

# Unrestricted Document Pack

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

05 July 2019

Dear Councillor

You are summoned to attend the meeting of the;

## **SOUTH EASTERN AREA PLANNING COMMITTEE**

on **MONDAY 15 JULY 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 M W Helm

#### COUNCILLORS

M G Bassenger  
B S Beale MBE  
V J Bell  
R G Boyce MBE  
Mrs P A Channer, CC  
A S Fluker  
A L Hull  
N J Skeens  
W Stamp

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 15 JULY 2019**

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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 17 June 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/18/01518 - Sandbeach, Hockley Lane, Bradwell -on-Sea, Essex, CM0 7QB** (Pages 21 - 40)

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

6. **FUL/MAL/19/00169 - Land Adjacent Brickfields Cottage, Green Lane, Burnham-on-Crouch, Essex** (Pages 41 - 58)

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

7. **FUL/MAL/19/00382 - Club Nautico, Bridgemarsh Marina, Bridgemarsh Lane, Althorne, Essex** (Pages 59 - 82)

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

8. **FUL/MAL/19/00465 - Chartwell, 129 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB** (Pages 83 - 112)

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

9. **FUL/MAL/19/00533 - Grove Farm, Stoney Hills, Burnham-on-Crouch, Essex**  
(Pages 113 - 132)

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

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

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### **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

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#### **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 – 9.
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](http://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
- 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)
- Essex and South Suffolk Shoreline Management Plan – October 2010

### **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 Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards 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

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  
17 JUNE 2019**

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**PRESENT**

Chairman	Councillor R P F Dewick
Vice-Chairman	Councillor M W Helm
Councillors	M G Bassenger, B S Beale MBE, V J Bell, R G Boyce MBE, Mrs P A Channer, CC, A S Fluker, A L Hull, N J Skeens and W Stamp

**172. CHAIRMAN'S NOTICES**

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

**173. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**174. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 21 May 2019 be approved and confirmed.

**175. DISCLOSURE OF INTEREST**

Councillor R G Boyce, MBE declared a non-pecuniary interest in Agenda Item 5 – FUL/MAL/18/01390 – Winterdale Manor, Burnham-on-Crouch, Essex, as he was Chairman of an Almshouse Trust.

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 also declared on Agenda Item 8 - FUL/MAL/19/00465 – Chartwell, 120 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB, as she knew the objectors and said she had visited a children's home in her ward. In conclusion she declared that she was a member of an almshouse charity.

Councillor W Stamp declared a non-pecuniary interest in Agenda Item 6- FUL/MAL/19/00400- Land at Myrtle Cottage, Stoney Hills, Burnham-on-Crouch, Essex, as the applicant had undertaken work for the Town Council.

Councillor Helm declared a non-pecuniary interest in Agenda Item 5 – FUL/MAL/18/01390 - Winterdale Manor, Burnham-on-Crouch, Essex, as he knew the applicant and was a member of an almshouse charity.

Councillor N Skeens declared a non-pecuniary interest in Agenda Item 8 FUL/MAL/19/00465 – Chartwell, 120 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB, as he was a foster carer.

Councillor Miss Bell declared a non-pecuniary interest in Agenda Item 6 – FUL/MAL/19/00400- Land at Myrtle Cottage, Stoney Hills, Burnham-on-Crouch, Essex, as she knew the applicants, Agenda Item 8 - FUL/MAL/19/00465 – Chartwell, 120 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB as she knew some of the objectors and she had worked in the sector for a number of years.

Councillor Bassenger declared a non-pecuniary interest in Agenda Item 5 - FUL/MAL/18/01390 - Winterdale Manor, Burnham-on-Crouch, Essex, as he knew some of the objectors and had met the applicant.

It was noted that all Members declared a non-pecuniary interest in Agenda Item 9a – FULL/MAL/18/00839 – Land Adjacent Orchard House, Nipsells Chase, Mayland, Essex, as they knew the applicant.

**176. FUL/MAL/18/01390 - WINTERDALE MANOR, BURNHAM ROAD, ALTHORNE**

<b>Application Number</b>	<b>FUL/MAL/18/01390</b>
<b>Location</b>	Winterdale Manor Burnham Road, Althorne
<b>Proposal</b>	Demolition of the existing buildings and erection of 14 dwellings with associated infrastructure
<b>Applicant</b>	Bardwell Plant & Agricultural Services Ltd
<b>Agent</b>	Mrs Lisa Skinner – Phase 2 Planning
<b>Target Decision Date</b>	21.06.2019
<b>Case Officer</b>	Devan Lawson
<b>Parish</b>	<b>ALTHORNE</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application Member Call In: Councillor Acevedo Reason: Public Interest and Local Knowledge

A Members' Update was submitted by the agent detailing revised plans.

Following the Officer's presentation an Objector, Thomas Wright, Parish Councillor Paul Burgess, Althorne Parish Council and the Applicant, Mr Bardwell addressed the Committee.

A debate ensued where some Members expressed sympathy with the applicant, however, the majority felt that the Officer's recommendation was correct. The application was outside the defined settlement boundary, it would have a detrimental impact on the character and appearance of the area, did not contain adequate provision for affordable housing and was contrary to five key policies in the Maldon District Local Developmental (MDLDP).



Taking into consideration the aforementioned Councillor Fluker proposed that the application be refused in accordance with the Officer's recommendation and this was seconded.

The Chairman put the proposal to refuse to the Committee and this was agreed

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

1. The proposed development would result in the loss of employment land. No justification or evidence has been provided for the loss of this land by way of evidence that the existing use demonstrably harms the character and appearance of the area, the proposed use would be of greater benefit to the community, or that the site has been marketed for sale and that there is a confirmed lack of interest. The development would therefore have an adverse impact on the limited supply of employment generating land, contrary to policy E1 of the approved Maldon District Local Development Plan and guidance contained in the National Planning Policy Framework (2019).
2. The application site lies outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the character of the area and have an unacceptable visual impact on the countryside and the locality through the urbanisation and domestication of the site, representing the sprawl of built form outside the settlement boundary of Althorne. Furthermore, the limited design merit of the proposal, which would create a contrived and out of keeping form of development which would exacerbate the impact on the character and appearance of the area and the locality. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2019).
3. The proposed development makes inadequate provision for affordable housing or a financial contribution in lieu of affordable housing contrary to policy H1 of the approved Maldon District Local Development Plan and the National Planning Policy Framework (2019).
4. The proposed development as a result of its unacceptable visual impacts and urbanisation and domestication of the site, the failure to provide sufficient car parking provision and the lack of sufficient amenity space provision at plot 2 will result in the overdevelopment of the site. The proposal is therefore contrary to policies S1, S8 D1, H4 and T2 of the Maldon District Local Development Plan, the Maldon District Design Guidance and the National Planning Policy Framework.
5. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy

has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.

**177. FUL/MAL/19/00400 - LAND AT MYRTLE COTTAGE, STONEY HILLS, BURNHAM-ON-CROUCH**

<b>Application Number</b>	<b>FUL/MAL/19/00400</b>
<b>Location</b>	Land at Myrtle Cottage, Stoney Hills, Burnham-On-Crouch, Essex
<b>Proposal</b>	Proposed 2 bedroom dwelling
<b>Applicant</b>	Mr & Mrs Wiffen
<b>Agent</b>	Greg Wiffen - Planman
<b>Target Decision Date</b>	06.06.2019 (EoT agreed: 21.06.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

A Members' Update was submitted detailing representations received from the Parish/Town Council. Following the Officer's presentation, the Applicant, Mr Wiffen, addressed the Committee.

A debate ensued and whilst there was sympathy for residents concerning the continued development in the area, it was also acknowledged that this application had been assessed against all material planning considerations and was found to be acceptable

It was further noted that given the area had been urbanised , given the planning history of the site and the appeals allowed. Therefore, the refusal of an application would need a very strong planning reason, proving demonstrable harm.

Councillor Fluker proposed that the application be approved in accordance with the Officer's recommendation and this was duly seconded.

The Chairman put the proposal to approve in accordance with the Officer's recommendation to the Committee and this was agreed.

**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 GW08; GW01 A; GW02 A; GW05; GW03 and GW04 A.
3. Prior to their use in the development hereby approved, details or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. Prior to the occupation of the development hereby approved details of the 4. boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided prior to the

occupation of the dwelling hereby approved in accordance with the approved details and be retained as such in perpetuity.

5. Prior to the occupation of the development details of both hard and soft landscape works to be carried out shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.
6. No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - Wheel washing facilities
  - Measures to control the emission of dust, noise and dirt during constructionHours and days of construction operations.
7. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
  - 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
  - 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) 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.

8. No development above ground level shall be occur until details of the foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
9. The vehicle parking area and associated turning area shown on plan GW 04A shall be provided prior to the occupation retained in this form 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 unless otherwise agreed with the Local Planning Authority.
10. Details of the refuse and cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained for such purposes in perpetuity thereafter.
11. Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:
  - (i) a survey of extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - Human health,
    - Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - Adjoining land,
    - Groundwaters and surface waters,
    - Ecological systems
    - Archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

- 12 No development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The

scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the approved scheme have been implemented, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

13. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

14. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition [11], and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition [12]. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition [13].

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site.
16. The trees and hedges identified for retention on the approved plan drawing number GW 04 A and the details included in the Tree report which is attached to and forms part of this permission shall be protected during the course of the development. The trees and hedges shall be protected by measures which accord

with British Standard 5837:2012 (Trees in Relation to Construction). The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless otherwise first agreed in writing by the local planning authority. If within five years from the completion of the development a tree or hedge shown to be retained is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shall be planted within the site of such species and size, and shall be planted at such time, as specified in writing by the local planning authority.

**178. FUL/MAL/19/00458 - LAND ADJACENT 9 ST. PETER'S COURT, BRADWELL-ON-SEA**

<b>Application Number</b>	<b>FUL/MAL/19/00458</b>
<b>Location</b>	Land Adjacent 9 St Peters Court, Bradwell-on-Sea
<b>Proposal</b>	Erection of 2No. detached 4 bedroom dwellings
<b>Applicant</b>	Great Canney Developments Ltd
<b>Agent</b>	Raymond Stemp Associates
<b>Target Decision Date</b>	12.06.2019
<b>Case Officer</b>	Devan Lawson
<b>Parish</b>	<b>BRADWELL-ON-SEA</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

A Members' Update was submitted detailing a revised site map as shown on the agenda, agreed pre-commencement conditions and a further letter of objection.

Following the Officer's presentation, Mr Raymond Stemp, the Agent, addressed the Committee.

A brief debate took place and the Committee acknowledged that the benefit with this application was that the development closed the gap and there was no more opportunity to extend further. It was also noted that having taken into account all material planning considerations the principle to erect a dwelling house had been established.

The Chairman proposed that the application be approved in accordance with the Officer's recommendation, and this was seconded. The Chairman concurred that the development closed the gap and cannot be extended further.

The Chairman put the proposal to approve the application in accordance with the Officer's recommendation to the Committee and this was agreed.

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

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: NDCM07JE\_BP1.1, NDCM07JE\_SP1.0, NDCM07JE\_PSP1.0, 03, 04, 05, 06
3. No works shall be carried out above ground level until written details or samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: ATS/537/03, Illustrative Site Plan – LD, Illustrative Site Plan- WD, Proposed Reception/Spa Building Floor Plans & Elevations. REASON To ensure that the development is carried out in accordance with the details as approved.
5. Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:
  - i) Finished levels;
  - ii) Means of enclosure, including gates;
  - iii) Car parking layouts;
  - iv) Vehicle and pedestrian access and circulation areas;
  - v) Hard surfacing materials;
  - vi) Indications of all existing trees and hedgerows on the land and identification of those to be retained; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.

The details set out in (i) to (v) above shall be implemented as approved prior to occupation of the dwelling and retained thereafter. Soft landscape works, as required by (vi) above, shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place.

6. No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the

- site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
7. Prior to any works above ground level 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.
8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

**179. FUL/MAL/00465 - CHARTWELL, 120 MALDON ROAD, BURNHAM-ON-CROUCH, ESSEX, CM0 8DB**

<b>Application Number</b>	<b>FUL/MAL/19/00465</b>
<b>Location</b>	Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB
<b>Proposal</b>	Change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution).
<b>Applicant</b>	Mr Frederik Booysen - PSS Care Group
<b>Agent</b>	Miss Nichola Brown - PSS Care Group
<b>Target Decision Date</b>	28.06.2019
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Councillor Wendy Stamp has requested the application be presented before Members of the South Eastern Area Planning Committee on the grounds of public interest.

A Members' Update was submitted detailing representations received from interested parties and another letter from the agent providing further information regarding the proposed development.

Following the Officer's presentation, an Objector, Mr Overall, a Supporter, Jo Batchelor and the Agent, Miss Nichola Brown, addressed the Committee.



A debate ensued where the benefits and problems surrounding the change of use this application presented were discussed. It was acknowledged that there was a need to support the vulnerable in society whilst securing the residential amenity of the existing residents. Members involved in this area of support work said that, from experience, having an open dialogue between residents and the respective children's home facilitated positive co-existence.

The Committee were reminded that the proposed development had been assessed against all material planning considerations and was considered acceptable. Furthermore, the application was supported by Burnham Town Council.

The Lead Specialist Place advised the Committee that, given the resident consultation expiry date of the 18 June 2019, the recommendation on the report would be revised to one of delegation to the Director of Strategy, Performance and Governance for approval. A new report would be provided at the next Committee meeting, should new material planning considerations be raised.

The Chairman put the revised recommendation to the Committee that the decision be delegated to the Director of Strategy, Performance and Governance to be approved as per the officer's recommendation, subject to no new material considerations being raised during the remainder of the neighbour consultation period, and this was agreed.

**RESOLVED** that the decision be delegated to the Director of Strategy, Performance and Governance to be **APPROVED** as per the officer's recommendation, subject to no new material considerations being raised during the remainder of the neighbour consultation period and 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: Location Plan and Block Plan.
3. The development hereby approved shall only be used as a children's home and or no other use within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the local planning authority.
4. Details of a cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained as such in perpetuity thereafter.

**180. URGENT BUSINESS - FUL/MAL/18/00839 - LAND ADJACENT ORCHARD HOUSE. NIPSELLS CHASE, MAYLAND, ESSEX**

<b>Application Number</b>	<b>FUL/MAL/18/00839</b>
<b>Location</b>	Land Adjacent Orchard House, Nipsells Chase, Mayland, Essex
<b>Proposal</b>	Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses
<b>Applicant</b>	Mr & Mrs Kenny Paton

<b>Agent</b>	N/A
<b>Target Decision Date</b>	13.06.2019
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor Miss Sue White is co-applicant. Major application

Following the Officer's presentation, Miss White, the Applicant, addressed the Committee.

A lengthy debate ensued around changes to legislation in respect of prior to commencement conditions together with those pre-commencement conditions 12,13, and 14 yet to be agreed by the applicant in respect of this application.

The Committee discussed the aforementioned conditions in detail to determine their relevance to the application. Following the discussion Councillor Fluker proposed that the application be approved subject to the applicant providing a method statement and protection plan in respect of the trees under the TPO, as referenced in pre-commencement condition 12 and that both pre-commencement conditions 13 and 14 be removed. This was duly seconded.

The Chairman put the proposal to approve the application to the Committee subject to the applicant's agreement to the pre-commencement condition 12 on page 18 of the Urgent Business document and the removal of conditions 11, 13 and 14. Due to the removal of condition 11, condition 12 on page 18 would now be condition 11. This was agreed.

**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: 1142/01 RevA; 1142/02 RevA; 1142/03; 1142/04 and 1142/05.
3. Prior to their use in the development hereby approved, details or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. Prior to the occupation of the development hereby approved details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided prior to the use of the site and building hereby approved in accordance with the approved details and be retained as such in perpetuity.
5. The stables hereby permitted shall be used solely for the private stabling of horses and no business or commercial use including for the purposes of livery or any riding school activity shall take place at the site.
6. The storage area hereby permitted shall be used solely in association with the equestrian use of the site or for agricultural purposes and for no other use falling within B8 (storage and distribution) use of the Town and Country Planning (Use Classes) Order 1987 (as amended).
7. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented

prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
- 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) 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.

8. No development above ground level shall be occur until details of the foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
9. There shall be no burning of animal or stable wastes anywhere on the site as shown edged in red (or blue) on the plans which are attached to and form part of this permission.
10. No floodlighting or other external form of illumination of the site shall be undertaken without the prior written approval of the local planning authority. Prior to the use of the development hereby permitted, details of any proposed floodlighting and all other external illumination of the site 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. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the local planning authority.
11. An arboricultural method statement and tree protection plan in accordance with BS5837:2012 shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall thereafter be implemented in accordance with the approved details.
12. The public's rights and ease of passage over restricted byway number 17 in Mayland shall be maintained free and unobstructed at all times.

There being no further items of business the Chairman closed the meeting at 9.27 pm.

