordance with policy H4 to justify the development of greenfield land for residential purposes. The proposed development would therefore represent the unjustified sprawl of built form into the countryside and an unnecessary visual intrusion.
- 3.3.2 Plot 2 to the north of the site is sited within the settlement boundary. However, it has not been demonstrated that there would not be an unacceptable loss of employment as a result of the development. The development would therefore be unacceptable and contrary to policies S1, S2, S8, E1 and H4 of the Maldon District Local Development Plan (MDLDP) (2017) and Government advice contained within the National Planning Policy Framework (NPPF) (2018).

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:

- **11** **Presumption in favour of sustainable development**
- **38** **Decision-making**
- **47-50** **Determining applications**
- **79** **Rural Housing**
- **117-118** **Effective use of land**
- **124-132** **Achieving well-designed place**

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- **S1** **Sustainable development**
- **S8** **Settlement boundaries and the countryside**
- **H4** **Effective Use of Land**
- **D1** **Design quality and built environment**
- **D2** **Climate Change and Environmental Impact of New Development**
- **T1** **Sustainable Transport**
- **T2** **Accessibility**
- **E1** **Employment**
- **N2** **Natural Environment and Biodiversity**

4.3 Relevant Planning Guidance / Documents:

Maldon District Design Guide (MDDG) (2017)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is now in a position where it can demonstrate an up to date deliverable supply of housing land for a period in excess of five years. 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.
- 5.1.2 The application site lies partly outside the defined settlement boundary of Mayland as identified in the Local Development Plan (LDP) as such it is considered that Policy S8 of the LDP is applicable for the bungalow proposed to the south of the site. Policy S8 requires development to be directed to sites within settlement boundaries to prevent urban sprawl beyond existing settlements and to protect the District's landscape. 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 provided it is for a specific as listed under Policy S8 (a)-(m).
- 5.1.3 It is noted that the proposed development does not fall within the uses listed under Policy S8 (a-m). Therefore, the erection of a bungalow on the southern part of the site, which is outside of the defined settlement boundary, is considered to be contrary to the policies contained within the LDP.
- 5.1.4 Regard must also be had to the existing use and condition of the site. The site has a partial employment use, which is linked to Mayland Garage and Mill Motors to the north of the site. The Inspector noted in case APP/X1545/C/08/2091340 that the southern area of the site has been used the least in comparison to the wider site and that not all of the land within the site has been fully used in association with the employment use. Furthermore, on granting planning permission the Inspector imposed a condition on the southern part of the site, which is sited outside of the development boundary, to prevent any storage within this part of the site. Furthermore, additional conditions were imposed which restricted other uses to existing buildings and areas within the northern part of the site. Therefore, having regard to this it is not considered that there has been any previous lawful employment use to the southern part of the site and the site is therefore considered to be undeveloped, greenfield land.
- 5.1.5 Given that the proposal is contrary to policy S8 and would involve the development of greenfield land it is not considered that the provision of the dwelling in plot 1 is acceptable as it would result in inappropriate development outside of the settlement boundary.
- 5.1.6 Policy S8 should also be read in conjunction with Policy H4 of the LDP in relation to 'Backland and Infill Development'. The policy states that backland and infill development will be permitted if all the following criteria are met.
- 1) There is a significant under-use of land and development would make more effective use of it;
 - 2) There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;

- 3) There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and
 - 4) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.
- 5.1.7 The information provided with the application states that the site is vacant and the last use of the site is unknown. This is predominantly true for the southern part of the site which lies outside the settlement boundary. The applicant considers that because the site is overgrown and has no direct frontage it has no potential use other than residential dwellings. However, this is an assumption which has not been substantiated by any evidence. Greenfield land has a number of benefits and although this parcel of greenfield land has not been maintained and unlawful uses appear to have taken place at the site, this does not constitute a reason for granting permission for residential development. Furthermore, there has been no evidence provided by the applicant to satisfy the criteria of Policy H4.
- 5.1.8 The northern part of the site which is north of the proposed access is situated within the settlement boundary and therefore, policy H4 applies. This part of the site continues to be in use for the parking and storage of vehicles and the spray painting unit appears to still be in use, which accords with the permission granted under APP/X1545/C/08/2091340. Therefore, the site is still considered as an employment use and Policy E1 also applies.
- 5.1.9 Policy E1 of the LDP states Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:
- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or
 - 2) The site would have a greater benefit to the local community if an alternative use were permitted; or
 - 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.
- 5.1.10 The siting of one bungalow in this locality would involve the removal of two of the units which were conditioned as the only areas to be used for the storage and maintenance of the vehicles and also part of the area highlighted for vehicle parking. It is appreciated that a period of 9 years has elapsed since the Inspector's Decision. However, the Inspector does note that a fundamental part of the appellant's case was that the land is necessary for the continued operation of Mill Motors Garage. Therefore, as it has not been demonstrated that the loss of these buildings for employment use would not have a detrimental impact on the viability of the existing employment use, it is considered to take a precautionary stance. If the floorspace is lost and this impacts upon the viability of the enterprise at the site, this could affect the ability to provide employment opportunities at the site which would undermine the intentions of policy E1. It is noted that the applicant could seek to re-provide this accommodation elsewhere on land within their control, but such a development would

