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

04 January 2019

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **MONDAY 14 JANUARY 2019 at 7.30 pm.**

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

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.

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AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE
MONDAY 14 JANUARY 2019

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

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the Committee held on 3 December 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. **FUL/MAL/00230 - Asheldham Pit, Southminster Road, Asheldham, Essex** (Pages 17 - 58)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed, Members' Update to be circulated)*.

6. **FUL/MAL/18/01111 - Land North Of Asheldham Farm, Hall Road, Asheldham, Essex** (Pages 59 - 76)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed, Members' Update to be circulated)*.

7. **FUL/MAL/18/01297 - Market Site, High Street, Burnham-On-Crouch, Essex** (Pages 77 - 88)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed, Members' Update to be circulated)*.

8. **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. 5 – 7.
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, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.

BACKGROUND PAPERS

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

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

Development Plans

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

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

Legislation

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991 and The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- The Town and Country Planning (Local Planning) (England) Regulations 2012
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 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)

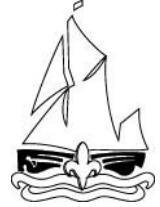
ii) Essex County Council

- Essex Design Guide 1997
- Essex and Southend on Sea Replacement Waste Local Plan

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2015 / 16
- Planning Policy Advice Note (version 4) - October 2015
- 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 – November 2006
- Wickham Bishops Village Design Statement – 2010
- 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
3 DECEMBER 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, M W Helm, R Pratt, CC and N R Pudney

674. CHAIRMAN'S NOTICES

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

675. APOLOGIES FOR ABSENCE

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

676. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 5 November 2018 be received.

Councillor Mrs B F Acevedo informed the Committee that she had been in attendance at the meeting on 5 November 2018.

RESOLVED

- (ii) that subject to the above amendment the Minutes of the meeting of the Committee held on 5 November 2018 be confirmed.

677. DISCLOSURE OF INTEREST

Councillor R P F Dewick, referring to Agenda Item 8 – FUL/MAL/18/01253 - Land North Of Lower Farm, Steeple Road, Mayland – advised the Committee that he had undertaken work for contractors involved in various sites at Lower Farm.

Councillor R Pratt declared a non-pecuniary interest as a Member of Essex County Council, a consultee on all planning matters.

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

Councillor N R Pudney declared a non-pecuniary interest in Agenda Item 6 - FUL/MAL/18/01164 - Land Adjacent Tideways Lodge, Steeple Road, Latchingdon, Essex as he was acquainted with the family.

678. HOUSE/MAL/18/01069 - 5 TERN CLOSE, MAYLAND, ESSEX

Application Number	HOUSE/MAL/18/01069
Location	5 Tern Close, Mayland
Proposal	Proposed new garage
Applicant	Mr Darren Bell
Agent	Penny Little - A & P Designs Ltd
Target Decision Date	05.11.2018
Case Officer	Annie Keen
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In – Councillor M W Helm and Councillor Mrs P A Channer, CC. Reason: Local knowledge/Public interest

Following the Officer's presentation Mr Steve Anstead, a Supporter and Mrs Carly Bell, the Applicant addressed the Committee.

A debate ensued where the planning merits of this application were noted together with the supporting comments from Essex County Council Highways Authority (ECC) that allayed previous concerns raised.

Councillor M W Helm proposed that the application be approved contrary to the Officer's recommendation and this was duly seconded by Councillor Mrs P A Channer, CC.

The Committee determined that the proposed development would not cause visual harm to the character of the area and therefore the benefits of additional car parking provision were grounds to grant planning permission.

The Chairman put the proposal to the Committee and upon a vote being taken it was agreed to approve the application.

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

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents: 5788/01, 5788/02, 5788/03A and 5788/04A.
3. The external surfaces of the building hereby approved shall be constructed of the materials specified on the plans hereby approved.

679. FUL/MAL/18/01164 - LAND ADJACENT TO TIDEWAYS LODGE, STEEPLE ROAD, LATCHINGDON, ESSEX

Application Number	FUL/MAL/18/01164
Location	Land Adjacent Tideways Lodge, Steeple Road, Latchingdon, Essex
Proposal	Erection of new dwelling house & removal of existing habitable mobile home
Applicant	Mr & Mrs D Winfield
Agent	Greg Wiffen – Planman
Target Decision Date	03.12.2018
Case Officer	Anna Tastsoglou
Parish	LATCHINGDON
Reason for Referral to the Committee / Council	Member Call In The application has been called in by Councillor B F Acevedo on the ground of public interest.

Following the Officer's presentation, Mrs Emma Winfield, the Applicant, addressed the Committee.

Councillor Mrs B F Acevedo proposed that the application be approved contrary to the Officer's recommendation and this was duly seconded by Councillor P G L Elliott.

The Committee determined that the reason for approval was on the basis that the application site was a sustainable location for residential development and that the development would represent a visual improvement to the site.

The Chairman put the proposal to the Committee and upon a vote being taken it was agreed to approve the application.

RESOLVED that the application be **APPROVED** subject to the following condition:

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents: EDW 02, EDW 03, EDW 04 REVN, EDW 01 REVN.
3. The external surfaces of the building hereby approved shall be constructed of the materials specified on the plans hereby approved.
4. The existing mobile home at the application site shall be removed prior to the occupation of the dwelling hereby approved.
5. Details of the siting, height, design and materials of the treatment of all boundaries including the retention of existing hedges, gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first

use/occupation of the development to which it relates and be retained as such thereafter.

6. Full details of hard and soft landscape works and means of protecting those parts of the existing hedges at the site that are to be retained during the course of development shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site.

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

The hard landscape works shall be carried out as approved prior to the first use / occupation of the development hereby approved and retained and maintained as such thereafter

7. No works above ground level shall occur until details of the foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
8. No works above ground level shall occur until details of the surface water drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
 - 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

The Applicant is advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled. Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

9. Prior to the occupation of the dwelling hereby permitted details of the proposed cycle store shall be submitted to and approved in writing by the local planning authority. The cycle store shall be provided before the first occupation of the dwelling hereby approved and retained for such purposes at all times thereafter.
10. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

680. OUT/MAL/18/01227 - STABLES, MANGAPP CHASE, BURNHAM-ON-CROUCH, ESSEX

Application Number	OUT/MAL/18/01227
Location	Stables Mangapp Chase Burnham-On-Crouch
Proposal	Change of use of the site to residential, demolition of existing stables and erection of two dwellings.
Applicant	Mr Andrew Clarke
Agent	-
Target Decision Date	05.12.2018
Case Officer	Hannah Bowles
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In by Councillor R Pratt, CC on the ground of public interest.

Following the Officer's presentation, Mrs Wendy Stamp, Town Councillor, Burnham Town Council, and Mrs Wendy Clarke, the Applicant, addressed the Committee.

Councillor N R Pudney proposed that the application be approved contrary to the Officer's recommendation and this was duly seconded by Councillor Mrs B F Acevedo.

The Committee determined that the application site is a sustainable location for residential development and the development will represent the visual continuation of the approved development to the east of the application site.

The Chairman put the proposal to the Committee and upon a vote being taken it was agreed to approve the application.

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

1. The development shall be carried out in accordance with plans and particulars relating to the access, scale, layout, appearance and landscaping of the site (hereinafter called "the reserved matters"), for which approval shall be obtained from the local planning authority in writing before any development is begun. The development shall be carried out fully in accordance with the details as approved.

2. Application(s) for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.
4. Prior to their use in the development hereby approved, details of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
5. No works above ground level shall occur until details of the foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
6. No works above ground level shall occur until details of the surface water drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
 - 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)
7. At the same time that an application is made for the approval of the matter of layout, a scheme of noise mitigation shall be submitted and be accompanied with details of a noise assessment that demonstrates the levels of noise that are likely to impact upon the occupation of the site. Subsequently, the scheme of mitigation shall be fully implemented prior to the first occupation of the dwellings hereby approved. The Applicant is advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled. Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.
8. The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the local planning authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping

details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses. The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

681. FUL/MAL/18/01253 - LAND NORTH OF LOWER FARM, STEEPLE ROAD, ESSEX

Application Number	FUL/MAL/18/01253
Location	Land North Of Lower Farm, Steeple Road, Mayland
Proposal	Change of use to B8 storage and the construction of hardstanding and boundary treatments including a gates, fencing and hedging.
Applicant	Mr Colin Wisbey
Agent	Mr Mike Otter – GPO Design Ltd
Target Decision Date	11.12.2018
Case Officer	Devan Lawson
Parish	STEEPLE
Reason for Referral to the Committee / Council	Member Call In by Councillor M W Helm Reason: Public Interest

Following the Officer's presentation, Mr Andrew Wisbey, the Applicant, addressed the Committee.

The Committee discussed the importance of supporting local Small Medium Enterprises (SMEs). Furthermore it was noted that this was not a new business but an expansion of an existing one providing rural employment in line with policy S7. It was concluded that with natural screening (planting on top of the bund) and appropriate site lighting this should be supported.

Councillor Mrs P A Channer proposed that the application be approved, contrary to the Officer's recommendation and with suitable conditions. This was seconded by Councillor M W Helm.

The Chairman put the proposal to the Committee and upon a vote being taken it was agreed that the application be approved.

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

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents: WSCM36EG_PBP1.0, WSCM36EG_EBP1.0, WSCM36EG_NBP1.0, WSCM36EG_SP1.0, WSCM36EG-DR1.2A, WSCM36EG-DR1.2B, WSCM36EG-DR1.2C, WSCM36EG-DRA1.1A, WSCM36EG-DRA1.1B, WSCM36EG-DRA1.1C.
3. The use of land hereby permitted shall cease and all hardstanding and stored items shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i. within 3 months of the date of this decision a scheme detailing the landscaping of the site, including details of any changes to natural ground level, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation;
 - ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.
4. The use of land hereby permitted shall cease and all hardstanding and stored items shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i. within 3 months of the date of this decision a scheme detailing the means of preventing oil and other such liquid pollutants leaking/seeping into the land or controlling such leaking/seeping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation;
 - ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.
5. The use hereby permitted shall only be undertaken between 0730 hours and 1830 hours on weekdays and between 0800 hours and 1630 hours on Saturdays and not at any time on Sundays and Public Holidays.

6. The use of land hereby permitted shall cease and all hardstanding and stored items shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
- i. within 3 months of the date of this decision a scheme detailing any lighting to be installed at the site shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation;
 - ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

There being no further items of business the Chairman closed the meeting at 8.40 pm.

R P F DEWICK
CHAIRMAN

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**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
14 JANUARY 2019**

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	31.07.2018 (EOT agreed: 18.01.2019)
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 Councillor R P F Dewick on the grounds of public interest.

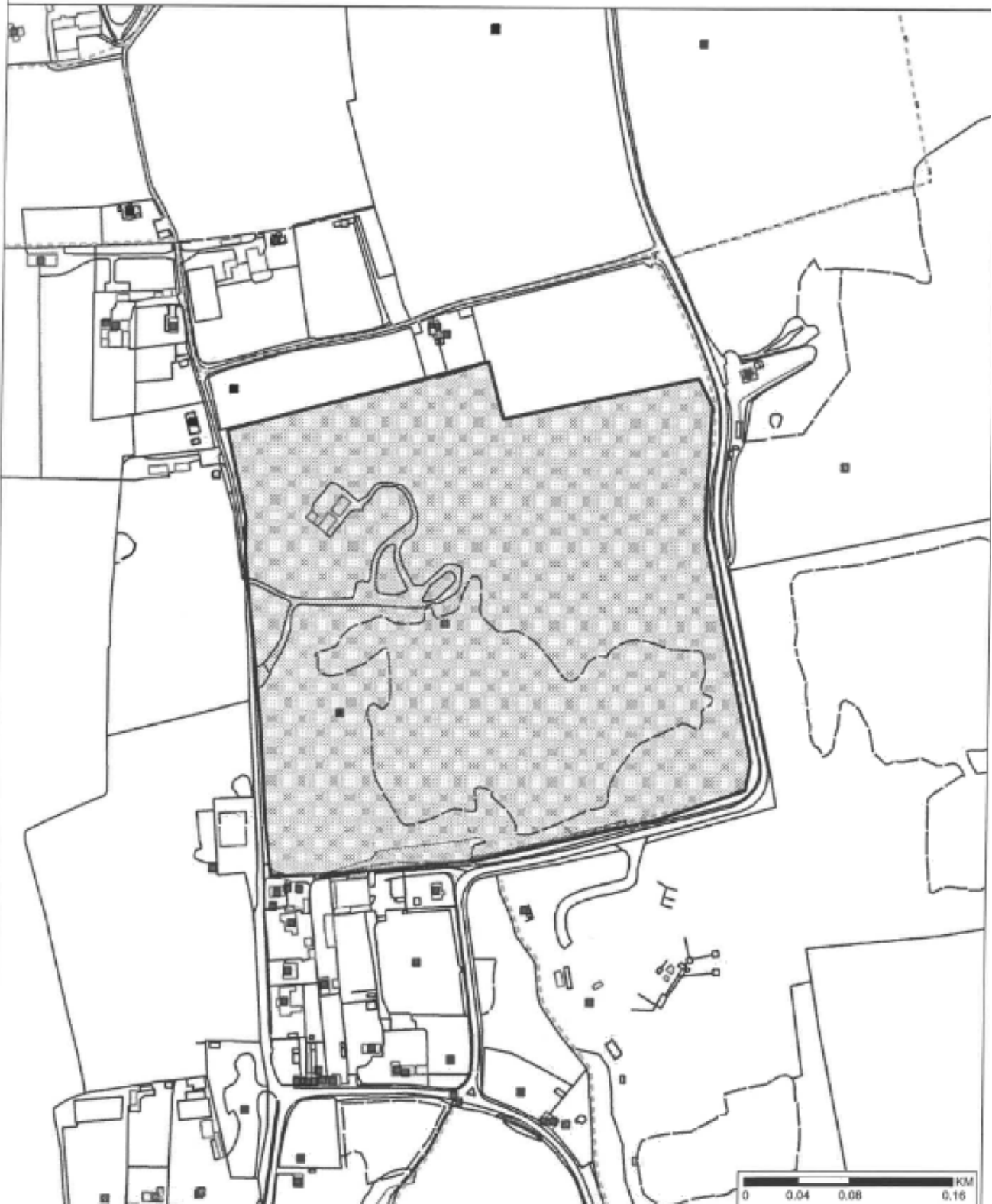
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Asheldham Pit, Southminster Road, Asheldham
FUL/MAL/18/00230



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 Maldon District Council 100018588 2014



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Scale: 1:4,000

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 18/00230/FUL

Date: 04/07/2018

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 This report has been prepared to assess the recently submitted revised Business Plan and revised Ecology Report following the decision of the Members of the South Eastern Area Planning Committee to defer the determination of the application at the meeting of 16 July 2018 to take into consideration the additional information submitted.

3.1.2 It should be noted that the following report is based solely to the revised information submitted and the revised National Planning Policy Framework (NPPF) (2018). A copy of the previous Officer's report presented to Members on 16 July 2018 is attached at **APPENDIX 1** to this report.

3.2 Conclusion

3.2.1 Having taken all material planning considerations into account including the revised business plan submitted, although a positive approach is taken to the provision of local tourism and other proposed facilities, an objection is raised to the principle of the proposed development, given that insufficient information has been submitted to justify the need for such tourist accommodation and facilities in the area, a good connection with other tourist attractions and access to sustainable modes of transport. Inadequate information has been also submitted to demonstrate an essential need for rural workers accommodation within the site and concerns are raised in relation to the impact of the development on the amenity of the neighbouring occupiers. Although the previously report raised objections regarding the lack of evidence to demonstrate that the development would not adversely impact upon protected species and wildlife this has been overcome, following the submission of additional Ecology Report, the development would still be contrary to the aims of the development plan and in particular those expressed in policies S1, S2, S8, D1, E5 and H1. For those reasons it is considered that the benefits arising from the proposed development cannot outweigh the potential harm caused by the development in the local wildlife site and locality more widely.