R P F DEWICK  
CHAIRMAN

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**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**  
**to**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**15 JULY 2019**

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<b>Application Number</b>	<b>FUL/MAL/18/01518</b>
<b>Location</b>	Sandbeach Hockley Lane Bradwell-On-Sea Essex CM0 7QB
<b>Proposal</b>	Section 73A application to convert disused farm outbuilding into dog kennels, change of use of associated land to be used as a dog rescue centre and stationing of a caravan to be used as a veterinary practice in association with the dog rescue use.
<b>Applicant</b>	Ms Charlene Nathan
<b>Agent</b>	Mr Ashley Wynn
<b>Target Decision Date</b>	26.04.2019 (E.o.T. 19.07.2019)
<b>Case Officer</b>	Spyros Mouratidis
<b>Parish</b>	<b>BRADWELL-ON-SEA</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor R Dewick – Matter of public interest

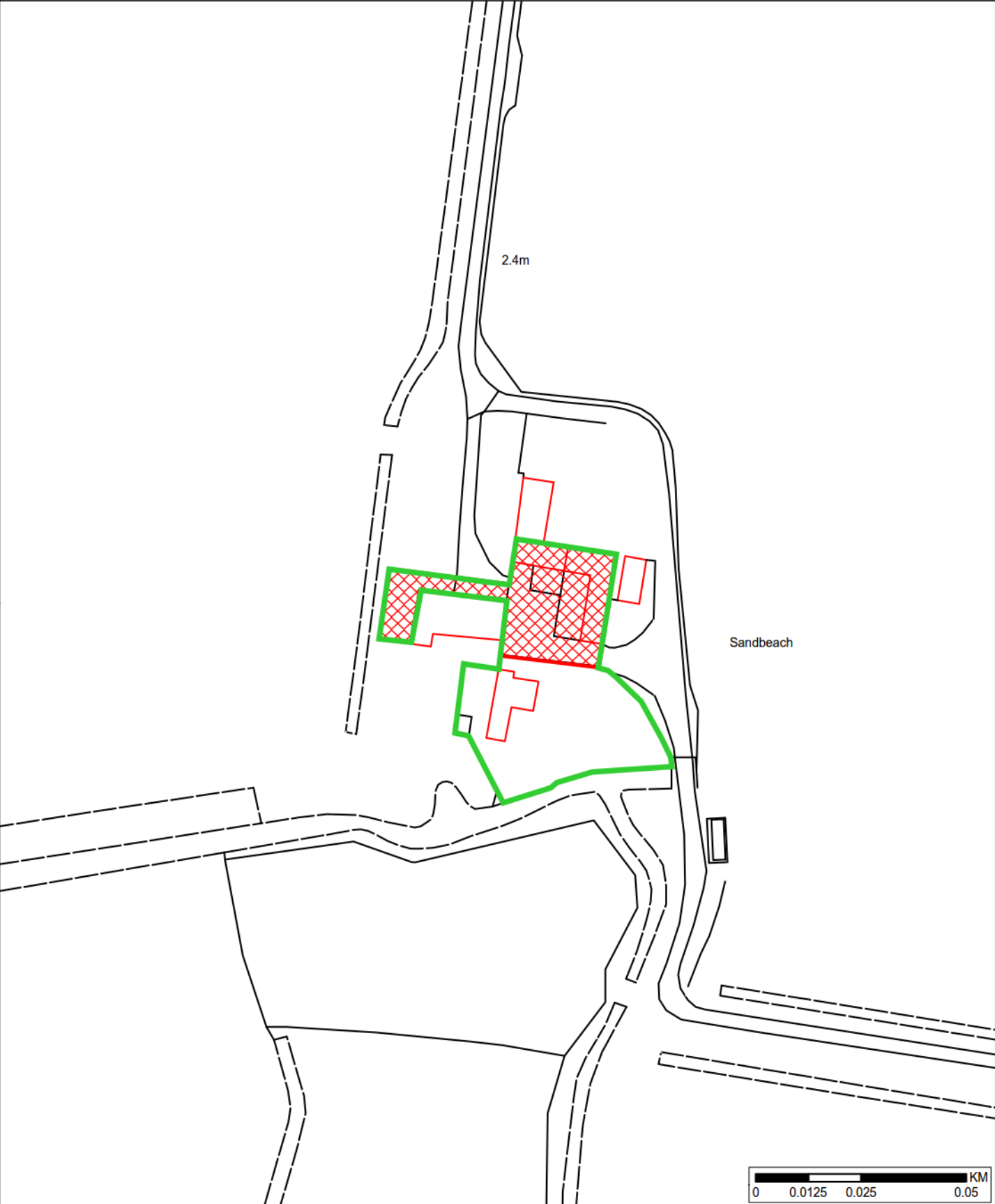
**1. RECOMMENDATION**

**Delegate to officers for APPROVAL** subject to the conditions as detailed in Section 8 of this report and subject to no new material planning considerations raised by the end of the re-consultation period.

**2. SITE MAP**

Please see overleaf.

18/01518/FUL - Sandbeach, Hockley Lane  
Bradwell-on-sea, Essex CM0 7QB



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Maldon District Council 100018588 2014



Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	SE Area Planning Committee
Date:	03/07/2019
MSA Number:	100018588

### **3. SUMMARY**

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

- 3.1.1 The application site lies within an agricultural setting, on the southern end of Hockley Lane which is a single file, concrete road to the south-east of Bradwell-on-sea. The site lies outside of any defined settlement boundary and is part of a cluster of buildings within the countryside. To the south of the application site is the dwelling known as Sandbeach which is under the same ownership and is rented by the Applicant. There are three additional buildings abutting or adjacent to the application site which are under the same ownership but are not included in the application. The site is occupied by an “L”-shaped building which is currently used to house the kennels, a yard treated with hard core loose material, and a caravan which is used as a vet practice in association with the dog rescue which is operating on site.
- 3.1.2 The area around the site is open and rural in nature, typical of the landscape in the Dengie Peninsula. The nearest structures to Sandbeach are agricultural buildings at Glebe Farm and Weatherwick some 350m to the north and 850m to the west respectively. The nearest residential properties are located approximately 1600m to the north as the bird flies. A footpath crosses the length of Hockley Lane for several hundreds of metres. The footpath continues from the east of the site southwards where it intersects another footpath connecting the site with the sea to the east and with the village of Tillingham to the south-west. To the south of the site is Bradwell Brook. To the south of Bradwell Brook is a part of Sandbeach Meadows Site of Special Scientific Interest (SSSI). Another part of the same SSSI designation is located approximately 200m to the north of the site. Approximately 600m to the east of the site, the land is part of a number of designations including the Essex Estuaries Special Area of Conservation (SAC) and Marine Conservation Zone (MCZ) and the Ramsar designated Dengie Special Protection Area (SPA) and SSSI.

#### **The development**

- 3.1.3 Planning permission is sought for the material change of use of the application site from agricultural to a dog rescue centre with associated kennels and a caravan used as a veterinarian’s office. The development has already been carried out, therefore, the application is retrospective in nature and has been submitted under the provisions of Section 73A of the Town and Country Planning Act 1990 as amended (the “1990 Act”).
- 3.1.4 To accommodate the use, the agricultural building within the application site have been converted to kennels. The “L”-shaped building has a maximum length of 24.3m, a maximum width of 21.1m and a maximum depth of 5.3m. The building is closed on four of its six sides. The sides facing the yard within the application site are open. The submitted plans show that sixteen (16) kennels have been accommodated within the building. An area of the hardsurfaced yard has been fenced off to create an exercise space. Gates and fences enclose the rest of the rectangular area between the house and the building. The caravan is located to the western part of the site. It is a standard static caravan measuring 9.6m by 3.6m with height to the eaves at 2.7m. The caravan has a typical shallow pitched roof measuring 3m from the ground to the ridge.

- 3.1.5 A management plan has been submitted in support of the application. Within the plan, it is proposed, among others, to display the plan on site, staff and volunteers to receive training, the visitors' hours to be Wednesday to Sunday 11am to 5pm with reduced hours for the winter, the dogs will be walked in groups with maximum of two dogs to one staff member, during specific hours (8:30am to 3pm) and will be kept on leads.

### Background

- 3.1.6 The dog rescue was previously located at Oldfield Lodge, Burnham Road, Latchingdon, Essex, CM3 6EZ. The Council refused three applications (references: FUL/MAL/15/00058, FUL/MAL/16/00118 and FUL/MAL/17/00556) and issued an enforcement notice (reference: ENF/14/00181/01) for the use at that site due to noise issues and the associated impact to the amenity of neighbouring occupiers.
- 3.1.7 The application was initially submitted without the caravan forming part of the development for which permission was sought for. This aspect of the development was highlighted during a site inspection. The application was amended to include the caravan. Furthermore, the management plan was submitted. Re-consultation was carried out at the time. During the consideration of the application it was considered necessary the dwellinghouse at Sandbeach to be included within the application site. The reason why this amendment was required is explained at section 5.3 and relates to the potential impact of the development upon the amenity of the area. As the application site has been amended to be enlarged, the application has been re-advertised for re-consultation. The consultation period will expire on 18 July 2019.

## **3.2 Conclusion**

- 3.2.1 There are no concerns raised in relation to the principle of the development, its impact to the character and appearance of the area and the risk of flooding. Subject to conditions, concerns about the impact on the amenity of residential occupiers, impact on the safety of the highway network and the effect upon the natural environment would be mitigated. Overall, it is considered that the disbenefits and the potential harm arising from the development, if appropriately controlled with conditions, would not outweigh its benefits. The development, subject to conditions, is considered to be sustainable and in line with policies S1, S7, S8, E4, D1, D2, D5, T1, T2 and N2 of the approved Local Development Plan (LDP). Given that planning applications should be determined in accordance with the approved LDP unless material considerations indicate otherwise, this application should be approved as there are no material planning considerations to indicate that the development should not be granted planning permission subject to conditions.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 2019 including paragraphs:**

- 2-14 Achieving sustainable development
- 38 Decision-making
- 47 – 50 Determining applications



- 54 – 57 Planning conditions and obligations
- 102 – 111 Promoting sustainable transport
- 128 – 132 Achieving well-designed places
- 148 – 169 Meeting the challenge of climate change, flooding and coastal change
- 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
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- E4 Agricultural and Rural diversification
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

#### **4.3 Relevant Planning Guidance / Documents:**

- Planning Practice Guidance
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards Supplementary Planning Document

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (the “NPPF”) require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Maldon District Local Development Plan (the “LDP”).

5.1.2 The application site lies outside of any settlement boundary as these are defined within the approved LDP. Policy S1 of the LDP states that:

*“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply [inter alia] the following key principles in policy and decision making:*

- 3) *Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*
- 4) *Support growth within the environmental limits of the District;*
- 5) *Emphasise the importance of high quality design in all developments;*
- 12) *Maintain the rural character of the District without compromising the identity of its individual settlements;”.*

5.1.3 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, policy S8 states that planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for a specific type of development. Among others, policy S8 allows for:

- “e) the re-use of a redundant or disused building that would lead to an enhancement of the immediate setting in accordance with policy E4.*
- f) rural diversification, recreation and tourism (including equestrian and related activities) proposals in accordance with policies E4 and E5. “*

5.1.4 Policy E4 states that the Council will support the change of use of existing rural buildings to other employment generation uses if it can be demonstrated that:

- a) There is a justifiable and functional need for the proposal;*
- b) It will contribute to the viability of the agricultural business as a whole;*
- c) Any development respects the building’s historic or architectural significance;*
- d) Any development will not negatively impact upon wildlife and the natural environment;*
- e) No storage of raw materials or finished goods is to take place outside the building if it would be detrimental to the visual amenity of the area; and*
- f) The use of the building would not lead to dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages.*

5.1.5 It is considered that the operational advantage of being in a relatively isolated location means that a countryside location is appropriate for a use of this type. If this use would be undertaken in close proximity to residential accommodation the situation would be problematic. It is considered that this dog rescue represents the re-use of an existing building within the countryside. The rescue operates, albeit without planning permission, since at least 2014. This demonstrates that there is a justifiable and functional need for the development in line with criterion (a). It is not clear if criterion (b) will be met as it is not clear if the land owner operates an agricultural business that would benefit from the rent income. With regard to criterion (c) the changes to the buildings are minor and as such this criterion is met. Criterion (d) is also met subject to conditions. The impact of the development on the wildlife and the natural environment will be discussed in detail in the following sections of the report. Criterion (e) is met and this can also be ensured with a condition. Finally, criterion (f) is also met, as this type of use is normally located away from town centres and villages.

- 5.1.6 It should be noted that when the planning applications the same use were considered by the Council, it was considered that the principle of the development could be viewed as an appropriate form of rural diversification. Given that both the site in Latchingdon and the current application site are out of any defined settlement boundary and the use in all previous applications was proposed to be accommodated within existing agricultural buildings as is the case for this application, significant weight should be given to the previous considerations about the principle of the development. For these reasons, no objection is raised to the overall principle of the change of use.
- 5.1.7 The development includes the stationing of a caravan to be used as a veterinary clinic in association with the dog rescue use. It has already been discussed that the principle of the change of use to the dog rescue is acceptable. Given that the caravan will be used for ancillary purposes to the dog rescue use, its stationing and use are also acceptable in principle. Other material planning considerations are discussed in the following sections of the report.

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

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

- 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. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development”.*

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

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;

- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG Supplementary Planning Document .

- 5.2.4 It has already been mentioned that the application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.5 The development has not resulted in any material external alterations to the buildings. Any alterations to the buildings are visible only from within the yard within the application site. The erection of the fencing within the yard to create the exercise area could have been carried out under permitted development. Overall, these alterations to the eastern part of the application site are not considered to be detrimental to the character and appearance of the area.
- 5.2.6 With regard to the caravan, whilst public views are limited from the east, south and west, the caravan is clearly visible from the north and from public vistas within the public footpath on Hockley Lane. Its appearance is typical for a caravan, a structure designed to be fit for human habitation. Such appearance conflicts with the agricultural nature of the application site and the surrounding area. This type of unit is normally more appropriate within established caravan sites or near residential settlements, not within agricultural units. Therefore, this part of the development is harmful to the character and appearance of the rural countryside contrary as it is of rudimentary design and domestic character which is out of context within the locality.
- 5.2.7 It is recognised that the caravan accommodates facilities which are very important for the operation of the dog rescue use. Hence, if planning permission would be granted a condition to limit the use of the caravan for a temporary period only would allow the applicant to find alternative accommodation for these facilities and ensure that the harm caused to the area is removed. It is considered that a condition allowing a temporary period of one year would pass the six tests. The one year temporary period is considered reasonable because if the Council were to take enforcement action with the service of an enforcement notice, the applicant would have the right to appeal. By the time that appeal would have been determined about a year would have passed. On the other hand, by managing this aspect of the development with a condition, if the condition would be breached, the Council has the opportunity to take enforcement action in the form of a breach of condition notice against which there is no right of appeal.

### **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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light . Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The external alterations within the site, including the stationing of the caravan, coupled with the distance from residential properties, have not given rise to any issues regarding overlooking, overshadowing or overpowering any residential properties.
- 5.3.3 Whilst the same use for the same rescue was previously refused by the Council due to the generated noise affecting the amenity of neighbouring occupiers, in this instance the distance of the application site from other residential properties and the layout of the development within and adjacent the application site reduce noise and disturbance from the dogs. Whilst it is noted that the application site is located within a tranquil rural setting with very low ambient noise levels, when officers visited the site on three occasions, no significant noise was audible outside the application site. Another source of noise and disturbance is the vehicle movements associated with the use. It is not considered likely that the use would attract such high volumes of vehicle movements that they would be an issue in relation to noise.
- 5.3.4 Although objecting comments have been received, the issue of noise and disturbance has not been raised which is indicative that the use in this location is probably not detrimentally harmful to the amenity of residential occupiers. Whilst there is a dwellinghouse within the application site, this is occupied by the Applicant. This dwellinghouse originally was not included within the application site. Hence, an independent use of the dwellinghouse from the dog rescue use would not be improbable. If that were to occur, the noise and disturbance from the activities within the application site would be detrimental to the amenity of the occupiers. If the dwellinghouse was not within the application site a condition to tie the use of the dog rescue with the occupation of the dwellinghouse by the owner of the rescue would not have passed the six tests. However, now the dwellinghouse is within the application site. As such a condition to require the house to be occupied by a person who has control over the activities of the dog rescue use would pass the six tests and would render the level of harm acceptable. Furthermore, the other nearest residential properties are located in areas near roads or villages, where the ambient noise levels are slightly higher than the ambient noise levels immediately around the application site.
- 5.3.5 The Council's Environmental Health team has been consulted for this application but raised no issues in relation to noise and disturbance due to the remoteness of the application site. The Applicant's planning statement states that the application would be supported by a noise assessment, but this has not been submitted. The Council could request the noise assessment with a planning condition as it has done in other cases when it was not clear whether a use would cause detrimental impact to the amenity of residents. It is considered that a condition to limit the number of dogs to a

number not exceeding the current numbers noted on site would meet the six tests and ensure that there is no undue increase in the associated noise levels.

## **5.4 Access, Parking and Highway Safety**

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. 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 (VPS) Supplementary Planning Document 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 objective 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 development has not altered the existing parking arrangements on site or around the site. Within the application site there is an area between the building and the caravan that can be used for parking. Furthermore, to the west, north and east of the site there are extensive areas covered with concrete or hardcore material that could be used for parking by the rescue. Whilst a dog rescue use does not have a specific parking standard, the available parking areas are sufficient to accommodate a large number of cars. The access arrangements to the application site have also remained unaltered from the development. Whilst the use has attracted more vehicles on site, and the road is mainly for single file traffic, it is not considered that the development is detrimental to the highway safety of the adjacent network. The access road includes laybys to reduce conflict of incoming and outgoing traffic. Furthermore, the openness of the area allows drivers to see traffic coming from the opposite direction from longer distances. The Highways Authority has been consulted and raised no objection to the application subject to a condition to request the public footpath to be kept clear. While the adjacent highway is narrow and unlit lane, the traffic generated from the development, subject to conditions to limit the hours of operations and the number of visitors, will not be detrimental to the highway safety. Furthermore, a condition to bind the use of the veterinary caravan to the dog rescue use will pass the six tests as it would ensure there is no additional traffic generated.

- 5.4.4 Concerns have been raised about the traffic generated from interested parties. Comments have been received alleging that drivers visiting the rescue are speeding, driving dangerously, have no respect for pedestrians etc. This behaviour cannot be controlled by the planning system as it relates to the decorum of people. The planning system assumes that people are reasonable and adhere to other legislation. Drivers are required to drive at appropriate speed by the relevant legislation. For the purposes of this application the Local Planning Authority (LPA) will have to take that this will be the normal behaviour.