require a further planning permission to be granted and no guarantee can be provided in relation to the success of such an application. Therefore, it is considered that it has not been demonstrated that the proposal would not result in an unacceptable loss of employment, contrary to policies H4 and E1.

- 5.1.11 Overall, it is considered that the bungalow proposed to the south of the site as a result of it being sited outside the settlement boundary would result in unacceptable development upon greenfield land. Furthermore, the proposed dwelling to the north of the site would result in a loss of employment and there has been no evidence provided to demonstrate that the proposal adheres to the criterion of policies E1 and H4. Therefore, the principle of development cannot be established.

5.2 Housing Need

- 5.2.1 The Council has undertaken a full assessment of the Five Year Housing Land Supply in the District and it is 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.
- 5.2.2 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.3 Policy H2 of LDP contains a policy and preamble (paragraph 5.2.2) which 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, with around 71% of all owner occupied properties having three or more bedrooms.
- 5.2.4 The Council is therefore encouraged in the policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. In this respect, the proposal would not meet this policy requirement and therefore, is of negligible benefit in terms of improving the Council's housing stock.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, livable 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. This is supported by policies D1 and H4 of the MDLDP and the MD DG.
- 5.3.2 Policy D1 of the LDP states that all development must, amongst other things, respect and enhance the character and local context and make a positive contribution in terms of: (b) Height, size, scale, form, massing and proportion; (d) Layout, orientation, and density; (2) Provide sufficient and useable private and public amenity spaces; (4) Protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.

- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.4 The above policy should also be read in conjunction with Policy H4 of the LDP in relation to Backland and Infill Development. The policy states that backland and infill development will be permitted if the relevant criteria are met.
- 5.3.5 Part of the application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate 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 provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.6 Part of the application site is located outside of the settlement boundary of Mayland, it is a long strip of land behind and between established residential developments and the land abuts the settlement boundary. The land to the south of the site which would accommodate Plot 1 is undeveloped, greenfield land. Although the proposal has no road frontage and would not be highly visible from within the public realm it is considered that the proposal would result in the domestication of the site and the countryside and the sprawl of built form, which would result in material harm to the character and appearance of the countryside.
- 5.3.7 Steeple Road and Mayland Close are made up of an eclectic mix of dwellings; there is no prevailing pattern of development in the immediate or wider vicinity of the site. Although the dwellings differ in house type, scale, architectural features and finish materials they are traditional in terms of style and design. The properties within the immediate vicinity of the site are set within reasonably large plots. The majority of the dwellings front the public highway. However No. 28 Steeple Road is situated to the rear of Mayland Garage and does not front the highway. Given the siting of this dwelling it is not considered that the proposal would be contrary to the grain of development within the area and therefore, an objection is not raised on that specific ground.
- 5.3.8 The proposed dwellings in terms of their scale and bulk are considered to be proportionate to their plot size and the surrounding properties which are a variety of single storey and two storey properties. The plot sizes of the surrounding sites differ in terms of their area. For example No. 34 Steeple Road has an overall site area of 552.7m² and No. 32 Steeple Road a site area of 738m², which are considered to be the smaller plots within the vicinity. The largest plot within the immediate vicinity of the site is No. 28 Steeple Road which has an area of 5,540m² and is set to the rear of Mayland Garage. Plot 1 of the proposed development has an area of approximately 924m² and Plot 2 and area of 1,500m². Given the varied plot sizes within the vicinity of the site, which have differing scaled dwellings, it is considered that the proposed dwellings do not represent the overdevelopment of their plots.