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:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 83-84 Supporting a prosperous rural economy
- 91-101 Promoting healthy and safe communities

- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment

4.2 Approved Maldon District Local Development Plan (July 2017) Policies:

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S7 – Prosperous Rural Community
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1– Design Quality and Built Environment
- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy E1 – Employment
- Policy E5 – Tourism
- Policy E6 – Skills, Training and Education
- Policy H4 – Effective Use of Land
- Policy H7 – Agricultural and Essential Workers’ Accommodation
- Policy N2 – Natural Environmental and Biodiversity
- Policy T1– Sustainable Transport
- Policy T2 – Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development – Tourist Accommodation / Destination

- 5.1.1 The Local Development Plan (LDP) has been produced in light of the NPPF’s emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three dimensions identified in the NPPF.
- 5.1.2 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development to within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that *“The Council will support sustainable developments within the defined settlement boundaries”*. The policy goes on to state that *“development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacts upon and provided it is for.....b) employment generating proposals (in accordance with policy E1)f) rural diversification, recreation and tourism proposals (in accordance with Policies E4 and E5); g) Agricultural and essential workers’ accommodation (in accordance with Policy H7)”*.

- 5.1.3 The application site is located outside the defined settlement boundaries and therefore, the impact of the development on the intrinsic beauty of the countryside should be assessed along with exception policies E5, E6 and H7.
- 5.1.4 Paragraph 83 of the NPPF states that to support a prosperous rural economy, planning policies and decisions should enable *inter alia* sustainable rural tourism and leisure developments which respect the character of the countryside and the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. Paragraph 84 further continues stating that “*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)*”.
- 5.1.5 Policy E5 states that “The Council will support developments which contribute positively to the growth of local tourism in a sustainable manner and realise opportunities that arise from the District’s landscape, heritage and built environment”.
- 5.1.6 The policy goes on stating that “Development for new tourist attractions, facilities and accommodation will be supported across the District where it can be demonstrated that:
- 1) *There is an identified need for the provision proposed;*
 - 2) *Where possible, there are good connections with other tourist destinations, the green infrastructure network and local services, preferably by walking, cycling or other sustainable modes of transport;*
 - 3) *There will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people; and*
 - 4) *Any adverse impact on the natural and historic environment should be avoided wherever possible. Where an adverse impact is unavoidable, the proposal should clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. Where a development is deemed relevant to internationally designated sites, the Council will need to be satisfied that a project level HRA has been undertaken and that no potential significant adverse impact has been identified.”*
- 5.1.7 The site is a designated nature reserve and local wildlife site and the development proposes to provide facilities to be used in association with the existing use of the site. It is noted that although the Council will support the growth of local tourism, that should only be allowed when it is in a sustainable manner, not adversely impacting upon character of the area and developments that benefit local businesses, communities and visitors. For that reason, evidence is necessary to be submitted to demonstrate the need of such type of tourism in the area along with other justification regarding the sustainable access of the site and relevant business plan and program to demonstrate the viability of the proposal. The applicant was given the opportunity to

submit further information to address the concerns raised in the original report and a revised Business Plan has been submitted.

- 5.1.8 In relation to the first requirement of policy E5, a ‘Site Development Assessment’ was originally submitted including information in relation to the need of the tourism industry in Essex. Concerns were raised previously due to the fact that the assessment of the visitor accommodation was based on a broader than local level, given that it assesses the visitor accommodation trends in Essex and England rather than the local need of the District. Whilst the information and statistics provided in the submitted document were acknowledged, by reason of the lack of information regarding the need for this type of accommodation at a local level, the need for such accommodation in the district and in the area more particularly it was considered that the need was not adequately justified.
- 5.1.9 Within the revised business plan, further information in relation to the local need for the proposed tourist accommodation has been submitted. Part of the justification of the need is based on the fact that three similar sites, in terms of business model, have shown high demand; albeit no evidence of that has been submitted. The applicant has also carried out another research of the existing wedding venues to identify whether existing accommodation can meet their needs. The applicant states that both High House Wedding Venue at Althorne and the Creeksea Place wedding venue at Burnham-on-Crouch are busier than usual and that they have difficulties in providing sufficient accommodation. Although the abovementioned details are acknowledged, it is considered that they do not justify the need of such accommodation in the area. Any type of accommodation (not necessarily log cabins), more importantly in places closer to the wedding venues would be able to provide necessary accommodation for the visitors. Therefore, this argument cannot justify the need of the proposed tourist accommodation.
- 5.1.10 A letter from Essex County Council (ECC) Strategic Tourism Manager has also been submitted, expressing support to the proposed development. The letter confirms that there is demand for tourist accommodation similar to the proposed type of accommodation in Essex and that the proposed development together with the proposed Tea Room would keep visitors in the area, albeit this is not evidenced. It is noted that the submitted letter discusses about the need at County and not at local level. Furthermore, although ECC supports the proposed development, there is no confirmation as to how this support (i.e. in a form of funding) would be offered directly to the proposed development.
- 5.1.11 As a result and on the basis of the above assessment, it is considered that although additional information has been submitted by the applicant, this is not sufficient to demonstrate the need of such tourist accommodation on site.
- 5.1.12 With regard to the second requirement of policy E5, the outcomes of a Destination Research Economic Impact of Tourism Model have been submitted. This suggests that visitor expenditure on actual accommodation in Maldon accounts to about 34% and the rest is directed towards other tourist business, such as food and drink, shopping, entertainment and transport. The findings of the report endorse the argument of the second requirement of policy E5, which requires the development to be in close proximity to other tourist destinations, the green infrastructure network and local services.

- 5.1.13 A number of other tourist attractions in the wider area are identified within the Tourism Report and Planning Statement submitted. Maps have been included showing the extent of the public footpaths. All suggested tourist attractions, including walking to St Lawrence, to Burnham-on-Crouch or to St Peter's Chapel in Bradwell-on-Sea are destinations that can generally be accessed from any location within the Dengie Peninsula. The site itself is not located within walking distance from the defined settlements and the majority of the destinations proposed are at a distance away the site that what would be considered a walking distance (some of them between 5 to 10 miles away from the site – this is around one and a half to two and a half hours away from the site on foot).
- 5.1.14 Reference to tourist attractions and events is also made to the revised business plan. The proximity of the site to Wibbler's Brewery (3 miles away) is raised as well as the Clay Hill Vineyard, which is 6.4 miles away from the site, lacking an uninterrupted footway. To the contrary the largest part of the road length is a fairly fast road with no footpaths. Whilst the applicant's intention is to provide accommodation for tourist that their attraction to the area is that of the 'Grape and Grain' trail, it is considered that the limited and poor connectivity of the site with these tourist attractions, would either not attract such visitors to stay on site or require them to use their private vehicles to access these tourist attractions.
- 5.1.15 A number of other events that at the Districtwide level are argued to attract visitors on site. These include Maldon District's Dengie Gateway Project and other local events taking place in Burnham-on-Crouch. Whilst it is accepted that these projects and events are likely to attract tourist, there is no justification as to why visitors would choose to stay in the site rather than other visitor accommodation places, considering the distance and poor accessibility of the site to public transportation and footways.
- 5.1.16 Whilst the development itself would be a tourist attraction, it is considered necessary that a good level of connectivity with other tourist attractions and facilities is necessary to attract visitors and secure the viability of the site, as well as ensuring that it is a sustainable form of development.
- 5.1.17 Asheldham, the nearest village to the site, is a rural village with no defined settlement boundary and the nearest settlement infrastructure and related services in Southminster are significantly away from the site (around one and a half miles away). The nearest bus stop to the site is around 0.3miles away and it provides limited and infrequent links to with local services, amenities or other attractions. The nearest train station is in Southminster, which is approximately 1.5miles away from the site. On that basis, it is considered unlikely that the users would use public transportation for their trips. To the contrary it is considered that future visitors and staff would be dependent on private vehicles to access facilities or tourist destinations.
- 5.1.18 The revised business report also includes details from correspondence between the Council's Tourism and Events Manager confirming the need of overnight accommodation in the District. Although it is accepted that there is a need for tourist accommodation at a Districtwide level, as stated above, no further assessment of the local need was carried out. Also, the need is not specified or limited to the type of accommodation proposed. Although tourist accommodation would generally be supported, the Council is required to go through the planning balance exercise, giving

consideration to the sensitivity of site and its distance to other tourist attractions and public transportation.

5.1.19 The third criterion relates to the impact upon the character and appearance of the area, which is further assessed below.

5.1.20 The site is a nature reserve and therefore, under the terms of criterion 4, consideration should be given to the impact of the development on the natural environment. It is stated that since the applicant purchased the site, the land has been maintained, given that it was previously mismanaged and left unkempt. Furthermore, as part of the development it is proposed to preserve and enhance the site. In support of criterion 4 a Phase 1 Habitat Survey, a revised Ecological Report and an Arboricultural Report have been submitted. The details of this requirement are further assessed below in the relevant section of the report and it is noted that no changes have been incorporated since the presentation of the report to committee on 16th July 2018.

5.1.21 To demonstrate the viability of the proposed development, the applicant has submitted a revised business development plan. The plan includes information in relation to the short, mid and long terms objectives of the proposed development, a competition analysis, financial information based on comparable businesses and details of the initial layout costs. It is considered that to fully assess the additional information submitted against the concerns previously raised a point by point assessment would be pertinent.

- Although the anticipated number of covers per day has been reduced from 75 to 59, it is noted that this is based on false calculation of the average covers of the comparable tea rooms. In particular, it is stated that Parlour café produces 75 covers a week (being open 7 days a week), thus, almost 11 covers per day. However, the calculation of the average covers per day for the proposed tea room takes into account a 75 covers per day for the Parlour café. Obviously, this significantly increases the average covers per day, which based on the evidence submitted it must have been 27.5 rather than 59. This lowest number of covers would have been more realistic considering the location, the opening hours and days a week (5 hours a day, 6 days a week) and the size of the proposed Tea Room. It is therefore considered that although the number of covers has been reduced, it is still quite high and taken together with the number days (312) a year that it would be open, it is still considered to be particularly ambitious, meaning that the tea room would be almost 1.2 times fully covered every opening day.
- It is noted that the income from the lodges has been reduced and it is now based on a 53% occupancy rate. This rate, although lower than the occupancy rate that has been suggested by 'Visit England', it relates to occupancy levels of lodges in Essex, not on local occupancy levels. This would obviously include a high number of established accommodations. As noted before at the original assessment, it would have been more appropriate for the occupancy levels to be justified on the basis of the occupancy of similar type of accommodation in the district, given that tourist attraction is very relevant to the popularity of the accommodation and thus, occupancy may vary from place to place quite significantly. Furthermore, it is likely that any new enterprise will need time to build up to their optimum capacity. As a result,

although lower from what was originally suggested (78%), the occupancy rate is still considered to be significantly optimistic and not well justified.

- Six fish breeding pods are already located on site and concerns were previously raised for the unconsidered fish stocking costs. These were based on the assessment of the Fisheries Management Consultant in the submitted Fishery Development Report which states that a minimum initial stock would be required. It is noted that an introduction of various fish sizes is advisable from which large sized fish could be very expensive. The revised business plan states that the fish stocking would be produced on site. This argument though contradicts with the advice given by the Fisheries Management Consultant and even it will be accepted that this maybe the way of stocking production in the future, there must have been a fish stocking cost in the first place, given that the lakes were not established fishing lakes. The report also confirms that management of the lake and early checks of the water quality would be required. The costs of sales forecasts still appear to be a little simplistic in that respect, lacking information in relation to these necessary costs, given that the only extra cost considered since the submission of the previous business plan is that of the pension and National Insurance of the staff costs.
- Concerns were previously raised regarding a number of ‘multiplications’ within the fishery calculations that have not been explained. Explanation has now been provided in the revised business plan and no further objection is raised that respect. However, it is noted that no justification has been provided as to how the number of swims has been identified. As such, although it is understood that for the calculation of the income the size of each lake may not be the element that affects the income, but the number of swims, it is still unclear how the number of swims has been calculated. Furthermore, the same level of use (in percentage) has been used for all lakes and it is considered that this may not be justifiable, particularly as it is noted that the three examples given are in much closer proximity to towns with larger populations of potential customers which is not necessarily the same for the application site, which is also not established for such purposes yet.
- Whilst it is stated that the development would be self-funded with a potential of obtaining funding from the LEADER programme (which is a Rural Development Programme available to local businesses, communities, farmers, foresters and land managers), it is still considered that within the three year forecast some consideration should be had to the allowance (depreciation) for any form of financing for the initial outlay of £247,000.
- Although it was raised as a concern at the original report, the revised business plan makes no reference to there being any costs associated with the initial provision of the worker’s dwelling, the education centre and welfare cabin that are proposed.
- Concerns were previously raised regarding the limited expected costs for electricity and water costs for the fishery element of the development (£150 and £200 respectively) due to the requirement of a controlled system within the aerated tanks, which requires continuous power supply. It is noted that these amount have not been amended and the revised business plan states that only hand washing would need to be supplied and the electricity for the aerators to the breeding pods would not exceed £150.

- The previously raised concerns in relation to the lack of consideration of costs in relation to national insurance and pension costs of the employees have been overcome, as these costs have now been included in the assessment of the profit forecast.
- The submitted Fishery Development Report states that angling station would be formed on site and no consideration the cost of associated works has been given consideration.
- It is noted that there are discrepancies between the details and amounts given in the main business plan and those stated in the submitted budget sheet (Appendix 3) (i.e. Within the report it is stated that the total net profit of the 3rd year would be £96,908.61 whilst the budget sheet states that the net profit on the same year is expected to be £119,122).
- The submitted budget sheet shows a net operating profit before Tax of £119,122, which is 48.4% of the sales revenue, which still appears to be rather optimistic for a business that has not been established yet.

5.1.22 For the reasons stated above, it is considered that there are still reasonable grounds to question the content of the business plan and subsequently the viability of the scheme that is for consideration.

5.1.23 One of the mid-term objectives of the proposal is to erect an education centre and policy E6 of the LDP states that “The Council will work with its partners to support the provision and enhancement of training and educational facilities and opportunities in the District”. Part of the scheme is to offer the site for use by local schools and other educational organisations. A number of letters from Green Earth Learning, Essex Outdoors (Essex County Council), Southminster Guides and Duke of Edinburgh have been received expressing their interest in using the site for various purposes, including engaging young people with the nature, using the site and the education centre for expeditions for the Duke of Edinburgh, using the lake for canoeing and utilising the site for overnight camps. It is therefore considered that this element of the development is positive, albeit no formal confirmation of contribution to use the facilities of the site has been submitted by these organisations. In general, this element of the development is considered to be in accordance with the aims of policy E6.

5.1.24 The site is proposed to be used all year around. No closing period is proposed with the exception of the tea room which would be closed on Mondays. The site is to be used for holiday purposes only and not residential accommodation (with the exception of the workers dwelling), as this would be a departure from the ‘seasonal occupation’ approach currently proposed. It is common practice for conditions to be imposed to restrict the use of a site for holiday purposes only and not as a person's sole or main place of residence. Although it is expected that the enforceability of any conditions in relation to restricting the use of site to holiday purposes only would be time consuming, there are cases where a full year round occupation was secured by the imposition of conditions restricting the holiday accommodation by the same person or persons to no more than 28 days and securing an up to date register of the names and home addresses of all occupiers of the site (Appeal ref: APP/X1545/A/10/2131783, Site: Eastland Meadows Caravan Park, East End Road, Bradwell-on-Sea CM0 7PP, Application Ref: FUL/MAL/09/01061). Taking into consideration the above, no

objection is considered reasonable to be raised in relation with regard to the proposed year-round occupancy of the holiday log cabins.