## **5.5 Ecology and impact on the natural environment**

- 5.5.1 As already mentioned, the application site lies at close proximity to nationally and internationally designated nature reserve sites. These designations have already been mentioned at paragraph 3.1.2 of the report and include part of Sandbeach Meadows SSSI adjacent to the southern part of the site and 200m to the north of the site, the Essex Estuaries SAC and MCZ and the Ramsar designated Dengie SPA and SSSI approximately 600m to the east of the site. The UK is bound by the terms of the Birds and Habitats Directives. They require appropriate steps to be taken to avoid the deterioration of natural habitats and species habitats as well as disturbance of the species for which the areas have been designated. The obligations are transposed into English law in The Conservation of Habitats and Species Regulations 2017 (the “CHSR”). If the LPA is considering granting planning permission in relation to any development likely to affect a designated site of conservation of nature, Section 63 of the CHSR require that the LPA has to carry out an appropriate assessment (also known as a Habitat Regulations Assessment or HRA) to fully consider the impact of the development to the designated site. The Applicant has to provide sufficient information to the LPA to allow them to carry out the HRA. A separate report for the HRA has been prepared. This section contains a summary of the HRA for the development.
- 5.5.2 Paragraph 180 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on the natural environment and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.5.3 Policy N2 states that any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted. It also states that wherever possible, all development proposals should incorporate ecologically sensitive design and features, providing ecological enhancements and preventing pollution.
- 5.5.4 Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land,

water, odour, noise and light. Any detrimental impacts and potential risks to the natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

- 5.5.5 In this instance, the Applicant has not provided any information assessing the designated site and the likely impact the use is having or could have on them. Instead, a management plan has been submitted to state how the activities outside the site will be conducted, namely that dogs will be kept on leads and will be walked in groups of maximum two dogs per member of staff or volunteer. The nature of the use requires dogs to be exercised. If dogs were to be left to run freely, it is likely they would reach the designated areas around the site and cause disturbance to the flora and fauna of the habitats. However, on the basis of the submitted management plan, it is considered that the likely effect of the use on the nearby designated site is unlikely to be detrimental. The LPA has also consulted Natural England (NE), as a statutory consultee, and other non-statutory consultees, such as the Essex Wildlife Trust (EWT). NE's consultation response referred the LPA to the NE's standard advice which does not give rise to any concerns. The consultation response from EWT was objecting to the development on the basis of limited information and stated that there is potential harm unless the dogs are kept on leads when walked. This is exactly what is stated in the management plan. It should be noted that the public footpaths are used by dog walkers frequently and any such control would not be available on these dogs.
- 5.5.6 Other matters that could negatively impact the designated sites include external lighting, installation of external apparatus or inappropriate discharge of foul water. These matters could be addressed by appropriately worded conditions which would meet the six tests of the NPPF.
- 5.5.7 In summary, the HRA concludes that due to the proximity of the site and the nature of the development there is a Likely Significant Effect (LSE). The assessment for a LSE is the first stage of the HRA. As there is an LSE, the competent authority is required to carry out an Appropriate Assessment (AA). The AA examines whether the project on its own or cumulatively affects the integrity of the designated site (Integrity Test). The HRA states that the use and works as proposed adversely affect the integrity of the protected sites. The third stage of the HRA is the consideration of Alternative Solutions. As already discussed, conditions to ensure that dogs would not run loose within the designated sites, to manage the installation of external lighting and apparatus, and to require appropriate foul water drainage solutions if necessary would be sufficient to render the development acceptable and safeguard the integrity of the protected sites. As Alternative Solutions can minimize the impact of the development there is no reason to consider the fourth stage of the HRA regarding reasons to override the public interest or any compensatory measures. This outcome is compliant with planning policy, too.

## **5.6 Flood Risk**

- 5.6.1 The application site lies within a Flood Zone 3, the higher probability zone. Paragraph 164 of the NPPF states that when the development is for a change of use, there is no need to consider the sequential or the exception test, but the development should still be subject to a site specific Flood Risk Assessment. The nature of the use falls within the Less Vulnerable category as per the vulnerability of uses classification contained within the Planning Practice Guidance. Less vulnerable uses are suitable to



be located within a flood zone 3. The submitted FRA shows that although the site is within the higher probability zone, it also benefits from flood defences which render the event of flooding on site less likely. It is considered that the development has not increased the risk of flooding as the buildings were already in situ.

## **5.7 Sustainability and planning balance**

- 5.7.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of ‘sustainable development’ providing for an economic, social and environmental objective as set out in the NPPF. The development is considered to contribute positively to the economic and social objectives of the sustainable development. The economic benefits are minimal as they relate to the attracting of visitors to the area. The social benefits arise from the provision of facilities where dogs are rescued and people are able to adopt them. There are some disbenefits in relation to the environmental objective which relate to the increased vehicle movements, foul water discharge, potential noise pollution and potential light pollution. However, with the exception of the additional vehicle movements, these disbenefits can be limited with appropriate conditions as discussed in the relevant sections. An environmental benefit arises from the re-use of the existing buildings.
- 5.7.2 Overall, it is considered that the disbenefits and the potential harm arising from the development, if appropriately controlled with conditions, would not outweigh its benefits and the development is considered to be sustainable. Furthermore, the development is in line with policies S1, S7, S8, E4, D1, D2, D5, T1, T2 and N2 of the approved LDP. Given that planning applications should be determined in accordance with the approved LDP unless material considerations indicate otherwise, this application should be approved as there are no material planning considerations to indicate that the development should not be granted planning permission subject to conditions.

## **5.8 Other Material Considerations**

- 5.8.1 Concerns have been raised about the animal welfare and the condition of the kennels. These are matters that are not material planning considerations as they are controlled by other legislation.
- 5.8.2 Concerns have been raised for the waste collection, including clinical waste. These details could be requested with an appropriately worded condition.

## **6. ANY RELEVANT SITE HISTORY**

There is no relevant planning history for this application site.

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Bradwell-on-sea	Object – The use has	Comment noted. Please

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
	caused traffic issues on a road which is supposed to be used only for agricultural purposes and conflict between drivers and pedestrians.	see section 5.4 of the report.

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Natural England	Comment – the application is within a trigger zone but no bespoke advice will be provided other than the standard advice.	Comment noted and standard advice taken into account.
Essex Wildlife Trust	Object – Limited information has been provided. An ecological report should be submitted. Potential harm to the adjacent designated sites, but if the dogs are exercised on a lead at all times this will greatly reduce the disturbance impacts to protected sites and nesting and foraging birds.	Comment noted. Please see section 5.5 of the report.
Highways Authority	No objection subject to a condition to keep the public's rights and ease of passage over footpath 19 unobstructed at all times	Comment noted. Please note that the footpath does not cross from within the application site therefore this conditions does not pass the six tests.

## 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions – The site is in a remote location where noise is not an issue. Conditions proposed in relation to waste disposal, foul and surface water drainage. Informative	Comment noted.

Name of Internal Consultee	Comment	Officer Response
	proposed regarding licence under the Animal Welfare Regulations.	

#### 7.4 Representations received from Interested Parties

- 7.4.1 **12** representations were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Road is unsuitable for an increase in traffic. Many incidents of conflict between vehicles and pedestrians have been reported.	Comment noted. Please see section 5.4
No right of way for the business.	This is a private legal matter between the applicant, the land owner and any other interested parties.
There is no footpath for pedestrians	Comment noted. Please see section 5.4
The application doesn't state how many animals the proposed kennels are for, if there is a provision for veterinary services.	Comment noted. These are matters that can be controlled by conditions (please see section 5.3 and 5.4).
The application doesn't state the size of the kennels and does not show the proposed kitchen.	This is shown or can be measure on the submitted plans. The kitchen is thought to be within the area marked as store.
The vet caravan needs permission to run the vet clinic from the RCVS and needs to be of a suitable standard for the purpose.	This is not a material planning consideration.
The business transports over 60 dogs every two/ three weeks from outside the UK.	This is not a material planning consideration. The number of dogs on site is material planning consideration and has been discussed on section 5.3 of the report.
Too many dogs per kennel	This is not a material planning consideration.
Dogs have easily escaped and may do so in the future. This could affect the natural environment.	The adherence to the submitted management plan would be requested with a condition. The fencing on site along with the adherence to management plan would render any escape of dogs unlikely. Furthermore, the area has a public footpath were anyone has access. People could walk their dogs and leave them off lead.

<b>Objection Comment</b>	<b>Officer Response</b>
	There are no planning restrictions to limit this.
Poor living conditions for the animals	This is not a material planning consideration.
AA dog rescue must comply with EU Regulations the Balia Directive 92/65/ECC when importing dogs. The countries from where the dogs are coming may not comply with the directive.	This is not a material planning consideration. Other departments and organisations are dealing with animal imports and exports.
Imported dogs have inadequate history for suitable re homing	This is not a material planning consideration.
The conditions of the last rescue was not adequate	This is not a material planning consideration.
No sewerage on site, how will waste be disposed of including clinical waste?	Comment noted. Please see sections 5.5 and 5.8 of the report.
Wood cladding used on the barn is porous, unsuitable and a disease risk	This is not a material planning consideration.
No consideration for natural light, ventilation and heating facilities.	This is not a material planning consideration.
The Council has previously said that the lane is unsuitable for traffic for the development of the nearby wind farm.	The traffic generated for the development of a windfarm is materially different especially in terms of size of vehicles. Traffic for windfarm development usually includes vehicles that need more than a single lane.
The application show 17 kennels, but the Applicant received sponsorship for twenty which shows that more kennels are planned.	The number of kennels within the buildings is not binding. The size of these kennels could be changed to accommodate more kennels without the need for planning permission. If more kennels are planned elsewhere, this probably would require planning permission. However, this is not a consideration relevant to this application.
The submitted plans do not show if there is an allocation for isolation kennels	This is not a material planning consideration.
The applicant is a tenant. Can tenants submit applications? Does the applicant have the owner's permission?	Planning applications can be submitted by anyone for any land so far as the correct certificate of ownership has been signed. In this instance, Certificate B has been signed hence the owner has been notified. The consent of the owner is not necessary for a planning permission. If

Objection Comment	Officer Response
	the owner does not want the tenant to carry out activities is a private matter between them.

- 7.4.2 **23** representations 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
Minimal noise, nuisance and odour to residents due to its remote location	Comment noted.
The charity is a professional organisation that is knowledgeable of animal's needs, welfare and legal requirements.	This is not a material planning consideration.
Suitable location for the proposal, doesn't infringe on neighbouring properties	Comment noted.
They do not transport over 60 dogs every two/ three weeks	This is not a material planning consideration. The number of dogs on site is material planning consideration and has been discussed on section 5.3 of the report.
The charity is committed to save any animal they can, UK and abroad, by rescuing and rehoming dogs with a high success rate.	This is not a material planning consideration.
It will enable the company to expand and assist with more animals in the UK	This is not a material planning consideration.
Providing employment in local area	Comment noted.
The vet practice will attend to the medical and mental needs of the dogs quickly	Comment noted.

## 8. **PROPOSED CONDITIONS**

- The use hereby permitted of the area hatched red within the application site on the attached plan shall only be as a dog rescue centre.  
**REASON** To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
- The residential use of the site shall be contained within the original dwellinghouse and its curtilage and outside of the area hatched red within the application site on the attached plan.  
**REASON** To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in

- accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
3. The occupation of the dwelling shall be limited to a person solely or mainly working for the dog rescue use hereby permitted and the person's household as long as the dog rescue use hereby permitted is taking place.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  4. The caravan hereby permitted shall only be used for purposes ancillary to the use of the site as a dog rescue to attend to medical needs of the dogs before their adoption.  
REASON To ensure the interests of protecting the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, T1, T2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  5. The caravan hereby permitted shall not be used as a separate business.  
REASON To ensure the interests of protecting the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, T1, T2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  6. The caravan hereby permitted shall be removed and the land restored to its previous condition within twelve (12) months from the date of this permission.  
REASON To ensure the harm to the character and appearance of the area is removed in accordance with local policies S1, S7, S8 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  7. The Management Plan which was submitted to the Local Planning Authority on 24 May 2019 and forms part of this application, shall be displayed on site and be adhered to at all times in perpetuity.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  8. The premises hereby permitted to be used as a dog rescue centre shall not be open to customers/people who are interested in adopting a dog outside of 10:00 hours and 17:00 hours on Wednesdays, Thursdays, Fridays, Saturdays and Sundays. No customers shall be present on the premises outside the permitted hours and days.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  9. Deliveries to and collections (other than collection of dogs by customers) from the site shall only be undertaken between 08:00 hours and 18:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

10. No external storage of any items and paraphernalia associated with the permitted use be carried out within the application site.

REASON To ensure the appropriate use of the site in the interests of protecting the character and appearance of the area in accordance with local policies S1, S7, S8, E4 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

11. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a foul water drainage scheme to serve the premises has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The foul water drainage arrangements shall be kept as implemented in perpetuity.

REASON To ensure the interests of protecting the natural environment in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

12. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a scheme for the storage and removal of waste and recyclables to serve the development has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The storage and removal of waste and recyclables shall be kept as implemented in perpetuity.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

13. Notwithstanding the submitted details, no external illumination shall be installed or operated within the application site unless it is in accordance with a scheme that has been submitted and approved by the Local Planning Authority. Any approved external illumination shall be turned off by 20:00 hours.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

14. No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the building except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2

and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.





**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**  
**to**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**15 JULY 2019**

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<b>Application Number</b>	<b>FUL/MAL/19/00169</b>
<b>Location</b>	Land Adjacent Brickfields Cottage, Green Lane, Burnham-On-Crouch, Essex
<b>Proposal</b>	Erection of a detached chalet bungalow
<b>Applicant</b>	Miss K Hewson
<b>Agent</b>	Elisa Hampson - E. H Planning Services
<b>Target Decision Date</b>	22.04.2019 (EoT agreed: 19.07.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

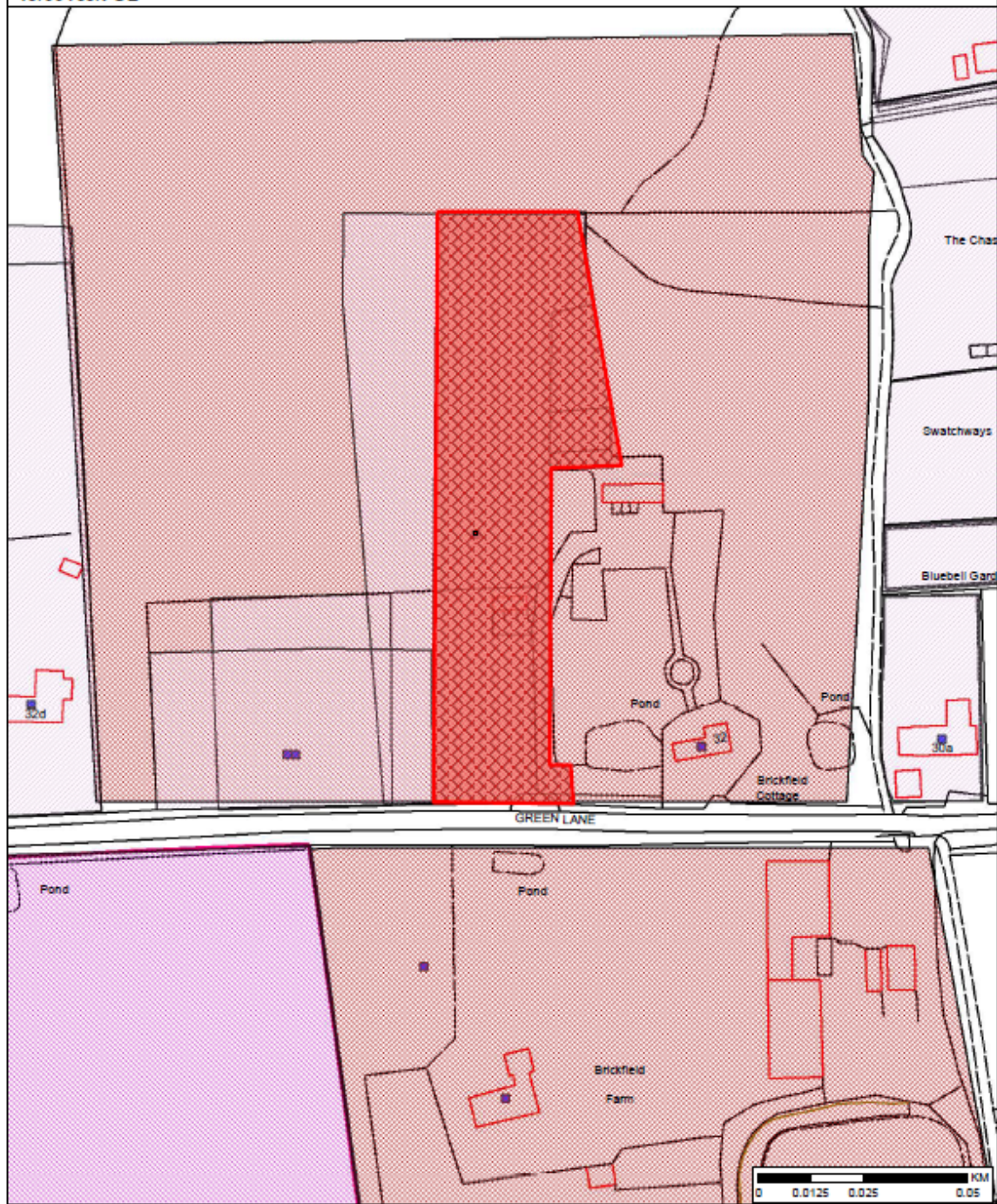
**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**SE Committee**  
19/00169/FUL



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	<b>Organisation:</b>	Maldon District Council
	<b>Department:</b>	Department
	<b>Comments:</b>	Not Set
	<b>Date:</b>	04/07/2019
	<b>MSA Number:</b>	100018588

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### **3. SUMMARY**

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

##### *Site description*

- 3.1.1 The application site lies to the north of Green Lane between 32A Green Lane to the west and Brickfield Cottage to the east. The site is of an irregular shape, having a relatively narrow frontage which widens to towards north. The depth of the application site is disproportionate to its width, being around 140m deep and 28m wide. The application site is a grassed field, comprising a detached stable blocks along the eastern boundary, which are set back from the highway. It is accessed from the Green Lane and it separated by the public highway by a five bar timber gate and hedgerow.
- 3.1.2 Green Lane is an attractive semi-rural road with verges and trees, open areas of field along its length and behind it. There are a number of dwellings along the road which are set in spacious plots and there have been recent infill developments taking place along the stretch of road. In addition to the dwellings that are currently being built at 34 Green Lane, another two were allowed to be erected at 32A Green Lane (Application reference no.: OUT/MAL/17/00204, Appeal reference no.: APP/X1545/W/17/3181143). A full application (FUL/MAL/18/00794) was recently approved for one of the two dwellings previously approved in outline. Planning permission for the erection of 180 dwellings has also been granted at land to the south of the application site (FUL/MAL/16/00093).
- 3.1.3 It should be noted that an application (FUL/MAL/15/00165) for the erection of the same style and size dwelling at the current application site was previously allowed on appeal (APP/X1545/W/15/3129414) on 15<sup>th</sup> November 2015, which the first condition imposed relating to the commencement of the development within three years of the permission. Given that the development was not commenced prior to 15<sup>th</sup> November 2018, this permission is no longer extant.

