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

01 February 2019

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **MONDAY 11 FEBRUARY 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 11 FEBRUARY 2019

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 20)

To confirm the Minutes of the meeting of the Committee held on 14 January 2019, (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/18/01415 - 4 Church Road, Burnham-on-Crouch, Essex, CM0 8DA**
(Pages 21 - 30)

To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed)

6. **HOUSE/MAL/18/01428- 8 The Cobbins, Burnham-on -Crouch, Essex** (Pages 31 - 42)

To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed)

7. **FUL/MAL/18/01470 - Hardy's Bar and Grill, 36 Imperial Avenue, Mayland**
(Pages 43 - 54)

To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed)

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

Reports for noting:

In accordance with the 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. 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)

Legislation

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
 - The Planning and Compensation Act 1991
 - The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
 - The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
 - The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended)
 - The Town and Country Planning (Development Management Procedure) (England) Order 2015
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

Supplementary Planning Guidance and Other Advice

i) Government policy and guidance

- National Planning Policy Framework (NPPF) - 2018
- Planning Practice Guidance (PPG)
- Planning policy for Traveller Sites - 2015
- Relevant government circulars
- Relevant Ministerial Statements (as referred to in the Report)

ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide – 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide - 2017
- Maldon and Heybridge Central Area Masterplan – 2017
- 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 (adapted as SPD 2018)
- Vehicle Parking Standards Supplementary Planning Document (SPD) - 2018
- Renewable and low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD - 2018
- 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 SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- 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
14 JANUARY 2019**

PRESENT

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

730. CHAIRMAN'S NOTICES

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

731. APOLOGIES FOR ABSENCE

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

732. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 3 December 2018 be approved and confirmed.

733. DISCLOSURE OF INTEREST

Councillor Mrs P A Channer, CC 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. She further declared that in respect of Agenda Item 5 - FUL/MAL/18/00230 -Asheldham Pit, Southminster Road, Asheldham, as she had received a copy of correspondence between the applicant and Essex County Council in support of the application.

Councillor R Pratt, CC 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. With reference to Agenda Item 5 - FUL/MAL/18/00230 -Asheldham Pit, Southminster Road, Asheldham he declared that given he was not present at the meeting on 16 July 2018, where this was deferred, he would not be partaking in the discussion or voting on this item as it was a continuation from the previous meeting.

Councillor A S Fluker declared a non-pecuniary interest in Agenda Item 5 - FUL/MAL/18/00230 -Asheldham Pit, Southminster Road, Asheldham and Agenda Item 6 - FUL/MAL/18/01111- Land North Of Asheldham Hall Farm, Hall Road, Asheldham, Essex, as he knew the applicants.

Councillor R G Boyce, MBE declared a non-pecuniary interest in Agenda Item 7 - FUL/MAL/18/01297 - Market Site, High Street, Burnham-on-Crouch as Chairman of the Promoting Committee. In respect of Agenda Item 5 - FUL/MAL/18/00230 - Asheldham Pit, Southminster Road, Asheldham, he also declared that given he was not present at the meeting on 16 July 2018, where this was deferred, he would not be partaking in the discussion or voting on this item, as it was a continuation from the previous meeting.

Councillor B S Beale declared a non-pecuniary interest in Agenda Item 5 - FUL/MAL/18/00230 -Asheldham Pit, Southminster Road, Asheldham, as he knew the applicant.

Members registered frustration once again regarding the impact of General Data Protection Regulation (GDPR) on information contained in the reports.

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

734. FUL/MAL/00230 - ASHELDHAM PIT, SOUTHMINSTER ROAD, ASHELDHAM, ESSEX

Application Number	FUL/MAL/18/00230
Location	Asheldham Pit, Southminster Road, Asheldham, Essex
Proposal	Erection of an education centre, tea room, 6x holiday log cabins, 1x staff/workers accommodation, 1x welfare cabin, 6x fish breeding pods and associated hard-standing, parking and access point.
Applicant	Mrs Lisa Brown
Agent	Mr Chris Moore - Plainview Planning LTD
Target Decision Date	31.07.2018 (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.

Following the Officer's presentation the Members debated the application.

It was noted that this was a sustainable location and that this judgement was supported by both the South Eastern Area Planning Committee (evidenced through previous approvals) and the Planning Inspector. There would be no adverse visible impact upon the character and appearance of the area and no objections had been received from the Council's Environmental Health Officer. Furthermore, the Committee acknowledged

the importance of supporting local businesses and the added value of an Education Centre for young people.

Councillor A S Fluker proposed that, subject to the site access coming from Tillingham Road and not Rushes Lane, the application be approved contrary to the Officer's recommendation and this was duly seconded by Councillor Mrs B F Acevedo.

It was agreed that given the complexity of the application the conditions be delegated to Officers and agreed by the Chairman.

The Chairman put the proposal to the Committee and upon a vote being taken the application was approved contrary to the Officer's recommendation and subject to conditions being agreed by both the Chairman and Officers following the meeting.

Councillors R G Boyce and R Pratt asked that it be noted that they did not partake in either the discussion or voting for the reasons outlined under Agenda Item 'Declarations of Interest'.

Councillor Mrs P A Channer also wished it noted that she did not comment or vote on this application for reasons relating to the Local Development Plan and the correspondence from Essex County Council.

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in complete accordance with approved drawings 3210.11; 3210.12A; 3210.13; 3210.14; 3210.01A; 3210.09; 3210.07B; 3210.08B; 3210.02A; 3210.03A; 3210.04A; 3210.05; 3210.06 and 3210.10.
- 3 No works above ground level shall take place until details of the boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained as such in perpetuity.
- 4 The development thereby approved shall be carried out in accordance with the details of the Tree Removal and Protection Map and Arboricultural Method Statement submitted as part of the Arboricultural Survey and Protection Report (February 2018 Version 2). No other trees shall be removed or fell.
- 5 The existing hedgerows and trees along the boundaries and within the application site shall be protected during the construction of the development.
- 6 The development hereby approved shall be undertaken in accordance with the terms and specifications contained within the Ecology Report (dated October 2018, Report Reference MH775 EXC Version Final-Dated 30/10/2018) which is attached to and forms part of this permission.
- 7 Deliveries and/or removal of goods and materials shall only take place between the hours of:
 - Monday to Saturday - 0700 hours until 1900 hours
 - Sundays & Bank Holidays - No Deliveries.
- 8 As shown in Drawing SK01 in Appendix D of the Transport Statement, the site access junction at its centre line shall be provided with visibility splays with dimensions of 2.4 metres by 94 metres to the east and 2.4 metres by 91 metres to the south on Tillingham Road, as measured from and along the nearside edge of

- the carriageway. Such vehicular visibility splays shall be retained free of any obstruction in perpetuity.
- 9 Details of the vehicle parking area indicated on the approved plan no. 3210.07B, including details of the materials and soft landscaping, shall be submitted to and approved in writing by the local planning authority. The vehicle parking area shall be implemented in accordance with the approved details within six months of the approval and retained as such in perpetuity. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.
 - 10 Unless within three months of the date of this decision details of cycle parking provided in accordance with Maldon District Council's adopted standards, is submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 6 months of the local planning authority's approval, the use hereby approved shall cease until such time as details are approved and implemented.
 - 11 The development hereby approved, with the exception of the occupiers of the workers dwelling, shall only be accessed via the south vehicle access onto Tillingham Road unless otherwise agreed with the Local Planning Authority.
 - 12 The occupation of the approved workers dwelling shall be limited to a person/persons solely or mainly working in association with the use of the site hereby approved.
 - 13 If the use of the site hereby approved cease, the structures and associated storage and paraphernalia used for the purposes of the workers dwelling shall be removed within three months of the cease date.
 - 14 The use of the workers dwelling hereby permitted shall cease and all structures and associated storage and paraphernalia for the purposes of such use shall be removed within two months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i. within three months of the date of this decision details of the foul drainage scheme to serve the workers dwelling 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 details 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.
 - 15 The use of the workers dwelling hereby permitted shall cease and all structures and associated storage and paraphernalia for the purposes of such use shall be removed within two months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i. within three months of the date of this decision details of the external lighting strategy for the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority and the details shall include a timetable for their implementation
 - ii. if within 11 months of the date of this decision the local planning authority refuse to approve the details 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.
- 16 The education centre hereby approved shall only be used as a non-residential education and training centre and for no other purposes falling within Use Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order).
- 17 No development works above ground level in relation to the education centre hereby approved shall take place until details or samples of the facing materials to be used, including glazing, have been submitted to and approved in writing by the local planning authority. The works must then be carried out in accordance with the approved details.
- To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
- 18 No works above ground level in relation to the education centre hereby approved shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The hard landscape works shall be carried out as approved prior to the occupation of the development hereby approved.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 19 Prior to any above ground level works associated with the education centre hereby approved, details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
- 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) or 50%

betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

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

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

- 20 Prior to any above ground level works associated with the education centre hereby approved, details of the foul drainage scheme to serve the education centre 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.
- 21 Prior to the use of the education centre hereby approved details of the waste management plan and position of the proposed refuse and recycling bins, including timeline for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such in perpetuity.
- 22 Prior to any above ground level works associated with the education centre details of the external lighting strategy for the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority. All illumination within the site shall be retained in accordance with the approved details.
- 23 No holiday lodges hereby approved shall be used as a person's sole or main place of residence.
- 24 The holiday lodges shall be used for holiday purposes only.
- 25 The owners/operators shall maintain an up to date register of the names of all owners/occupiers of individual holiday lodges on the site, and of their main home addresses, and shall make this information available at all reasonable time to the Local Planning Authority.
- 26 No development works above ground level in relation to the holiday lodges hereby approved shall take place until details or samples of the facing materials to be used, including glazing, have been submitted to and approved in writing by the local planning authority. The works must then be carried out in accordance with the approved details.
- 27 No works above ground level in relation to the holiday lodges hereby approved shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The hard landscape works shall be carried out as approved prior to the occupation of the development hereby approved.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged

- or diseased shall be replaced in the next planting season with others of similar size and species.
- 28 Prior to any above ground level works associated with the holiday lodges hereby approved, details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
- 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) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)
- You are advised that in order to satisfy the soakaway condition the following details will be required: - details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.
- Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.
- 29 Prior to any above ground level works associated with the holiday lodges hereby approved, details of the foul drainage scheme to serve the holiday lodges 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.
- 30 Prior to the use of the holiday lodges hereby approved details of the waste management plan and position of the proposed refuse and recycling bins, including timeline for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such in perpetuity.
- 31 Prior to any above ground level works associated with the holiday lodges details of the external lighting strategy for the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority. All illumination within the site shall be retained in accordance with the approved details.
- 32 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), the proposed tea room shall only be used for purposes falling within Use Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
- 33 No development works above ground level in relation to the tea room hereby approved shall take place until details or samples of the facing materials to be used, including glazing, have been submitted to and approved in writing by the local planning authority. The works must then be carried out in accordance with the approved details.
- 34 No works above ground level in relation to the tea room hereby approved shall commence until there shall have been submitted to and approved in writing by

the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The hard landscape works shall be carried out as approved prior to the occupation of the development hereby approved.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 35 Prior to any above ground level works associated with the tea room hereby approved, details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
- 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) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)
- You are advised that in order to satisfy the soakaway condition the following details will be required: - details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.
- Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.
- 36 Prior to any above ground level works associated with the tea room hereby approved, details of the foul drainage scheme to serve the tea room 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.
- 37 Prior to the use of the tea room hereby approved details of the waste management plan and position of the proposed refuse and recycling bins, including timeline for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such in perpetuity.
- 38 The tea room shall only be used for the purposes hereby approved between the hours of:
- 0800 hours until 1800 hours (Monday to Sunday)
- 39 The noise level arising from any external music played at the tea room (LAeq) shall not exceed the background level (LA90) when measured from the boundary of the nearest noise-sensitive dwelling (Deansbrook Farm,

- Southminster Road, Asheldham, Essex, CM0 7DZ) and be carried out in accordance with the methodology contained in BS4142:2014.
- 40 Prior to any above ground level works associated with the tea room details of the external lighting strategy for the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority. All illumination within the site shall be retained in accordance with the approved details.
- 41 The welfare centre hereby approved shall only be used for purposes incidental to the use of the site hereby approved and for no other purposes.
- 42 The use of the welfare centre hereby permitted shall cease and all structures and associated paraphernalia for the purposes of such use shall be removed within two months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
- iii. within three months of the date of this decision details of the external lighting strategy for the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority and the details shall include a timetable for their implementation
 - ii. if within 11 months of the date of this decision the local planning authority refuse to approve the details 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.

INFORMATIVES

- 1 Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.
The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.
- 2 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
 - a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) No dust emissions should leave the boundary of the site;
 - c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;

d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

735. FUL/MAL/18/01111 - LAND NORTH OF ASHELDHAM FARM, HALL ROAD, ASHELDHAM, ESSEX

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.

Following the Officer's presentation, Mrs Hayley Webb, the Agent, addressed the Committee.

A lengthy debate ensued where issues around temporary consent for three years, animal welfare and the importance of supporting local business were discussed. It was noted that temporary consent complied with Policy H7 of the Maldon District Local Development Plan (MDLDP) and provided applicants with the opportunity to evidence the viability of the business. On the issue of animal welfare it was noted that in addition to the grazing available there was tack room and feed store facilities on this site.

Following the discussion Councillor A S Fluker, acknowledging the importance of supporting local businesses, proposed that the application be approved in accordance with the Officer's recommendation. This was seconded by Councillor Mrs P A Channer.

The Chairman put the proposal to the Committee and upon a vote being taken the application was approved in accordance with the Officer's recommendation.

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

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

- 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.
- 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.
- 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.
- 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.
- 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).
- 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.
- 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.
- 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.

- 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.

736. FUL/MAL/18/01297 - MARKET SITE, HIGH STREET, BURNHAM-ON-CROUCH, ESSEX

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

Following the Officer's presentation Members debated the application.

It was noted that the weekly retail market had been a resounding success, increasing footfall in shops. One of the ongoing problems had been the playing of music which this application addressed under condition 3.

Further discussion ensued on the proposed operational hours from set up at 07:00 to close at 16:00. Councillor Fluker reported that a number of residents were unhappy with the noise of set up at 07:00 and proposed that, subject to the set up time being moved to 07:15, the application be approved in accordance with the Officer's recommendation. This was seconded by Councillor Boyce.

This was not progressed as some Members felt that this proposed change of 15 minutes would not make a material difference and that the current proposal moving from 06:30 to 07:00am was already a significant change. In accordance with Procedure Rule No. 13 Councillor A S Fluker requested a recorded vote be taken on the proposed amendment to a 07:15am set up.

The Chairman put the proposed amendment by Councillor Fluker of 07:15 set up start time, seconded by Councillor Boyce, to the Committee and the voting was as follows:

For the amendment

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

Against the amendment

Councillors Mrs B F Acevedo, P G L Elliott, Mrs P A Channer and R Pratt.

There being an equality of votes the Chairman used his casting vote to support the proposed amendment and it was carried.

The Chairman then put the proposal to approve the application, together with the agreed revised condition of 07:15 set up time, to the Committee. Upon a vote being taken the application was approved in accordance with the Officer's recommendation.

RESOLVED that the application and agreed amended start time of 07:15 be **APPROVED** subject to the following 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.
- 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 07:15. All stalls and related equipment shall be removed from the site prior to 16:00 hours on each day.
- 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.

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
11 FEBRUARY 2019

Application Number	FUL/MAL/18/01415
Location	4 Church Road, Burnham-On-Crouch, Essex CM0 8DA
Proposal	Single storey utility extension with pitched roof, demolition of existing dilapidated garage and garden shed and replacement with 1 bedroom annexe accommodation linked to existing house
Applicant	Ms Philippa Munro
Agent	Mr Michael Lewis – Bailey Lewis
Target Decision Date	29.01.2019
Case Officer	Annie Keen, TEL: 01621 875822
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In – Councillor Mrs H E Elliott Reason: Public Interest