- 5.3.9 In terms of design, the proposed dwellings are considered to be of adequate architectural merit and somewhat traditional in appearance. Whilst it is noted that the proposed gabled roof would be a new architectural feature to this part of Steeple Road and Mayland Close, given that there is no set architectural character for the neighbouring dwellings it is not considered that this would materially alter the character and appearance of the area. The bungalows would be constructed from brick and render, which are common materials for the surrounding area of Mayland and of the dwellings found in Steeple Road and Mayland Close.
- 5.3.10 The proposed dwellings would not be highly visible from within the public realm, with the exception of the proposed garages which there would be glimpses of from within Mayland Close. However, this would not be out of keeping with the wider character of Mayland Close.
- 5.3.11 Therefore, whilst the proposal is considered visually acceptable in many respects the proposed development is considered to represent the unjustified sprawl of built form into the countryside and is therefore, contrary to policies S8, D1 and H4.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account overlooking, loss of daylight to the main windows of the neighbouring dwelling and domination to the detriment of the neighbouring occupiers. This is supported by the MDDG.
- 5.4.2 The application site has five adjacent neighbouring properties. To the east of the site are Plovers and Avocet House, Mayland Close. The dwelling in plot 2 would be situated 28m from the rear of the dwelling at the Plovers and would be situated 16.8m from the rear wall of Avocet House. There are no first floor windows proposed as part of the development due to the single storey nature of the proposals. The ground floor windows facing Plovers and Avocet House serve a seating area and the kitchen. Whilst it is noted that there will be views into the application site from both the Plovers and Avocet House, particularly from the first floor windows it is not considered that there would be any undue harm as a result of overlooking as a result of the separation distance between the proposal and the neighbouring properties. The significant separation distance, the height and the siting of the proposed dwellings to the rear of the dwellings within Mayland Close are also considered to prevent the proposal from having an overbearing impact on the neighbouring occupiers or cause a significant loss of light.
- 5.4.3 The access to the site is existing, although not in use, and is sited adjacent to The Plovers and Avocet House. The side wall of Plovers would be situated 3.6m from the access and the southeastern elevation of Avocet House would be 7.5m from the access. Given that the access exists, would serve a limited number of dwellings and is situated a fair distance from the neighbouring properties it is not considered that the occupiers of the neighbouring properties would be subject to any undue harm by increased noise or disturbance, as a result of increased vehicle movements to an extent that would justify the refusal of the applications on these grounds.

- 5.4.4 To the west of the site is 28 Mayland Close. The dwelling within Plot 2 would be situated 4.4m from the boundary shared with No.28. It is noted that the dwelling within Plot 2 would be sited to the east of No. 28 and would extend 9.4 further than the rear elevation of No. 28. However, given the single storey height of the proposal and that the neighbouring amenity space is extensive in both width and depth, it is not considered that the proposal would cause any detrimental increase in overlooking or loss of light and would not be considered to be overbearing.
- 5.4.5 To the northeast of the site is Bunting Lodge. The dwelling within Plot 2 is situated 16m from the boundary shared with Bunting Lodge. Given that the proposal adjoins the southwest corner of the neighbouring property and is set a fair distance from the neighbouring dwelling it is not considered that there would be any adverse impacts by way of overlooking or loss of light and the proposal is not considered to have an overbearing impact on the occupiers of Bunting Lodge.
- 5.4.6 To the north of the site is a commercial site which Mill Motors, an MOT testing centre, car garage and vehicle repair centre, and Mayland petrol Garage operate from. The dwelling within Plot 2 would be situated 17.9m from this boundary situated to the north. It is not considered that the proposal would be subject to any undue harm as a result of overlooking or loss of light, or that the neighbouring use would have an overbearing impact on the occupiers.
- 5.4.7 It is noted that Environmental Health has considered that a noise impact assessment is necessary in order to determine the suitability of the proposal in terms of harm resulting from unacceptable noise. However, given that there are a number of residential properties situated within similar proximity to the neighbouring commercial site such as Nos. 30 and 34 Steeple Road and that the dwelling at No. 34 is situated just 3.6m from the neighbouring use whereas the dwelling at Plot 2 would be situated 17.9m from the commercial site it is not considered reasonable to refuse the application on such grounds.
- 5.4.8 For the reasons discussed, it is not considered that the proposed development will result in a significant loss of light or privacy and will not have overbearing impacts on neighbouring occupiers, nor will it result in unacceptable noise levels for the future or neighbouring occupiers.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The proposed development would utilise an existing access off of the western side of Mayland Road. Given the pre-existence of the access which would also provide suitable turning facilities, it is considered that the access is acceptable in terms of highway safety. This is considered to be in accordance with the view of the Local Highway Authority.