5.2 Principle of Development - Workers Accommodation

- 5.2.1 A building used for residential purposes is located on site which is proposed to be used as a workers dwelling. It is noted that outside the development boundaries the Council will only support residential development when it can be demonstrated that there is an essential need for full-time employees to live at their location of work, that would only be allowed for a temporary period of three years in the first instance and only after this period on a permanent basis. This should be in accordance with policy H7, which states that *“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.”*
- 5.2.2 The planning statement submitted suggests that the workers accommodation is required to be on site to manage the fishstock and breeding tanks, manage the visitor accommodation, assist local schools and other educational organisations’ visits and for security purposes.
- 5.2.3 Although it is accepted that the site, if developed as proposed would require management, it is noted that it is not an established business and the revised business plan for the reasons detailed above still cannot justify the functional need of workers accommodation on site. The abovementioned reasons given by the applicant regarding a permanent retention of a dwelling on site are not considered sufficient to demonstrate a need. Primarily, there are various ways that security of the site can be addressed and this solely as a reason cannot justify the need of a permanent worker accommodation on site. Furthermore, with regard to management of fishstock and breeding tanks, it is considered that the installation of a portable power generator could be an alternative, more cost effective way to manage fish than the provision of a dwelling on site option. The proposal is for self-catering holiday accommodation and thus, it is considered that there would be limited need for a manager to be there at all times. As stated above it is considered that even though adjustments have been made to the submitted revised business plan, it is still considered to be rather optimistic and due to a number of omissions or simplistic approaches, it is considered that it still cannot carry much weight in terms of the short or long term sustainability of the

scheme. It is therefore considered that the proposed workers dwelling is contrary to the requirement of criterion one as set out in policy H7.

- 5.2.4 With regard to criterion 2, no evidence has been submitted by the applicant demonstrating that there are no available dwellings in the surrounding area or nearby villages to serve the need of the applicant, until the business is established.
- 5.2.5 The content of the revised business plan has been assessed in full above. There are numerous reasons why the business plan is still considered inadequate in terms of providing a robust document demonstrating the viability of the business. As a result, and whilst it is recognised that the business could be profitable once established, the level of profitability is doubtful and this questions the need for a worker's dwelling on site.
- 5.2.6 The proposed dwelling is a three bedroom house. No details of the occupants of the dwelling have been submitted and therefore, the need for such size of a dwelling cannot be fully assessed.
- 5.2.7 Criterion five together with the rest of the impact of the development on the character of the nature reserve with and the wider undeveloped area is assessed in the relevant section of the report below.
- 5.2.8 In light of the above and subject to assessment regarding the impact of the development on the character and appearance of the countryside and nature reserve, whilst the policies of the Local Development Plan provide a positive steer towards and encouragement of local tourism and other related uses subject to compliance with the policies set out above, the previously raised concerns are still maintained in relation to the justification for the proposed tourist attraction and workers accommodation on site. For that reason and taking full account of the revised business plan, it is considered that the previously raised objection to the principle of the proposed development has not been overcome.
- 5.2.9 Whilst the building is already positioned on site, it constitutes an unlawful use and therefore, this does not carry any weight. It is noted that for this reason and due to other existing operational development and uses on site, the Council has exercised its power and served an enforcement notice against the unauthorised development.

5.3 Ecology and trees

- 5.3.1 The site is a designated Local Wildlife Site and therefore, consideration should be had to conserving and protecting the natural environment. These principles are reflected within policy N2 of the LDP which states that *"All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance"*.
- 5.3.2 To address the above and in order to demonstrate that development would not adversely impact upon designated sites or protected species, the applicant originally submitted a Preliminary Ecological Appraisal and an Arboricultural Report.

- 5.3.3 It is noted that the Preliminary Ecological Appraisal suggested that further monitoring in respect of bats, reptile, great crested newt, invertebrate and botanical species was required. For that reason and due to the lack of this information, concerns were raised by officers and following presentation of the application to Members of the South Eastern Area Planning Committee, Members provided the applicant with the opportunity to address these concerns. Subsequently, an Ecology Report including, Great Crested Newt, Reptile, Bat and Invertebrate and Vegetation reports has been submitted to the Local Planning Authority.
- 5.3.4 The Ecology Reports includes details of the species and also measures that can be taken to minimise that the impacts of the development on the wildlife. The Countryside Officer has been consulted and raised no objection to the proposed development, which as suggested would have little negative impact on the wildlife, protected species and habitats. Although no reptiles were identified on site, the ecology report states that with suitable habitat management, the site could potentially be suitable as a translocation receptor for reptiles. There is also reference to potential reverse of the decline of historical grassland habitats and thereby associated Invertebrate and improving the potential mammal and reptile species. Both abovementioned elements represent opportunity to restore features on the site and the countryside officer suggested that that subject to conditions, the site could be designated as a Local Nature Reserve. Although the mitigation measures suggested in the submitted Ecology report would have been conditioned to ensure that the wildlife site would be protected, should permission be granted, it is considered that imposing condition in relation to converting the site to a Nature Reserve would be above and beyond the parameters of the application.
- 5.3.5 In light of the above and considering the additional information submitted, the previously raised objection in relation to the potential harm to protected species has been overcome.

6. SUMMARY OF PREVIOUS REPORT

- 6.1 As noted at the beginning of the report, this supplementary report is to deal with matters relating to the submission of additional information (revised Business Plan and Ecology Report). This report shall be read in conjunction with the previous report (**APPENDIX 1**), which covers all other material planning considerations relating to the impact of the development on the character of the area and the wildlife site, the impact on the neighbouring occupiers, any highways issues and any other contamination, waste management and floor risk issues.
- 6.2 It should be noted that the additional information submitted to address the objection in relation to the principle of development were insufficient to consider the impact of the development on the countryside and the wildlife site acceptable, as an exception. Furthermore, no attempt has been made to address the previously raised objections in relation to the impact of the development on the amenities of the neighbouring occupiers, which due to the use of the site and unavoidable vehicle movement would potentially cause unacceptable levels of noise and disturbance.

7. ANY RELEVANT SITE HISTORY

- **PREAPP/MAL/17/03160** - Erection of an Education Centre, Tea Room, 6 X Holiday Log Cabins, 1 X Staff/Workers and 1 X Welcome Centre Cabin and associated hardstanding and access points.
- **FL/MAL/17/01314** - Application for Felling Licence. No objection raised.

8. CONSULTATIONS AND REPRESENTATIONS RECEIVED

8.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Asheldham and Dengie Parish Council	No response was received at the time of the writing of the report following re-consultation.	

8.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	A response on the basis of the additional information was received by Natural England stating that the previously raised comments remain unaltered.	Noted.

8.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Economic Development	No objection to the proposal, as it will bring additional income to Maldon District, create additional jobs and provide tourist accommodation.	Comment noted and addressed in the 'principle' section.
Coast and Countryside Officer	The Countryside Officer is satisfied that the proposals within the Planning application will have little negative impact on the wildlife, protected species and habitats	Comments noted and discussed in section 5.2.

8.4 Representations received from Interested Parties

- 8.4.1 Following the presentation of the proposal in the previous committee meeting, one additional letter supporting the proposed development was received and it is summarised below. The comments of neighbours addressed in the Members' Update are also summarised below.

Objection Comment	Officer Response
The welcome centre should be located near to the main car parking area thereby avoiding using Rushes Lane for access.	These are very similar comments with those previously raised and are all addressed within the main body of the report.
An increase in traffic on Rushes Lane, which is unsuitable for the volume of traffic would have a detrimental impact on the wildlife and the environment and on the neighbours' privacy and enjoyment of their properties.	
A condition restricting the use of Rushes lane should be imposed, should permission is granted.	

Comment	Officer Response
No objection to the proposed development. If the application is approved a condition restricting deliveries and traffic movement along Rushes Lane is requested to be imposed, to reduce the adverse impact from traffic and vehicle movements along the unmade road.	Comment noted and addressed in section 5.4 of the report.

Support Comment	Officer Response
The development at Silver Lake would provide support to the Duke of Edinburgh Programme for Award for Young People. It would provide a safe environment and a place to learn new skills and study about nature and wildlife	All matters raised are noted and addressed within the main body of this and the original reports.
The development would support tourism and employment.	All matters raised are very similar to those previously raised and are all addressed within the main body of the original and this report.
The site would be a nice place to visit.	
The development would be a benefit to other local businesses.	
The development would save the wildlife site.	
The proposed development would reduce the need for travelling to reach such facility.	
The development would be a great benefit to the younger community, older people and other visitors.	

9. **REASONS FOR REFUSAL**

- 1 The application site, which is a Local Wildlife Site, lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The proposed development would result in an unsuitably located tourist accommodation within the countryside with associated visual impacts and insufficient information has been submitted to demonstrate that there is an identified need of such tourist accommodation and facility in the area. Therefore, the development is unacceptable and contrary policies S1, S2, S8, and E5 of the Maldon District Local Development Plan (MDLDP) (2017) and Government advice contained within the NPPF (2012).
- 2 The application site, which is a Local Wildlife Site, lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the NPPF. 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 MDLDP to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the character of the Wildlife Site and it would result in a development disconnected and isolated from the existing settlements. By reason of its location, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. Insufficient information has been submitted to demonstrate the essential need for a workers accommodation in this location and therefore, the development would be unacceptable and contrary to policies S1, S2, S8, H4 and H7 of the MDLDP (2017) and Government advice contained within the NPPF (2012).

- 3 The proposal would introduce noise and disturbance, in close proximity to existing residential properties, at unsociable times of the day. It has not been demonstrated to the satisfaction of the Local Planning authority that the proposed development would not cause material harm to the amenity of the occupiers of residential properties. The development is therefore unacceptable and contrary to policies S1 and H4 of the MDLDP (2017) and Government advice contained within the NPPF (2012).

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

to
SOUTH EASTERN AREA PLANNING COMMITTEE
16 JULY 2018

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.

1. **RECOMMENDATION**

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

2. **SITE MAP**

Please see overleaf.



3. **SUMMARY**

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

Site description

- 3.1.1 The site covers an area of approximately 12.9 hectares and it is a designated nature reserve. It is broadly square in shape and it is located to the northwest of Tillingham Road, outside the settlement boundaries.
- 3.1.2 The site is predominantly covered by woodlands and contains three lakes/ponds. The Silver Lake is sited to the southern part of the site. It is a natural habitat for fish and wildlife, which according to the applicant was previously managed by Wildlife Trust and it was purchased by the applicant in 2015.
- 3.1.3 There are three access points available to the site, two along Rushes Lane and one off Tillingham Road. The site is mainly gated; however, a public footpath which is accessed from the southern entrance runs along the southwestern boundaries of the application site.
- 3.1.4 To the southeast of the site is a former quarry. Residential properties are sited mainly to the south of the application site, while to the north and east the area is primarily used for agricultural purposes.
- 3.1.5 It should be noted that without the necessary planning permission the erection of a number of structures (lodges and outbuildings) and the change of use of the site to residential use has taken place. It is noted that at the time of the site visit six fish breeding pods have been installed on site and it has been confirmed by the applicant that the site is already used for educational/tourist purposes. The current application is not for the same purposes and it has not been submitted to regularise the existing development on site.

Description of proposal

- 3.1.6 The proposal is to use the application site at Asheldham Pit, which is a designated Local Wildlife Site, as a leisure/education/fishing centre, including visitor accommodation. Main facilities/attractions provided on site would include a tea room, an education centre, the log cabins and fishing in the lake. At present there are four unauthorised buildings on site and an additional four small scale storage sheds, which are proposed to be retained on site, although one of them in an alternative location. An additional seven buildings are proposed to be erected. The buildings, both existing and proposed, would be used as follows:
 - A workers dwelling with associated outbuilding to rear
 - A welcome centre
 - A tea room
 - An education centre
 - Six holiday log cabins

3.1.7 As part of the proposal a new car park is proposed to be formed at the southern part of the application site as stated above. Six fish breeding pods have already been installed on site.

3.1.8 The proposed buildings would be finished in timber and they would be as follows:

- The proposed tea room would be approximately 14.8m wide, 9.8m deep with a maximum height of 3.4m. A raised decking is proposed to be erected adjacent to the tea room, measuring 3m deep and 14.8m wide. The tea room would be located to the south of Silver Lake at the position where there is a redundant pump room. The tea room would provide approximately 52 covers including the outdoor seating area.
- The proposed holiday log cabins would be located along the west side of Silver Lake. Five of the lodges would be one bedroom cabins with an open plan kitchen/lounge/diner and a bathroom. Each log cabin would measure around 5.8m wide, 5m deep, with a maximum height of 3.2m. One of the existing outbuildings to the northwest of the site would be relocated to the Silver Lake to form the sixth log cabin. This would be a two bedroom lodge, with an open plan kitchen/lounge/diner and a bathroom. All cabins would be 'floating' on the lake and they would have a veranda wrapping around the cabins, having an approximate depth of 3m. The cabins would be accessed via small walkways linked to the main existing path.
- The education centre would be sited at the north point of the dipping pond and would measure approximately 9.1m wide, 3.8m deep, with a maximum height of 3.9m. A small class room would be formed, with a store/cloaks room and WC. A maximum of 20 pupils/people would be able to attend the classes concurrently, due to the size of the room.
- As noted above, there are four existing structures on site and an additional four small storage sheds. One of them would be retained on site at its current position to be used as the workers accommodation dwelling. This building is already used for such purposes unlawfully. Externally the building is of a standard rectangular shape and it measures 13.4m wide, 7.4m deep, with a projecting porch measuring 1.5m x 2.3m. The maximum height of the structure is 3.4m. Internally the building accommodates three bedrooms (one en-suite), an open plan kitchen/lounge/diner and a bathroom. The existing outbuilding to the rear of the dwelling and the small four structures would be retained at their current position.
- The second structure adjacent to the proposed worker accommodation is proposed to be used as a welcome centre. This building is of the same design and dimensions with the proposed residential unit. Internally the building would be in a form of a store, an office, a meeting room including a kitchen, a utility and a bathroom.

3.1.9 Various supporting information have been submitted with the application, including a Planning Statement, a Tourism Report, a Fishery Development Report, a Business Plan, an Ecological and an Arboricultural Reports and a Flood Risk Assessment. A letter from the Forestry Commission has also been submitted.

- 3.1.10 The applicant has gone through the pre-application process and a number of concerns were raised at that stage. These related to the submission of further details in support of the application to demonstrate the need of such development in this location, its access to other leisure uses and sustainable transport, as well as details of the need for a workers accommodation on site. Numerous concerns were raised regarding the submitted business plan, which was considered to be frail. Other matters raised related to the impact of the development upon the countryside, the visual impact of the tea room, due to its proximity to the highway, the impact of the development on the existing fauna and flora and the landscape. Additional information in relation to the parking provision and access to the site were also requested to be submitted with the application.
- 3.1.11 It is noted that following a site visit, a number of structures which have not been shown in the originally submitted plans have been identified. Following discussion with the applicant, the plans have been amended accordingly to include all existing, retained and proposed structures.