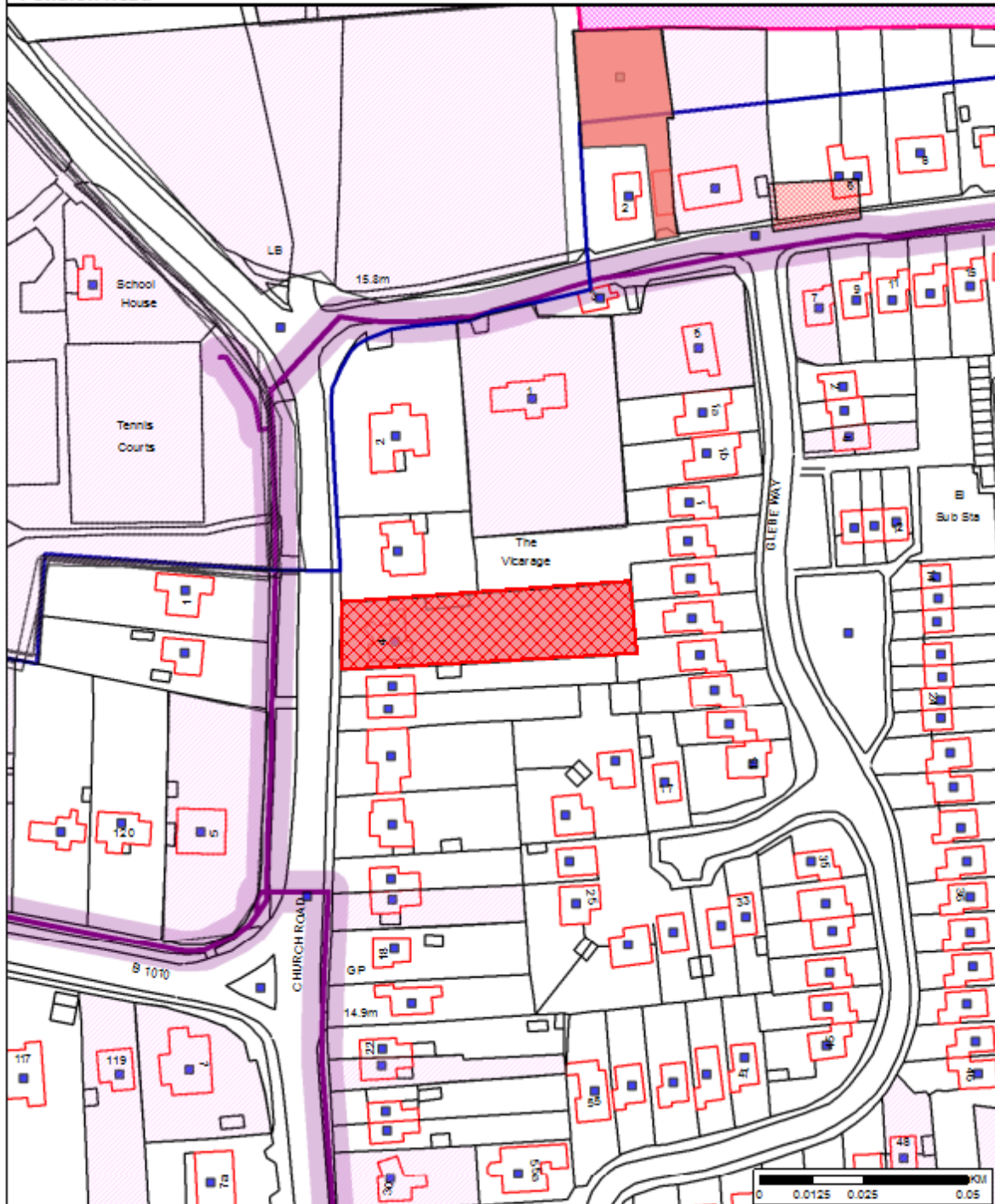
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

18/01415/HOUSE
4 Church Road



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Area Committee
	Date:	15/01/2019
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is situated on the east of Church Road, within the settlement boundary of Burnham-on-Crouch. The surrounding area comprises of dwellings of varying styles and the entrance to Ormiston Rivers Academy.
- 3.1.2 Planning permission is sought for the demolition of a garage and garden shed and the construction of a one bedroom annexe linking to the existing dwelling via an entrance link, conservatory and a single storey utility room with a pitched roof.
- 3.1.3 The entrance hall and utility room would be located to the side of the host dwelling, increasing the existing side projection to the front and side. The proposed side extension would not project further than the main principle elevation of the host dwelling. The proposed extension would measure 5.6 metres in width, with a depth of 2.8 metres to the existing western elevation and 6.4 metres linking to the northern elevation of the existing dwelling creating an 'L' shape around the existing side projection. The proposed entrance hall and utility room would have a pitched roof with an eaves height of 2.8 metres and a ridge height of 4.8 metres. The pitched roof would replace the roof of the existing side projection.
- 3.1.4 The conservatory would link to the proposed eastern elevation of the entrance hall and would measure 2.5 metres in width and 4.5 metres in depth. The height of the conservatory would measure 3.2 metres to the top of the pitched roof.
- 3.1.5 The annexe would link to the eastern elevation of the proposed conservatory and would measure 12.2 metres in depth and 4.9 metres in width, excluding the front projection. The height of the pitched roof would measure 2.8 metres to the eaves and 4.2 metres to the top of the ridge. The front projection would measure 5.8 metres in depth, 1.8 metres in width and 3 metres in height to the top of the flat roof.
- 3.1.6 There would be an area of hardstanding to the south of the proposed conservatory measuring 4.5 metres in depth and 3.1 metres in width.
- 3.1.7 The materials proposed for the construction of the annexe are black painted weatherboarding on a red brick plinth with slate roof tiles and lead over the front projection. The entrance hall and utility room would be constructed of red brick with red clay plain tiles to match the existing dwelling. The proposed doors would be of a white painted timber finish to match the existing dwelling with white uPVC windows.

3.2 Conclusion

- 3.2.1 It is considered that the proposed combined side and annexe extensions, by reason of its design, scale and bulk would represent a dominant addition to the site and would cause harm to the appearance and character of the area, therefore causing a detrimental visual impact on the streetscene. It is therefore considered that the proposed development would result in demonstrable harm to the host dwelling and the locality and is consequently not in accordance with policies D1, S1 and H4 of the Local Development Plan (LDP).

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:

- 11 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining Applications
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Essex Design Guide
- Car Parking Standards
- Burnham-on-Crouch Neighbourhood Development Plan

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of erecting ancillary accommodation to provide facilities in association with the existing residential accommodation is considered acceptable.
- 5.1.2 The proposed annexe would be a large building measuring 69.9m² which would contain one bedroom, an en-suite, a kitchen/dining/living area, guest bathroom, closet and storage areas.
- 5.1.3 Whilst there is the presence of primary accommodation within the proposed annexe this does not necessarily mean that it would not be occupied as ancillary to the main dwelling. It is noted that the proposed annexe would share the same access and there appears to be no separate curtilage for the proposed building. However, it must be noted that the proposed extension could facilitate an independent access, therefore it is considered that there are concerns that the proposed development would exceed what can be reasonably considered to be an annexe to the host dwelling. Due to this it is considered that subject to the imposition of a suitable condition, the Local Planning Authority (LPA) can proceed on the basis that the building will be used as ancillary

accommodation and not an independent dwelling, which would not be an acceptable form of development in this location.

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 in creating better places to live 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 local design standards, 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:-

- 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 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).

5.2.5 Additionally, policy H4 requires all development to be design-led and to seek to optimise the use of land whilst, amongst other considerations, having regard for the location and the setting of the site and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and

where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.2.6 Policy H0.8 of the Burnham-on-Crouch Neighbourhood Development Plan states that proposals for housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.
- 5.2.7 The proposed development would be located to the side and rear of the host dwelling, creating a utility room, entrance hall, conservatory and annexe along the northern boundary.
- 5.2.8 The extension to the side of the existing dwelling would create an 'L' shaped extension, wrapping around the existing side projection. The proposed extension would consist of a utility room and an entrance hall. The extension would have porthole windows on the northern elevation and a door and window to the western elevation. Due to the addition of the 'L' shaped utility and entrance hall, the existing pitched roof of the kitchen would be removed and replaced by a pitched roof 0.5 metres higher than the existing roofline. Due to the high visibility of the extension within the public realm the development would have an impact on the character and appearance of the host dwelling and the streetscene.
- 5.2.9 The proposed conservatory would join the eastern elevation of the proposed entrance hall, creating a link between the entrance hall and the proposed annexe with additional external doors to the northern and southern elevations which open on to a patio area to the south and an alleyway to the north. The conservatory would be constructed of glass to the southern elevation and brick to the northern elevation with a pitched glass roof which would integrate into the roof of the entrance hall and annexe either side. Whilst this is a discreet link between the annexe and host dwelling, which would be shielded from the streetscene due to the proposed entrance hall, the conservatory adds to the overall mass of the proposed development, exacerbating the cumulative impact of the development on the character and appearance of the host dwelling.
- 5.2.10 The proposed annexe, which is of limited architectural merit, is accessed via the conservatory and the side extensions. The proposed annexe is considered to be a large addition to the proposed dwelling which when considered with the proposed conservatory and side extension would create a mass of development along the northern boundary. Whilst the proposed annexe is located to the rear of the proposed side extension, due to its size and position the full length of the annexe and side extension would be visible from the streetscene of Church Road which would detrimentally impact upon the streetscene and represent the overdevelopment of the host dwelling.
- 5.2.11 The proposed development would be a large addition to the site with a footprint of 102.5m²; with the annexe alone having a footprint of 69.9m² compared to the host dwelling which has a footprint of 115.9m². Whilst the supporting Planning Statement notes government guidance states the minimum standard required for a 1 bedroom apartment is 50m², the proposed annexe is not considered a new dwelling and therefore this is not applicable. It is important to note that an annexe needs to share facilities and have a co-existing relationship. By referencing these standards, it is considered that it is of increased importance to impose the condition discussed in Section 5.1.3 above.