5.5.3 It is noted that there have been neighbour objections in regards to this due to ownership disputes. However, this is not a planning consideration and should be dealt with as a civil matter between the applicant and neighbouring site owners.

5.5.4 The recommended parking provision standard for a four bedroom dwelling is a maximum of two car parking spaces. Each dwelling would be provided with a double garage and two parking spaces. Therefore, the proposal would provide sufficient parking.

5.6 Private Amenity Space and Landscaping

5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide 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. This is supported by section C07 of the MDDG (2017).

5.6.2 The rear amenity space provided for Plot 1 would measure 730m² and the amenity space for Plot 2 would measure 374m². Therefore the proposal is in accordance with Policy D1 and the MDDG in terms of amenity space.

5.6.3 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 LPA.

5.7 Contamination

5.7.1 Part of the site has been used for the storage of vehicles as well as repair works and resprays. Therefore, there is potential for there to be contamination at the site. However, it is considered that this can be dealt with via conditions and is therefore not a sound reason to refuse the application.

5.8 Trees

5.8.1 There are 7 trees to be removed as part of the development and also the northern section of the hedge on the western boundary. The tree species consist of White Poplar, Goat Willow, Elm, Elderberry, Pera and Oak. Whilst these trees do offer some amenity to the surrounding area, they are considered to be of low quality. Furthermore, there are other trees within the vicinity of the site which will continue to contribute to the amenity of the area and thus the character and appearance of the site would not be materially harmed. Therefore, there is no objection to the removal of those trees.

5.8.2 The information provided with regards to protecting the retained trees is considered limited as it does not offer sufficient detail as to how the fencing and ground protection will be achieved and implemented. For instance T1, T5 and H21 and shown on drawing PH/SRM/01 are in third party ownership and the report fails to identify the impacts of the works on those trees. The tree protection plan also does not identify the root protection area of T1 and T5, which requires consideration. Likewise, the root protection area for H1 is shown and comment is provided on the tree protection plan for additional ground protection. However there is no detail to

say what this or any detail to demonstrate how the overhang will be protected from the risk of collision damage during the works. Therefore, it is considered that a condition should be applied requesting details of tree protection.

5.9 Ecology

- 5.9.1 The application has been supported by an Ecological Appraisal a Great Crested Newt eDNA Survey Report. The Ecological Appraisal considers that site has potential to support nesting birds, foraging and commuting bats, reptiles and great crested newt (GCN). There is no other habitat on or immediately adjacent to the site that shows potential to support any other protected flora or fauna. The Ecological Appraisal provides recommendations to ensure ecological enhancement such as preventing the use of concrete and timber panel fences. Having regard to this a condition should be applied requesting details of boundary treatments which should have regard to the findings of the report.
- 5.9.2 The Great Crested Newt eDNA Survey Report concludes that Great Crested Newts are likely to be absent from the site and so the impact on the species as a result of the development is low.
- 5.9.3 Having regard to these findings it is not considered that the proposal would result in the loss of any important ecological interests subject to a scheme of ecological mitigation being submitted to and agreed by the LPA. Therefore, the proposal is considered to be in accordance with Policy E4 and N2 of the LDP. However, a condition should be applied requesting a walkover survey prior to any development and a scheme of protection, enhancement and mitigation to be submitted to and agreed by the LPA, to ensure that there is no harm to any protected species.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/93/00484** – Change of use of land from domestic curtilage to forecourt and the erection of a 1.8m high screening fence with gates – Approved
- **APP/X1545/C/08/2091340** - The change of use of the land for the parking, storage, repair and maintenance of vehicles and the storage of vehicle parts and other miscellaneous items on land at 32 Steeple Road, Mayland - Planning Permission granted subject to conditions imposed by the Inspector.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	<ul style="list-style-type: none"> • Object: Backland Development • Outside settlement boundary • Intrusion on neighbouring 	<ul style="list-style-type: none"> • Please see section 5.3 • Please see section 5.1 • Please see section 5.4 <p>This is the first</p>

Name of Parish / Town Council	Comment	Officer Response
	properties <ul style="list-style-type: none"> • Long planning history on the site of refusal for similar development. 	application the Council has received for residential development on this site.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC) Highways	Given the pre-existence of a suitable site access and the area being made available for vehicle parking and turning there is no objection	Please see section 5.5
Natural England	No Comments to make. Refer to standing advice	Noted. Please see section 5.9