##### *Description of proposal*

- 3.1.4 Planning permission is sought to erect a detached chalet style, three-bedroom dwelling, with associated off-street parking to the front and amenity space. The dwelling would have a main gable roof with front and rear gable dormers and an attached double garage to the east of the main dwelling, with a gable roof, being set lower than the roof of the main dwelling.
- 3.1.5 The dwelling would be sited towards the front part of the application site, measuring a maximum of 16.8m wide, 8.8m deep, 2.7m high to the eaves, with a maximum height of 6.9m. the height of the proposed garage would be 5.7m. an open porch is proposed to be erected to the front projecting 800mm forward the front elevation of the main dwelling. The porch would have a width of 2.5m and a height of 3.7m to the top of the roof.

- 3.1.6 Internally the dwelling would accommodate an open plan kitchen/diner, a living room, a study and a WC at ground floor and three bedrooms (one en-suite) and a bathroom at first floor.
- 3.1.7 The site would be accessed off of Green Lane. Off street parking and turning facilities are proposed to be provided at the front curtilage of the dwelling.
- 3.1.8 The site would have an amenity area of around 0.45 hectares in size.

### **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against all material planning considerations, including the planning history of the site and that of the surrounding area and it is found that the principle of erecting one dwelling at this location is acceptable. The proposed development would not have a discordant impact on the character and appearance of the area or the intrinsic beauty of the countryside and it would be of an expectable design. No objection is raised in relation to the impact of the development on residential amenity or the parking provision. Therefore, subject to appropriate conditions, the development is considered acceptable and sustainable and in accordance with the aims of the development plan.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 2019 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 77-79 Rural Housing
- 102-111 Promoting sustainable transport
- 124-132 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
- S2 Strategic Growth
- S6 Burnham-on-Crouch Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development

- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

#### **4.3 Burnham-on-Crouch Neighbourhood Development Plan (7<sup>th</sup> September 2017):**

- Policy HO.1 – New Residential Development
- Policy HO.2 – Range and Type of New Residential Development
- Policy HO.8 – Housing Design Principles
- Policy EN.7 - Waste Bins Storage

#### **4.4 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)
- Essex Design Guide (1997)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).
- 5.1.3 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development to within settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.4 Policy HO.1 of the Burnham Neighbourhood Plan states that *"Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan."*

- 5.1.5 Although the application site is located outside the defined settlement boundary of Burnham-on-Crouch and the proposed development is a departure from the development plan, consideration should be had to the consideration regarding the acceptability of the principle of a dwelling of the same style and size at this location, albeit not an extant permission.
- 5.1.6 Whilst an appeal for the erection of a four bedroom dwelling on the Land west of High House was previously dismissed on appeal (Application reference: OUT/MAL/15/00972, Appeal reference: APP/X1545/W/16/3146480), where the Inspector came the view that the site would result in a harmful impact on the countryside, it is important to note that there have been recent infill developments taking place along the stretch of road. In addition to the dwellings that are currently being built to the west of the site, at 34 Green Lane and the two dwellings immediately adjacent to the west of the site allowed on appeal and the details of one of them recently approved by the Council, planning permission for the erection of 180 dwellings was granted in a land to the south of the application site. It is accepted that these recent permissions have changed the character of the Green Lane, with ribbon development along the stretch of the northern part of the road. Therefore, it is considered that the proposed residential development, which is sited between an existing residential site to the east and land with permission for the erection of two dwellings to the west, including further developed land beyond those immediately adjacent sites to the east and west, in this instance would be reasonable to be developed in principle, as it would still be contained within the envelop of the ribbon developed land.
- 5.1.7 The Inspector in his assessment for a development of a dwelling of the same size and design in the application site recognised the inevitable visual impact of a dwelling into the landscape. However, stated that *“this area is currently undergoing a change in character, and the scheme should be assessed having regard to this evolving context. Indeed, the general thrust of recent planning decisions in the vicinity seems to be appreciably less restrictive.”* Since this permission, the character of the area has further evolved with the permission of two houses on the adjacent site. Therefore, although the previous development was assessed prior to the adoption of the LDP, the Council could demonstrate a five year housing land supply at the time and further residential development along Green Lane in the vicinity of the site was recently approved. On that basis, taking into consideration that the thrust of the policies of the LDP has not materially changed from those of the Replacement Development Plan in respect of this type of development, it is considered that the principle of a residential dwelling in this location would be unreasonable to be objected to.
- 5.1.8 It should be noted also that the Inspector in his decision letter acknowledged that site is located in close proximity to the shops, local facilities and public transport in Burnham-on-Crouch, concluding that the site is located in an accessible location. The same approach was taken by the Inspector who assessed the erection of two dwellings to the west of the application site. Moreover, the Council never raised an objection in terms of the accessibility of the site to local amenities or public transport.
- 5.1.9 Policy S2 and S6 of the LDP identifies that the infrastructure of Burnham-on-Crouch is limited and therefore development above the identified limit of 450 dwellings will not be supported. In this instance, it is considered that one additional dwelling would



not impose an additional burden of existing infrastructure to an extent that would justify the refusal of the application.

- 5.1.10 Having regard to the evolved character of the area and recent appeal decisions and approvals in the vicinity of the site, it is considered that the acceptability of the principle of an additional residential accommodation in the area is not reasonable to be objected to. The application site is contained within the envelop of the developed area along the northern part of Green Lane and therefore, the development would not unacceptably impinge or sprawl into the open countryside. For that reason and giving due weight to the previous appeal decisions and the Inspectors assessment of a dwelling in the application site, it is considered that in this instance, the introduction of a new dwelling in this location, in between residential units, would not cause demonstrable harm.
- 5.1.11 On the basis of the above assessment, the principle of the proposed development is considered acceptable. Other material considerations relating to the impact of the development on the character of the countryside, the living conditions of the future and neighbouring occupiers, highways issues and ecology are assessed below.

## **5.2 Housing Need and Supply**

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 of the NPPF where it requires local authorities *‘To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for’*. Paragraph 61 continues stating that *“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”*.
- 5.2.2 Following the publication of the February 2019 Government results of the Housing Delivery Test (HDT) the Council has revised the October 2018 Five Year Housing Land Supply (5YHLS) statement to apply a 5% buffer for choice and competition. On the basis of the March 2019 5YHLS results the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years’ (6.34) worth of housing against the Council’s identified housing requirements.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner occupied properties having three or more bedrooms. The Council is therefore encouraged in policy H2 of the

LDP to provide a greater proportion of smaller units to meet the identified needs and demands.

- 5.2.5 The proposed development would provide a three-bedroom dwelling and therefore, although it would contribute to housing stock in the District, it would not contribute towards the identified need for smaller dwellings.
- 5.2.6 Although it is accepted that the Council can demonstrate a housing supply in excess of five years, it is considered for all the reasons explained in the 'Principle of Development' section of the report, it would be unreasonable to raise an objection to the proposed dwelling at this location.

### **5.3 Design and Impact on the Character of the Area**

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 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”.*
- 5.3.3 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.*



- 5.3.4 Policy H4 states that *“all development will be design-led and will seek to optimise the use of land having regard to the following considerations:*
- 1) *The location and the setting of the site;*
  - 2) *The existing character and density of the surrounding area;*
  - 3) *Accessibility to local services and facilities;*
  - 4) *The capacity of local infrastructure;*
  - 5) *Parking standards;*
  - 6) *Proximity to public transport; and*
  - 7) *The impacts upon the amenities of neighbouring properties.”*
- 5.3.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.6 The application site lies outside the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.7 Appendix 2 in conjunction with policy HO.8 of the Burnham-on-Crouch Neighbourhood Plan highlights the housing design principles. In particular, principle NHD.9 states that *“The design of new homes in the area should reflect the materials, forms and scale of traditional local buildings. Sensitive modern interpretations of the local vernacular are encouraged and the town centre conservation area provides many high quality examples of local forms”*.
- 5.3.8 As noted above the appeal site forms an open green land, comprising a single storey timber framed stable block, almost centred at the application site, which is set well back from the road. Immediately adjacent to the site, is Brickfields Cottage, which is a detached timber boarded chalet style dwelling, while to the east is an open field with dense vegetation along the highway and its shared boundary with the application site, but as noted above it benefits from planning permission for the erection of two dwellings. To the north of the application site is the open countryside, while to the south the site is a large detached dwelling, known as Brickfield Farm, and one of the sites that have been allocated for residential development (180 dwellings) through the LDP and it currently under construction. Overall the character of Green Lane is verdant, having a semi-rural feel, which however, gradually evolves due to the development allowed or approved in the surrounding area.
- 5.3.9 As discussed in section 3 of the report, an application (FUL/MAL/15/00165) for the erection of a dwelling of the same size and style with the current proposal on the application site was previously allowed on appeal. Having regard to the changes incorporated into the scheme from a previous proposal (FUL/MAL/14/00461), the enclosed nature of the site and the evolved character of the wider area, the Inspector who assessed the previous proposal, concluded that the development would not harm

the character of the area. In particular it was stated that *“the development of the site with this revised proposal, comprising a modest sized house, would not alter the area’s character to any significant extent, nor would harm it. The dwelling itself would occupy a very small proportion of the overall site”*.

- 5.3.10 It should be noted that the nature of the proposal has not been amended, and the main thrust of the policies of the approved LDP and previous Replacement Local Plan for this type of development remain unaltered. Furthermore, since the determination of the abovementioned appeal, further development was allowed on appeal (OUT/MAL/17/00204 - erection of two dwellings on the adjacent site, land at 32A Green Lane) and approved (FUL/MAL/18/00794- full detailed application for the erection of one dwelling on part of the adjacent site, land at 32A Green Lane, benefiting from extant permission for the erection of two). On that basis and taking also into consideration the evolved character of the area, due to the construction of 180 dwellings to the south of the site, it is considered that Inspector’s position, in terms of minimal impact of the development on the character of the area, is due to be valid. Thus, the erection of one dwelling in this location is not considered to be materially harmful to the character or the intrinsic beauty of the countryside.
- 5.3.11 The dwellings along the northern part of Green Lane do not follow a strong front building line. The proposed dwelling would be located further back from the neighbouring property to the east (Brickfield Cottage), which is not considered to be unacceptable, given that it would minimise the prominence of the property when viewed as part of the streetscene. Furthermore, there are properties to the west of the application site which sit further back from the highway and thus, the layout of the dwelling would not appear at odds with the built pattern of the area.
- 5.3.12 The proposed dwelling would feature a chalet style dwelling with a gabled roof, with gabled roof dormers to front and rear and an attached site double garage of similar style to the main dwelling. The proposed dwelling would be of a scale that would respect and be sympathetic to the character of the area. The dwelling would be of similar style with the adjacent dwelling to the east (Brickfield Cottage) and therefore, it is acknowledged that consideration has been given to the character and appearance of the dwellings in the vicinity.
- 5.3.13 The Inspector assessing the proposal of a same style dwelling on the application site stated that *“the appellant has attempted to achieve an attractive high quality design that seeks to overcome the objections identified in an earlier refused scheme. In contrast to that earlier scheme..., a chalet style dwelling is now proposed of a smaller overall size and this an attractive garage. The proposed palette of materials, including facing white timber weather-boarding and red clay tiles to the roof, is intended to blend with the traditional ‘cottage style’ appearance to the dwelling”*.
- 5.3.14 Given that the scale, design and appearance of the proposed external finishing materials of the currently proposed dwelling remain unaltered from the development previously presented to the Inspector, it is considered that the proposed dwelling would be of an acceptable design and appearance, which would not detract from the visual amenity of the area or result in a development of limited architectural merit.
- 5.3.15 The development is therefore considered to be of acceptable scale, design and appearance and it would not have a detrimental impact on the character of the area or

the appearance of the streetscene. The development would accord with policies D1 and H4 of the LDP, the housing design principles set out in the Neighbourhood Plan and the guidance contained in the MDDG.

#### **5.4 Impact on Residential Amenity**

- 5.4.1 The basis of Policy D1 of the 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). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 The proposed development would result in increased levels of activity, by reason of the erection of one dwelling on land which is currently open grassed land. However, on balance, it is not considered that the proposed residential development would have a materially harmful impact on the residential amenity of the neighbours, in terms of noise and disturbance, given the nature of the use, which is compatible with the use of the existing residential area.
- 5.4.3 The proposed dwelling maintains a distance of 4.9m and 6.4m to the eastern and western boundaries, respectively. An additional 33m separation distance is maintained between the shared boundary and the dwelling at Brickfield Cottage. This separation distance is sufficient to prevent any unacceptable impact on the residential amenity of the neighbouring occupiers of the adjacent dwellings to the east, in terms of being overbearing, resulting in loss of light or sense of enclosure.
- 5.4.4 As noted above, the adjoining site to the west is currently an open field but benefits from extant permission of the erection of two dwellings. The proposed development would maintain a reasonable distance away from the shared boundary with the adjoining site to the west (6.4m) and thus, taking into account the overall scale and height of the development, it is not considered that the development would result in an unacceptable impact on the amenities of any potential future occupiers to the west, if a dwelling is being erected.
- 5.4.5 No windows are proposed to be installed on the side elevations of the dwelling and thus, the development would not result in a material increase in overlooking towards the neighbouring sites to the east and west.
- 5.4.6 An approximate 115m distance would be maintained between the proposed dwelling and the rear boundary. In any event, the house to the rear abuts the open countryside and thus, it is not expected to result in any detrimental impacts, by way of overshadowing or overlooking.
- 5.4.7 The development due to its position would not result in a greater impact on the residential amenity of other nearby occupiers. As a result, the development would have an acceptable impact on the amenity of the neighbouring residential occupants.

#### **5.5 Access, Parking and Highway Safety**

- 5.5.1 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.

- 5.5.2 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 are 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.
- 5.5.3 An attached double garage to the east of the proposed dwelling is proposed to be erected, measuring 6m wide by 6m deep. The proposed garage would not accord with the standards as set out in the Vehicle Parking Standards SPD, requiring double garages to be of a 6m by 7m dimensions. However, it is noted that the reason for the required dimensions is to allow room for storage, particularly for cycles. It is considered that the proposed garage would be large enough to accommodate two vehicles and provide a level of storage. Furthermore, the site benefits from a large sized garden which can accommodate storage for cycles and as such, it is not considered reasonable an objection to be raised in respect of the proposed garage size. It is also noted that the proposal would have a deep enough front garden, incorporating hardstanding, which would be able to provide turning facilities and at least one more parking space. It is therefore considered that the development would be able to provide more than adequate off-street parking provision (three off-street parking spaces instead of the two that are required).
- 5.5.4 An access of 4.3m width is proposed to be provided. The development as noted above shows the provision of turning facilities, which are sufficient to allow a safe access and egress from site, without causing obstruction to the highway. It is also noted that the Highway Authority has been consulted and raised no objection to the proposed development.
- 5.5.5 Although no details of the provision of an onsite store for bicycles or refuse has been shown, it is noted that the site benefits from a large sized garden, which would be able to accommodate a bike and refuse store. Details of the bike and refuse store would be secured by the imposition of a condition.

## **5.6 Private Amenity Space and Living Conditions of the Future Occupiers**

- 5.6.1 With regard to the size of amenity spaces, the Council has adopted the MDDG as a supplementary guidance to support its policies in assessing applications for residential schemes. Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable.
- 5.6.2 As noted in the 'Proposal' section, the site benefits from an amenity area of around 0.45 hectares in size. As such, the proposed dwelling would be served by amenity space in excess of the minimum amenity area standards, as set out in the MDDG.
- 5.6.3 The submitted plans show that the proposed development would preserve the existing soft landscaping features of the site, including the existing hedgerows to the south along the highway and those along the boundaries with the neighbouring sites. The details of the hard and soft landscaping, ensuring retention of the existing hedgerows would be secured by condition.

## **5.7 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.7.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.2 Natural England anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) Natural England has provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.7.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide

bespoke advice. However, Natural England's general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.

- 5.7.6 To accord with Natural England's requirements, a Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to one dwelling

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

- 5.7.7 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. Natural England does not need to be re-consulted on this Appropriate Assessment.
- 5.7.8 It is noted that the Coastal Recreational Avoidance and Mitigation Strategy is currently in consultation and it therefore, constitutes an emerging document for the Council. Given the current preliminary stage of the document and low amount of development proposed (one dwelling), in this instance, it is considered that it would be disproportionate and unreasonable to require the developer to mitigate the impact of one dwelling on the protected habitats and thus, it would be unreasonable to refuse the application on the grounds that the proposal has not mitigated the impacts of the development. Notwithstanding the guidance of Natural England, it is considered that the likely impact of one additional dwelling in this location would not be harmful in

terms of additional residential activity to a degree that would justify the application being refused.

## **5.8 Other matters**

- 5.8.1 It is noted that any alterations/extensions of the dwelling allowed by the General Permitted Development Order or any order revoking and re-enacting that Order with or without modification, may result in unacceptable impacts on the character and appearance of the area of the amenity of the neighbouring occupiers. For this reason, it is considered reasonable permitted development rights for the proposed dwellinghouse are removed.

## **5.9 Pre-Commencement Conditions**

- 5.9.1 No pre-commencement conditions are suggested.

## **6. ANY RELEVANT SITE HISTORY**

- **FUL/MAL/14/00461** – Construction of detached dwellinghouse and detached garage. Planning permission refused.
- **FUL/MAL/15/00165** – One detached dwelling. Planning permission allowed on appeal (APP/X1545/W/15/3129414).

History of the adjacent site to the west:

- **OUT/MAL/17/00204** – Outline planning application for the construction of 2no. two storey homes. Allowed on appeal (APP/X1545/W/17/3181143).
- **FUL/MAL/18/00794** – Erection of a detached four bedroom dwelling with detached garage and associated off-street parking, landscaping and amenity area. Planning permission granted.

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-on-Crouch Town Council	Object to the application. The development would be above the five-year allocation, it would be outside the development boundary, it would constitute unacceptable infill development and it would raised traffic and access issues.	All of the matters raised are discussed within the main body of the report (predominantly in sections 5.1, 5.2, 5.3 and 5.5).

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objections subject to conditions.	Comments noted and conditions are imposed.

## 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Team	No objection subject to conditions, relating to contaminated land and foul and surface water.	Comments noted and conditions are imposed.

## 7.4 Representations received from Interested Parties

- 7.4.1 No letters of representation have been received in relation to the proposed development.

## 8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with approved drawings Location Plan Rev A; 008 C; 007 and 006.  
REASON To ensure the development is carried out in accordance with the details as approved.
- 3 Prior to their use in the development hereby approved, details or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.  
REASON To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
- 4 Prior to the occupation of the development hereby approved details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided prior to the occupation of the dwelling hereby approved in accordance with the approved details and be retained as such in perpetuity.  
REASON To ensure the external appearance of the development is appropriate to the locality and that the development would protect the amenities of the neighbouring occupiers in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.