- 5.2.12 The proposed rooflines of the extensions are all of a pitched roof style however the varying heights create a convoluted appearance to the development. Furthermore, the design of the annexe features a front projection with a flat roof adding to the various roof heights. It is noted that this would not be visible from the public domain but it is considered that this would not justify the visual impact of the proposal.
- 5.2.13 The materials proposed for the external finish to the annexe are a red brick plinth with painted weatherboarding finish to the exterior walls and a slate roof. Whilst the red brick plinth would match the existing dwelling the proposed weatherboarding and slate roofing would not be in keeping with the existing dwelling. However, the proposed materials would help to provide the impression of a subservient outbuilding and therefore weatherboarding would be acceptable. Furthermore, the slate roofing of the annexe and the red plain tiles of the front side extension would be separated by the glass roof of the conservatory, therefore, whilst slate would not be in keeping with the existing dwelling the variation in roofing material would not be detrimental to the appearance of the host dwelling, providing the appearance of a separate addition.
- 5.2.14 Pre-application advice has previously been sought in relation to this proposal which suggested a smaller annexe would be a more suitable form of development, however nothing has been altered in this submission and the concerns raised in the pre-application report have not been addressed.
- 5.2.15 It is considered, the development by reason of its scale, design and appearance would result in demonstrable harm to the character and appearance of the existing dwelling and the locality, contrary to policies D1 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The neighbouring dwelling of No.2A Church Road would be located 5.8 metres from the proposed annexe and 6.9 metres from the proposed conservatory and entrance hall. The proposed development would have windows along the northern elevation of both the entrance hall and annexe. Whilst these windows face towards the neighbouring dwelling of 2A Church Road the proposed entrance hall would be located 1.2 metres from the boundary and any view would be obscured by hedging along the northern boundary. Furthermore, the development is single storey in nature and therefore any overlooking from the proposed windows or overshadowing of the neighbouring private amenity space from the development would be minimal.
- 5.3.3 The neighbouring dwelling of No.6 Church Road would be situated 9.6 metres from the proposed development. Due to the separation distance the development would not impact upon the private amenity of the neighbouring dwelling.

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 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 The proposed extensions and annexe would add an additional bedroom to the site, however the use of the annexe would be ancillary to the host dwelling and therefore would not impact upon the existing parking provision. It is noted the application states four cars can park on the existing parking area; therefore this is sufficient for a dwelling with four or more bedrooms. The proposal is therefore in accordance with the vehicle parking standards specified in the Maldon District Vehicle Parking Standards SPD and policy D1 and T2 of the LDP.

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 MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 The dwelling sits on a large site measuring in excess of the required 100m² amenity space specified within the Essex Design Guide. The garden will remain in excess of 100m² after the construction of the proposed development; therefore the proposed development is in compliance with policy D1 of the LDP.

5.6 Other Material Considerations

- 5.6.1 A consultation response from Environmental Health concludes there are no objections to the proposed development subject to conditions relating to surface water and foul drainage. Due to the nature of the development it is considered these conditions are not necessary.

- 5.6.2 The applicant's submission includes details of how the development would be beneficial to the applicant's mother. Whilst the Council is sympathetic to the applicant's situation, it is considered that the justification provided does not outweigh the harm that has been identified.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/91/00420** - Two storey rear extension to existing house – 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	Support	Comment noted

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection to the proposed development subject to the following conditions: <ul style="list-style-type: none">• Surface Water Drainage• Foul Drainage	Please see section 5.6.1

7.3 Representations received from Interested Parties

- 7.3.1 1 letter was received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
Revised plans are more in keeping and will have not have a detrimental effect on neighbouring property.	Please see section 5.3.2

8. REASON FOR REFUSAL

- 1 The proposed combined side extension and annexe, by virtue of its design, scale and bulk, would represent a dominant and disproportionate addition to the site, which would be a visually intrusive addition to the streetscene and an overly dominant feature within the site. Therefore the proposed development would result in demonstrable harm to both the dwelling and the locality, contrary to the National Planning Policy Framework and policies D1, H4 and S1 of the Maldon District Local Development Plan and the Maldon Design Guide.

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

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
11 FEBRUARY 2019**

Application Number	HOUSE/MAL/18/01428
Location	8 The Cobbins, Burnham-on-Crouch, Essex
Proposal	Proposed front and side extension comprising double garage, and annex with 2No. pitched roof dormers
Applicant	Mr & Mrs Lambert
Agent	Mr Ashley Robinson
Target Decision Date	13.02.2019
Case Officer	Devan Lawson, TEL: 01621 875845
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In by: Councillor N R Pudney Reason: Public Interest

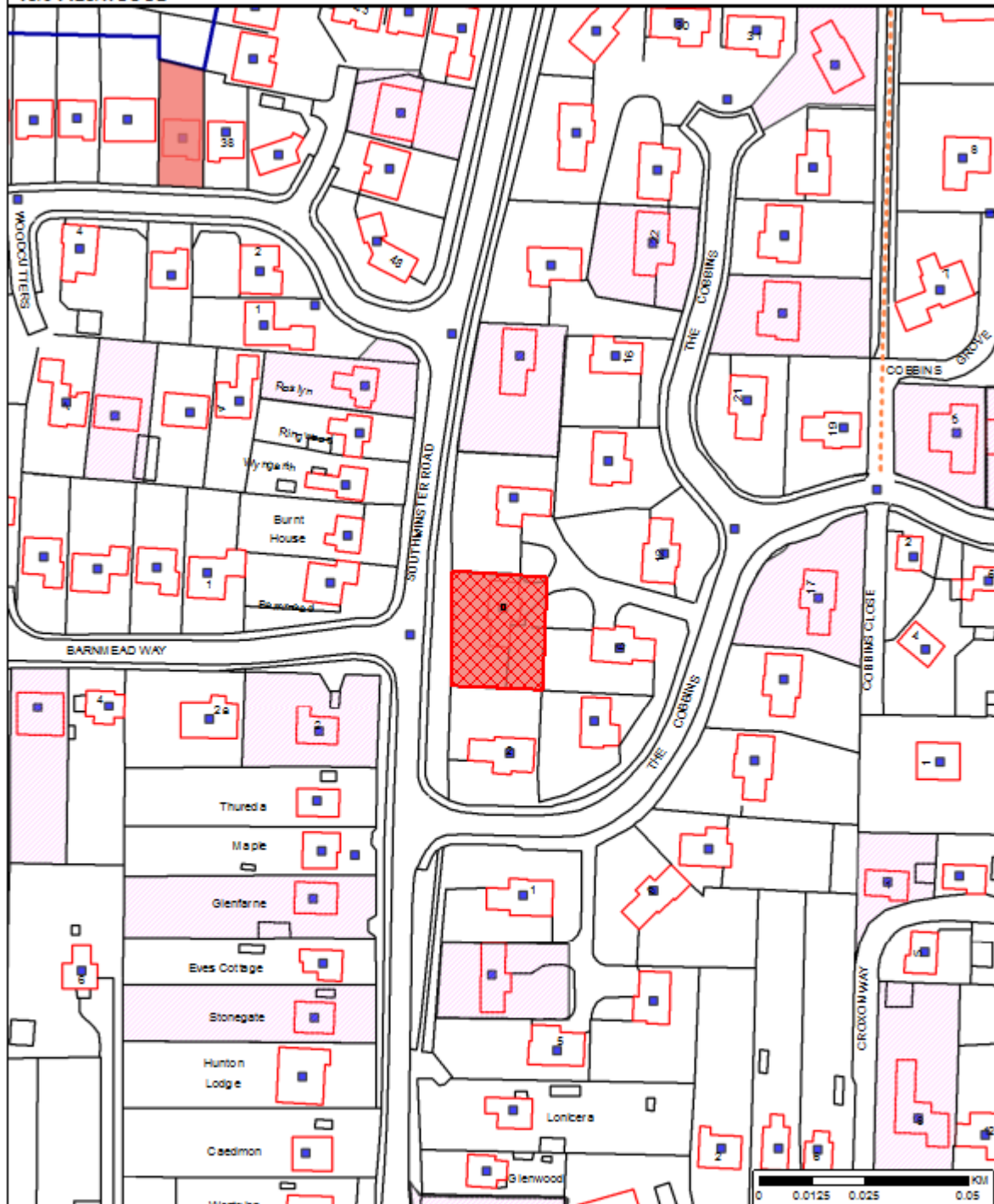
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