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	Concerns regarding: <ul style="list-style-type: none"> • unacceptable noise • Contamination 	Please see section 5.4 Please see section 5.7
Tree Officer	Trees are of low quality. Further information required regarding tree protection	Please see section 5.8

7.4 Representations received from Interested Parties

7.4.1 Letters were received **objecting** to the application for the following reasons:

Objection Comment	Officer Response
Insufficient access width and visibility including emergency access	Please see section 5.5. It is also noted that the Local Highway Authority have raised no objection and considered the access to be safe.
Ownership disputes over the access	This is a civil matter and cannot be dealt with via the planning system
Below the water table – increase in surface water and fluvial flooding	The site is situated outside of Flood Zones 2 and 3. However a condition can be imposed regarding surface water drainage
Overlooking	Please see section 5.4
Contamination risks	Please see section 5.7

Potential harm to ecology	Please see section 5.9
Existing use of the site is not permitted during the hours it is operated	This is not a matter that relates to this application.
The dwellings would mean that the existing use of the site would have to be moved closer to the neighbouring premises.	There is no evidence to suggest that any buildings within the site are proposed to be relocated. Any new structures would require planning permission and would be subject to a full assessment including impact on neighbouring amenity.
Outside of development boundary	Please see section 5.1
Traffic increase on Steeple Road	It is considered that the provision of 2 dwellings would provide a minimal increase in vehicle movements.
Precedent for future development	The application should be determined on its own merits and the existing situation. Speculation of potential future developments cannot form the basis of decision making.

8. **REASON FOR REFUSAL**

1. Part of the application site lies outside of the defined settlement boundary of mayland where policies of restraint apply. The council can demonstrate a five year housing land supply to accord with the requirements of the national planning policy framework. The site has not been identified by the council for development to meet future needs for the district and does not fall within either a garden suburb or strategic allocation for growth identified within the Maldon district local development plan to meet the objectively assessed needs for housing in the district. The proposal would therefore, represent the unjustified encroachment of built form into the countryside, with associated visual impacts. Furthermore, there has been no evidence provided to demonstrate that the proposal would not involve the unacceptable loss of employment or that there is a significant under-use of land. 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 (2018).



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
13 AUGUST 2018**

Application Number	FUL/MAL/18/00787
Location	Land East Of Goldsands Road, Southminster
Proposal	Proposed agricultural workers dwelling.
Applicant	Mr John Fisher - D.J.Fisher(Farms) Limited
Agent	Mr Mike Otter - GPO Designs Ltd
Target Decision Date	21.08.18
Case Officer	Anna Tastsoglou Tel: 01621 875741
Parish	SOUTHMINSTER
Reason for Referral to the Committee / Council	Member Call In by Cllr Fluker on the grounds of public interest and the idiosyncratic and subjective reasoning regarding design, size, bulk and sustainability of the proposed development