3.2 Conclusion

- 3.2.1 Having taken all material planning consideration into account, although a positive approach is taken to the provision of local tourism and other proposed facilities, an objection is raised to the principle of the proposed development, given that insufficient information has been submitted to justify the need of such tourist accommodation and facilities in the area, a good connection with other tourist attractions and sustainable modes of transport. An objection is also raised to the lack of evidence to demonstrate that the development would not adversely impact upon protected species and wildlife. Inadequate information has been also submitted to justify an essential need for a workers accommodation within the site. In light of the above, it is considered that the development would be contrary to the aims of the development plan and in particular those expressed in policies S1, S2, S8, E5, H7 and N2. For those reasons it is considered that the benefits arising from the proposed development cannot outweigh the potential harm caused by the development in the local wildlife site and locality more widely.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2012 including paragraphs:

- 7 - Three dimensions to sustainable development
- 8 - Roles of sustainable development
- 14 - Presumption in favour of sustainable development
- 17 - Core planning principles
- 28 - Supporting prosperous rural economy
- 29-41- Promoting sustainable transport
- 56-68 - Requiring good design
- 69-78 - Promoting healthy communities
- 109-125 - Conserving and enhancing the natural environment

- 196-197 - Determining applications

4.2 **Approved Maldon District Local Development Plan (July 2017) Policies:**

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S7 – Prosperous Rural Community
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1– Design Quality and Built Environment
- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy E1 – Employment
- Policy E5 – Tourism
- Policy E6 – Skills, Training and Education
- Policy H4 – Effective Use of Land
- Policy H7 – Agricultural and Essential Workers’ Accommodation
- Policy N2 – Natural Environmental and Biodiversity
- Policy T1– Sustainable Transport
- Policy T2 – Accessibility

4.3 **Relevant Planning Guidance / Documents:**

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

5. **MAIN CONSIDERATIONS**

5.1 **Principle of Development**

Principle of development – tourist accommodation/destination

- 5.1.1 The LDP has been produced in light of the NPPF’s emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three dimensions identified in the NPPF.
- 5.1.2 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that “*The Council will support sustainable developments within the defined settlement boundaries*”. The policy goes on to state that “*development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacts upon and provided it is for.....b) employment generating proposals (in accordance with policy E1)f) rural diversification, recreation and tourism proposals (in accordance with Policies E4 and E5); g) Agricultural and essential workers’ accommodation (in accordance with Policy H7)*”

- 5.1.3 The application site is located outside the defined settlement boundaries and therefore, the impact of the development on the intrinsic beauty of the countryside should be assessed along with exception policies E5, E6 and H7.
- 5.1.4 Paragraph 28 of the NPPF states that to promote a strong rural economy, local and neighbourhood plans, within others, should:
- *support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres;*
- 5.1.5 Policy E5 states that *“The Council will support developments which contribute positively to the growth of local tourism in a sustainable manner and realise opportunities that arise from the District’s landscape, heritage and built environment.”*
- 5.1.6 The policy goes on stating that *“Development for new tourist attractions, facilities and accommodation will be supported across the District where it can be demonstrated that:*
- 1) There is an identified need for the provision proposed;*
 - 2) Where possible, there are good connections with other tourist destinations, the green infrastructure network and local services, preferably by walking, cycling or other sustainable modes of transport;*
 - 3) There will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people; and*
 - 4) Any adverse impact on the natural and historic environment should be avoided wherever possible. Where an adverse impact is unavoidable, the proposal should clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. Where a development is deemed relevant to internationally designated sites, the Council will need to be satisfied that a project level HRA has been undertaken and that no potential significant adverse impact has been identified.”*
- 5.1.7 The site is a designated nature reserve and local wildlife site and the development proposes to provide facilities to be used in association with the existing use of the site. It is noted that although the Council will support the growth of local tourism, that should only be allowed when it is in a sustainable manner, not adversely impacting upon the character of the area and developments that benefit local businesses, communities and visitors. For that reason, evidence is necessary to be submitted to demonstrate the need of such type of tourism in the area along with other justifications regarding the sustainable access of the site and relevant business plan and programme to demonstrate the viability of the proposal. To support the proposal, the applicant has submitted a number of supporting information, as stated in the ‘Description of proposal’ section.
- 5.1.8 In relation to the first requirement of policy E5, the ‘Site Development Assessment’ submitted includes information in relation to the need of the tourism industry in

Essex. The proposed development would provide accommodation in a form of self-catering and the supply of similar type of accommodation (11 holiday centres) within a 10km radius from the site have been looked at. Nonetheless, it is noted that the details submitted relate to the need of self-catering accommodation are on a broader than local level, given that it assesses the visitor accommodation trends in Essex and England rather than the local need of the District. Whilst it is accepted that the information provided suggests that for out-of-season months (between October and May) there is a preference of high quality (4 star) visitor accommodation (similar to what is currently proposed on site) in rural locations in England, when the occupancy of visitor accommodation in Essex is lower, that does not necessarily demonstrate a need of such accommodation in the local area. Other statistics in relation to the increase of holiday lodge accommodation at a national level have been included within the assessment. Whilst all the above information is acknowledged, it is considered that by reason of the lack of information regarding the need of this type of accommodation at a local level, the need of such accommodation in the district and in the area more particularly has not been adequately justified.

- 5.1.9 With regard to the second requirement of policy E5, the outcomes of a Destination Research Economic Impact of Tourism Model have been submitted. This suggests that visitor expenditure on actual accommodation in Maldon accounts to about 34% and the rest is going towards other tourist business, such as food and drink, shopping, entertainment and transport. The findings of the report endorse the argument of the second requirement of policy E5, which requires the development to be in close proximity to other tourist destinations, the green infrastructure network and local services.
- 5.1.10 A number of other tourist attractions in the wider area are identified within the Tourism Report and Planning Statement submitted. Maps have been included showing the extent of the public footpaths. All suggested tourist attractions, including walking to St Lawrence, to Burnham-on-Crouch or to St Peter's Chapel in Bradwell-on-Sea are destinations that can generally be accessed from any location within the Southeast area of Maldon District. The site itself is not located within walking distance from the defined settlements and the majority of the destinations proposed are in a distance away from what would be considered a walking distance (some of them between 5 to 10 miles away from the site – this is around one and a half to two and a half hours away from the site on foot). Whilst the development itself would be a tourist attraction, it is considered necessary that a good level of connectivity with other tourist attractions and facilities is necessary to attract visitors and secure the viability of the site, as well as ensuring that it is a sustainable form of development.
- 5.1.11 Asheldham, the nearest village to the site, is a rural village with no defined settlement boundary and the nearest settlement infrastructure and related services in Southminster are significantly away from the site (around one and a half miles away). The nearest bus stop to the site is around 0.3miles away and it provides limited and infrequent links to with local services, amenities or other attractions. The nearest train station is in Southminster, which is approximately 1.5miles away from the site. On that basis, it is considered unlikely that the users would use public transportation for their trips. To the contrary it is considered that future visitors and staff would be dependent on private vehicles to access facilities or tourist destinations.

- 5.1.12 The third criterion relates to the impact upon the character and appearance of the area, which is further assessed below.
- 5.1.13 The site is a nature reserve and therefore, under the terms of criterion 4, consideration should be given to the impact of the development on the natural environment. It is stated that since the applicant purchased the site, the land has been maintained, given that it was previously mismanaged and left unkempt. Furthermore, as part of the development it is proposed to preserve and enhance the site. In support of criterion 4 a Phase 1 Habitat Survey, an Ecological Report and an Arboricultural Report have been submitted. The details of this requirement are further assessed below in the relevant section of the report.
- 5.1.14 To demonstrate viability of the proposed development, the applicant has submitted a business development plan. The plan includes information in relation to the short, mid and long terms objectives of the proposed development, a competition analysis, financial information based on comparable businesses and details of the initial layout costs.
- 5.1.15 Although initial concerns were raised at the pre-application stage in relation to the business plan submitted, limited attempt has been made to create a more robust business plan. Whilst it is accepted that some additional potential costs, such as food purchase, have been included in the business plan, there are still a number of concerns in relation to the content of the submitted business plan, which appear to be rather ambitious and frail. Concerns particularly relate to the following:
- The location of the site would suggest that 75 covers for 5 hours a day for 312 days of a year is particularly ambitious, meaning that the tea room would be almost one and half times fully covered every opening day. No information of the covers of similar café/tea rooms in the southeast area of Maldon District has been submitted as comparable to demonstrate that this is a realistic number of covers.
 - It is noted that the income from the lodges is based on a 78% occupancy rate. This occupancy rate has been suggested by 'Visit England' relating to expected occupancy of lodges. It is considered that it would have been more appropriate for the occupancy levels to be justified on the basis of the occupancy of similar type of accommodation in the district, given that tourist attraction is very relevant to the destination and thus, occupancy may vary from place to place quite significantly. Furthermore, it is likely that any new enterprise will need time to build up to their optimum capacity.
 - Six fish breeding pods are already located on site. Although it is accepted that fish would breed on site, there would still be a stocking cost. This has been confirmed by the Fisheries Management Consultant in the submitted Fishery Development Report which states that a minimum initial stock would be required. It is noted that an introduction of various fish sizes is advisable from which large sized fish could be very expensive. The report also confirms that management of the lake and early checks of the water quality would be required. A number of management options are given within the report. The costs of sales forecasts appear to be a little simplistic in that respect, lacking information in relation to these necessary costs.
 - There are a number of 'multiplications' within the fishery calculations that have not been explained. The income of the lake is compared to the income generated in three other lakes (Lakeland Fishery, Clavering Lakes and Oak Lakes) which

size and level of use may be different. Although the potential income per acre generated by the proposed lake has been calculated, the same has not been done for the comparable lakes and thus, it is impossible to come to an accurate conclusion as to whether the suggested income generated by the lake is realistic. Furthermore, the level of use might also require further explanation, particularly as it is noted that the three examples given are in much closer proximity to towns with larger populations of potential customers which is not necessarily the same for the application site, which is also not established for such purposes yet.

- There appears to be no allowance (depreciation) for any form of financing for the initial outlay of £247,000.
- There is no reference to there being any costs associated with the initial provision of the worker's dwelling, the education centre and welfare cabin that are proposed.
- It appears that the electricity and water costs for the fishery element of the development are very low (£150 and £200 respectively) considering the existence of six breeding pods on site. The submitted fishery report states that fish breeding through a controlled system requires aerated tanks and high oxygen levels in the water to ensure no loss of fish. Continuous power supply is a requirement to achieve that. It is therefore considered that the cost of electricity required for this element of the development has not been taken into consideration.
- Other inconsistencies within the business plan include the lack of consideration of costs in relation to national insurance and pension costs of the employees.
- The submitted Fishery Development Report states that angling station would be formed on site and no consideration the cost of associated works has been given consideration.
- The above omissions and simplistic approaches result in a profitability of 85.99% (Cost of Sales compared to profit) which appear to be rather optimistic.

5.1.16 For the reasons stated above, it is considered that there are reasonable grounds to question the content of the business plan and subsequently the viability of the scheme that is for consideration.

5.1.17 One of the mid-term objectives of the proposal is to erect an education centre and policy E6 of the LDP states that "*The Council will work with its partners to support the provision and enhancement of training and educational facilities and opportunities in the District*". Part of the scheme is to offer the site for use by local schools and other educational organisations. A number of letters from Green Earth Learning, Essex Outdoors (Essex County Council), Southminster Guides and Duke of Edinburgh have been received expressing their interest in using the site for various purposes, including engaging young people with the nature, using the site and the education centre for expeditions for the Duke of Edinburgh, using the lake for canoeing and utilising the site for overnight camps. It is therefore considered that this element of the development is positive and in full accordance with the aims of policy E6.

5.1.18 The site is proposed to be used all year around. No closing period is proposed with the exception of the tea room which would be closed on Mondays. The site is to be used for holiday purposes only and not residential accommodation, as this would be a departure from the 'seasonal occupation' approach currently proposed. It is common practise for conditions to be imposed to restrict the use of a site for holiday purposes only and not as a person's sole or main place of residence. Although it is expected

that the enforceability of any conditions in relation to restricting the use of site to holiday purposes only would be time consuming, there are cases where a full year round occupation was secured by the imposition of conditions restricting the holiday accommodation by the same person or persons to no more than 28 days and securing an up to date register of the names and home addresses of all occupiers of the site (Appeal ref: APP/X1545/A/10/2131783, Site: Eastland Meadows Caravan Park, East End Road, Bradwell-on-Sea CM0 7PP, Application Ref: FUL/MAL/09/01061). Taking into consideration the above, no objection is considered reasonable to be raised in relation with regard to the proposed year-round occupancy of the holiday log cabins.

Principle of development - workers accommodation

- 5.1.19 A building used for residential purposes is located on site which is proposed to be used as a workers dwelling. It is noted that outside the development boundaries the Council will only support residential development when it can be demonstrated that there is an essential need for full-time employees to live at their location of work, that would only be allowed for a temporary period of three years in the first instance and only after this period on a permanent basis. This should be in accordance with policy H7, which states that *“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.”*

- 5.1.20 The planning statement submitted suggests that the workers accommodation is required to be on site to manage the fishstock and breeding tanks, manage the visitor accommodation, assist local schools and other educational organisations' visits and for security purposes.
- 5.1.21 Although it is accepted that the site, if developed as proposed would require management, it is noted that it is not an established business and the submitted business plan for the reasons detailed above cannot justify the functional need of a workers accommodation on site. The abovementioned reasons given by the applicant regarding a permanent retention of a dwelling on site are not considered sufficient to demonstrate a need. Primarily, there are various ways that security of the site can be addressed and this solely as a reason cannot justify the need of a permanent worker accommodation on site. Furthermore, with regard to management of fishstock and breeding tanks, it is considered that the installation of a portable power generator could be an alternative, more cost effective way to manage fish than the provision of a

dwelling on site option. The proposal is for self-catering holiday accommodation and thus, it is considered that there would be limited need for a manager to be there at all times. As stated above it is considered that the business plan is rather optimistic and due to a number of omissions or simplistic approaches, it is considered that it cannot carry much weight in terms of the short or long term sustainability of the scheme. It is therefore considered that the proposed workers dwelling is contrary to the requirement of criterion one as set out in policy H7.

- 5.1.22 With regard to criterion 2, no evidence has been submitted by the applicant demonstrating that there are no available dwellings in the surrounding area or nearby villages to serve the need of the applicant, until the business is established.
- 5.1.23 The content of the business plan has been assessed in full above. There are numerous reasons why the business plan is considered inadequate in terms of providing a robust document demonstrating the viability of the business. For that reason and whilst it is recognised that the business would be profitable once established, the level of profitability is in doubt and this questions the need for a worker's dwelling on site.
- 5.1.24 The proposed dwelling is a three bedroom house. No details of the occupants of the dwelling have been submitted and therefore, the need for such a size of dwelling cannot be fully assessed.
- 5.1.25 Criterion five together with the rest of the impact of the development on the character of the nature reserve and the wider undeveloped area is assessed in the relevant section of the report below.
- 5.1.26 In light of the above and subject to assessment regarding the impact of the development on the character and appearance of the countryside and nature reserve, whilst the policies of the Local Development Plan provide a positive steer towards and encouragement of local tourism and other related uses subject to compliance with the policies set out above, concerns are raised regarding the justification for the proposed tourist attraction and workers accommodation on site. For that reason and on the basis of the submitted details an objection is raised to the principle of the proposed development.
- 5.1.27 Whilst the building is already positioned on site, it constitutes an unlawful use and therefore, this does not carry any weight, as it is in the Council's power to consider the expediency of taking enforcement action against the structure and request its removal from the site.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that "*The Government attaches great importance to the design of the built environment. Good design is a key*

aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.

- 5.2.3 Paragraph 64 also states that “*permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*”.
- 5.2.4 This principle of good quality design is reflected to the approved MDLDP. The basis of policy D1 of the approved MDLDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - b) Height, size, scale, form, massing and proportion;*
 - c) Landscape setting, townscape setting and skylines;*
 - d) Layout, orientation, and density;*
 - e) Historic environment particularly in relation to designated and non-designated heritage assets;*
 - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
 - g) Energy and resource efficiency.*
- 5.2.5 It should be also noted that policies S2 and S8 of the LDP seek to avoid new development outside defined development boundaries, and LDP Policy D1 requires new development to be of a good standard of design and to contribute to and enhance local distinctiveness.
- 5.2.6 The site is a nature reserve and it is located outside the defined settlement boundaries. Given the sensitive nature of the site, careful consideration should be given to the design and scale of the proposed log cabins. At present four timber cabins are already unlawfully located on site. An additional seven timber cabins are proposed to be sited on site in various locations mainly at the southwestern part of the site around Silver Lake.
- 5.2.7 The proposed development would increase levels of activity and human presence on site and the introduction of built structures, which would contrast the general character of the local wildlife site. Although it is recognised that the site is at present largely undeveloped, covered with mature trees and that it would be expected to be seen at nature reserve sites, it is considered that the introduction of a limited number of relatively small scale structures, which materials would not detract from the character of the area would not result in a materially harmful impact on the character and visual appearance of the site.
- 5.2.8 With the exception of the proposed tea room and the existing residential units, which are proposed to be used as a worker’s dwelling and welcome centre, the rest of the proposed log cabins are of modest scale. Even when taken the development as a whole, whilst some of the log cabins are larger in scale, the overall coverage of the buildings would be limited when compared to the application site, which spreads in around 12.9 hectares.