8 The Cobbins Burnham-on-Crouch
18/01428/HOUSE



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SEAC
	Date:	10/01/2019
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the west of the cul-de-sac The Cobbins and to the east of Southminster Road within the settlement boundary of Burnham-on-Crouch. The site measures 27 metres by 23.5 metres and contains a two storey detached dwelling.
- 3.1.2 The dwelling at the site fronts The Cobbins and it is noted that a landscaped buffer exists to the west of the site that partly interrupts views of the dwelling from Southminster Road. The dwellings of the area are mostly large detached dwellings of a suburban style, positioned on good sized plots that are suburban in character, most of which feature spacing between at least one side elevation and the boundaries of the plots on which they sit.
- 3.1.3 The application proposes the erection of a two storey extension at the south side of the dwelling. The main part of the extension would measure 7 metres by 12.3 metres with a pitched roof built to a ridge height of 6.4 metres and an eaves height of 2.2 metres. The ridge would run perpendicularly to the host dwelling and would feature two dormers to the north elevation, forward of the host dwelling.
- 3.1.4 The main part of the extension would be linked to the host dwelling by a smaller extension that would measure 1 metre by 5.2 metres with an eaves height of 2.2 metres and a ridge height of 5.4 metres.
- 3.1.5 The main part of the extension would project 4.5 metres forward of the host dwelling and would be built to within 1 metre of the east boundary of the site and 1 metre of the south boundary of the site.
- 3.1.6 The materials proposed will match those of the existing dwelling.

3.2 Conclusion

- 3.2.1 It is considered that the proposed development, by reason of its scale and proximity to the boundaries of the site would erode the spaciousness of the site and cause harm to the appearance and character of the site and the locality. Whilst the proposal is considered to be acceptable in all other respects, it is considered that the development would conflict with policies D1 and H4 of the Local Development Plan (LDP).

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

- 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
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG)
- Burnham-on-Crouch Neighbourhood Development Plan
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of extending an existing dwellinghouse and erecting ancillary accommodation to provide facilities in association with the existing residential accommodation is considered acceptable in line with policies S1 and H4 of the approved LDP. Other material planning considerations are discussed below.
- 5.1.2 It is a conventional expectation that annexe accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities and for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe.
- 5.1.3 Justification for the proposed extension to provide annexe accommodation has been submitted with the application. The applicant has advised that the proposal is required to accommodate his elderly father and mother-in-law who require some care.
- 5.1.4 The proposed annexe accommodation would provide a bedroom and en-suite at first floor and a large area of living space at ground floor. The ground floor is accessible via a separate external door within the principle elevation of the proposed smaller extension, which will have an internal doorway into the host dwelling. There is also an external access to the first floor which the applicant advises is for fire purposes and there is an internal lift within the annexe. It has not been outlined whether the ground floor will be split into a kitchen and living area and thus whether the annexe would

provide a full suite of day to day living facilities. However, it is noted that these elements could be comfortably accommodated within the annexe. Furthermore, although not included as part of the first floor accommodation, it is noted that the proposed sail loft could be incorporated into the annexe, creating two bedrooms opposed to one. It is therefore, considered that as there is an access to the annexe which is separate to the main entrance to the dwelling and given the level of accommodation proposed, that the proposal could result in a completely separate unit of accommodation.

- 5.1.5 Notwithstanding the above, it is noted that there would be a visual and physical connection between the host dwelling and the annexe, and that the annexe would share services and amenity space with the host dwelling. Therefore, it is considered that the occupiers of the annexe would have a level of dependence on the occupants of the host dwelling and therefore, subject to a condition preventing the separation of the annexe from the host dwelling, there is no objection to the principle of development.

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:-

- 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 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 Policy HO.8 of the Burnham-on-Crouch Neighbourhood Development Plan states that proposals for housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.
- 5.2.6 The extension is considered to be a large addition to the host dwelling. Whilst being subservient in terms of height, it is considered that its projection forward of the dwelling and its span would result in the extension being of a bulk and mass that would represent a substantial addition to the host dwelling and have a substantial impact on the appearance of the dwelling.
- 5.2.7 As set out above, it is noted that the character of the area is generally defined by good-sized suburban dwellings positioned on proportionate plots that gives the area a low density and suburban character. There is a degree of spaciousness to the existing plot and the surrounding plots that is considered to be an important factor in defining the character of the area.
- 5.2.8 In the context of the above it is considered that the scale of the extension and the proximity to the boundaries of the site would cause the resultant dwelling to have a substantial impact on the character and appearance of the site and the streetscene of The Cobbins. By filling the majority of the site, it is considered that the resultant dwelling would erode the spaciousness of the site to the detriment of the character of the locality. It would not be unusual to see detached garages or extensions to the front/side part of the site and it is accepted that some form of development could occur in an acceptable manner. However, the scale and extent of the proposed development of the extension proposed by this development is not considered to be acceptable due to the significant visual impact that it would have.
- 5.2.9 It is noted that the extension to the front of the dwelling would avoid the extension having as much of an impact on the more prominent streetscene of Southminster Road to the west, but this positive aspect of the proposal is not considered to outweigh the harm that has been identified above.
- 5.2.10 The applicant has provided supporting information which refers to a number of historic applications in the local area (FULF/MAL/93/00158, FUL/MAL/95/00305 & FUL/MAL/04/00259 HOUSE/MAL/13/00055 HOUSE/MAL/11/00666, HOUSE/MAL/16/01297). Whilst full regard has been had to the wider site history within the local area, it is not considered that these examples are directly comparable to the proposal subject of this application. The examples given are somewhat different to what is being proposed here as they feature different proposals which have various designs, scales and bulk. Furthermore, each plot within the Cobbins has its own individuality and each application should be assessed on its own merits. Therefore, whilst it is acknowledged that there have been other alterations and extensions on other properties within the Cobbins, they are not directly comparable to the scale, bulk or design of this proposal and therefore, do not provide a basis for approving this application.

- 5.2.11 Having regard to the above assessment, it is considered that the development would cause material harm to the character and appearance of the existing dwelling, the streetscene and the locality in general, contrary to policies S1, S8, D1 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The proposed extension would be located 1 metre from the boundary that is shared with No. 6 The Cobbins to the east. The dwelling at that site is 11.6 metres from the shared boundary. Due to the span and height of the extension and the proximity to the amenity space of the neighbouring dwelling, the extension would have an impact on the amenities of the neighbouring dwelling. However, in this case it is considered that the impact on the light received within the neighbouring property (which would only affect the amenity space and not the dwelling itself) and the outlook from within the neighbouring dwelling and its amenity space would not be harmful to an extent that would justify the refusal of the application on those grounds. The proposed dormers would be orientated away from the neighbouring dwelling and therefore not cause overlooking or a loss of privacy in a manner that would justify the refusal of the application.
- 5.3.3 To the south east of the site is No. 4 The Cobbins. The relationship between the proposed extension and the neighbouring dwelling is comparable to the other neighbour discussed above, albeit at a slightly different angle. For similar reasons it is considered that the extension would not have an undue impact on the neighbouring property.
- 5.3.4 The proposed extension would be located 1 metre from the boundary that is shared with No.2 The Cobbins to the south. The dwelling at that site is 11.1 metres from the shared boundary. Due to the height of the extension and the proximity to the amenity space of the neighbouring dwelling, the extension would have an impact on the amenities of the neighbouring dwelling. However, in this case it is considered that the impact on the light received within the neighbouring property would not be substantial as the neighbouring property is to the south and due to the separation distance. Whilst the length of the side elevation would result in the extension having a substantial and enclosing impact on the outlook from within the neighbouring dwelling and its amenity space, it is considered that the low eaves height and the separation distance from the neighbouring dwelling is sufficient to ensure that the impact on the outlook of the neighbouring property would not be harmful to an extent that would justify the refusal of the application on those grounds. No windows would face neighbouring property and there would therefore be no loss of privacy caused by the extension.
- 5.3.5 The proposed dormers would face northwards, but would be a sufficient distance from the neighbouring dwellings to the north to ensure that the overlooking of the front (largely public) amenity space is not unacceptable.