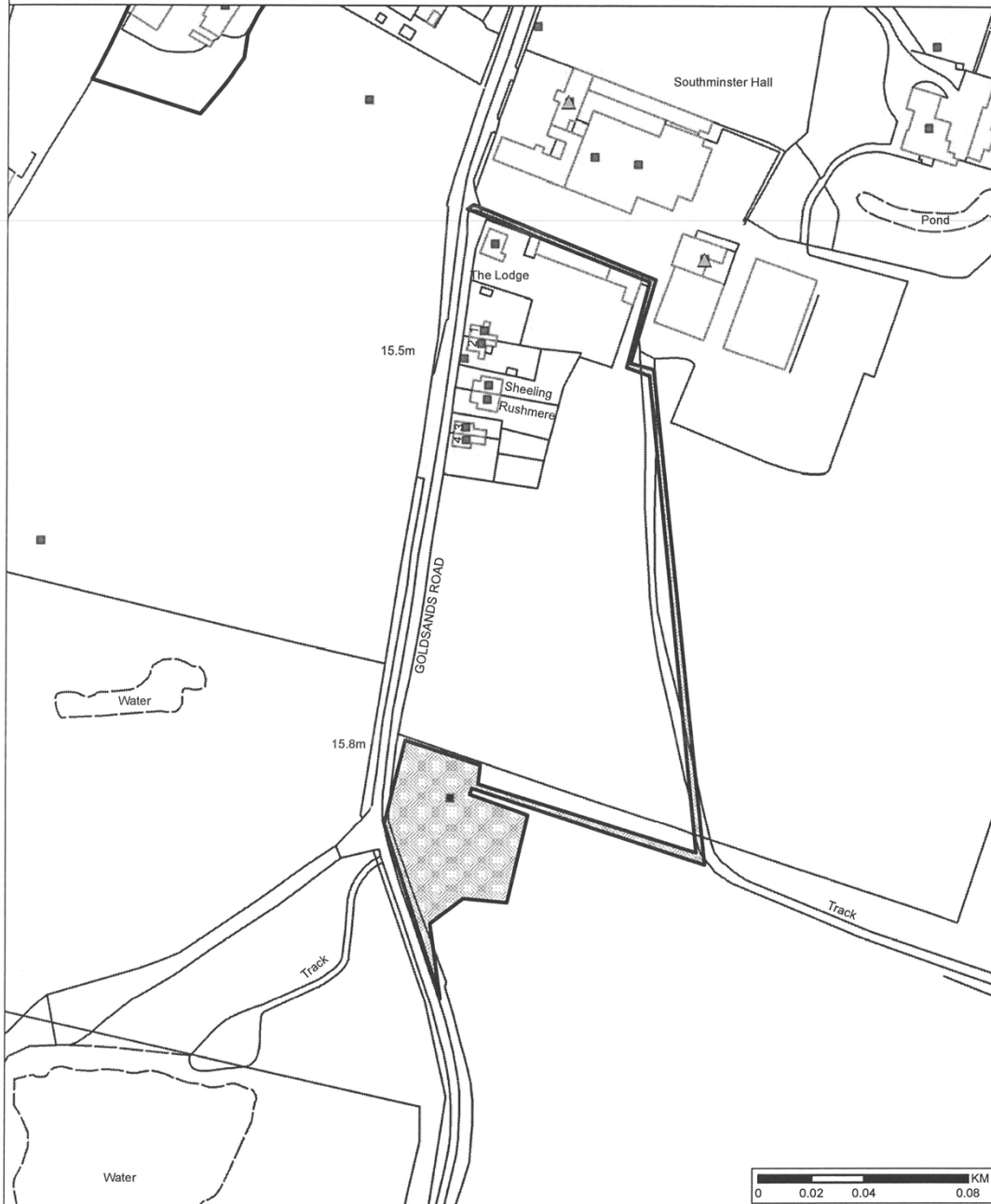
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Land East Of Goldsands Road, Southminster
FUL/MAL/18/00787



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 Stationary Office © Crown copyright.
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale:	1:2,000
Organisation:	Maldon District Council
Department:	Department
Comments:	SE Committee
Date:	31/07/2018
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 Southminster. The main part of the application site is a parcel of undeveloped land measuring 0.19 hectares and is currently part of an arable field. The site also includes an existing farm track that extends 108 metres to the east of the top part of the site before turning north, continuing for approximately 220 metres before turning west for 80 metres to connect to Goldsands Road. The surrounding area is rural in nature with open countryside to the north, east and south of the application site and fishing lakes are located opposite the site.
- 3.1.2 Planning permission is sought for the erection of an agricultural workers dwelling.
- 3.1.3 The proposed dwelling would measure 9.75m in height to the ridge, 5.5m in height to the eaves, 17m in width and a maximum of 11.6m in depth. The proposed dwelling would accommodate a kitchen/family room, utility room, living room, study and WC at ground floor and four bedrooms and three bathrooms at first floor. PV panels are proposed to the rear facing roofslope.
- 3.1.4 Due to the bend in the public highway, the dwelling would be positioned between 26 and 16 metres from the public highway and 12 metres from the rear boundary of the site. A new hedge line would be created at the boundaries of the site, with the front boundary being set back from the frontage of the site, thereby ‘squaring off’ the front boundary’
- 3.1.5 The site would be accessed from the northernmost point of the site where there is an existing farm access. Parking would be provided for three cars with a gravel driveway and it is noted that the hedgerow would be replaced to enable visibility splays to be achieved. An oak tree within the visibility splay would be retained.

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 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 for a dwelling to be provided at the site. 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 exacerbated by the 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 2018 including paragraphs:

- 2, 7 to 12, 38, 53, 78, 83, 102 to 111, 124, 127. 128 and 130

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 2 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 development with Policy H7 of the LDP. Similarly, paragraph 79 of the NPPF states that dwellings can be erected within the countryside where there is an “essential need for a rural worker, including those taking majority control of a farm business, 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.

Functional Need

5.1.7 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.

5.1.8 The justification for requiring a dwelling at the site in terms of functional need has not been updated since the previous application. 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. It*

is essential that the farm manager is able to monitor and control this process at short notice.