- 5 Prior to the occupation of the development details of both hard and soft landscape works, including the retention of the existing hedgerows along the south, east and west boundaries of the application site, to be carried out shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.  
REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD.
- 6 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway.  
REASON To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interests of highway safety in accordance policies D1 and T2 of the submitted Local Development Plan.
- 7 No development works above ground level shall occur until details of the surface water and foul drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development  
REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).
- 8 The double garage, vehicle parking area and associated turning facilities shown on plan 008C shall be provided prior to the occupation of the dwelling and be retained as such in perpetuity. The garage and off-street parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.  
REASON To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with policies D1 and T2 of the approved Local Development Plan.
- 9 Details of the refuse and cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained for such purposes in perpetuity thereafter.  
REASON To ensure that adequate bicycle parking and refuse facilities are proposed in accordance with policies D1 and T2 of the approved Local

Development Plan and the guidance contained in the Maldon District Design Guide SPD.

- 10 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

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

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site.

REASON To protect the visual amenity of the rural area and the amenities of the neighbouring occupiers in accordance with Policies D1 and H4 of the Maldon District Local Development Plan and the Maldon District Design Guide.

- 12 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy T2 of the approved Local Development Plan.

- 13 There shall be no discharge of surface water from the development onto the Highway.

REASON To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with policy T2 of the approved Local Development Plan.

## **INFORMATIVES**

### **1. Construction**

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.



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

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
15 JULY 2019**

<b>Application Number</b>	<b>FUL/MAL/19/00382</b>
<b>Location</b>	Club Nautico Bridgemarsh Marine Bridgemarsh Lane Althorne Essex
<b>Proposal</b>	Section 73A application for extension and alterations to barge S.S. Nautica and for the change of the use on the upper deck from office to club house with associated facilities (resubmission of application FUL/MAL/17/01376).
<b>Applicant</b>	Mr John Wilsdon
<b>Agent</b>	Mr Mark Morgan - Petro Designs Ltd
<b>Target Decision Date</b>	20.06.2019 E.o.T. 19.07.2019
<b>Case Officer</b>	Spyros Mouratidis
<b>Parish</b>	<b>ALTHORNE</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor Mark G Bassenger – Concerns about the application

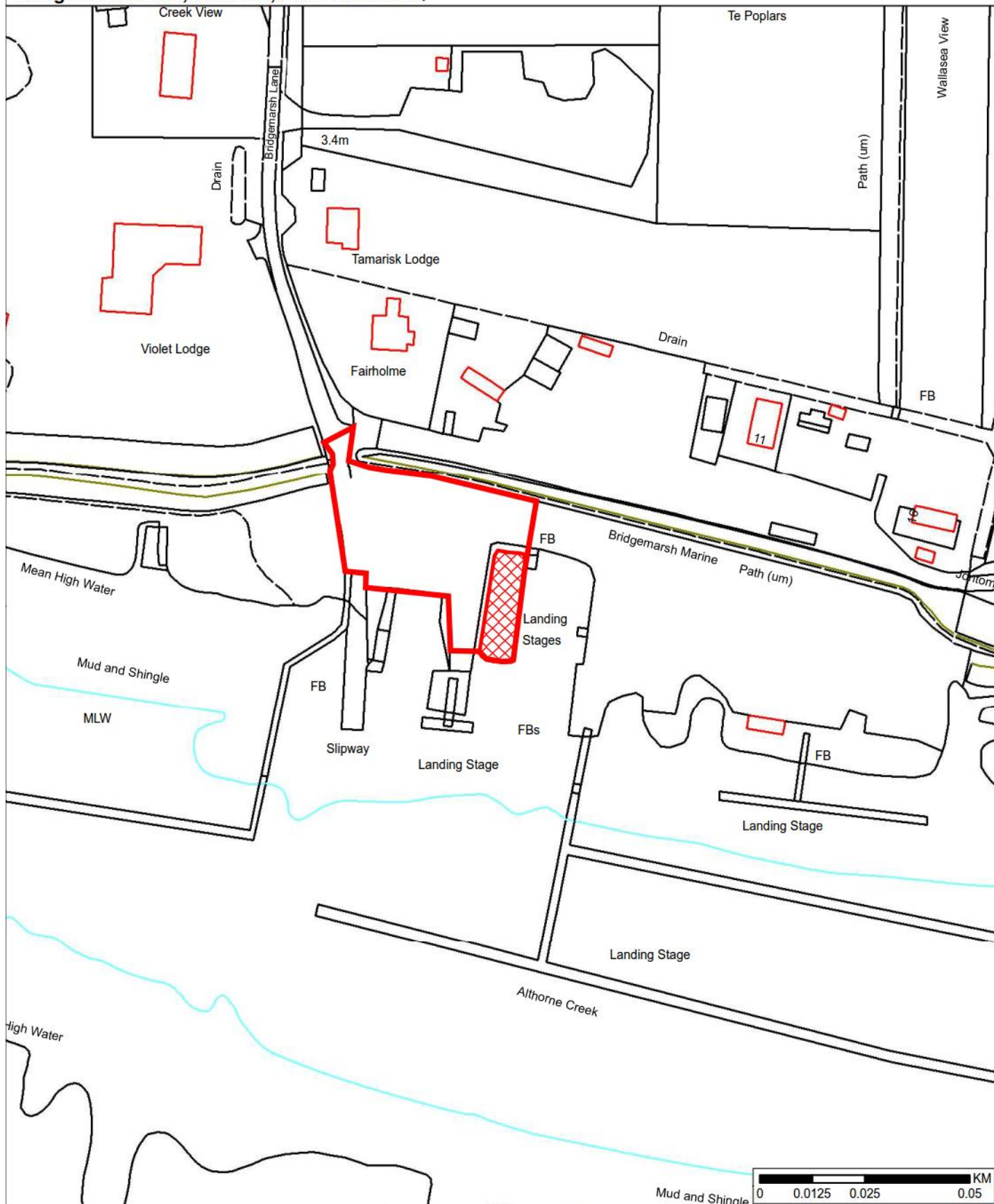
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**19/00382/FUL - Club Nautico, Bridgemarsh Marina**  
**Bridgemarsh Lane, Althorne, Essex CM3 6DQ**



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Area Committee

Date: 18/06/2019

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is part of the Bridgemarsh Marina, an established marina located at the southern end of Bridgemarsh Lane in Althorne, on the northern bank of the River Crouch. The site, measuring approximately 1,400m<sup>2</sup> (0.14ha) lies to the south of the sea wall, outside of any development boundary, within a flood risk zone. The site is partially within and/or partially adjacent to designated Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Special Area of Conservation (SAC), Marine Conservation Zone (MCZ) and wetland protected by the Ramsar Convention. Part of the site is within the marshes of the river and is covered by water on high tide. The site is occupied by a barge and ramps leading to floating docks, jetties and other boats.
- 3.1.2 To the north of the site there is the sea wall with the public footpath on top. To the east are the repair and storage areas for the marina and a parking area. To the south are the floating docks of the marina. Farther north is the access to the marina area from Bridgemarsh Lane, two residential properties, Violet Lodge and Fairholme, the offices of the marina and a caravan site with a utility block. Fairholme is where the owner of the land resides. There are more dwellings along Bridgemash Lane.

#### **The development**

- 3.1.3 Planning permission is sought for the extension and alterations to the barge S.S. Nautica and the change of the use of the barge from office to a club house with associated facilities. The operational development has already been carried out with the exception of some elements. Therefore, the application is retrospective in nature and has been submitted under the provisions of Section 73A of the Town and Country Planning Act 1990 as amended (the “1990 Act”). The application is a resubmission with alterations of the refused application FUL/MAL/17/01376 (the “2017 Application”).
- 3.1.4 The extension of the barge is to the northern part of the upper deck and accommodates an enlargement to the kitchen area. The extension measures 4.9m wide by 2.9m deep and is constructed of timber weatherboarding. A window has been installed to either side of the extension. The front elevation accommodates a window, a door to give access to the lower deck and a door to give access to an area at the upper deck. Above the extension and the kitchen area, there was an additional storey which was removed following the issue of an enforcement notice and the subsequent dismissal of the relevant appeal. This has now been replaced with a dual-pitched roof covered in corrugated iron sheets. The roof covers an area of 30.6m<sup>2</sup> and measures 3.5m above the deck of the barge.
- 3.1.5 It is proposed to erect two additional masts measuring 5.3m and 7.2m above the upper deck level of the barge. Permission is also sought for an existing mast measuring 10m. On the existing mast there is floodlighting installed for the illumination of the deck. Moreover, the application seeks to regularise the weatherboarding of the external walls of the upper deck, the removal of the external wall to the southern part of the upper deck and the installation of powder coated bi-fold doors to the south elevation of the remaining structure.

- 3.1.6 Finally planning permission is sought for the use of the barge as a club house. It has been specified that the use is proposed to be seasonal. The use was carried out. There was provision of food, drinks and seating areas on and around the barge. However, at the time when the case officer visited the site the use it was not taking place. Whilst the kitchen facilities were still on site, the bar and most of the seating facilities had been removed.

Relevant background information

- 3.1.7 As stated this application is a resubmission of the 2017 Application. Clarification has been provided that the use sought to be regularised is of a club house for members only who either have a boat or a caravan in the marina site. Prior to the determination of the 2017 Application the Local Planning Authority (LPA) had taken enforcement action against the identified breaches of planning control with the service of Enforcement Notice ENF/16/00228/01 (the “Notice”) and the Breach of Condition Notice BCN/16/00228/02 (the “BCN”).

- 3.1.8 The Notice was issued for the following reasons:

1. *The unauthorised development due to its style, design, scale and pallet of materials has resulted in a conspicuous and inappropriate development which detracts from and causes detrimental harm on the character and appearance of the coastal area. The development is, therefore, contrary to policies S1, S8 and D1 of the Local Development Plan and the guidance contained within the National Planning Policy Framework.*
2. *The failure to comply with Condition 3 of planning permission 94/00180/FUL has resulted in a development that is harmful to the amenity of the neighbouring residents and the natural environment and has the potential to cause additional harm. Therefore, the breach of the condition has resulted in a development which is contrary to policies D1 and D2 of the Local Development Plan and advice contained within the National Planning Policy Framework.*

- 3.1.9 The Notice required the removal of the structure installed above the upper deck of the barge and the cessation of the unauthorised use. The Applicant lodged an appeal (ref: APP/X1545/C/17/3191676 – the “Appeal”) against the LPA’s decision to issue the Notice. The Appeal was determined on 4 June 2018. The Inspector who dealt with the Appeal agreed with the LPA about the harm caused by the structure above the upper deck. The Inspector also agreed that the impact on the environment could be detrimental and at the time there was no sufficient information to suggest otherwise. However, the Inspector in determining the Appeal stated that subject to appropriate conditions the use would not cause adverse harm to the living conditions of neighbouring occupiers. This is a material planning consideration of significant weight.

- 3.1.10 Following the determination of the Appeal the 2017 Application was refused for the following reason:

1. *The unauthorised use has a potential significant impact upon the designated areas adjacent to the application site. The Applicant has not submitted sufficient*

*information to allow the Local Planning Authority to complete a Habitats Regulations Assessment to demonstrate that the use has no significant impact or the significant impact can be mitigated or compensated in a satisfactory way. Therefore, the development is contrary to policies D2 and N2 of the approved Local Development Plan and national planning policy contained within the National Planning Policy Framework.*

- 3.1.11 The previous decision of the Council is a material planning consideration of significant weight. The basic difference between the 2017 Application and the current application is that the use is proposed to be seasonal. This is considered to be directly relevant to the reason for refusal of the 2017 Application. It should be noted that this application would not automatically regularise the breaches of planning control on site.

### **3.2 Conclusion**

- 3.2.1 It is considered that the current scheme has addressed the previous reason for refusal. Subject to conditions, the development is not considered to be detrimentally harmful to the character and appearance of the area, the living conditions of neighbouring occupiers, the highway safety, the natural environment and the safety of users from flood risk in line with local policies S1, S7, S8, D1, D2, D5, E5, N2, T1 and T2 of the Approved Maldon District Local Development Plan (MDLDP), national policies of the National Planning Policy Framework (NPPF), local guidance as contained within the Maldon District Design Guide (MDDG) (2017) Supplementary Planning Document, the Maldon District Vehicle Parking Standards Supplementary Planning Document and the Althorne Village Design Statement, and national guidance contained within the Planning Practice Guidance.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework (NPPF) 2019 including paragraphs:**

- 2-14 Achieving sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 57 Planning conditions and obligations
- 80 – 84 Building a strong, competitive economy
- 102 – 111 Promoting sustainable transport
- 128 – 132 Achieving well-designed places
- 148 – 169 Meeting the challenge of climate change, flooding and coastal change
- 170 - 183 Conserving and enhancing the natural environment

### **4.2 Maldon District Local Development Plan (LDP) 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development

- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- E5 Tourism
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

#### **4.3 Relevant Planning Guidance / Documents:**

- Planning Practice Guidance (PPG)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD
- Althorne Village Design Statement (VDS)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 The application site lies outside of any defined development boundary where policies of restriction apply. Policies S1 and S8 of the approved LDP seek to support sustainable development within the defined settlement boundaries. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is in line with other policies of the LDP. Rural tourism in line with policy E5 of the LDP is not discouraged in the countryside.
- 5.1.3 It should be noted that the structure (the barge) has already been on site for more than twenty years and was brought on the land to be used as an office in connection with the use of the marina. The NPPF encourages LPAs to promote a strong rural economy through, among others, sustainable rural tourism and leisure developments which respect the character of the countryside. Furthermore, the NPPF urges LPAs to support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings.
- 5.1.4 Policy S7 of the LDP states that the Council will actively seek to support and facilitate sustainable economic development within the villages through the support



and enhancement of rural tourism in accordance with policy E5. Policy E5 of the approved LDP states that:

*“The Council will support developments which contribute positively to the growth of local tourism in a sustainable manner and realise opportunities that arise from the District’s landscape, heritage and built environment.*

*Development for new tourist attractions, facilities and accommodation will be supported across the District where it can be demonstrated that:*

- 1) There is an identified need for the provision proposed;*
- 2) Where possible, there are good connections with other tourist destinations, the green infrastructure network and local services, preferably by walking, cycling or other sustainable modes of transport;*
- 3) There will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people; and*
- 4) Any adverse impact on the natural and historic environment should be avoided wherever possible. Where an adverse impact is unavoidable, the proposal should clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. Where a development is deemed relevant to internationally designated sites, the Council will need to be satisfied that a project level HRA has been undertaken and that no potential significant adverse impact has been identified.”*

- 5.1.5 With regard to criterion (1), the Applicant has confirmed that the use will be associated and connected to the activities of the marina. The Applicant stated in the access and design statement that there are 50 people living on the marina. Although, it is unclear where these 50 people live and whether this activity is authorised (please note that an appeal has been lodged against the Council’s enforcement notice ENF/17/00159/03 against the unauthorised residential use of caravans), it is noted that there are more than 100 boats, three (3) lawful residential caravans, up to seven (7) holiday unit and one (1) holiday house boat. Furthermore, the use is already taking place which indicates and from the log book it appears that the facilities have been used which shows that there is some need for such facilities in the area. In addition, it is not uncommon for marinas to offer such facilities in their premises.
- 5.1.6 Criterion (2) is partially met as the application site is at walking distance from Althorne train station which gives access to Southminster, Burnham-on-Crouch and South Woodham Ferrers. Also, the established marina use is a tourism related activity. Furthermore, the public footpath on top of the sea wall provides access to a number of footpaths connecting the site with nearby settlements. Therefore, the development is not considered to be in conflict with criterion (2).
- 5.1.7 With regard to criterion (3), the development if it were to remain uncontrolled, it would fail to meet this as there will be significant detrimental impact upon the character and appearance of the area and the amenity of neighbouring occupiers. However, appropriately worded planning conditions could alleviate the identified and potential harm. On this basis, this criterion would be met subject to conditions. These considerations will be further discussed in the relevant sections of the report.
- 5.1.8 Criterion (4) seeks to avoid any potential significant adverse impact to the natural environment. While this matter will be explored further in the following sections of

the report and a separate HRA will be conducted, Natural England (NE) has advised that, from the available evidence, the use has a potential significant impact. However, as the use is now proposed to be seasonal, subject to conditions, this potential significant impact could be mitigated or alleviated to a degree that would not be adversely harmful to the surrounding natural environment and the integrity of the designated sites. Hence, this criterion would also be met.

- 5.1.9 The planning history is a material planning consideration and it is pertinent to be considered in order to establish the principle of the development. As explained in paragraphs 3.1.6 to 3.1.10, the reason for the LPA refusing the 2017 Application related to the impact of the development to the sensitive natural environment. It has been briefly explained in the previous paragraphs that this harm is considered to have been addressed. Hence, the refusal of the 2017 Application does not negatively affects the principle of the development.
- 5.1.10 Bearing in mind the above analysis, it is considered that the principle of the development is acceptable. Other material planning considerations are discussed in the following sections of the report.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 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. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development”.*

- 5.2.3 This principle has been reflected in the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;

- d) Layout, orientation, and density;
  - e) Historic environment particularly in relation to designated and non-designated heritage assets;
  - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
  - g) Energy and resource efficiency.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG. The Althorne VDS seeks the visual impact of development to respect the character of the area.
- 5.2.5 It has already been mentioned that the application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.6 The external alterations that have already been carried out and those that are proposed would result in a single storey structure on top of a barge with weatherboarded walls and a metallic roof. While the design of the scheme is not of significant architectural merit, the visual impact upon the character and appearance of the area is not considered to be detrimental to such a degree as to warrant the refusal of the application for this reason. It should be noted that the Inspector who considered the recent Appeal on site did not raise any grave concerns about the use of the materials on the external surfaces of the barge. The main criticism was about the “bridge” structure which has subsequently been removed. The barge is visible to public view points from the river and the adjacent public footpath and its prominence increases when the high tide lifts the structure. However, the scale and proportions of the structure would be comparable to the original form of the barge and would be in keeping with the maritime vernacular.
- 5.2.7 The already erected mast and the proposed masts will be of significant height, but their character is compatible with a marina environment. The installed external lighting is harmful to the character and appearance of the countryside. Nevertheless, a condition to prohibit any external lighting would meet the six tests if the application will be approved. During the site visit it was noted that there was external seating area available away from the barge. The insertion of paraphernalia to the land has the potential to harm the character and appearance of the area. A condition to limit the storage of associated items and a condition to limit the available seating facilities out of the barge would pass the six tests.
- 5.2.8 As part of the consultation, it has been raised that the waste collection arrangements are not clear. Indeed, in the application form no details are given about the waste storage and collection. Poor storage of waste could result in detrimental impact on the character and appearance of the area. It would be pertinent to know where the waste generated from the use will be stored and how it will be disposed of. Details of these arrangements could be requested via a condition which would meet the six tests.