- 5.3.6 Whilst full regard has been had to the letters of objection received in relation to neighbouring amenity, based on the above assessment it is not considered that the proposal would result in demonstrable harm to the amenity of neighbouring occupiers to an extent which would warrant refusal of the application.

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 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 The proposal will increase the number of bedrooms within the site but not impact on the parking requirement having regard to the abovementioned standards. The proposal would include a garage parking space which would represent a net increase of parking at the site and therefore not conflict with the abovementioned parking standards.
- 5.4.4 It is noted that the applicant has expressed their intent to convert the existing garage at the site into a habitable room through permitted development. Whilst not a consideration for this application it should be noted that if this were to occur then there would still be space to the front of the dwelling and within the proposed garage to park a minimum of three vehicles.

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 MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.

- 5.5.2 The proposal would result in a loss of the rear and side amenity space. However, the remaining amenity space would be well in excess of 100m² and therefore, there is no objection in this regard.

5.6 Other Matters

- 5.6.1 The applicant has advised that the proposal is required to accommodate his elderly father and mother-in-law who require some care. They have stated that by the applicant's father and mother-in-law moving into the proposal, two homes will be released into the housing market and District Nurses will be able to attend one home as opposed to two.
- 5.6.2 Whilst the personal circumstances of the applicant are noted, it is considered that the harm on the character and appearance of the site and area that has been identified is permanent and would not be outweighed by the applicant's personal circumstances or the potential benefits to social care services or the housing market that may result from the development. The proposal must be assessed on the lifetime of the development. Consequently it is not considered that the benefits of the proposal highlighted outweigh the harm identified.

6. ANY RELEVANT SITE HISTORY

- **HOUSE/MAL/11/00666** - Single storey garden room side extension.
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 on the grounds of the scale/size of the proposed extension and the impact on the streetscene. The proposal could cause an increase of disturbance and parking problems through intensified use.	Discussed as far as is applicable below.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No objection subject to a condition	Noted

7.3 Representations received from Interested Parties

- 7.3.1 10 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
It would not respect the design scale and proportions of surrounding buildings, having a detrimental impact on their character and appearance.	Please see section 5.2
Proposal would be noticeable from neighbouring window and would increase the proximity of houses	Please see sections 5.2 & 5.3
Proposal would more than double the size of the dwelling and would be disproportionate to the land. It would set unacceptable precedent in the Cobbins.	Please see section 5.2
The proposal, by reason of its size, siting and design would represent an unreasonable form of development, detrimental to the amenities of the occupiers of adjoining residential properties by reason of its overbearing effect, increase in overlooking and loss of light.	Please see sections 5.3 & 5.2
It will create a sense of enclosure and an imposing visual impact which will be overbearing.	Please see section 5.3
There are no other dwellings of this size in the locality.	Please see section 5.2.
The applicant has said they wish to convert the garage into a bedroom which will create 7 bedrooms.	The applicant has verbally advised the Council that they will convert the garage to a habitable room under permitted development. However, this does not form part of this application.
Reduced distance between dwellings may result in future noise disturbance.	The level of noise created is not considered to be any greater than the existing. Although the built form would be closer to neighbouring dwellings that existing, the level of noise generated from a residential use is not considered to

Objection Comment	Officer Response
<p>Although no window is shown in the eastern elevation this could be inserted during construction.</p> <p>Proposal is intended as a dwelling, the private driveway serving the property was not intended to serve 4 properties. Would give scope for an 8 bedroom or separate dwelling in the future.</p> <p>Drainage and utilities will not be able to cope</p> <p>Appears to create a separate dwelling</p>	<p>be detrimental to neighbouring amenity.</p> <p>The development must be assessed against what is proposed. Conditions can be imposed to prevent any windows being inserted under permitted development rights.</p> <p>Separating the dwelling into two separate dwellings would require planning permission. The addition of one bedroom is not considered to detrimentally impact on highway safety or car parking as discussed at section 5.4.</p> <p>It is not considered the addition of one bedroom will have a demonstrable impact on drainage or utilities.</p> <p>The size, scale, bulk and appearance of the proposal is addressed at section 5.2. If the application were to be approved a condition could be applied preventing the creation of a separate planning unit.</p>

7.3.2 **5** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
New garage is proposed so that the old garage can be converted for my care and the annexe is to help accommodate me.	Please see section 5.6
The design included a lowered roof line and windows in a position to not cause objection.	Please see section 5.2
There will be no demonstrable harm to neighbouring properties	Please see section 5.3
Number of neighbouring properties has had similar conversions with the same intentions.	Please see section 5.2
Neighbouring gardens receive more light than this plot.	Please see section 5.3
Boundary shrubs will be maintained	Please see section 5.2

Supporting Comment	Officer Response
House is on a private road and not subject to the same restrictions as main roads.	Please see section 5.4
Proposal will free up two houses and there is a housing shortage and District nurses will be able to visit two patients at once.	Please see section 5.6
Extension is sympathetic and will enhance the value of adjoining properties. Design is aesthetically pleasing.	Please see sections 5.2 & 5.3

8. REASON FOR REFUSAL

- 1 The proposed development, by virtue of its scale and mass, projection forward of the host dwelling and proximity to the boundaries of the site, would result in a dominant addition to the application site and cause harm to the character and appearance of the host dwelling, the streetscene of The Cobbins and the locality in general. The proposal is therefore unacceptable and contrary to policies D1 and H4 of the Maldon District Local Development Plan, policy HO.8 of the Burnham-on-Crouch Neighbourhood Development Plan and the NPPF.



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

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
11 FEBRUARY 2019**

Application Number	FUL/MAL/18/01470
Location	Hardy's Bar And Grill, 36 Imperial Avenue, Mayland
Proposal	Vary condition 3 and Removal of condition 4 of approved application FUL/MAL/11/00247 (Single storey rear extension and alterations to public house with conversion of first floor to 4 one bedroomed flats. Single storey block of 5 motel units and laundry room with associated parking and amenity space).
Applicant	Mrs Fay Collin
Agent	Mr Mike Otter - GPO Designs Ltd
Target Decision Date	05.02.2019
Case Officer	Nicola Ward, TEL: 01621 875864
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In: Councillor M W Helm – Public Interest Councillor Mrs P A Channer – Public Interest Councillor Mrs B F Acevedo – Public Interest