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'.*

The underlined text is highlighted as this is the only text that is additional to that which was included within the statement for application OUT/MAL/18/00240 at this site.

- 5.1.9 The applicant has also identified the following advantages of the proposed development:

"It is directly opposite the entrance of the farm owned fishing pits which have come under threat of poaching and unauthorised access.

2. The dwelling is alongside a field most often used for high value crops that require the maximum irrigation, care and attention.

3. It has the best view over most fields, which are commonly under threat of illegal hare coursing, a major issue for the business.

4. The proposed site is away from the environmental scheme that lays between the farm and the site and houses birds, bees and other wildlife. Furthermore the dwelling has been designed in a traditional farm house style (Policy H7, point 5).

5. It is situated between the two farms situated on Goldsands Road and the fishing pits. Ideally placed for best security and management.

6. The dwelling can be easily screened from Goldsands Road and from the open countryside using hedging to minimise the visual impact of the dwelling on the countryside.

7. The land on which the dwelling would be positioned is not suited for modern arable farming practices as it is positioned in a small space between the road and an adjacent redundant Ministry of Defence monitoring station (underground). The space does not allow for the turning circle required by the large equipment used on the farm. The submitted aerial imagery (document NDCM07JW_AE1.0) shows that the area of the proposed dwelling is not used for crops."

- 5.1.10 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.'*

- 5.1.11 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.

- 5.1.12 No evidence has been submitted to back up the claim that the site is at threat of illegal activities and therefore whilst the comments about security are noted, it is considered that there is no basis to assess that the erection of a dwelling is a proportionate means to addressing this concern. Furthermore, no evidence has been provided to show that no other opportunities, in relation to security, have been considered. Such arguments have been found to be flawed within a number of recent appeal decisions.
- 5.1.13 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. Therefore, it is considered that the application fails to comply with this stipulation. In this regard it is noted that the applicant suggests that the inclusion of accommodation within job adverts must be evidence that there is a need to provide such accommodation. It is considered that it does not follow that these adverts are any evidence of functional need, they are merely a reflection that accommodation is desirable and that many farms have properties that they can offer to employees. The additional text that has been provided with this application, but not the previous application is noted, but is not considered to be new evidence of a functional need that outweighs the concerns that have been raised previously.
- 5.1.14 The unfortunate changing circumstances of the enterprise have been set out and are noted. However, it is considered that this does not derive any additional 'functional need' to be at the site in terms of the operational requirements of the holding.
- 5.1.15 For these reasons it is considered that it remains the case that it has not been demonstrated that there is a functional need to provide a dwelling at the site and as such the proposal is in conflict with the abovementioned policy.

Alternative dwellings

- 5.1.16 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.
- 5.1.17 A previous application was accompanied with a plan that showed the extent of the holding, including eight dwellings along Goldsands Road that were demarked as being within the ownership of the applicant. Part of the concern raised at that time was that no information had been provided as to why these dwellings could not be used to meet the needs of the holding. Therefore, it was considered that the application had failed to comply with this stipulation.
- 5.1.18 The applicant subsequently updated the submitted plans (NDCM07JW_FP1.3) to exclude the other dwellings of Goldsands Road and it is therefore demonstrated that these dwellings are not within the ownership of the applicant and are not available to meet the needs of the farm holding. No objection was therefore raised to the last application in this respect.

- 5.1.19 It is noted that the current farm manager and their family is housed at a dwelling (unspecified location) that is in close proximity to the site, but that this is not owned by the business and may not be available in the future. It is stated that if it were to become available the company would attempt to buy and house an employee. Presumably this could be the farm manager.

Viable business

- 5.1.20 A financial appraisal of DJ Fisher Farms LTD 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. This also accompanied the previous applications and in the case of the first application, it was a concern of officers that there were a number of areas of uncertainty within the submissions.
- 5.1.21 Far more detail of the company's financial performance was subsequently provided when the second application was submitted and it was considered that it had been demonstrated that the arable farm operations at the site are profitable and could sustain the erection of a dwelling at the application site. The previous concerns that were raised by officers have therefore been adequately addressed in this regard.