- 5.2.9 Concerns were initially raised regarding the size of the proposed tea room, which is in close proximity to the proposed car park and would be the structure that is closer to public vantage points. To address these concerns, a section showing the ground levels and the topography of the site which slopes downwards to the lake has been submitted. This section drawing shows that the ridge of the proposed tea room, which a single storey building, would be sited around 1.4m lower than the parking level. Whilst the development would maintain some visibility from the hard standing area (proposed car park) and when approaching the site from footpath no. 8 to the south of the site and from footpath no. 5, given the sloping ground levels, it is not considered that the visual impact to the streetscene would be reduced to some extent.
- 5.2.10 To assess the visual impact and effect of the development on the landscape, a Landscape and Visual Impact Assessment has been submitted with the application. Six viewpoints mainly along the southern part of the site have been selected, from the proposed hard surfaced area, and two viewpoints of footpath no. 5 which runs along the south-eastern part of the application site. The development would be readily visible mainly from these two viewpoints, but also from along footpath 5, predominantly during winter season. The structure that would be closest to the footpath would be the tea room, which would maintain a minimum distance of 20m from the public right of way. Additional distance would be maintained between the structures and the viewpoints along the southern part of the footpath. Nonetheless, it is considered that the development would alter the appearance of the wildlife site and it would also alter the rural character currently experienced by users. Although no objection is raised to the design of the proposed structure, there are concerns in relation to the impact of the development on the existing character of the site and the visual impact from public vantage points.
- 5.2.11 This distance is considered to be adequate to overcome any adverse impacts caused by the proposed buildings on site.
- 5.2.12 The proposed log cabins would not be exceptional in design terms; however, as timber structures they would blend in with the overall character of the area. The cabins would have shallow pitched roofs, with front overhanging elements. Sufficient level of fenestration is proposed to be provided to all buildings and therefore, the development would not result in blank walls and unattractive elevations. It is also not ideal that all cabins are very similar design and no distinctive design of the tea room or the education has been considered to define the alternative to holiday accommodation uses. Whilst it would be more interesting to see a higher quality design to support the proposed high quality accommodation and business plan submitted, on balance, notwithstanding concerns in relation to justification for the erection of built form in the countryside, it is considered that the design of the proposed timber log cabins, when considered in isolation, would be acceptable.
- 5.2.13 The site has three existing accesses, one onto Tillingham Road and two onto Rushes Lane. The proposal is to use the access onto Tillingham Road as the main access for visitors. A car park for 44 vehicles is also proposed to be formed adjacent to the access. No objection is raised to the proposed access arrangement. The area where the car park is proposed to be erected is mainly open, partially hard surfaced and partially grassed over. Although it is accepted that the proposed car park would result in a car dominated entrance, taking into consideration that at present there is no

mature vegetation that would require retention and this is also the most sensible location to accommodate this element of the development, on balance, no objection is raised in that respect. It is noted that concerns have been raised by the Coast and Countryside Officer regarding views into the car park. Landscaping the area would be a requirement to soften its appearance and visual impact. Furthermore, grasscrete is proposed as finishing material of the parking area which is considered to be appropriate for the site. Should permission be granted, the details of landscaping would have been secured by condition.

- 5.2.14 A smaller car park is also proposed at the Rushes Lane entrance, which would be for three vehicles solely in relation to the proposed workers accommodation. Whilst three parking spaces are not required for the dwelling, this element of the proposed development would have minimal impact on the character and appearance of the site.
- 5.2.15 Six fish breeding tanks have already been installed on site. These are located in the middle of the site and would only be visible from the existing paths within the application site. Given their limited scale and utilitarian purposes, no objection is raised regarding this element of the development.
- 5.2.16 Concerns have been raised by the Urban Design Officer in relation to layout of the proposed development and in particular the position of the Welcome Centre. That was mainly due to its remoteness from the visitor parking and the main access to the site. Although this is a reasonable point raised by the Urban Design Officer, as the location of the 'Welcome Centre' is not in a discreet/hidden part of the site it is considered to be wholly illogical, it is not considered to result in detrimental visual impact as to warrant refusal of the application on those grounds.
- 5.2.17 The site is a local wildlife site outside the defined settlement boundaries and the proposed development would introduce built form in an area which would otherwise be an open woodland site. The Development Plan contains exception policies where developments outside the defined settlement boundaries could be acceptable, given that the benefits of the development would outweigh the harm, always subject to protection of the intrinsic character and beauty of the countryside. On that basis, it is only when the Council is satisfied by the principle of development, when the impact on the countryside could be considered acceptable as an exception. In this instance, if the development was in accordance with the exception policies the impact of the proposed structures would not constitute a reason for refusal. However, given the current circumstances, it is considered that the impact of the development has not been justified in a way that would be able to outweigh the harm.

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 It is apparent that the proposed development would increase the levels of activity on site. Residential properties are sited to the south and northwest of the application site, some of which are in close proximity to the proposed car park, which would be affected by the noise and activity of the site, mainly from the vehicle movements. It is noted that a quarry is located to the southeast of the application site, in very close

proximity to these properties and noise and disturbance would be generated by this use and surrounding highways during day time. Therefore, the development is not expected to generate an increase in noise levels greater than that caused by the existing surrounding uses at day time within week days. However, part of the proposal is to use the site all year-round, including weekends, during day and night times. Fishing in the lake is also proposed during night times as well as the use of the site for holiday purposes. Whilst restriction of the opening hours is proposed by the Environmental Health Officer, it is noted that this element of the development is fundamental to the proposal and any such restriction would materially alter the principle of the proposed development and it would also impact upon the expected revenue. Furthermore, it would be neither reasonable nor enforceable for a condition to be imposed limiting the number of fishermen or visitors on site at any one time. It is a reasonable expectation for adjoining residents to be able to enjoy their properties, particularly at weekend and night-time when ambient background noise is at its lowest, without the disturbance of unregularised and intermittent noise pollution. On that basis, it is considered that the use of the site, as proposed, would potentially cause noise and disturbance, from the uses proposed within the site and vehicular movements, to an extent that would be detrimental to the amenities of the neighbouring occupiers.

- 5.3.3 By reason of the distance of the proposed structures from the nearest residential properties it is not considered that they would result in a detrimental impact on the amenity of the neighbours in terms of loss of light, dominance or overlooking. On the basis of that, no objection is raised to the impact of the development on the amenity of the nearby occupants.
- 5.3.4 It should be noted that with the exception of the potential impact of the development caused by the use of the Rushes Lane (which as explained below is not proposed to be used by visitors), general support has been expressed regarding the development from local people.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policies D1 and T2 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.

Car parking provision

- 5.4.2 A car parking area is proposed to be formed to the southern part of the application site providing parking for 44 vehicles. A smaller parking area for three vehicles is proposed to serve the residential unit. In terms of the parking requirements the following would apply for the proposed development, in accordance with the Authority's Vehicle Parking Standards:

- Visitor accommodation (C1) – 1 space per bedroom
- Tea room (A3) – 1 space per 5sqm
- Dwelling – a maximum of two parking spaces for a two or three bedroom dwelling.

- There are no specific parking standards for the proposed education centre; however, given that this element of the proposal would potentially attract a number of tourists, schools and other organisations, it is considered reasonable that provision of parking and turning facilities for vehicles and coaches would be required.
- Parking provision would also be required to be provided for the fishery use of the site and presumably there would be a need to cater for other visitors to the site.

5.4.3 On the basis of the above standards, excluding the parking requirement for the education centre and the fishery use, a total of 37 parking spaces would be required. The development would provide a total of 47 parking spaces. It is considered unlikely that the tea room and log cabins would always be in full occupancy to result in a requirement of 35 parking spaces. It is therefore considered that the provision of 47 parking spaces would be sufficient and it would be able to meet the off-street parking needs of the proposed use, without adversely impacting upon on street parking provision.

5.4.4 Although the above-mentioned standards are expressed in maximum and overprovision of parking is contrary to policy, it is considered that due to the needs and isolated location of the site, the proposed level of parking is considered acceptable.

Trip generation

5.4.5 It is apparent that the proposed use would increase vehicle movements. A transport statement has been submitted with the application including a TRICS assessment for the holiday accommodation element of the development, which concludes that the development would increase the current vehicle movement on Tillingham Road by approximately 2%, which is considered to be an insignificant increase. However, it is noted that apart from the holiday log cabins, the development would involve the use of the site for a number of other purposes and no consideration has been given to that in the trip generation assessment. The business plan and planning statement submitted suggest that the site would attract a number of groups, such as local schools and other educational organisations, a large amount of the annual income is expected from day tickets which would be available for fishermen and anglers, an approximate 400 night-fishing sessions per annum are expected from young people, anglers with disabilities, family groups and the elderly, which is a small part of the fishery element of the development. It is also suggested that the tea room would produce 75 covers per day. No consideration has been given to these elements of the development which are expected to generate a much higher volume of trips from those generated by the log cabins. The submitted Transport Assessment due to the lack of information cannot demonstrate the impact of the development on the highway network. Nonetheless, following discussion with the Highways Authority, it has been confirmed that the development, when taken as a whole, is unlikely to result in unacceptably impacts on the highway network and thus, no objection is considered reasonable to be raised in that respect.

Access

5.4.6 Access to the site is proposed to be gained mainly via Tillingham Road. As noted above there is also another access onto Rushes Lane, which is proposed to serve only

the worker's dwelling. Both accesses are existing and the access arrangement off Tillingham Road is proposed to be upgraded to ensure that suitable visibility splays can be provided. The Highways Authority has been consulted and raised no objection to the proposed access, subject to the imposition of a condition providing sufficient visibility splays.

Sustainable transport

- 5.4.7 It is stated that the site would be easily accessible by bus, train and on foot. Concerns have been raised above in relation to the accessibility of the site to alternative to private vehicle transportation and therefore, the Local Planning Authority maintains its objection with regard to the accessibility of the site.

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 Maldon 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 The standards for private amenity space only apply to the proposed workers accommodation. Although no defined boundaries have been shown around the proposed worker's accommodation to form its curtilage, there is sufficient space for the future occupants of the dwelling to meet their outdoor requirements. Given the nature of the site and the existing formalised area to the rear of the building, no objection is raised in relation to the amenity area provision.

5.6 Ecology and trees

- 5.6.1 The site is a designated Local Wildlife Site and therefore, consideration should be had to conserving and protecting the natural environment. These principles are reflected within policy N2 of the LDP which states that *"All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance."*
- 5.6.2 To address the above and in order to demonstrate that development would not adversely impact upon designated sites or protected species, the applicant has submitted a Preliminary Ecological Appraisal and an Arboricultural Report.
- 5.6.3 The Preliminary Ecological Appraisal concludes that the impact of the development on the local wildlife site would be minimal, as the proposal would affect small, focussed areas and the majority of the site would remain unaffected. Any potential impacts could be managed through the production of a site-specific Construction Management Plan. It is noted that further monitoring has been advised within the submitted appraisal in respect of bats, reptile, great crested newt, invertebrate and botanical species. This is proportionate to the scale of the proposal and it is to ensure that management can be appropriately tailored to inform restoration and future management. It is noted that detailed surveys are required to be part of the

application when first submitted and no details for the suggested monitoring have been submitted to demonstrate that the development would not adversely impact upon protected species. As such, although it is acknowledged that the development would be localised and not expand upon the whole site, in the absence of a further protected species survey, an objection is raised to the potential impact that the development would have on these species and an objection has been raised by the Coast and Countryside Officer. In these circumstances, the impact of the development cannot be fully assessed and thus, it has not been demonstrated that the development would accord with the aims of policy N2. Prior to a full survey being undertaken, the Local Planning Authority would be unable to condition the necessary mitigation measures.

- 5.6.4 The site has a Tree Protection Order across the woodlands. A number of trees are proposed to be felled and a licence has been granted in that respect. The applicant has submitted an Arboricultural Report that which suggests that protection of all trees that would be impacted is important and it should be done in accordance with the submitted Method Statement. The proposed development would result in limited loss of trees. The bankside willow trees that would be used for the construction of the cabins would not constitute loss of trees of significant arboricultural value or loss of major tree stock. The Tree Officer has been consulted for the proposed development and works to trees and raised no objection.

5.7 Contamination

- 5.7.1 The application is accompanied by a Phase 1 Geoenvironmental Assessment, which in summary states that no significant plausible pollutant linkages exist in the site. The impact on waters, ecology and human health is considered to be low as no significant sources of pollution have been identified on site. For that reason a Phase 2 Risk Assessment is not recommended. The Environmental health Services have been consulted and raised no objection in relation to potential impacts from land contamination.

5.8 Flood Risk Assessment

- 5.8.1 The site is located within flood zone 1. A Flood Risk Assessment has been submitted due to the site area of the application site, which has investigated the possibility of ground water flooding and flooding from other sources, such as surface water and sewer flooding. It is stated that the risk of flooding would be low. Sustainable Urban Drainage System measures have been suggested to mitigate any potential impacts caused by surface water runoff. Should permission have been recommended the Suitable Urban Drainage Systems (SUDS) details would be dealt with by condition. Subject to the imposition of such condition, no objection is raised with regard to flood risk.

5.9 Waste Management

- 5.9.1 A waste management plan has been submitted in support of the application. This provides information regarding the position of refuse and recycling bins for the tea room, the holiday cabins and the welcome centre. Although the positions of the bin stores have not been shown on the submitted plans, should permission have been granted, the details of the bin stores would have been conditioned to be submitted and agreed by the local planning authority.

- 5.9.2 The site is not connected with the mains sewer and for that reason biomass systems would be installed to provide foul drainage solution. It is noted that the treatment plants are low maintenance. Subject to the submission of details in relation to the foul drainage, no objection is raised by the Council's Environmental Health Services.

6. **ANY RELEVANT SITE HISTORY**

- **PREAPP/17/03160** - Erection of an Education Centre, Tea Room, 6 X Holiday Log Cabins, 1 X Staff/Workers and 1 X Welcome Centre Cabin and associated hardstanding and access points..
- **FUL/MAL/17/01314** - Application for Felling Licence. No objection raised.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Asheldham and Dengie Parish Council	Support the application, due to the benefits that the development would have to the local community the wildlife and tourism.	Comment noted and addressed in section 5.1 of the report.

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highway Authority (ECC)	Although the applicant's submission was not robust, consideration has been given to all potential impacts of the development on the highway network and safety and no objection was raised by the Highways Authority, subject to conditions.	Comment noted
Emergency Planner	The development has a very low flood risk at zone 1 and therefore, no comments have been made in terms of emergency planning.	Comment noted
Essex and Suffolk Water	No objection.	Comment noted
Essex Wildlife Trust	The development should	Comment noted and

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	ensure net biodiversity. A rolling management plan should be secured by condition for the lifetime of the development.	addressed in section 5.6 of the report
Natural England	Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes.	Comment noted and addressed in section 5.6 of the report
Environment Agency	No comments received at the time of righting the report	
SUDS	No comments received at the time of righting the report	
Anglia Water	No comments received at the time of righting the report	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection to the proposal, subject to conditions regarding operating hours, surface water and foul drainage details	Comment noted
Urban Design Officer	Whilst no objection is raised to the principle of the proposed development, the proposed layout requires revision to be functional and practical. Further consideration should be had to the design of the education centre, the tea room and the welcome centre.	Comments noted and addressed in sections 5.1 and 5.2 of the report.
Tree Officer	No objection to this proposal. The better quality trees are located far enough away from the	Comments noted and addressed in section 5.6 of the report.

Name of Internal Consultee	Comment	Officer Response
	<p>building layouts so as not to be affected. The scheme provides the opportunity for new planting and management to help enhance it back to benefiting the local wildlife and landscape amenity.</p> <p>The tree protection measures outlined will need to be adhered to, to ensure every effort to protect the trees is undertaken.</p>	

7.4 Representations received from Interested Parties

- 7.4.1 The neighbours have been notified and site notices have been posted on site and one letter **objecting** to the application was received and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Concerns regarding the use of Rushes Lane to access the site. An increase in traffic would further damage the unmade road and impact on highway safety.	All matters raised are noted and addressed within the main body of the report.
An increase in traffic on Rushes Lane would also have a huge detrimental effect on the enjoyed of the neighbours' properties creating a loss of privacy, disturbance, traffic noise and air pollution caused by vehicles movements.	
A condition restricting the use of Rushes lane should be imposed, should permission is granted.	