- 5.2.9 Subject to conditions, the impact of the development on the character and appearance of the area is considered acceptable. This view was taken previously by the Council when the 2017 Application was determined.

### **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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The external alterations to the structure, coupled with the distance from neighbouring properties, have not given rise to any issues regarding overlooking, overshadowing or overpowering the neighbouring residential properties. On the other hand, it is evident from representations made by the Council's Environmental Health team, the local residents and the consultation response of the parish council that there have been incidents of noise and disturbance giving rise to complaints. Those complaints have arisen despite a members' book being kept on the bar where members sign in and register their guests.
- 5.3.3 In the words of the Inspector who dealt with the Appeal,

*"The barge is in a tranquil rural setting where there is low ambient noise. Even though improvements may have been undertaken during the renovation, the barge will not by its very nature be well insulated to avoid noise emissions. With seating also on deck, there is clearly scope for noise to cause disturbance to residents. That is especially so late evening when the environment may be quietest with less activity and local residents may have greater expectation of peace and quiet. Below deck there is an area laid out to cater for functions with a small stage and amplifier equipment. Amplified sound will clearly magnify noise levels increasing the prospect of disturbance."*

- 5.3.4 It should be noted that the Applicant stated the lower deck has now been flooded but it is intended for repairs to be carried out, so this area could be in use again. The submitted plans show this area as part of the use. The Inspector dealing with the Appeal continues:

*"Furthermore, the facilities available on the barge will attract more comings and goings along the narrow, unlit lane and in the parking area with scope for disturbance to be caused. That is particularly so when functions are held. [...] If uncontrolled and unrestricted, the operation of a bar and restaurant will almost certainly present adverse consequences from noise and traffic generation. [...] planning conditions are capable of being imposed to restrict hours of operation and numbers. Control over the noise levels including amplified sound and use of external areas could also be achieved by condition. In that way, noise and disturbance from both the venue and traffic movements can be kept at reasonable levels."*

*Subject to the imposition of conditions, I find no material adverse effect on the living conditions of residents in terms of noise and disturbance to cause conflict with LDP Policy D1 insofar as it seeks to protect the amenity of surrounding areas taking into account matters including noise. Nor do I find conflict with Paragraph 17 of the Framework which, amongst other things, seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.”*

- 5.3.5 It is clear that when the Inspector dealt with the Appeal, she recognised that despite the potential adverse harm arising from an unrestricted use, planning conditions could mitigate or alleviate the identified harm. These conditions would be in relation to hours of operations, number of visitors, amplified sound and external seating. In addition to these, a condition about external lighting would also protect the amenity of neighbouring occupiers.
- 5.3.6 It should be noted that in the current application form there are no hours of operation suggested. However, in the 2017 Application it was suggested the use to operate from midday until eight in the evening. The Council’s Environmental Health team has raised no objections to these hours. These conditions would pass the six tests. Subject to the imposition of conditions, there would be no materially adverse effect on the residential amenity of neighbouring occupiers in terms of noise and disturbance. This is also the position that the Council took when determined the 2017 Application.

#### **5.4 Access, Parking and Highway Safety**

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. 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 VPS 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 objective 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 development has not altered the access arrangements to the application site. The parking arrangements have also remained unaltered from the development. Whilst the use has the potential to attract more vehicles on site, given that it is proposed to use the barge as a club, with the facilities available to members, associate members and their guests, this increase in traffic is not considered to be detrimental to the highway safety of the adjacent network. The Highways Authority has been consulted and raised no objection to the application subject to a condition to request the public footpath to be kept clear. While the adjacent highway is unmade, narrow and unlit lane, the traffic generation from the development, subject to conditions to limit the hours of operations and the number of visitors, will not be detrimental to the highway safety. The additional parking is not considered to be so great that would require the full parking standard and can be accommodated on the hard surfaced areas of the application site and the adjacent areas of the marina which are under the same ownership.

## **5.5 Flood Risk**

- 5.5.1 The application site lies within a Flood Zone 3, the higher probability zone. As such there was a need to submit a Flood Risk Assessment. By nature, a barge can float during the high tide or during a flood event. Although at the moment it is stated that the barge has a leak and does not float, it is the Applicant's intention to rectify this situation. The Environment Agency has been consulted for the application and consider the use to be water compatible. According to table 3 of the PPG regarding flood risk vulnerability and flood zone 'compatibility', water compatible use is suitable to be located within a flood zone 3. It is considered that the development has not increased the risk of flooding as the barge was already used for other purposes and it is by nature flood resilient.
- 5.5.2 Irrespective of whether a use is water compatible or not, the LPA is required to consider the sequential test as stated within the NPPF. Namely, the LPA is required to consider if there are any other available sites within a lower flood risk zone for the development. It should be noted that the structure is proposed to be used primarily to serve the other uses within the vicinity of the site, particularly those that are within the control of the applicant. The structure therefore needs to be located within the vicinity of the marina in order to serve its catchment area. Furthermore, as the proposal is for the use of a barge that is already at the site rather than a new development, it is considered that it would be illogical to require the development to be undertaken in a different location. In the vicinity of the marina there are no other sites available within a lower flood risk zone. As such the development is considered to pass the sequential test.

## **5.6 Ecology and impact on the natural environment**

- 5.6.1 As already mentioned, the application site lies partially adjacent to and partially within nationally and internationally designated nature reserve sites. These designations include the Crouch and Roach Estuaries Ramsar site, SPA and SSSI, and the Essex Estuaries SAC and MCZ. The UK is bound by the terms of the Birds and Habitats Directives. They require appropriate steps to be taken to avoid the deterioration of natural habitats and species habitats as well as disturbance of the species for which the areas have been designated. The obligations are transposed into English law in The Conservation of Habitats and Species Regulations 2017 (the

“CHSR”). If the LPA is considering granting planning permission in relation to any development likely to affect a designated site of conservation of nature, Section 63 of the CHSR require that the LPA has to carry out an appropriate assessment (also known as a HRA) to fully consider the impact of the development to the designated site. The Applicant has to provide sufficient information to the LPA to allow them to carry out the HRA. A separate report for the HRA has been prepared. This section contains a summary of the HRA for the development.

- 5.6.2 Paragraph 180 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on the natural environment and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.6.3 Policy N2 states that any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted. It also states that wherever possible, all development proposals should incorporate ecologically sensitive design and features, providing ecological enhancements and preventing pollution.
- 5.6.4 Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.6.5 In this instance the Applicant has provided a letter from a Senior Ecologist at EECOS in addition to the information provided for the 2017 Application. The LPA has also consulted NE, as a statutory consultee, and other non-statutory consultees, such as the Essex Wildlife Trust. The letter from EECOS highlights the changes to the scheme and states that any impact from the development would be localised. NE has raised concerns about a number of issues such as the foul water discharge, the external lighting and the amplified music, but suggested that on the basis of a seasonal use, these matters can be addressed by conditions.
- 5.6.6 In summary, the HRA concludes that due to the proximity of the site and the nature of the development there is a Likely Significant Effect (LSE). The assessment for a LSE is the first stage of the HRA. As there is a LSE, the competent authority is required to carry out an Appropriate Assessment (AA). The AA examines whether the project on its own or cumulatively affects the integrity of the designated site (Integrity Test). The HRA states that the use and works as proposed adversely affect the integrity of the protected sites. The third stage of the HRA is the consideration of Alternative Solutions. NE has advised that conditions to ensure the seasonal use, to limit amplified noise and external lighting and to provide appropriate foul water drainage

solutions would be sufficient to render the development acceptable and safeguard the integrity of the protected sites. As Alternative Solutions can minimize the impact of the development there is no reason to consider the fourth stage of the HRA regarding reasons to override the public interest or any compensatory measures. This outcome is compliant with planning policy, too. The proposed conditions, if appropriately worded, would meet the six tests of the NPPF.

- 5.6.7 It is noted that for the 2017 Application, the LPA and NE considered that Applicant had not provided sufficient information to enable the HRA and that the nature of the use had the potential to cause significant adverse impact to the designated sites. As the Applicant has applied for the use to be seasonal and on the basis of the additional information provided in the letter from EECOS, this burden has been discharged.
- 5.6.8 It should also be noted that with regard to a condition about the foul water drainage arrangements, the application form states that the foul water is directed to a septic tank. These arrangements may have been acceptable when planning permission was granted for the use of the barge as an office. However, the increased use of the barge, will result in increased outputs of foul water. Moreover, using a septic tank contradicts the national guidance for the treatment of foul water. A condition to request an appropriate foul water drainage scheme would meet the six tests.

## **5.7 Sustainability and planning balance**

- 5.7.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of ‘sustainable development’ providing for an economic, social and environmental objective as set out in the NPPF. The development is considered to contribute positively to the economic and social objectives of the sustainable development. The economic benefits relate to the enhancement of tourism in the area. The social benefits arise from the provision of facilities in an area where such facilities are limited. There are some disbenefits in relation to the environmental objective which relate to the increased foul water discharge, potential noise pollution and potential light pollution. However, these disbenefits can be limited with appropriate conditions as discussed in the relevant sections.
- 5.7.2 Overall, it is considered that the disbenefits and the potential harm arising from the development, if appropriately controlled with conditions, would not outweigh its benefits and the development is considered to be sustainable. Furthermore, the development is in line with policies S1, S7, S8, E5, D1, D2, D5, T1, T2 and N2 of the approved LDP. Given that planning applications should be determined in accordance with the approved LDP unless material considerations indicate otherwise, this application should be approved as there are no material planning considerations to indicate that the development should not be granted planning permission subject to conditions.

## **5.8 Other matters**

- 5.8.1 It should be noted that legal action has been instigated by the LPA against the Applicant in relation to the contravention of the requirements of the Enforcement Notice ENF/16/00228/01 and the Breach of Condition Notice BCN/16/00228/02. If the Council decides to grant planning permission the offences for which legal action



has been instigated will not be regularised. As such the legal action will proceed as scheduled with the trial taking place in September 2019.

## 6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
<b>MAL/457/76</b>	Established use certificate – use of the land coloured blue for seven sailing chalets for week-end and holiday use and one houseboat for holiday use only	Approved 13.09.1976
<b>FUL/MAL/94/00180</b>	Mooring of barge for office use retention of existing pontoon and walkway to pontoon transfer three of the existing piles to adjacent pontoon repair riverbank and existing jetty	Approved 05.05.1994
<b>BCN/16/00228/02</b>	Breach of condition 3 of the planning permission 94/00180/FUL relating to the use of the barge as an office	Issued 11.12.2017
<b>ENF/16/00228/01 (as corrected and upheld on Appeal APP/X1545/C/17/3191676)</b>	i. The unauthorised erection of a structure, its approximate location marked with an X on the attached plan [ANNEX 2]. ii. The unauthorised material change of use of the land to a mixed use comprising a clubhouse, bar and bistro/restaurant.	Issued 11.12.2017 Appeal Dismissed 04.06.2018
<b>FUL/MAL/17/01376</b>	Section 73A application for extension and alterations to barge S.S. Nautica and change the use on the upper deck from office to cafe/dining/clubhouse with associated facilities.	Refused 20.08.2018
<b>ENF/17/00159/03</b>	The unauthorised material change of use of the land to a caravan site to be used for residential purposes.	Issued 29.10.2018 Appeal lodged 28.11.2018

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Althorne	<ul style="list-style-type: none"> <li>- The vessel is considered unsafe and has no building regulations</li> <li>- Detrimental impact to wildlife and residents.</li> </ul>	<ul style="list-style-type: none"> <li>- Whether the structure is safe to meet building regulations is not a planning matter. Building regulations are not within the planning remit.</li> <li>- The impact of the development on these matters has been considered in sections 5.3</li> </ul>

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>- It is not within marine planning consent</p> <p>- This has previously been refused by the Secretary of State.</p>	<p>and 5.5</p> <p>- The planning system allows with S.73A of the 1990 Act the submission of planning permissions retrospectively. The submission of an application under this section of the act is not a reason to refuse the application.</p> <p>- The Inspector appointed by the Secretary of State has clearly stated that the reason for upholding the Notice and dismissing the Appeal on the issue of the unauthorised use was the lack of clarity about the potential impact of the use to the natural environment. This application seeks to address this concern. The fact that there was a previous refusal is a material planning consideration of significant weight but is not sufficient on its own to justify the refusal of the application.</p>

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No objection subject to condition to keep the footpath crossing the application site unobstructed.	Comment noted
Natural England	No objection subject to conditions. Subject to appropriate mitigation measures the development is unlikely to result in adverse effects to the designated sites.	Comment noted.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Environment Agency	No objection - the site is within a flood risk area, but the use is water compatible.	Comment noted.
Essex Wildlife Trust	No objection subject to conditions	Comment noted.

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions	Comment noted.

### 7.4 Representations received from Interested Parties

- 7.4.1 8 representations were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
The barge is not in keeping with the character, appearance and surroundings of the area and has poor design quality.	Please see section 5.2.
Negative impact on a wetland/ marshland environment and on different species of birds and wildlife.	Please see section 5.5.
Additional traffic generated will disturb residents and wildlife.	Please see sections 5.3 and 5.5.
Impact of noise pollution on residents and wildlife.	Please see sections 5.3 and 5.5.
Light pollution generated affecting residents and wildlife.	Please see sections 5.2, 5.3 and 5.5.
Development sits outside the development boundary of the village.	Please see sections 5.1.
No clearly defined waste disposal provisions with potential adverse harm from odours and rodents.	See section 5.2 regarding details to be required by condition. The distance of the site from residential properties is sufficient to prevent any issues relating to odours or rodents becoming detrimental to the amenity of the residents.
Safety/ security concerns for the marina.	Decorum of people on site is not a material planning consideration.
There is a current Enforcement Notice in force that requires the cessation of the unauthorised use. A previous application for the same development was refused in	Please see sections 3.1, 5.1 and 6.

<b>Objection Comment</b>	<b>Officer Response</b>
2018. An Inspector dismissed the appeal for the development.	
The owner has breached planning control and found guilty of planning legislation related offences in the past.	This does not carry any material weight for the determination of the application.
A planning inspectorate decision noted that the barge is in a tranquil rural setting where there is low ambient noise and that noise and disturbance from the venue and traffic levels would give rise to unacceptable impact on amenity	In the same decision the Inspector said that conditions could render the development acceptable. Please see section 5.3 of the report.
Current legislation suggests that the marina use would not be given permission and any addition to the facilities should not be allowed either.	The marina is an established use. Additions and extensions to existing uses are generally acceptable in principle but each development proposal has to be assessed on its own merits.
No requirement for the application as there are facilities in Althorne to facilitate local demands. Also, there are not so many people in the marina.	Please see section 5.1.
The application should not be considered as there is an enforcement notice, appeal decision and previous refusal by the LPA.	The Council under the discretionary powers of sections 70A and 70C of the 1990 Act could have declined to determine the application. However, this decision ought to be justified. As the amendments to the proposal go to the heart of the reason for refusal and the reason for taking enforcement action, any decision to decline to determine the application is likely to have been found to be unreasonable.
The EECOS report states there is a potential negative impact to the protected sites	The letter dated 19 February 2019 does not state that. Moreover, please see section 5.5.
The LPA should carry out an HRA.	This has been carried out.
The EECOS report talks about a trial period for a dinghy sailing club. This is a materially different use and cannot be compared.	This example was used to show that a trial period have been used in other instances. In any case, the use is considered acceptable subject to conditions and as such no trial period is required.
The application is unlawful as an HRA should be carried out before the development had commenced.	The CHSR states that planning permission should not be granted before an HRA. The 1990 Act allows application to be submitted retrospectively under S.73A. Hence the application is not unlawful.
The development is proposed to be carried out in October, within the	As the use is proposed to be seasonal, the LPA, via a condition, can limit the

<b>Objection Comment</b>	<b>Officer Response</b>
overwintering period.	season as appropriate.
The EECOS report discusses a lake where biodiversity enhancements are undertaken but this area is used to shoot birds.	Comment noted. Very limited weight has been given to this information by EECOS. Please see section 5.5.
If the applicant was different some concerns would not be raised.	Who the applicant is not be a material planning consideration.
The application form does not mention that the use is sought to be seasonal, it does not contain the hours of operation, it states that vehicle parking and waste arrangements are not relevant to the proposal. This is a misleading and/or defective application form which should not be allowed to make the application valid.	The application form for planning permission has to be read along the accompanying documents. The Design and Access Statement and the letter from EECOS both state that the use is proposed to be seasonal. The application form does not contradict this information. The Applicant is entitled to consider that some matters are not relevant to the development, If the LPA considers otherwise, the LPA has the power to impose conditions to require these details.
According to the application form the use will result in loss of employment.	It is not clear whether this information contained in the application is correct. The existing activities in the marina will continue and additional activity is sought to be regularised with this application. It is unlikely that the development will result in loss of employment. Any loss of employment may arise as a decision of the management which cannot be controlled by the planning system.
If permission is granted it should be temporary to assess the impact and if conditions have been complied with	The PPG advises that temporary permissions shall not be used but in rare circumstances when the LPA is unclear about the impact of a development. In this case the impact has not been considered to be adverse and the development is acceptable subject to conditions. Although the applicant offers in the EECOS letter to accept a temporary permission, making a permission temporary could not be justified in this instance. Furthermore, temporary permissions cannot be used to allow the LPA to monitor if conditions have been complied with. This is for the LPA's enforcement team to ensure.
The applicant has profited by not complying with the Enforcement Notice	Details of legal cases are confidential.

Objection Comment	Officer Response
and the Council should apply to confiscate the profit under the Proceeds of Crime Act.	