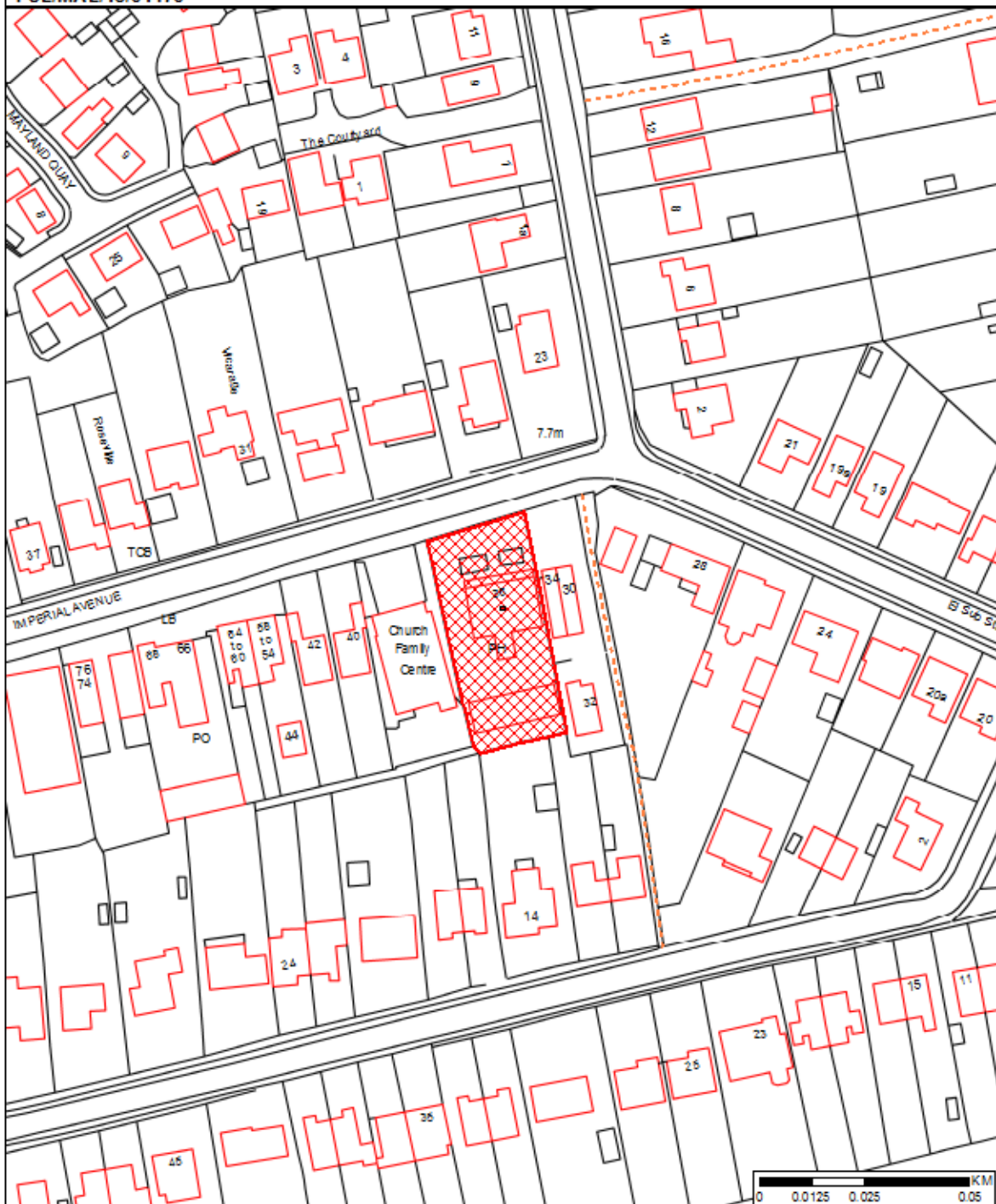
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Hardy's Bar and Grill 36 Imperial Avenue
FUL/MAL/18/01470



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	FUL/MAL/18/01470
	Date:	1/28/2019
	MSA Number:	100018588

www.maldon.gov.uk

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The proposed development would involve the removal of condition 4 that restricts the use of the four flats above the public house to be occupied by a manager or persons employed by the public house, and for the variation of condition 3 to provide additional amenity space for the occupiers of the motel units and the residential units within the public house.

3.1.2 This application is for the variation of the wording of the condition 3 of planning permission FUL/MAL/11/00247 from:

Condition 3: *'The communal grassed garden amenity areas as shown upon the approved plan which is attached to and forms part of this permission shall be laid out and available for use as amenity space for the occupants of all the flats and motel units hereby permitted within 3 months of first occupation of the flats and retained for such purposes thereafter.'*

3.1.3 To:

Condition 3: *'The amenity area shown on the updated plan submitted with this application (Ref: 36CM36AQ_BP1.2) shall be laid out and available for use as amenity space for the occupants of all the flats and motel units hereby permitted within 3 months of first occupation of the flats and retained for such purposes thereafter.'*

3.1.4 In this regard, noting that the applicant states that the flats have already been occupied, it would be necessary to amend this suggested condition to require compliance within a specified period after the granting of permission. The application also seeks removal of condition 4 which states:

Condition 4: *'The four flats hereby permitted shall only be occupied by persons wholly or mainly employed at the Public House to which they relate.'*

3.2 Conclusion

3.2.1 It is considered that the variation of condition 3 to revise the amenity plan submitted as part of application reference FUL/MAL/11/00247, would provide additional amenity space and therefore would be acceptable and would not have a detrimental impact on the appearance of the area and application site.

3.2.2 The removal of condition 4 to allow the 4 units above the public house to be let to persons not associated with the public house would enable the formation of self-contained residential units. Whilst it is noted the size and layout of the units are acceptable in terms of light and outlook, the occupiers of the unit would be likely to be adversely affected by noise and disturbance from the public house. It is therefore considered that the removal of condition 4 would enable a use of the land to occur that would not be in accordance with policies D1, D2 and H4 of the Local Development Plan (LDP) and 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:

- 2-14 Achieving sustainable development
- 11 Presumption in favour of sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 57 Planning conditions and obligations
- 80 – 84 Building a strong, competitive economy
- 128 – 132 Achieving well-designed places
- 170 - 183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate change & Environmental Impact of New Development
- H4 Effective Use of Land
- E3 Community facilities
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The application site is located within the development boundary of Mayland and therefore, the principle of providing residential accommodation is acceptable, subject to all other policy requirements being met.
- 5.1.2 The subject application is a re-submission of a previously refused application FUL/MAL/18/00950 which sought the variation of conditions 4, 7, 8 & 9 on approved planning permission FUL/MAL/11/00247. The reason for refusal was as follows:

'The variation of conditions would result in residential accommodation being provided that would not be served by adequate living conditions as a result of the relationship of that accommodation with neighbouring uses, the inadequate

provision of amenity space and a lack of light and outlook from within that accommodation. The proposed variation of conditions is therefore unacceptable and contrary to policies D1 and H4 of the Maldon District Local Development Plan and the National Planning Policy Framework.'

- 5.1.3 Whilst it is noted that application reference FUL/MAL/18/00950, included the variation of conditions to allow the motel units to be used as residential units in addition to the units above the public house, the reason for refusal regarding the concerns raised in relation to the living conditions would need to be overcome. It should be noted that the concerns about lack of light and outlook were directed towards the motel units only and not the units within the main public house building.

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:-

- 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 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.2.5 The proposed removal of condition 4 would not result in any external alterations to the buildings at the site and as such there are no building operations that would impact on the character and appearance of the site and the surrounding area. The removal of the condition would result in four additional residential units within the site and therefore it is probable that the site will acquire some domestic paraphernalia and there will be more intensive parking at the site at different times of the day. The proposal would consequently have some impact on the character of the area.
- 5.2.6 Furthermore, the provision of amenity space would alter the character and appearance of the car parking area and whilst in many respects the provision of a soft landscaped area would be of benefit to the setting of the car parking area, it is noted that to be of sufficient quality to be of any benefit to the occupants of the flats, it would most likely need to be enclosed by an enclosure of greater height and substance than the 0.9 metre tall picket fence that is mentioned on the submitted plans. The provision of taller and more effective boundary treatments within the site would result in a contrived layout within the site and the amount of boundary treatments would be likely to detract from the character of the area.
- 5.2.7 Whilst the arrangement shown on the plans submitted would not be unacceptable in visual terms, and therefore the application should not be refused on those grounds, it is considered that it would not be possible to impose conditions to enable the amenity space to be of adequate standard. This will be discussed further below.

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 nearest existing neighbouring dwelling is No 32 Imperial Avenue, which is directly to the east of the site. However, there is an existing 1.8m common boundary fence between No. 32 and the application site and it is noted that there are no additional buildings or extensions proposed under the terms of this application. Although the existing windows might be relied upon more intensively, it is considered that there would not be a significant intensification of the use of the windows that would cause a loss of privacy within neighbouring properties to an extent that would justify the refusal of the application on those grounds.
- 5.3.3 The proposed removal of condition 4 would be likely to intensify the number of people at the site as the level of long-term occupation would be increasing. However, it is considered that the level of noise and disturbance generated through the use of the site would not be materially different. Therefore it is considered that the proposal would not have an impact on the amenities of neighbouring residents that would justify the refusal of the application on those grounds.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to 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 existing parking spaces would be altered as part of this application. Parking spaces 7 and 9 would be relocated to the western side of the site and spaces 1, 2 and 3 would be located 4m forwards (west) of their existing location. The highway authority has been consulted on the relocation and there is no objection to the scheme on highway safety grounds. The proposal would also provide the maximum of 1 space per one bed residential unit as recommended by the adopted Maldon District Vehicle Parking Standards (MDVPS).