- 7.4.2 Sixteen letters **supporting** the application were received and the reasons for support are summarised as set out in the table below:

Support Comment	Officer Response
The development would support tourism and employment.	All matters raised are noted and addressed within the main body of the report.
The development would help correctly manage the nature reserve site.	
The site would be a nice place to visit.	
The site would provide needed facilities in the area, such as fishing and learning opportunities for all ages.	
The development would improve knowledge about the environment and wildlife.	
The development would save the wildlife site and it would bring revenue to the area.	
The proposed development would reduce the need for travelling to reach such facility.	
Support is expressed by educational organisations that they have already used the site for various activities, including volunteering.	

- 7.4.3 One letter **commenting on** the application was received and the comments are summarised below:

Comment	Officer Response
No objection to the proposed development. If the application is approved a condition restricting deliveries and traffic movement along Rushes Lane is requested to be imposed.	Comment noted and addressed in section 5.4 of the report.

8. REASON FOR REFUSAL

- 1 The application site, which is a Local Wildlife Site, lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The proposed development would result in an unsuitably located tourist accommodation within the countryside with associated visual impacts and insufficient information has been submitted to demonstrate that there is an identified need of such tourist accommodation and facility in the area. Therefore, the development is unacceptable and contrary policies S1, S2, S8, and E5 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).
- 2 The application site, which is a Local Wildlife Site, lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the character of the Wildlife Site and it would result in a development disconnected and isolated from the existing settlements. By reason of its location, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. Insufficient information has been submitted to demonstrate the essential need for a workers accommodation in this location and therefore, the development would be unacceptable and contrary to policies S1, S2, S8, H4 and H7 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).
- 3 It has not been demonstrated to the satisfaction of the Local Planning authority that the proposed development would not harm or pose a threat to protected species. The development is therefore unacceptable and contrary to policies S1 and N2 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).
- 4 The proposal would introduce noise and disturbance, in close proximity to existing residential properties, at unsociable times of the day. It has not been demonstrated to the satisfaction of the Local Planning authority that the proposed development would not cause material harm to the amenity of the occupiers of residential properties. The development is therefore unacceptable and contrary to policies S1 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
14 JANUARY 2019**

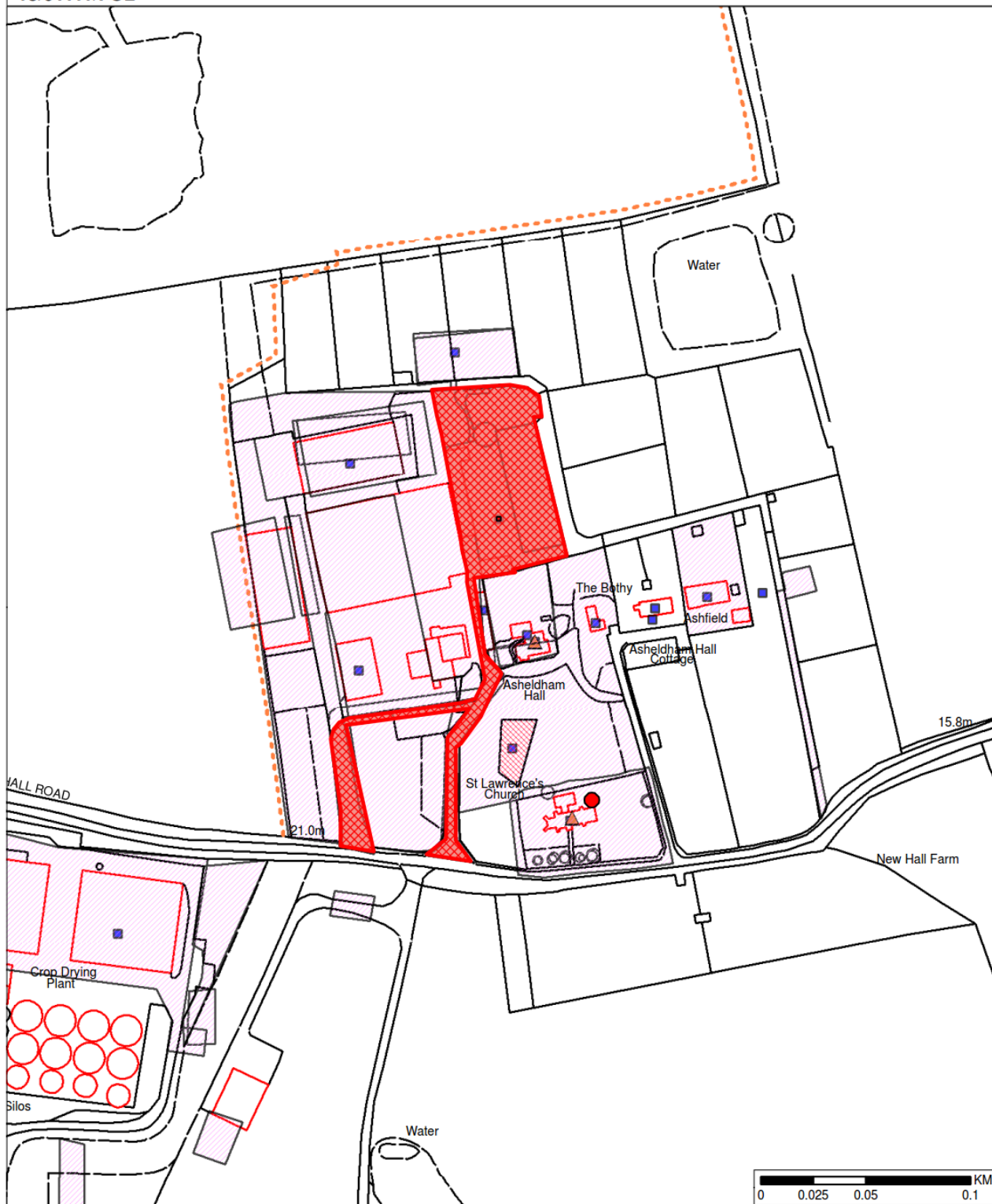
Application Number	FUL/MAL/18/01111
Location	Land North Of Asheldham Hall Farm, Hall Road, Asheldham, Essex
Proposal	Stationing of mobile home for rural workers for temporary period of 3 years. Rationalisation of existing livery business to form part livery and full livery. Erection of 5 stables with associated tack room and feed store
Applicant	Mr & Mrs D Henson
Agent	Mrs Hayley Webb - Smart Planning Ltd
Target Decision Date	07.12.2018 (EOT agreed: 18.01.2018)
Case Officer	Anna Tastsoglou
Parish	ASHELDHAM
Reason for Referral to the Committee / Council	Member Call In – This item has been called in by Councillor R P F Dewick on the grounds of public interest.

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	Not Set
Date:	24/12/2018
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 Site description

3.1.1.1 The site is located to the north of Hall Road, north of Asheldham Hall Farm. The application site covers an area of approximately 0.58 hectares, which consists of a menage, part of a paddock and two access tracks that link the site to Hall Road. The application also includes a long finger of land that measures 250 metres long and connects to the public highway of Hall Road with a separate branch at a point 80 metres from the south boundary that is 'dog-legged' and also connects to the public highway.

3.1.1.2 The application site is part of a larger area of land that is shown to be within the applicant's control which hosts stable and grazing land associated with the equestrian use of the site. The applicant states that the site currently stables 19 horses.

3.1.1.3 A number of large sized storage units are sited to the southeast of the application site. To the south of the application site there are four detached dwellinghouses, one of which is a Grade II listed building (Asheldham Hall).

3.1.2 Description of proposal

3.1.2.1 Planning permission is sought for the erection of stables, the rationalization of the use of the existing stables and the temporary provision of a dwelling all to enable a full livery business to be undertaken with associated residential accommodation.

3.1.2.2 The proposed stables would be located almost centrally at the main part of the application site and would measure 4.2 metres deep and 24.1 metres wide, with a 1.2 metre overhanging roof that would measure 2.6 metres tall to the eaves and 4.2 metres to the ridge.

3.1.2.3 The existing stables at the site were approved under the terms of application FUL/MAL/02/01193 with the following description "*Erection of stable building incorporating 10 loose boxes, a tack and a feed room. Construction of a menage. All to be used as a private DIY livery business between the hours of 8.00 - 18.00 on any day*". An application FUL/MAL/04/00506 was thereafter submitted to vary condition 2 of the application FUL/MAL/02/01193. Condition 2 of that permission states that "*The livery yard, stables, tack and feed room and ménage shall not be open to persons other than between the hours of 08.00 - 20.00 weekdays, 08.00 - 20.30 Saturdays and Sundays (April to October) and 08.00 - 19.00 Saturdays and Sundays (November to March)*". It is therefore considered that the use of the stables is restricted, particularly having regard to the content of the abovementioned condition. The applicant is therefore seeking to rationalize the use of the existing stables to enable part/full livery. For the avoidance of doubt, it is noted that the applicant's submissions include the following definitions with respect to the differing forms of livery:

- DIY (Do It Yourself) Livery is where the horse owner takes full responsibility for all of the care and exercise of the horse.

- Services DIY Livery is where the horse owner takes responsibility for the exercise of the horse and the livery provider undertakes some of the care of the horse such as occasional stable duties and turning in and out.
- Part Livery is where the horse owner takes responsibility for the exercise of the horse and the livery provider undertakes all other care.
- Full Livery is where the livery provider undertakes all exercise and all day to day care for the horse and the owner rides the horse as and when they wish.

3.1.2.4 The proposed temporary mobile home would be located at the north part of the application site and would measure 6.1 metres by 13.7 metres with an eaves height of 2.2 metres and a ridge height of 3.6 metres.

3.1.2.5 The mobile home would accommodate an open plan kitchen and lounge with three bedrooms, a bathroom and one en-suite.

3.1.2.6 In summary, the applicant states that the reason for the proposed dwelling in this location is to serve the equine business, provide 24-hour care and animal welfare, security on the site and reduce the applicants' daily commuting need.

3.1.2.7 No off-street parking has been shown to the plans submitted but the site does benefit from access from the public highway and there is informal, unmarked space within the site on which vehicles could be parked.

3.1.2.8 This application follows the withdrawal of application FUL/MAL/18/00313 after the deferral of consideration of the application at a meeting of the South Eastern Area Planning Committee. That application followed the refusal of application FUL/MAL/17/00840 which was refused for the following reasons:

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

Local Development Plan (2017), guidance contained within the Vehicle Parking Standards (2006) and Government advice contained within the National Planning Policy Framework (2012). ”

- 3.1.2.9 The proposal is now materially different to the previous application as additional stables are proposed, the proposal seeks to rationalize the use of the existing stables and the proposal relates to a temporary mobile structure rather than a permanent dwelling.

3.2 Conclusion

- 3.2.1 Having taken all material planning consideration into account and additional information submitted in relation to the use of the livery business following withdrawal of application FUL/MAL/18/00313, the previously raised objection in relation to the principle of the proposed development have been overcome. Sufficient information has been submitted to demonstrate an essential need for the workers accommodation in this location. No other concerns in relation to the impact on the development on the character of the area, the amenities of the neighbouring occupiers or any highways issues are raised. In light of the above, the previously raised concerns in relation to principle of the development and the visual harm of the development have been addressed and the proposal subject to conditions would be acceptable and in accordance with the policies of the Local Development Plan (LDP) and the guidance contained in the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 83-84 Supporting a prosperous rural economy
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment

4.2 Approved Maldon District Local Development Plan (July 2017) Policies:

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S7 – Prosperous Rural Community
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1 – Design Quality and Built Environment

- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy D3 – Conservation and Heritage Assets
- Policy E4 – Agricultural and Rural Diversification
- Policy H4 – Effective Use of Land
- Policy H7 – Agricultural and Essential Workers’ Accommodation
- Policy N2 – Natural Environmental and Biodiversity
- Policy T1– Sustainable Transport
- Policy T2 – Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The proposal comprises of three parts, the erection of stables, the rationalisation of the use of the existing stables and the use of the site to provide a full livery enterprise and the provision of a temporary dwelling. The principle of these two elements shall be addressed in turn below:

5.1.2 Existing Stables and Livery Use

5.1.2.1 As set out above, planning permission was granted under the terms of application FUL/MAL/02/01193 for the “*Erection of stable building incorporating 10 loose boxes, a tack and a feed room. Construction of a menage. All to be used as a private DIY livery business between the hours of 8.00 - 18.00 on any day*”. Condition 2 of that permission restricted the use by stating that “*No person shall visit the site in connection with the DIY Livery use other than between the hours of 0800-1800 on any day*”. That permission was amended by condition 2 of planning permission FUL/MAL/04/00506 to read as follows “*The livery yard, stables, tack and feed room and ménage shall not be open to persons other than between the hours of 08.00 - 20.00 weekdays, 08.00 - 20.30 Saturdays and Sundays (April to October) and 08.00 - 19.00 Saturdays and Sundays (November to March)*”.

5.1.2.2 The abovementioned permission (FUL/MAL/02/01193) was granted for the erection of a private DIY livery business. Although the change of the DIY business to a different type of livery wouldn’t necessarily require a new planning permission, it is noted that for the purposes of the erection of a dwelling on site, the operation of the livery is a material consideration. This is due to the fact that a DIY livery would not be able to demonstrate a functional need of a dwelling on site, given the DIY nature of the use. To the contrary, a full livery can justify the functional need for a worker dwelling on site, given that is the livery provider that undertakes all exercise and day to day care for the horse.

5.1.2.3 In light of the above, it is considered that use of the site as approved would have restricted the use in such a manner that would have prevented the need arising that would have led to a proposal for the erection of a dwelling in a location where one would conventionally not be located, as will be discussed further below.

5.1.2.4 Policy S8 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 provided it is for inter alia agricultural and essential workers’ accommodation (in accordance with Policy H7) and Agriculture and forestry and related development (in accordance with Policy E4)”*.

5.1.2.5 Furthermore, policy E4 states that *“The Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses where:*

- 1) There is a justifiable and functional need for the building/activity;*
- 2) The function of the proposed building/activity is directly linked, and ancillary to the existing use; and*
- 3) The building / activity could not reasonably be located in existing towns, village or allocated employment areas”*

5.1.2.6 The above policy content is also consistent with the NPPF which, at paragraph 83, states that policies and decisions should enable growth and expansion of all types of business in rural areas. The applicant has provided a business case which demonstrates that the proposal would generate revenue within the rural economy and as such, it is considered that the use of the existing stables for full livery purposes can be supported in principle. It is noted that this might derive a need for a residential dwelling that would otherwise not exist, but in the context of the abovementioned support for the rural economy it is considered that the benefits of the proposal can be found to outweigh this concern. As will be discussed below, the NPPF and policy H7 both allow dwellings to be erected where there is a need for such a dwelling to support a rural enterprise and therefore, it must be read into that policy context, that developments can be supported that might derive a need for a dwelling.

5.1.3 Proposed Stables and Livery Use

5.1.3.1 In line with the above, it is considered that the additional provision of stables at the site can be supported in principle, subject to all other material considerations. It is considered that the proposed new stables can draw support from policy E4, given that a functional need for the buildings has been justified for the proposed livery business, the fact that the buildings would be directly related to the use of the site, which although not the same is similar to the existing use of the site and taking into account that it would have been unreasonable to request for these buildings to be located within a village, given that there is an existing similar equestrian business on site. Therefore, the overarching support for rural development is considered to carry substantial weight in this case.

5.1.4 Temporary Dwelling

5.1.4.1 The site lies well outside the defined settlement boundaries. The nearest village to the application site is Southminster, which is approximately 3km away from the application site.