- 7.4.2 2 representations 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
Noise levels created by the proposal do not affect the neighbouring properties and are no different to any other marina with similar facilities. Noise is planned to be reduced further by using a home entertainment system. On this basis closing at 8pm would be too early.	Please see section 5.3.
The facilities provided by the marina and clubhouse are an asset to the local community.	Comment noted.
The barge is in keeping with the area.	Please see section 5.2
The access road has been maintained to a high standard.	Comment noted.

## 8. **PROPOSED CONDITIONS**

- The development hereby permitted shall begin no later than three years from the date of this decision.  
**REASON** To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- Any operational development forming part of this permission shall be carried out in accordance with the following approved plans and the details contained on them: 1015 05D and 115 04D.  
**REASON** To ensure the development is carried out in accordance with the approved plans.
- The use hereby permitted shall only be as a club house offering food, drinks and beverages on the premises only to the club's members, associate members and their guests. Members and associate members of the club shall only be boat owners who berth their boats at Bridgemarsh Marina and occupiers of the caravans and holiday units at Bridgemarsh Marina.  
**REASON** To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E5, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
- The use of the club house hereby permitted shall only be carried out between 1 April and 30 September, inclusive, in any one year. Outside of this period the

premises shall remain shut and the access walkways shall be removed to prevent immediate access to the barge.

REASON To ensure the interests of protecting the natural environment in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

5. An up to date register of visitors to the premises shall be kept at all times at the club house. The register shall contain the name of the person who visited the premises, their status in relation to the club, the name of the boat they own or visit at the marina or the address/name of the caravan or holiday unit they occupy in the marina, the date and time they visited the premises and the time they left the premises. Electronic copies of the register shall be sent to the Local Planning Authority on the last day of every calendar month the premises have operated. The register shall be made immediately available on the premises at any time to the Local Planning Authority for inspection.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E5, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

6. The premises hereby permitted to be used as a club house shall not be open to customers outside of 11:00 hours and 20:00 hours every day. No customers shall be presented on the premises outside the permitted hours.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E5, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

7. Deliveries to and collections from the site shall only be undertaken between 08:00 hours and 18:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E5, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

8. Notwithstanding the submitted details, no external seating shall be provided on the application site.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

9. No amplified music or sound shall be played on site in perpetuity.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers and the natural environment in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

10. Notwithstanding the submitted details, no external storage of any items and paraphernalia associated with the use hereby permitted shall be carried out outside the barge.

REASON To ensure the appropriate use of the site in the interests of protecting the character and appearance of the area in accordance with local policies S1, S7, S8, E5 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

11. The public footpath crossing the access to the application site shall be kept free from obstructions at all times.

REASON In the interest of public rights of way and highway safety in accordance with local policies T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

12. The use hereby permitted shall not commence or be open for customers unless a foul water drainage scheme to serve the club house has been submitted to and approved by the Local Planning Authority and the scheme has been implemented in accordance with the approved details. The foul water drainage arrangements shall be kept as implemented in perpetuity.

REASON To ensure the interests of protecting the natural environment in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

13. The use hereby permitted shall not commence or be open for customers unless a scheme for the storage and removal of waste and recyclables to serve the club house has been submitted to and approved by the Local Planning Authority and the scheme has been implemented in accordance with the approved details. The storage and removal of waste and recyclables shall be kept as implemented in perpetuity.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

14. Notwithstanding the submitted details, no external illumination shall be installed or operated within the application site unless it is in accordance with a scheme that has been submitted and approved in writing by the Local Planning Authority. Any approved external illumination shall be turned off within 60 minutes from the end of the hours customers are allowed to be on the premises as per condition 6.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

15. No cooking of food shall occur at the site until full details of equipment to be installed for the extraction and control of fumes and odours, including details of noise and vibration attenuation together with a maintenance schedule for the future operation of that equipment have been submitted to and approved in writing by the local planning authority. The scheme shall also be in accordance with current guidance from DEFRA and the Heating and Ventilating Contractors' Association (HVCA) For Kitchen Ventilation Systems. The use hereby permitted shall not take place other than in accordance with these approved details.



REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

16. No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the barge except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E5, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

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**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**  
to  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**15 JULY 2019**

<b>Application Number</b>	<b>FUL/MAL/19/00465</b>
<b>Location</b>	Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB
<b>Proposal</b>	Change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution).
<b>Applicant</b>	Mr Frederik Booysen - PSS Care Group
<b>Agent</b>	Miss Nichola Brown - PSS Care Group
<b>Target Decision Date</b>	28.06.2019 (Extension of time agreed until 19.07.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Cllr Stamp has requested the application to be presented before Members of the South Eastern Area Planning Committee on the grounds of public interest.

## **1. PURPOSE OF THE REPORT**

- 1.1 This application was previously presented at the South Eastern Area Planning Committee and delegated to the Director of Strategy, Performance and Governance to approve as per officers' recommendation, subject to no new material considerations being raised during the remainder of the neighbour consultation period. However, by reason of the short absence of a Member of the Committee during the debate regarding the application and then participating in the vote this decision is considered to be challengeable and it is pertinent that it is presented again before Members.
- 1.2 Since the consideration of the application further representations have been received. These comments are included within this report. However, it is noted that they are not considered to raise any new material planning considerations that have not previously been addressed. As such, the recommendation of the application for approval, subject to conditions stated in section 6 below (and previously in section 8 of the report presented before members on the 17<sup>th</sup> June 2019), remain unaltered.
- 1.3 This report should also be read in conjunction with the Committee Report published under Agenda Item 8 on the Agenda for the South Eastern Area Planning Committee dated 17<sup>th</sup> June 2019 (attached at **APPENDIX 1**) and the Members' Update for Agenda Item 8 also dated 17<sup>th</sup> June 2019 (attached at **APPENDIX 2**).

2. **RECOMMENDATION**

**APPROVE** subject to conditions as detailed in Section 5.

3. **SITE MAP**

Please see overleaf.



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Maldon District Council 100018588 2014

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Scale: 1:625

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 03/06/2019

MSA Number: 100018588

#### **4. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

##### **4.1 Representations received from Interested Parties**

- 4.1.1 Since the presentation of the application at the South Eastern Area Planning Committee on the 17<sup>th</sup> June 2019, an additional six letters were received **objecting** to the application and the reasons for objection are summarised in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
Concerns regarding the young persons not being local.	The placement of young people is made by Essex Placing Authority. The Local Planning Authority has no control over the placements and this is not a material consideration in the determination of this application.
Concerns raised regarding safety and security of the older population living in Burnham-on-Crouch.	The nature of the proposed development, although not a C3 (dwelling houses) use, is similar to a household. In any event, the members of staff would be responsible of caring for and supervising the young people that would reside in the property. It is also advised that the Police and Host Authority would be informed for new placements.
Concerns regarding unsupervised children putting themselves and public at risk, due to the proximity to a congested road.	As noted within the officer report presented that the South Eastern Area Planning Committee on 17 <sup>th</sup> June, there would be a minimum of three members of staff present at all times. Thus, the young children would not be unsupervised. This consideration is not different to a traditional family residence by a congested road.
Concerns regarding capacity of the school to accept the children that would reside on site.	Given the limited number of young people (five) residing on site, it is considered that any impact on the nearby schools would be minimal and not such that to warrant refusal of the application on those grounds.
Various matters of concerns in relation to the neighbours' safety and security are raised.	These matters have been addressed in the officer responses in both the committee report and Members Update presented at the Committee meeting on 17 <sup>th</sup> June 2019.
Concerns regarding the planning process not being transparent.	It is noted that the application was publicised in accordance with the statutory requirements and all information in relation to the application was available at the Council's website. On that basis, it is considered the Council has been transparent throughout the

<b>Objection Comment</b>	<b>Officer Response</b>
	process of the application.
Limited information was provided to make an accurate assessment.	It is noted that the information provided with the application was sufficient to make the application valid. During the process of the application further information justifying the need of the proposed use was requested and provided by the applicant, in order to be able to fully assess the application against the policy requirements.
Concerns regarding the consideration of the impacts of the development by the Environmental Health Team.	The application together with its supportive information was available to the Environmental Health Team in order to assess the proposal. There are no concerns about the way Environmental Health dealt with the consultation.
Concerns regarding impact on the highway network and increased parking need.	The matter is address in section 5.5 of the report presented at the previous committee meeting. It is reiterated that the Highway Authority raised no objection to the proposed development.
Support was given to the Burnham Town Council subject to mitigation of the noise impacts. The proposal does not secure that the neighbours' amenities would be protected.	Matters regarding the impact of the development on the neighbouring amenity have been provided in the committee report and Members Update presented to Members on 17 <sup>th</sup> June 2019.
The proposal would set an unacceptable precedent in the area.	It should be noted that the application was assessed and found to comply with the policies of the Council. Thus, it would not set an unacceptable precedent in the area. Furthermore, each application is assessed on its own merits.
Burnham does not have a need for this type of accommodation.	It is noted that the need is assessed on a County and not Ward level. Thus, it is impossible to identify such a localised need for the proposed development. However, information has been submitted with the application of the need for this type of accommodation and this was assessed against policy H3 for accommodation for specialist needs and found to be acceptable.
Burnham-on-Crouch lacks facilities for children.	Burnham-on-Crouch, according to the LDP is one of the main settlements in Maldon that benefit from a range of facilities and services and is provided with good public transport.

<b>Objection Comment</b>	<b>Officer Response</b>
Concerns have been raised regarding the way that the application was approached and judged by Councillors at the committee meeting on 17 <sup>th</sup> June 2019.	This comment does not raise a material planning consideration and the planning process is not the right place for these comments to be discussed. Notwithstanding this, the application is going before the Committee again anyway.
Concerns regarding the credentials of the organisation that would run the proposed residential children accommodation.	The applicant has submitted information stating that it is OFSTED registered and thus, the Council cannot reasonably raise an objection with regard to the quality of the services provided.
It is suggested that further consideration is given to the current application.	Comment noted; however, it should be stated that the all statutory planning procedures have been followed for the determination of this application.
Concerns regarding Councillors being unaware that the publication process has not expired at the time of the committee.	Whilst it is acknowledged that the publication expiry date of the application was a day after the presentation of the application at committee, it was confirmed at the meeting by Officers, that no decision would be issued prior to the expiry of the application. It was also confirmed that the issuing of a decision would be subject to further assessment of all additional letters and also the presentation of the report to committee, if new material planning consideration were raised. This report is presented to this committee for the reasons stated in section 1 of the report. This is not considered to be a material consideration in the determination of the application.
No further consultation was carried out by the Burnham Town Council prior to the Planning Committee meeting, despite clear objections raised from neighbours.	This matter does not affect the decision making of the application by Maldon District Council acting as the Local Planning Authority.
Concerns regarding lack knowledge of the application by Officers.	It is noted that Officers had full understanding of the proposed development and assessed in detail the application against the Council's policies at the Officer report presented at committee on 17 <sup>th</sup> June 2019.
Concerns regarding the reference of the applicant to unreliable support comments during the committee meeting.	It should be noted that the Officer's report drafted prior to these comments being received.



Objection Comment	Officer Response
Lack of communication of the applicant with the neighbours.	This is not a material planning consideration.
Contradictory information regarding the use of the site as residential home and provision of employees.	It should be noted that the use of the site is as a residential institution and not residential home; thus, it is expected to provide employment on site.
Misleading information was provided regarding the suggested temporary planning permission.	<p>It should be noted that the imposition of a condition on a grant of planning permission depends on the specifics of the case and each application must be determined on its own merits.</p> <p>The Planning Practice Guidance states that <i>“A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.”</i> The application was assessed against development plan and found to be acceptable. On that basis, the imposition of a condition restricting the period of the permission would fail to meet the six test of planning conditions as set out in paragraph 55 of the NPPF (necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respect).</p> <p>Furthermore, Government guidance within the PPG states that <i>“Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness.”</i> It is therefore considered that the financial implications of the imposition of a temporary permission would be disproportionate and thus, not appropriate.</p>
An example of where temporary permission was given for a similar proposal in Chelmsford has been provided.	It is noted that each application is assessed on its own merits and the imposition of a condition on one site does not make it appropriate on another site.
Comments regarding lack of power of the	It is noted that the Planning Committees have the power to make balanced

<b>Objection Comment</b>	<b>Officer Response</b>
Planning Committee to make decisions have been made, due to the fact that some decision made reluctantly.	decisions on planning applications based on the development plan and relevant consideration. These include previous appeal decisions and the planning history of the site and the surrounding area. Just because a committee Member may be 'reluctant' to vote a certain way, for any number of reasons, it does not alter the need for the application to be determined in accordance with the development plan unless material considerations indicate otherwise.
Previously raised objections, including the principle of development; the amount of increased traffic; the proximity to the busiest junction into Burnham; the townscape of Burnham's main entrance; the increased noise over and above that of a normal large family have been reiterated.	All these matters have been addressed in the officer report and Members' Update presented at committee on 17 <sup>th</sup> June 2019.
Comments regarding the financial purposes of the proposed development have been raised.	This is not a material planning consideration. The proposal was assessed against the Council relevant planning policies which are quoted in section 4 of the officer report presented to committee on 17 <sup>th</sup> June.
The limited distance of the proposed development to the neighbouring sites has not been considered.	It is noted that the position of the site in relation to the nearby sites and uses has been taken into consideration to assess the impact of the development on the nearby properties.
Possible antisocial hours of staff changes will create noise and additional vehicle movements	Due to the limited number of employees at night times (three employees) it is not expected that the proposed development would result in additional poise and disturbance including increased vehicle movements at night time to such a degree that would justify the refusal of the application.
Temporary permission to the proposed development is suggested.	This matter is addressed as a response to a similar comment raised above.
Limited consideration of the impact of the development on the nearby neighbours amenities was given during the committee meeting.	It is noted that this matter was assessed both within the Officer report and was debated during the committee meeting.

Objection Comment	Officer Response
<p>The reason for the overrun of the consultation period was that the original consultation period had to be extended due to the failure of the council to follow their own procedures.</p>	<p>This comment is incorrect. The Council has not only followed but went beyond the statutory requirements and procedures regarding public consultation, by sending letters to all adjacent occupiers of the site, as well as posting a site notice on the site (only one of the above is a statutory requirement). The reason for the extended period was due to the required 21 days notice period from the date the site notice is posted on site. The site notice was posted on 25<sup>th</sup> May and due on 18<sup>th</sup> June, within the statutory planning period of the application, which was originally expired on 28<sup>th</sup> June 2019.</p>
<p>Statements by the applicant were taken at face value.</p>	<p>It is noted that an application is assessed on the basis of the information submitted by the applicant. Any development that goes beyond or falls outside the permission granted does not benefit from planning permission.</p>

**5. GRANT PLANNING PERMISSION SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in complete accordance with approved drawings: Location Plan and Block Plan.  
REASON To ensure the development is carried out in accordance with the details as approved.
3. The development hereby approved shall only be used as a children's home and for no other use within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the local planning authority.  
REASON To protect the amenities of the area in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
4. Details of a cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained as such in perpetuity thereafter.  
REASON To ensure that adequate bicycle parking and refuse facilities are proposed in accordance with policies D1 and T2 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.





**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**  
to  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**17 JUNE 2019**

<b>Application Number</b>	<b>FUL/MAL/19/00465</b>
<b>Location</b>	Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB
<b>Proposal</b>	Change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution).
<b>Applicant</b>	Mr Frederik Booysen - PSS Care Group
<b>Agent</b>	Miss Nichola Brown - PSS Care Group
<b>Target Decision Date</b>	28.06.2019
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Councillor Wendy Stamp has requested the application be presented before Members of the South Eastern Area Planning Committee on the grounds of public interest.


**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	03/06/2019
	MSA Number:	100018588
<a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a>		

### **3. SUMMARY**

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

##### *Site description*

- 3.1.1 The application site is located on the northern side of Maldon Road, west of its junction with Southminster Road and it is occupied by a large two storey dwelling sited within a large plot. The property has a deep front garden, which is mainly used for parking purposes. The rear garden is mainly soft landscaped with various children's play equipment installed.
- 3.1.2 The site is located within a residential area of Burnham-on-Crouch, which comprises dwellings of varying scale, mass and design. Although not uniform in character and appearance, the majority of the properties are sited in large plots, maintaining gaps between them and a strong front building line.
- 3.1.3 It is noted that the site to the north partially abuts the Ormiston Rivers Academy.

##### *Description of proposal*

- 3.1.4 Planning permission is sought to change the use of the residential property to a residential children's home (Use Class C2).
- 3.1.5 The application is supported by a statement explaining the purpose of the proposed residential children's home, which is to support children with their personal, social and educational lives. The home would care and provide accommodation for up to five children between the ages of 10 and 18 with one additional bed for an emergency placement. There would be six part time staff and seventeen fulltime staff. It is stated that at full capacity a total of six staff would be on site during day time and three over nights. Additional staff may attend as and when required. No external alterations or additions are proposed to the existing property.

#### **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against all material planning considerations and given the clear policy support for the provision of housing for people with specialist needs it is considered that the proposed development would be acceptable in principle. The development would also support the Council's requirement for the creation of employment opportunities. The development would not result in external alteration and therefore, it would not have an adverse impact on the character of the area. No objection is raised in relation to the impact of the development on residential amenity or the parking provision. The development would also provide good quality accommodation for the young people occupying the site. Therefore, the development, subject to appropriate conditions, is considered acceptable and in accordance with the aims of the development plan.

### **4. MAIN RELEVANT POLICIES**

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

#### **4.1 National Planning Policy Framework 2019 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
- 80-82 Building a strong competitive economy
- 59-66 Delivering a sufficient supply of homes
- 91-94 Promoting healthy and safe communities
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S6 Burnham-on-Crouch Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- E1 Employment
- H3 Accommodation for ‘Specialist’ Needs
- T1 Sustainable Transport
- T2 Accessibility

#### **4.3 Burnham-on-Crouch Neighbourhood Development Plan (7<sup>th</sup> September 2017):**

- Policy HO.1 – New Residential Development.

#### **4.4 Relevant Planning Guidance/Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG) SPD (2017)
- Maldon District Vehicle Parking Standards SPD (2018)
- Essex Design Guide (1997)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF’s emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives



identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).