5.5 Private Amenity Space and Landscaping

- 5.5.1 Condition 3 of approved planning application FUL/MAL/11/00247 required *'The communal grassed garden amenity areas as shown upon the approved plan which is attached to and forms part of this permission shall be laid out and available for use as amenity space for the occupants of all the flats...'*. The variation of condition 3 is to revise the plan approved outlining the grassed garden amenity areas, to be replaced with a revised plan providing additional amenity space. This additional space would be located between the parking area for the motel users and the service area of the public house.
- 5.5.2 It is considered that the location and shape of the additional amenity space would result in it being of limited value to the occupants of the residents of the flats. It is considered that the openness relative to the commercial uses at the site and the parking area, means that the amenity space would not be private and would be subjected to overlooking, noise and fumes. Whilst it is noted that the construction of a form of enclosure (particularly one of greater height and density than the picket fence mentioned on the plans) could overcome some of these concerns in part, it is considered that this is unlikely to be visually acceptable and this would enclose the amenity space in a manner that would make it unattractive and of minimal value or benefit to the occupants. It is therefore considered that the amenity space provisions to serve the proposed flats would be unacceptable. Therefore, it is considered the amenity space provided would not be in accordance with policy D1 and D2 of the LDP.

5.6 Living Conditions

- 5.6.1 The NPPF sets out that *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions."*
- 5.6.2 Furthermore, the NPPF sets out that *'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community*

facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity....'

- 5.6.3 Policy D2 aims to minimise all forms of possible pollution including air, land, water, odour, noise and light that would result in a detrimental impact and potential risk to the human and natural environment. Any concerns regarding any risks would need to be addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.6.4 The applicant has stated that *"It has been shown through testing that the acoustic insulation between the flats and the public house is very good.....The testing found that the airborne sound insulation results are on average 9.7dB better than the required standard achieving sound insulation of between 52 and 54dB. That is to say that noise or music within the public house will not have an adverse impact on the living conditions of the occupiers of the flats."* The applicant goes on to state that a sound monitor has been installed within the premises, that there is signage to require patrons to be respectful of their neighbours, that condition 10 of the 2011 permission can control noise from the extraction system at the site and the outlook of the flats is acceptable.
- 5.6.5 In response the Council's Environmental Health Officer has stated the following:

"For this most recent application the applicant has submitted a Pre-Completion Testing Report on Flats formed by a material change of use to show compliance with Part E of the Building Regulations 2000 (as amended) by Sound Acoustics dated 21st November 2018.

Whilst the report indicates compliance from airborne noise testing between the licensed premises and the flats above the pre completion testing to meet the requirements of Approved Document E do not apply to noise from live bands, recorded music and regular raised voices associated with the licensed premises. Part E of the Building Regulations and the associated pre completion testing is aimed at the resistance of sound between dwellings as stated in the LABC Technical Guidance Note regarding the Resistance of Sound (2009).

The resistance of sound between commercial units and dwellings, in particular for this type of noise, requires testing specific to live bands and amplified recorded music. It will also usually require more robust sound insulation than published in Approved Document E to respect the reasonable privacy of occupants of dwellings and so protect their amenity and public health.

Therefore the sound testing provided is inadequate to demonstrate that the occupants of the flats above the licensed premises are protected from noise within it. In addition the concerns about noise disturbance also extend to customers entering and leaving the licensed premises which realistically cannot be controlled.

If the permission was granted although Environmental Health will investigate complaints of nuisance arising from the licensed premises the business will have a defence of best practicable means. This could effectively mean that only a percentage

of noise or other disturbances could be remedied should complaints arise once the development is completed and occupied. Additionally the current character of the area would need to be considered when investigating nuisance and the industrial area would influence this. Similarly the NPPF also suggests that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

Therefore the primary legislation available to Environmental Health would be of limited use.

On considering the information available to us and the potential risk to public health from noise from the licenced premises the situation remains unchanged from the previous comments. Therefore Environmental Health objects to the application and any further relaxation of the residential occupancy at the site.”

- 5.6.6 It is therefore noted that the testing methodology that has been utilised is inadequate and the Environmental Health Officers have objected to the application on the grounds that the use of the four existing units for independent residential purposes is inappropriate given the proximity of the existing bar. Occupants are likely to be disturbed by activities commonly associated with a licensed premise including music, vehicle movements and patrons arriving and leaving.
- 5.6.7 In 2014 an application (FUL/MAL/14/00965) for the change of use of the motel units into 3 one bedroom flats was received and refused and a subsequent appeal (APP/X1545/W/15/3038236) was dismissed. Within the appeal decision the Inspector stated ‘..on my site visit, a lorry along with activity in the kitchen and storeroom and the associated noise and disturbance.’ Furthermore, the Inspector concluded ‘proposal would provide unsatisfactory living conditions for future occupiers, with regard to noise, disturbance, outlook and private garden space.’
- 5.6.8 Although the terms of the application are different, it is noted that the outcome would still be to allow the formation of self-contained residential units at the site, which would be occupied independently of the public house. Although the relationship between buildings would be different, the potential noise sources would be comparable and therefore the living conditions of residents could be impacted upon in the same manner as was previously found to be unacceptable at the site by both the Local Planning Authority (LPA) and the Planning Inspectorate. The parking areas to the front and rear of the site and customers entering and leaving the site (who could possibly in ‘high spirits’) has the potential to cause disturbance notwithstanding the presence of signage to request otherwise.
- 5.6.9 The existing units are intended to be occupied by workers. It is therefore considered that the level of accommodation that would be expected to be available and the standard of living conditions would be different to that which would be expected of a residential dwelling. The concerns that were raised previously with respect to the receipt of light and the provision of outlook were primarily aimed at the motel units at the rear of the site. In this instance the applicant has demonstrated that the flats above the public house would be acceptable in this respect through the provision of photographs that show the living conditions and through submitting light calculations. It is therefore considered that no objection should be raised to this proposal in that regard.

- 5.6.10 Additionally, due to the additional amenity area requested under the variation of condition 3 being unacceptable, it is considered that the units would not benefit from acceptable private amenity space and therefore the resultant self-contained units would be in conflict with the amenity space standards that are set out within the Council's Design Guidance Documents. 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 MDDG SPD advises a suitable garden size for each type of dwellinghouse.
- 5.6.11 It is noted that the Planning Inspector for the previous appeal gave consideration to the use of a condition to control the sub-division of the motel unit's ownership but this was not considered to overcome the concerns that existed. The same is true for this scenario.
- 5.6.12 Overall, the proposed alterations to the conditions would allow residential units to be formed that would be served by a poor and inadequate standard of living contrary to policies D1, D2 and H4 of the LDP.

6. **ANY RELEVANT SITE HISTORY**

- **FUL/MAL/10/00552** - Single storey rear extension and alterations to public house. Conversion of first floor to motel (5 beds) and 2 no. one bedroom flats. Erection of 2 no. two bedroom flats at rear with associated parking and amenity spaces. – Refused 01.09.2010
- **FUL/MAL/10/00919** - Single storey rear extension and alterations to public house. Conversion of first floor to 4no. one bedroom flats. Single storey block of 5 motel units and laundry room with associated parking and amenity space. – Approved 14.12.2010
- **FUL/MAL/11/00247** - Single storey rear extension and alterations to public house with conversion of first floor to 4 one bedroomed flats. Single storey block of 5 motel units and laundry room with associated parking and amenity space.- Approved 26.05.2011
- **FUL/MAL/14/00965** - Change of use of motel units into 3 one bedroom flats. – Refused 12.12.2014 – Appeal Dismissed 22.10.2015

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	Recommends Refusal – Condition 3 is regarding a piece of green land at the rear of the motel units which is not even owned by applicant. This formed part of the original footpath along the rear of Hardy's.	The agent was advised of these comments and a revised location plan and block plan was received on the 15/01/2019. A re-consultation was issued allowing 2 weeks for comments.

Name of Parish / Town Council	Comment	Officer Response
	Therefore the original condition should remain in place.	

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	Object - On considering the information available to us and the potential risk to public health from noise from the licenced premises the situation remains unchanged from the previous comments. Therefore Environmental Health objects to the application and any further relaxation of the residential occupancy at the site. Furthermore, We do not consider this as much of an amenity due to its location between the car park and service area, for occupants of flats and holiday accommodation as it likely to be affected by noise, fumes and a lack of privacy. Therefore we cannot support the application to vary condition 3.	Addressed within the relevant sections of the report below.

7.3 Representations received from Interested Parties

7.3.1 No letters of representation have been received.

8. REASON FOR REFUSAL

1. The proposed removal of condition 4 would result in residential accommodation being provided that would not be served by adequate living conditions as a result of the relationship of that accommodation with neighbouring uses and the inadequate provision of amenity space. The proposed removal of the condition is therefore unacceptable and contrary to policies D1, D2 and H4 of the Maldon District Local Development Plan and the National Planning Policy Framework.

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