5.1.4.2 Policy S1 of the Local Development Plan states that *“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, inter alia, the following key principles in policy and decision making:*

- 2) Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations*
- 3) Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*
- 4) Support growth within the environmental limits of the District;*
- 5) Emphasise the importance of high quality design in all developments;*
- 6) Create sustainable communities by retaining and delivering local services and facilities;*
- 12) Maintain the rural character of the District without compromising the identity of its individual settlements;*
- 13) Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community”*

5.1.4.3 The requirement to focus strategic growth to the District’s main settlements is also reiterated in Policy S2. The reason for that is that these areas constitute the most suitable and accessible locations in the District. It is also noted that *“Strategic growth in the rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area”*.

5.1.4.4 Policies S1 and S2, Policy S8 of the approved Maldon District Local Development Plan (MDLDP) seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.

5.1.4.5 The abovementioned policies are in compliance with the NPPF which in order to promote sustainable development in rural areas, suggests that housing should be located where it will enhance or maintain the rural communities. It is also stated that local authorities should avoid the development of isolated residential developments in the countryside, unless special circumstances indicate otherwise, such as in case there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. This is supported by policies H7 and S8 which support agricultural and essential workers accommodation in certain circumstances.

5.1.4.6 Policy H7 of the MDLDP states that *“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.”*

5.1.4.7 It further continues stating that *“In addition to the above requirements, where on-site accommodation is essential to support a new agricultural or forestry or other rural business-related enterprise, permission will only be granted in the first instance for a temporary structure which can easily be removed within three years of the date of planning consent. Any further proposals following this period will be considered using the criteria above”.*

5.1.4.8 The first and third criteria relate to a business need and the existence, or future existence of a viable enterprise. This was deemed to be absent from the previous application as the use of the existing stables is considered to be restricted to only enable DIY livery to take place and therefore full livery, which was the basis for the applicant’s proposed business could not lawfully occur. Through the proposed erection of stables to enable a full livery service to occur and the rationalisation of the use of the existing stables, it is considered that the proposal is materially different to previous proposals and therefore there is a basis to wholly re-assess the need for the proposed residential accommodation.

5.1.4.9 A planning statement accompanies the application where it is stated that the reason for the proposed dwelling is to allow 24-hour care and security of the site as well as avoid the applicants’ daily commuting. It is stated that the applicants have a requirement to visit the site twice a day and they currently reside in Mayland. This results in a total of 18 miles per day.

5.1.4.10 Another reason given by the applicant is that a 24-hour surveillance and care of the horses would be able to support a full livery service which would assist the applicants’ business plan and provide suitable care for the horses at the site. The applicant’s statement includes substantial details of the risks that can occur if horses are not extensively monitored. The applicant has submitted a report from an Equine Consultant which includes a business plan that is materially different to the previous submissions of the applicant, understandably so given the changes to the proposed development. In summary, the submissions of the applicant include the following details:

- Gross Profits (before tax and reinvestment) of £13,414, £24,407 and £36,237 for the first three years.

- This includes an allowance for wages and a salary for the site manager and appears to include allowances for all reasonable costs that would be incurred.
- The business plan is based on the existing 19 stables for the first two years, increasing to the proposed 24 stables for the last year.
- The business plan assumes a 95% occupancy rate which is considered reasonable as there is currently a 100% occupancy rate.
- A proposal to charge DIY livery, Serviced DIY livery, part livery and full livery at rates of £25, £69, £92 and £138 per week respectively.
- The employing of 1.5 part-time members of staff and 1 full-time member of staff by the third year.

5.1.4.11 For these reasons, it is considered that the first and third of the abovementioned criterion have been adequately addressed. It does appear that a business would be operated at the site that would derive a functional need for a dwelling and the business plan behind this proposal appears to be sound. The content of the applicant's submissions are noted with respect to the findings of a Judicial Review and various appeal decisions, but in the most part these are given limited weight as each case has to be treated on its own merits. With respect to the Judicial Review, the content is noted which makes clear that the financial test is intended to be applied less strictly than it was previously.

5.1.4.12 Although no evidence has been submitted by the applicant demonstrating that there are no available dwellings to serve the need of the applicant, it is considered that this is likely to be true. Furthermore, officers have no evidence to suggest otherwise. It is not considered this shortfall, alone, in this instance would be an appropriate reason for refusal.

5.1.4.13 In relation to criterion 4, the applicant states that the proposed dwelling would house two adults and two children. It was previously a concern that the provision of a four bedroom dwelling would have exceeded the minimum requirements of the family that intended to operate the business at the site. The applicant has addressed this concern by amending the proposal to show a three bedroom temporary mobile home and explained the required occupancy of the proposed temporary mobile home. This is considered to have addressed the abovementioned concern.

5.1.4.14 In relation to the fifth criteria, this matter will be fully assessed in the 'design' section below, but as the proposal relates to a temporary mobile home, it is considered that the level of impact is low and reversible.

5.1.4.15 Policy H7 clearly states that the provision of a workers accommodation where it relates to a new enterprise would only be granted permission as a temporary structure, which would be able to be removed within a period of three years. It is only after this period when a permanent structure would maybe considered acceptable, should it comply with all the above mentioned criteria. Although it is noted that the DIY livery has been operating for a substantial period of time, the proposed business would be materially different and for the purposes of this assessment, it must be considered a new business. If this was not the case, the previous use of the site without full time, on-site accommodation would have to be construed as evidence that there is no functional need for the dwelling. By proposing a temporary dwelling instead of a permanent dwelling, it is considered that the previous ground of objection has been

overcome and the proposed temporary dwelling would comply with the requirement of policy H7.

- 5.1.4.16 Unlike the previous proposals, it is considered that the proposal accords with the exception policy H7 and therefore previously raised concerns about the accessibility of the location of the proposed development are considered to fall away.

5.1.5 Summary

- 5.1.5.1 For the reasons set out above, subject to the imposition of conditions and the full assessment of the proposal in all other respects, it is considered that the principle of the development can be found acceptable.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design sought to create a high quality built environment for all types of development.

- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. 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”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.2.3 This principle of good quality design is reflected to the approved MDLDP. The basis of policy D1 of the approved MDLDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:

- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
- b) *Height, size, scale, form, massing and proportion;*
- c) *Landscape setting, townscape setting and skylines;*
- d) *Layout, orientation, and density;*
- e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
- f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*

g) *Energy and resource efficiency.*

- 5.2.4 It should be also noted that policies S2 and S8 seek to avoid new development outside defined development boundaries, with policy S8 stating that development will only be approved “*where the intrinsic character and beauty of the countryside is not adversely impacted upon*”. Policy D1 requires new development to be of a good standard of design and to contribute to and enhance local distinctiveness.
- 5.2.5 It was previously a concern that the dwelling would have represented unwarranted development within the countryside, thereby causing domestication and urbanisation that would have been contrary to the abovementioned policies. The proposed development is now wholly different and therefore it will require fresh consideration.
- 5.2.6 The proposal to erect stables is considered to be acceptable in a countryside location. The site already hosts stables and it is proposed to erect a further line of stables that would be positioned to be parallel to the existing stables and be of similar, conventional appearance. It is considered that this development is therefore in-keeping with the rural character of the application site and would not cause material harm to the character and appearance of the site and the surrounding area to an extent that would justify the refusal of the application.
- 5.2.7 The proposed temporary mobile home would still represent the urbanisation and domestication of the site, but due to the above assessment with respect to the principle of the development, it is no longer considered that this represents unwarranted development in the countryside. It is noted that the structure is temporary and therefore, whilst not having an appearance that would be supported in the long-term, it is deemed to be of adequate appearance for the period that it would be at the site. The impact of the single storey structure is considered to be limited and weight can be afforded to the fact that the impact of this part of the development would be temporary.
- 5.2.8 By reason of the distance of the proposed development from the Grade II Listed Buildings to the south (Asheldham Hall and Church of St Lawrence) it is not considered that it would have a detrimental impact on the heritage assets that would warrant the refusal of the application on these grounds.
- 5.2.9 On the basis of the above, it is considered that the proposed development, by reason of its siting in an open rural area, would not have an unacceptable or unjustified impact on the character of the countryside.

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 proposal is to erect additional stables and a temporary mobile structure to the north of Asheldham Hall Farm within the existing open countryside. The nearest residential dwelling to the application site sits approximately 100m away and this separation distance is considered to be sufficient to mitigate any adverse impact

caused to the nearby neighbours in terms of dominance, overshadowing or overlooking.

- 5.3.3 Although the development would result in a level of activity from the future occupants of the dwelling and the use of the site, given the separation distance to the nearest residential units, it would not result in a materially harmful impact on the nearby occupants' residential amenity, in terms of noise and disturbance. The management of waste products generated at the site will however need to be the subject of conditions.
- 5.3.4 The proposed development would not have any greater impact on the other nearby residential properties.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policies D1, H4 and T2 of the approved MDLDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Maldon District Council Vehicle Parking Standards (VPS) states that residential dwellings comprising three bedrooms require a minimum of two off-street parking spaces.
- 5.4.3 The application site is located to the rear of Asheldham Hall Farm. Following an objection to the first application, the site area has been increased to include two points of direct access to the public highway. Previous concerns in relation to the inability to access the site from the public highway have therefore been addressed.
- 5.4.4 Although parking provision has not been defined within the application site, it is considered that there would be ample space at the site to provide car parking and therefore it is considered that the proposed development would be able to comply with the abovementioned requirements.
- 5.4.5 For these reasons it is considered that one of the previous reasons for the refusal of the first application has been satisfactorily overcome and therefore this application should not be refused for that reason.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide Supplementary Planning Document (SPD) advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms.
- 5.5.2 No outdoor amenity space has been identified, but there is adequate space around the temporary structure to provide amenity space for the temporary dwelling. It is considered that in circumstances, the provision of a formal garden would not be expected and therefore the living conditions would not be unacceptable as a result of a

failure to accord with the abovementioned standards. Furthermore, as a temporary permission, it is not considered that landscaping should be required to mitigate the visual impact of the temporary dwelling. In this location, it is considered that there is also no requirement to mitigate the visual impact of the proposed stable building through the imposition of a landscaping condition.

5.6 Other Material Considerations

- 5.6.1 If approved, matters relating to surface and foul water drainage could be addressed through the imposition of conditions.
- 5.6.2 The applicant has submitted letters of support from neighbouring residents who set out positive aspects of the proposal such as 24 hour occupation reducing the risk of theft and damage, horse care and welfare, the benefit of supporting the existing business and the benefit to housing provision within the District.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/02/01193** - Erection of stable building incorporating 10 loose boxes, a tack and a feed room. Construction of a menage. All to be used as a private DIY livery business between the hours of 8.00 - 18.00 on any day. Planning permission granted.
- **FUL/MAL/04/00506** - Non-compliance with Condition No. 2 of planning permission 02/01193 (hours of use) to increase. Operational times to 8.00-20.00 Mon-Fri, 8.00-20.30 hours Sat and Sun (April to October) and 08.00-19.00 hours Sat and Sun (November to March). Planning permission granted.
- **FUL/MAL/17/00840** – Erection of chalet bungalow – Refused Planning Permission for the reasons discussed above.
- **FUL/MAL/18/00313** - Erection of chalet bungalow in association with livery business – Withdrawn.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Asheldham Parish Council	Support.	Noted.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC) Highway Authority	No objection subject to the imposition of a condition.	Noted, but the suggested condition is not considered to be necessary in this instance.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Sustainable Drainage Systems (SuDS)	No bespoke comments received for the proposal. The development should comply with the standard requirements.	Noted.
Anglia Water Services	No comments received at the time of writing.	
Essex and Suffolk Water	No objection.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions relating to the submission of details of the surface water and foul drainage schemes.	Please refer to relevant paragraphs 5.6.1 of the report.
Economic Development	Support due to the economic benefits and the improved security and welfare for horses.	Noted.

7.4 Representations received from Interested Parties

7.4.1 No representations have been received by the Local Planning Authority.

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The mobile home hereby permitted shall be removed and the land restored to its former condition in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority on or before 18th January 2022 unless before that date a formal planning application for the retention of the building has been approved by the Local Planning Authority.
REASON It is not considered that the grant of a permanent planning permission would be appropriate and a temporary permission would enable the Local Planning Authority to reassess the impact of the development on the character and appearance of the area.
- 3 The development hereby permitted shall be carried out in complete accordance with approved drawings 17.41040 M001, 17.4104 P202 REV B, 17.4104 P204, 17.4104 P205, 17.4104 P206, 17.4104 P201 REV H, 17.4104 e101 REV D and 17.4104 M002 REV E.

- REASON** To ensure the development is carried out in accordance with the details as approved.
- 4 The development hereby approved shall only be constructed of the materials specified on the application form submitted with the application and retained as such thereafter for the lifetime of the development.
- REASON** To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved MDLDP and the guidance contained in the Maldon District Design Guide (MDDG) SPD.
- 5 There shall be no means of external lighting anywhere on the site edged in red on the plans hereby approved or on any other land owned by the applicant that could be used to illuminate the stables or manege unless previously agreed in writing by the Local Planning Authority.
- REASON** To protect residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.
- 6 There shall be no burning of stable wastes anywhere on the site edged in red on the plans hereby approved or on any other land under the control of the applicant and a scheme of waste management shall be submitted to and approved in writing by the Local Planning Authority prior to the use of the site as hereby approved under this permission. The development shall be thereafter be used in accordance with the approved details in perpetuity.
- REASON** To protect the character of the area and residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.
- 7 The occupation of the temporary mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- REASON** The Local Planning Authority would not be prepared to permit the stationing of a mobile home on this site unconnected with the use of the land or neighbouring land in accordance with policies H7 of the approved Local Development Plan (2017).
- 8 The livery business hereby approved, including the associated stables, tack and feed room and ménage shall not be open to persons other than the occupants outside the hours of 08.00 - 20.00 weekdays, 08.00 - 20.30 Saturdays and Sundays (April to October) and 08.00 - 19.00 Saturdays and Sundays (November to March).
- REASON** To protect residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.
- 9 The areas of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.
- REASON** To ensure that that appropriate loading / unloading facilities are available and to ensure that the highway is not obstructed during the construction period in the interests of highway safety in accordance with policies D1 and T2 of the submitted Local Development Plan.
- 10 The mobile home hereby approved shall make provision for car parking within the site in accordance with the Council's adopted car parking standards and be retained thereafter for the permitted duration of the development.

REASON To ensure appropriate parking is provided in accordance with the Council's adopted Vehicle Parking Standards, in accordance with policy T2 of the approved MDLDP and the guidance contained in the MDDG SPD.

- 11 Prior to the occupation of the temporary mobile home and use of stables hereby approved details of surface water drainage scheme as specified in the Essex Sustainable Drainage Systems Design Guide submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented prior to occupation of the development and should include and not be limited to:

- Discharge rates/location
- Storage volumes
- Treatment requirement
- Detailed drainage plan
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy

Where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests carried out upon the subsoil in accordance with DG 365 2016. You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where discharging to a watercourse the proposed scheme shall include details of the destination and discharge rates equivalent to "greenfield runoff" up to and including a 1 in 100 year rainfall event inclusive of climate change. This is typically achieved by installing some form of attenuation on site e.g. temporary storage. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s). If the land is designated as a Brownfield Site it should aim to limit run-off for a storm event that has a 100% chance of occurring each year (1 in 1 year event) OR demonstrate 50% betterment of the current rates.

The applicant must demonstrate that the system is an appropriate point of discharge for the site. The discharge hierarchy should be used to determine discharge location. This is particularly important when considering greenfield development which may currently discharge to a sewer but may have the capacity to discharge to a watercourse or to the ground. If not, then further information/assessment will be required to determine the suitability of the system to convey the proposed flows and volumes of water. Evidence will be required that the development will not increase risk to others. If the proposed discharge point is outside the development site then the applicant will need to demonstrate that the necessary permissions and or agreements to achieve connection are possible.

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

Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the Local Planning Authority.

REASON To avoid the risk of water flooding in accordance with policy D2 of the MDLDP.

- 12 Details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON To avoid the risk of pollution in accordance with policy D2 of the MDLDP.