Size and nature

- 5.1.22 When the application was submitted previously it was stated that "The business needs a reasonable sized property to accommodate the current manager's wife and 3 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'. This has been repeated on this occasion and the applicant has also stated that *"The size of the dwelling is based on the requirement of the business to provide on site accommodation for the farm manager, his wife and their three children. Whilst the property is quite large the business believes that it is appropriate given the size of the business and the financial performance of the business which is demonstrated."* Additional justification for the size of the dwelling on the grounds that it is smaller than a dwelling approved at Scotts Farm in Purleigh, but this argument is given no weight in the assessment of this application as each dwelling should be considered on its own merits.
- 5.1.23 When first submitted, it was a concern of officers that a five bedroom dwelling would have exceeded the requirements of the family that would have occupied the dwelling and this was therefore in conflict with the abovementioned policy. The proposal has been amended to show a four bedroom dwelling, which is an improvement in comparison to the previous proposal. Examples of job adverts from similar businesses showing provisions of on farm accommodation have been 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 are of limited relevance to the proposal that is being considered by the Local Planning Authority (LPA). There does not appear to be a need for extra accommodation to be provided speculatively.

- 5.1.24 The application proposes a dwelling measuring 9.75 m in height to the ridge, 5.5m in height to the eaves, 17.4m in width and a maximum of 12.1m in depth. It would accommodate a kitchen/family room, utility room, living room, study and WC at ground floor and four bedrooms and three bathrooms at first floor.
- 5.1.25 It is noted that the dwelling has been reduced in size in comparison to that shown within the first application. However, the dwelling remains a particularly large dwelling with four bedrooms, three bathrooms are en-suites and a large dressing area to one of the bedrooms. It is therefore considered that the level of accommodation provided remains generous and in excess of the minimum requirements to serve the needs of the farm.
- 5.1.26 The applicant's submissions and the reductions of the size of the proposed dwelling in comparison to the first application are noted. However, the dwelling would have no less impact than the dwelling proposed under the terms of the last application and it therefore remains the case that the dwelling proposed exceeds the requirements of the agricultural holding and the large dwelling proposed, which would have a substantial visual impact as a result of its height and width, would not be commensurate with the requirements of the business. Therefore, it is considered that the application fails to comply with this stipulation.
- 5.1.27 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 Paragraph 130 of the NPPF states that the planning system seeks the creation of high quality buildings and places. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 5.2.2 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.'
- 5.2.3 The proposed dwelling would measure 9.75 in height to the ridge, 5.5 in height to the eaves, 17.4 in width and a maximum of 12.1 in depth. 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 from the main part of the application site. 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 scale of the dwelling with a ridge height of 9.75 m and a width of 17.4 m. Whilst it is noted that the applicant indicates that a 3m tall hedge could be provided as part of the landscaping scheme that could be the subject of a condition, it

is considered that the dwelling would continue to have an adverse impact upon the character and appearance of the area contrary to policy H7 and D1 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 The application site is an isolated plot with no immediately adjacent neighbouring properties, with the closest residential dwelling in excess of 100m from the proposed development. Therefore, it is considered that the proposed dwelling would not result in overlooking, a loss of light or 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 proposal.
- 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 four 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 which has space to accommodate three cars plus a turning area. Therefore, no concerns are raised.
- 5.4.4 It is noted that the application site has been altered compared to previous applications to include the land that would provide a pedestrian access route to link to the settlement of Southminster. This additional residential connection is noted and welcomed, but it is considered that the benefit of this would not outweigh the other harms that have been identified.

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 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.

5.6 Other Matters

- 5.6.1 It is noted that the application has been accompanied with details of the sustainability credentials of the proposal, citing that it would be in an accessible location relative to public transport and services. These submissions are noted and it is acknowledged that the site is within reasonably close proximity of the settlement of Southminster and the train station, and that the site would be able to connect to Southminster as a result of the track that is shown within the amended application site. It is also noted that the applicant proposes to erect the dwelling to a high level of energy efficiency. However, whilst the content of the applicant's sustainability scorecard is noted, it is considered that the erection of a dwelling outside of a settlement boundary conflicts with the Council's definition of sustainability in the Maldon District Local Development Plan and as such the comments of the applicant in this regard do not outweigh the harm that has been identified.

6. ANY RELEVANT SITE HISTORY

- 6.1.1 This application follows the refusal of an application for outline planning permission (**OUT/MAL/18/00240**) which was refused for the following reason:
- 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 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.*
- 6.1.2 That application followed the withdrawal of application **OUT/MAL/17/01114** which had been recommend for refusal by officers, but not determined.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	Recommend Granting Planning Permission.	Noted.

Name of Parish / Town Council	Comment	Officer Response

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC)–Highway Authority	No objection.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions, particularly relating to contaminated land and foul and surface water.	Noted.

8. REASON 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 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 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.