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
14 JANUARY 2019**

Application Number	FUL/MAL/18/01297
Location	Market Site, High Street, Burnham-on-Crouch
Proposal	Change the use of a section of the Burnham-On-Crouch High Street to a weekly retail market on Tuesdays.
Applicant	Mr Richard Holmes –Maldon District Council
Agent	N/A
Target Decision Date	31/01/2019
Case Officer	Devan Lawson
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Council application

1. RECOMMENDATION

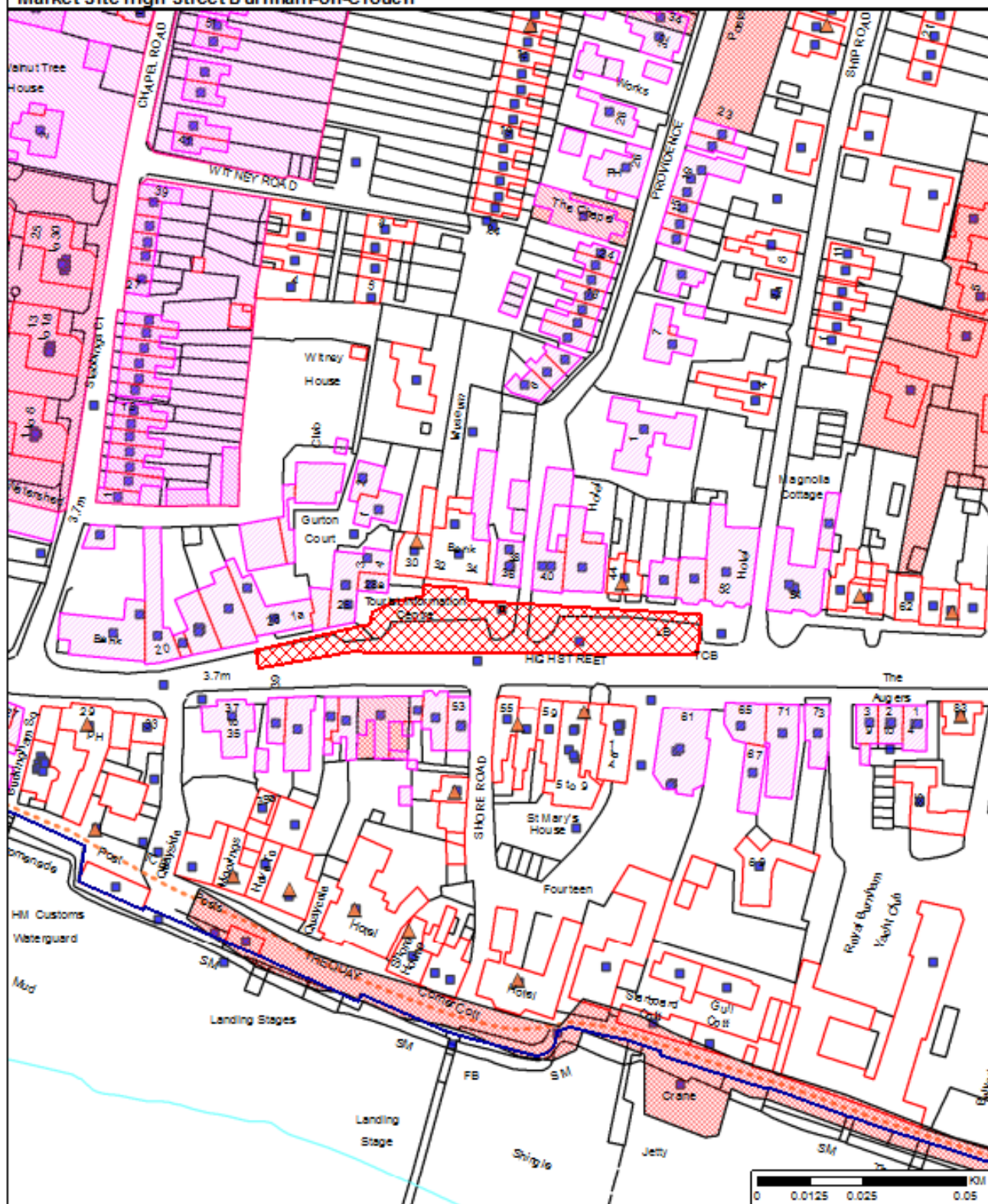
APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

18/01297/FUL

Market Site High Street Burnham-on-Crouch



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Maldon District Council 100018588 2014



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SEAC

Date: 19/12/2018

MSA Number: 100018588

Agenda Item no. 7

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The application site forms part of the Burnham-on-Crouch High Street located on the highway, between Barclays Bank and the hotel building at the junction of Ship Road with High Street. The site is located within the settlement boundary and Conservation Area of Burnham-on-Crouch, with a number of listed buildings in the immediate locality of the site.

3.1.2 Planning permission is sought for the change of use of part of the High Street to a weekly retail market on Tuesdays. The proposed operational hours including set up and take down are 07:00 until 16:00. The provided plans illustrate that there will be approximately 16 stalls within an area measuring approximately 0.094 hectares.

3.1.3 Unlike previous applications, permission is sought on a permanent basis and not on a temporary basis.

3.1.4 Background Information

3.1.4.1 It is noted that there is a temporary permission currently in place at the site for a retail market, every Tuesday from 07:00 until 15:30, including set up and take down, up until 31 August 2019 (FUL/MAL/17/00649).

3.1.4.2 Planning practice guidance states that temporary planning permissions are appropriate where a trial run is needed in order to assess the effect of the development on the area of where it is expected that planning circumstances will change in a particular way at the end of that period.

3.1.4.3 Under the terms of application FUL/MAL/15/00698 temporary permission was granted to enable an assessment of the markets impact on the locality which would then allow the Council to determine the acceptability of a permanent market based on the history of the site. Some concerns have been raised in the past in relation to the hours of operation, noise impacts and breaches of previous planning permissions. As a result temporary permission was also granted under terms of FUL/MAL/17/00649 which allowed for a further two year period for monitoring and assessing the impacts of the change of use. Given the time passed since the granting of the original temporary permission and that there is now a sufficient understanding of the implications of the proposal at this site, it is now considered appropriate to assess the permanent acceptability of the scheme.

3.1.4.4 The provided block plan demonstrates than an area to the west of the site, located to the south of Nos. 20A, 22 and 24 High Street, has not been included within the application area and will not include any stalls. This appears to be in response to the previous application where a condition was included preventing the siting of stalls in this locality due to concerns raised by the Local Highway Authority who considered that stalls in this location would be to the detriment of highway safety.

3.2 Conclusion

- 3.2.1 The proposed permanent change of use of part of the Burnham-on-Crouch High Street to a weekly market on Tuesdays is considered to be acceptable as it would support the local economy and assist in meeting the sustainability objectives of the District. It is also not considered that the change of use on a permanent basis would result in material harm to the character and appearance of the Conservation Area. Furthermore, on balance, it is not considered that subject to conditions the change of use would result in undue harm to the amenity of neighbouring occupiers. Having regard to this it is considered that the proposal is compliant with policies S1, D1, D3, D5, E2, T1 and T2 of the Local Development Plan (LDP), Policies CS.1b and EC.3 of the Burnham-on-Crouch Neighbourhood Development Plan and guidance contained with the National Planning Policy Framework and Maldon District Design Guide.

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:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 85-90 Ensuring the Vitality of Town Centres
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E2 Retail Provision
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Car Parking Standards
- Maldon District Design Guide (MDDG)
- National Planning Policy Guidance (NPPG)
- Burnham-on-Crouch Neighbourhood Development Plan (BOCNDP)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The application site lies within the Town Centre of Burnham-on-Crouch as defined within policy E2 of the approved Maldon District Local Development Plan (LDP). The market helps to strengthen and maintain the role of the Burnham-on-Crouch Town Centre by improving the range of retailing which helps to promote the vitality and viability of the town centre environment. The application is therefore considered acceptable in principle.
- 5.1.2 It should also be noted that Policy CS.1b Community Assets and Services of the BOCNDP states that the market will be safeguarded for community use. Therefore, the neighbourhood plan supports the principle of retaining the market on a permanent basis.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. 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”.*
- “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.*
- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- 5.2.3.1 Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- a) Height, size, scale, form, massing and proportion;
 - b) Landscape setting, townscape setting and skylines;
 - c) Layout, orientation, and density;
 - d) Historic environment particularly in relation to designated and non-designated heritage assets;

- e) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - f) Energy and resource efficiency.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 5.2.6 Policy EC.3 of the BOCNDP states that *‘within the primary retail area proposals for the expansion of existing retail uses will be supported where they preserve or enhance the character or appearance of the Burnham Conservation Area’*.
- 5.2.7 Burnham-on-Crouch is a historic market town. There is therefore no objection to the continuation of the use of the site as a market as it is considered to reflect the historic nature of the site and its relationship to the surroundings. Furthermore, the proposed change of use is considered to promote the overall vitality of the town centre environment which in turn contributes to the character of the Burnham-on-Crouch Conservation Area. Therefore, the proposal may promote further visitors to the historic town and may help to raise awareness of the importance of heritage protection.
- 5.2.8 The market will not include any fixed structures and so it is not considered that the proposal would result in any harm to the character and appearance of the conservation area which is not immediately reversible. Furthermore, no objections have been raised by the Conservation Officer in relation to this application. The proposal is therefore considered to comply with the above policies and be acceptable in terms of its appearance and impact.

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. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The change of use would result in a weekly intensification of the use of the site, and an increase in noise disturbance to the neighbouring residential amenity. A letter of objection has been received objecting to the start time of 06:30am due to the noise impacts that currently result from the existing market and the objector notes that the current start time of 07:00am is ignored by some operators. The Environmental Health department and the Town Council have also raised an objection to the start time of 06:30 hours for the same reason. The applicant has been advised of these concerns and has revised the start times including set up to be 07:00 hours. Following further consultation with the Environmental Health Department they consider that keeping the start time at 07:00 hours is a reasonable compromise between the needs of the market traders and the amenity of the residents on the High Street. Likewise, the comments received from the Town Council note that they would consider a start time of 07:00 hours to be acceptable. This can be imposed via a condition to prevent operators setting up prior to 07:00.

- 5.3.3 It is noted that the proposed end time including clear up is 16:00 opposed to the previous clear up by 15:30. It is considered that the condition should ensure that trading ceases at 15:00 consistent with the extant permission. However, it is not considered that the increased clear up time until 16:00 will have any detrimental impact on neighbouring amenity.
- 5.3.4 Having regard to the above it is considered that given the number of days in the year that the market would be run and that conditions can be imposed restricting amplified sound and the hours of the market, on balance it is not considered that the continuation of the market on a permanent basis would result in demonstrable harm to the occupiers of adjacent buildings.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards Supplementary Planning Document (SPD) contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 It is acknowledged that the market does result in the loss of 27 car parking space bays on market days that affront 28 - 36 High Street and 40 - 52 High Street. However, this has to be considered in the wider context of the overall number of car parking spaces available within the town centre and the economic benefits to the town and District as a whole, of there being a market within the town centre on a regular weekly basis.
- 5.4.4 In addition the central and accessible location of the market would mean that people living in the locality would be able to walk to the facility. There are also regular bus services through the area.

- 5.4.5 Although the Local Highway Authority has not yet commented on this application, it is noted that they raised no objection to the previous application (FUL/MAL/17/00649), subject to the removal of the two stalls located to the west of the site in front of 22 and 24 High Street, due to the pitch point on the highway which would have a detrimental impact on the free flow of traffic and highway safety. This area of the site has been omitted from this application and so it is not considered that there would be any new material considerations which would alter the Local Highway Authorities views on this matter.
- 5.4.6 Having regard to the above it is considered that the proposed continuation of the market use would not result in any detrimental impact on the parking provision or the highway users, subject to the relevant conditions.

5.5 Flooding

- 5.5.1 The site lies within Flood Zone 3 as defined by the Environment Agency. Policy D5 of the LDP seeks to avoid inappropriate development in areas at risk of flooding. The policy states that necessary development proposals within a flood risk area will need to demonstrate that flood risk will not be increased elsewhere and that the development will be safe for its future users.
- 5.5.2 Given that the change of use will not involve the construction of any permanent structures; it is not considered that there will be any increase in flood risk. Furthermore, the structures associated with the use are temporary in nature and so if flooding occurred at the site it would be possible to move or cancel the market if required.

5.6 Sustainability

- 5.6.1 Within the NPPF there is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s changes to the planning system and emphasises the need to plan positively for appropriate new development.
- 5.6.2 There are three dimensions to sustainable development; an economic, social and environmental role which are carried through to local policies via policy S1 of the LDP.
- 5.6.3 In economic terms, the proposed market would provide support for the local economy and the economy of the District providing a local service that is also capable of meeting additional needs of the community. The market may employ local businesses / stalls and provide further jobs and capital into the economy.
- 5.6.4 In social terms the proposal could assist in supporting a strong vibrant and healthy community by offering a local service to help meet the diverse needs of the community. The location of the market would also help to provide an accessible service to the community contributing to the sustainability and accessibility of this area.
- 5.6.5 In environmental terms, the central location of the site, availability of public transport services and potential for local residents or visitors to walk to the market would

reduce the need for access via private cars and therefore support the environmental role of sustainability by helping and encouraging the reduction in pollution in the fight against climate change.

- 5.6.6 On this basis, the proposal is considered to represent a form of sustainable development.

6. **ANY RELEVANT SITE HISTORY**

- **FUL/MAL/15/00698** – Change of use of part of the Burnham-on-Crouch High Street, to a weekly retail market. Every Tuesday until 31 August 2017. Operational times 07:30 - 15:00 – Approved.
- **FUL/MAL/17/00649** - Change of use of part of the Burnham-on-Crouch High Street to a weekly retail market. Every Tuesday until 31 August 2019. Operational times 07.00-15.00. – Approved.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Object – 06:30am start is not supported but 07:00am is due to increased noise, and disrupted vehicle access for residents and deliveries to nearby shop.	Noted and addressed at section 5.3

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No comments received at the time of writing this report.	Noted. Any response received will be reported by way of Members' Update.

7.3 **Internal Consultees**

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection – there will be no harm to the character and appearance of the Burnham-on-Crouch Conservation Area.	Noted and addressed at section 5.2

Name of Internal Consultee	Comment	Officer Response
Environmental Health	<p>There have been no recent complaints to the service but there have been objections regarding the starting time for set up for the current permission.</p> <p>In the past there have been complaints regarding amplified music. A condition was suggested previously but not included.</p> <p>There have been complaints about deliveries to One Stop shop being earlier on a Tuesday to avoid clashing with the setting up of the market.</p> <p>The proposed earlier start and making the permission permanent would appear to be at variance with the current approval.</p> <p>Keeping the start time at 07:00 hours, is a reasonable compromise between the needs of the market traders and the amenity of the residents on the High Street.</p>	<p>These comments are largely address under section 5.3. However, it should be noted that condition 3 of FUL/MAL/17/00649 does specify that no amplified sound can be used within the market by any stall, stall owner or operator at any time.</p>

7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
Object to 06:30am start time due to noises disturbance during the process.	These matters are addressed under section 5.3
The current start time is 7am which is sometimes ignored.	

8. PROPOSED CONDITIONS

- 1 The development shall be carried out in accordance with the following approved plans and documents: ATS/552/01/A, ATS/552./02/B.
REASON To ensure that the development is carried out in accordance with the details as approved in accordance with policy D1 of the Approved Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
- 2 The Burnham-on-Crouch retail market hereby permitted shall operate only between the hours 07:30 to 15:00 on Tuesdays only with no setting up of any stall prior to 07:00. All stalls and related equipment shall be removed from the site prior to 16:00 hours on each day.
REASON To ensure the use is appropriate to the locality and to protect the amenity of neighbouring occupiers in accordance with policy D1 of the Approved Maldon District Local Development Plan.
- 3 There shall be no amplified sound used within the market as outlined in red on the location plan which forms part of this permission or by any stall, stall owner or operator at any time.
REASON To ensure the use is appropriate to the locality and to protect the amenity of neighbouring occupiers in accordance with policy D1 of the Approved Maldon District Local Development Plan.

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