- 5.1.2 Policy S1 of the LDP advises that to support sustainable development policies decisions should take into consideration the key principles, which *inter alia* include the support of a healthy and competitive economy and the delivery of a sustainable level of housing growth that meets the local needs in sustainable locations.
- 5.1.3 The proposal is to change the use of an existing property from residential dwelling (Use Class C3) to a residential institution (Use Class C2) where people live in a residential environment but receive care and supervision. In this particular case, the proposed development would provide accommodation for children with emotional and behavioural difficulties. However, the submitted information highlight that the majority of young people are not looked after as a result of their own behaviour but rather down to parental issues.
- 5.1.4 Policy H3 of the LDP supports the provision of housing to meet specialised needs in the District and therefore, although the development would result in loss of an existing conventional dwelling, it would provide accommodation for people with specialised needs. Whilst the compliance of the development with policy H3 is further assessed below, in relation to the loss of an existing dwelling, it is noted that the Council can demonstrate a supply of deliverable homes in excess of five years and therefore, the loss of one market dwelling to provide specialised accommodation it is not considered that this would detrimentally harm the supply of homes in the District. This taken together with the fact that the development would provide accommodation for children with specialised needs to improve their health, social and cultural well-being in accordance with paragraph 92 of the NPPF, it is considered that would weigh in favour of the proposed development against the loss of one dwelling.
- 5.1.5 The proposed development would provide accommodation for up to five children between the ages of 10 and 18 with one additional bed for an emergency placement. As noted above the application is supported by a Statement of Purpose of the proposed development which explains the nature of the development and how the facility will be run. According to the registration details the development would be run by Personal Security Service Care Group which is a company providing specialist care facilities and is registered and inspected by the Office for Standards in Education, OFSTED. Within the statement it is advised that the children referred to the unit may exhibit one or more of the following:
- Behaviour that challenges, including verbal and physical aggression.
  - Self injury or harm.
  - Attention Deficit Hyperactivity Disorder (ADHD).
  - Language/ communication difficulty or delay.
  - Autistic Spectrum Disorder (ASD) including Pathological Demand Avoidance (PDA) & Asperger's Syndrome.
  - Oppositional Defiant Disorder (ODD).
  - Attachment difficulties or disorders.
  - Mild to Moderate Learning Disability.
  - Mental Health needs.
- 5.1.6 The aim of the proposed accommodation is to help young persons to achieve positive differences in their personal, social and educational lives, opening up and creating

options for their future and in this way strive to achieve their full potential in their future lives. The submitted statement advises that at first floor there are five bedrooms and each young person would benefit from their own room. Although education is not expected to be offered on site, the young persons would have their own individual plan detailing their educational interests, hobbies and independent needs. Young people who have special educational needs will be supported following the guidance and details in their personal Education, Health and Care Plan.

- 5.1.7 Policy H3 of the LDP states that “*Proposals for specialist needs housing such as homes for older people, people with disabilities, or homes for other specific groups who may require properties that are specifically designed and / or allocated will be supported where:*
- 1) There is a clearly identified need that cannot be addressed elsewhere in the District;*
  - 2) The development is located in an area that is sustainable to meet the social as well as housing needs of the intended residents;*
  - 3) It will not lead to a concentration of similar uses that would be detrimental to the character and function of an area and/or residential amenity;*
  - 4) It will not detrimentally impact on the capacity of public services, including health and social care;*
  - 5) It is in close proximity to everyday services, preferably connected by safe and suitable walking / cycling routes or public transport appropriate for the intended occupier;*
  - 6) It can be demonstrated that the development is designed and managed to provide the most appropriate types and levels of support to its target resident;*
  - 7) It can be demonstrated that revenue funding can be secured to maintain the long term viability of the scheme; and*
  - 8) The scheme is supported by the relevant statutory agencies.”*
- 5.1.8 To identify whether the proposal complies with policy H3, the following assessment against the abovementioned eight criteria is carried out:

- 1) Additional information during the process of the application has been received advising that there are not enough beds in residential homes for children in Essex. Consequently, there are a number of Essex children placed out of the county. The register provided who submitted the application for the change of use of the site, wishes to support the Local Authority to place their children in county. Although there is no identified need particularly in Burnham, it is stated that when placement teams search for provisions they are generally looking for locations that offer facilities and security. Due to its location, Burnham provides a sense of security and an accessible enough location for Social Workers and other professionals. Furthermore, Burnham offers a number of facilities and experiences for teenagers, such as a secondary school, cinema, sailing clubs, fitness clubs and sports facilities, which are ideal for young people, as those who would reside in this residential children’s home. On the basis of the above justification, it is considered that there is an identified need in Essex that needs to be met and the location of this property meets the criteria for the proposed specialised needs type of accommodation.

- 2) The site lies within the settlement boundary of Burnham-on-Crouch which is classified as a “Main settlement” by LDP policy S8 and so has range of services and opportunities for employment, retail and education and it also provided with good public transport links. As such, it would be regarded as a sustainable location. The applicant advises that the children will be encouraged to join local sports or other groups.
- 3) It is understood that the nearest children’s homes are in Mayland, which was approved in 2016. There are also further similar residential children’s homes in Tiptree, Chelmsford and Colchester. On that basis, the development would not result in concentration of similar uses in the area which could be harmful to the character of the area.
- 4) Whilst the occupiers’ needs may be marginally greater than that of a conventional household, at least some of these needs could be addressed directly by staff and net impact is likely to be small.
- 5) The site is located in a sustainable location in terms of its accessibility to facilities and services, most of them, including schools, transport and everyday services, within safe walking distance.
- 6) The information accompanying the application demonstrates that an appropriate level of support and care would be provided for the targeted group of people occupying the site. This would include everyday care, safeguarding and care plans specialised to each individual.
- 7) Although no details of revenue funding have been provided to the authority, it is noted that PSS Care Group is a register provider offering services to local authorities and it is licensed by OFSTED, which makes regular checks to be satisfied that the facility operates appropriately.
- 8) The home must be registered with OFSTED which will carry out at least two inspections per year. In addition a monthly independent inspection is carried out which is reported to OFSTED. This will secure that the development is supported and inspected for its lifetime.

5.1.9 It is noted that there is generally national and local planning policy support for the provision of specialist facilities that support those members of the community that have specialist needs. Over the years, there has been a move away from the type of facilities that are provided in large institutions to smaller facilities being provided within the community. LDP policy H3 sets out the criteria against which such development should be assessed. As assessed above, the development is compliant with policy H3 and the aims of the local plan and national guidance. Thus, the proposal is considered acceptable in principle.

5.1.10 The proposed residential children’s home would provide six part time and seventeen fulltime jobs, including a dedicated Deputy Manager, Team Leaders working together with Registered Managers, as well as staff providing care, support and site maintenance. On that basis, the development would also support the Council’s aim to provide employment generating opportunities to meet the need for 2,000 net

additional jobs by 2029. As such, the development would also comply with policy E1.

- 5.1.11 In light of the above assessment, the principle of the proposed development is considered acceptable. Other material consideration relating to the impact of the development on the character of the area, the living conditions of the future and neighbouring occupiers and any highways issues are assessed below.

## **5.2 Housing Need and Supply**

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 of the NPPF where it requires local authorities *‘To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for’*. Paragraph 61 continues stating that *“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”*.
- 5.2.2 Following the publication of the February 2019 Government results of the Housing Delivery Test (HDT) the Council has revised the October 2018 Five Year Housing Land Supply (5YHLS) statement to apply a 5% buffer for choice and competition. On the basis of the March 2019 5YHLS results the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years’ (6.34) worth of housing against the Council’s identified housing requirements.
- 5.2.3 On the basis of the above, it is evident that the Council can meet its housing needs and provide a supply of home in excess of five years. Thus, the loss of one dwelling to provide a different type of residential accommodation would not result in a shortfall of housing that would make the Council unable to meet its housing needs.

## **5.3 Design and Impact on the Character of the Area**

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 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”.*

5.3.3 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.*

5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.3.5 The proposed development would not involve external alterations to the existing property. The development would still provide accommodation in a form of a domestic household and thus, it would not significantly alter the functionality or the character of the property itself or adversely impact on the character of the wider area.

## **5.4 Impact on Residential Amenity**

5.4.1 The basis of Policy D1 of the 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). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

5.4.2 The application site is surrounded by residential dwellings and partially to the north by a school. The dwelling is a five bedroomed dwelling and no physical changes to the dwelling are proposed. The proposed development would accommodate up to five children who will be living as a household albeit with care and supervision. There will be at least two members of staff on site on shift rising to three staff, when required. Additional staff may visit but this is usually during the day as part of the daily routine and weekly planned one to one meetings with the link workers. There may be other visitors to the site during the day but whilst the activity may be greater than a conventional household it will be only marginally so, considering that the current house is a five-bedroom dwelling where a large family with similar number of people to those that would normally be on site (children and staff) and live. Furthermore, due to the nature of the use, it is not expected that the development would encourage visitors or increased activity in unsocial hours. It is therefore

considered that the development would not result in a demonstrable impact on the amenity of the adjoining residents.

## **5.5 Access, Parking and Highway Safety**

- 5.5.1 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.
- 5.5.2 Access to the site would be gained off of Maldon Road, utilising an existing vehicular access. No new access is proposed to be formed and therefore, the development would be accessed via an acceptable access, sufficient to allow a safe access and egress of vehicles from the site.
- 5.5.3 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 are 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.
- 5.5.4 In terms of off-street parking spaces, the following are the requirements set out in the vehicle parking standards for residential care homes:
- 1 space per residential staff
  - 1 space per 2 other staff
  - 1 space per 3 bed spaces / dwelling units
- 5.5.5 As noted above, there would be six part time staff and seventeen fulltime staff. However, it is stated that at full capacity a maximum of six staff would be on site at any one time. On that basis, a maximum of six vehicles would be parked on site if assumed that all employees are using private vehicles for commuting. Given that the proposed development would provide accommodation for five children an additional two parking spaces should be provided in accordance with the Vehicle Parking Standards SPD. Thus, a total of eight parking spaces would be requirement for the proposed use. The site benefits from a large sized front garden, which is laid with gravel and it is used for parking purposes. It is considered that around eight parking spaces could be provided on site allowing sufficient turning space for vehicles to exit

the site in forward gear. As a result, it is considered that the development would provide sufficient off-street parking that meets the needs of the proposed development.

- 5.5.6 The proposed development would require one cycle parking space per two members of staff and an additional one per beds for visitors. Similar to the above assessment, considering that the maximum number of staff on site at one time would not exceed six, the cycle requirement would not be greater than six for the staff. One more cycle space would be required for visitors. Therefore, a total of seven cycle spaces would be required to be provided. Whilst not required by the Council's Vehicle Parking Standards, any additional cycle parking provision would be welcomed to be used by the young people residing on the site. Although no details of adequate cycle parking have been provided, the site benefits from a large sized rear garden where a cycle store can be provided for both staff and young people living on site. This is to promote sustainable modes of transport and therefore, a condition would be imposed for the cycle store details to be submitted and approved in writing by the Local Planning Authority (LPA)

## **5.6 Private Amenity Space and Living Conditions of the Future Occupiers**

- 5.6.1 The existing large sized rear garden will be retained and be available to be used by the children. Therefore, no objection is raised in terms of the provision of sufficient outdoor amenity space to meet the needs of the young people residing on site.
- 5.6.2 As discussed above, the property has five bedrooms at first floor and each young person would have their own private room. Additional communal spaces, including a lounge a dining room and a day room are also provided and therefore, a good level of accommodation would be able to be provided for the children occupying the site.

## **5.7 Pre-Commencement Conditions**

- 5.7.1 No pre-commencement conditions are proposed.

## **6. ANY RELEVANT SITE HISTORY**

- No relevant planning history.

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-on-Crouch Town Council	Support the application, although concerns are raised in relation to possible night noise in the garden.	Comments noted. Regarding the concerns raised about noise, given the nature of the proposed development it is not

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
		expected that the impact on residential amenity in terms of noise would be materially greater than a residential household to an extent that would warrant refusal of the application.

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Council Highways Authority	Having considered the information submitted with the planning application, and as the site is not proposing any changes to the vehicular access and there is ample parking space on the site, the Highway Authority has no objection to the proposal.	Comments noted and discussed in section 5.5 of the report.

## 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health Team	No objection raised. The level of impact in terms of noise disturbance from the use of the external areas of the property, if managed, would not differ in character to that which would be experienced in a garden typically, albeit there could be more use of the garden. It is advised that the applicant should be aware of the need for careful management of potential noise if permission is granted.	It is noted that the decorum of occupiers is not controlled by planning. The matter is further addressed in section 5.4 of the report.



## 7.4 Representations received from Interested Parties

7.4.1 Three letters were received **objecting** to the application and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
Impact from increased noise levels.	This matter is addressed in section 5.4.
Concerns raised regarding safety and security due to antisocial behaviour.	The nature of the proposed development, although not a C3 (dwelling houses) use, it would operate as a household. On that basis and considering that social inclusion is supported by both local and national policies, it is not expected that the a residential in nature development would result in unacceptable antisocial behaviour. In any event, the members of staff would be responsible of caring for and supervising the young people that would reside in the property.
Burnham-on-Crouch is remote and lacks facilities.	This matter is addressed in section 5.1.
Increased traffic and vehicle parking need.	This matter is addressed in section 5.5.
The increased vehicle movements would harm the neighbours' residential amenity due to the vehicle lights overnight.	The property is location along the main access road to Burnham town centre, which is one of the most used roads in Burnham and also a classified B road. It is therefore considered that the potential additional vehicle movement on site as a result of the changed use would not be materially harmful or result in greater impact from that already caused in the area from the use of and the vehicle movement on the existing B road.
The development would result in a change of use of the residential unit to a business premises.	The development would result in a C2 (residential institution) use. The impacts of the proposed change of use of the site are assessed in section 5.1 of the report.
It is stated that the proposal should be investigated with police reports being obtained.	Whilst it is acknowledged that designing out crime and designing in community safety should be central to the planning and delivery of new development, the Local Planning Authority should consult Police or Crime Commissioners where there is an identified risk. This is to ensure that places are designed so that are

Objection Comment	Officer Response
	less vulnerable to terrorist attacks. The current proposal is not considered to result in such an identified risk so that Police or Crime Commissioners should be consulted in relation to the application. It is also noted that PSS Care Group is registered and licensed by OFSTED, which makes regular checks to be satisfied that the facility operates appropriately.
Concerns are raised regarding non-notification of a neighbouring property to the application site.	It is noted that the property in question was notified by the Council regarding the proposed development, as one of the adjacent properties to the application site. In particular, it is noted that a letter was sent on 10 <sup>th</sup> May 2019. It should be also noted that a site notice, notifying neighbours about the proposed development was posted outside the application site. On that basis, it is considered that the Local Planning Authority has carried out the publications of the application in excess of the statutory requirements.
The development would result in loss of the neighbouring residential amenity and enjoyment of their garden.	The matter is address in section 5.4 of the report and also at comments above submitted by the Environmental Health Team.

7.4.2 One letter was received **commenting** to the application and it is summarised in the table below:

Comment	Officer Response
Similar concerns as discussed in the objecting table above are raised. The neighbour refers to a similar residential institution in Mayland and the feedback that he received discussing with neighbouring occupiers to this site. Concerns in relation to noise levels, anti-social behaviour, parking availability issues and lack of facilities in Burnham have been raised.	All these matters are addressed above in section 7.4.1.

## **8. PROPOSED CONDITIONS**

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

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

2. The development hereby permitted shall be carried out in complete accordance with approved drawings: Location Plan and Block Plan.

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

3. The development hereby approved shall only be used as a children's home and for no other use within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the local planning authority.

REASON To protect the amenities of the area in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.

4. Details of a cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained as such in perpetuity thereafter.

REASON To ensure that adequate bicycle parking and refuse facilities are proposed in accordance with policies D1 and T2 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.

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**CIRCULATED AT  
THE MEETING**



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

to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
17 JUNE 2019**

**MEMBERS' UPDATE**

**AGENDA ITEM NO. 8**

<b>Application Number</b>	<b>FUL/MAL/19/00465</b>
<b>Location</b>	Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB
<b>Proposal</b>	Change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution).
<b>Applicant</b>	Mr Frederik Booyesen - PSS Care Group
<b>Agent</b>	Miss Nichola Brown - PSS Care Group
<b>Target Decision Date</b>	28.06.2019
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Councillor Wendy Stamp has requested the application to be presented before Members of the South Eastern Area Planning Committee on the grounds of public interest.

**7 CONSULTATION AND REPRESENTATIONS RECEIVED**

**7.4 Representations received from Interested parties**

- 7.4.1** It is noted that an additional eleventh letters of objection have been received since the writing of the committee report. Two of the objection letters being received have been submitted from the same neighbours previously raised comments, one of which has confirmed that the original letter was a letter of objection rather than comment to the application. On that basis, the type of representation on the website has been changed accordingly. It is noted that these two letters raise the same comments as those originally raised and thus, there is not reason to be reiterated. All new comments, objecting to the proposal that have not been addressed in the Officer Report are summarised below.

<b>Objection Comment</b>	<b>Officer Response</b>
The off-street parking spaces will not be sufficient to meet the requirements of the development and public transport is	This matter is addressed in sections 5.1 and 5.5.

Our Vision: To make Maldon District a better place to live, work and enjoy

Agenda Item no. 8

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<b>Objection Comment</b>	<b>Officer Response</b>
limited.	
No pre-application consultation was undertaken prior to the submission of the application.	It is noted that this is not a statutory requirement.
The proposal does not provide a market assessment.	The submission of a market assessment is not a policy requirement, but provision of revenue funding is discussed in section 5.1 of the report.
The proposal goes against the Council's expectation to deliver older persons housing.	The proposal would not result in loss of an existing older persons accommodation.
The proposal will result in reduction of housing (C3 use class) supply.	This matter is addressed in section 5.1 of the report.
The development would not comply with the requirements of policy H3 regarding Specialist Needs Accommodation.	Assessed in section 5.1 of the report.
Further details in relation to the nature of the proposal, in particular the needs of the future children that would reside on site, the times that they will be supervised and the way that nuisance will be managed, are considered necessary to be provided.	The application is supported by a statement that provides information about the nature of the use. All relevant planning matters in relation to the nature of the use and its impact on the neighbours are assessed in sections 5.1 and 5.4 of the report.
Correspondence regarding requesting the application to be called in to committee have been submitted.	Noted.
Highway safety concerns.	Addressed in section 5.5 of the report.
The site notice was posted on 28 <sup>th</sup> May.	It is noted that the site notice was posted on site in accordance with the statutory requirements and within the time frame of the application.
No details of the type of vehicle usage at the property and the vehicle movement is provided.	Details of parking requirement for this type of development are discussed in section 5.5 of the report. Although no details of the type of vehicles using the site have been provided, given the limited

Objection Comment	Officer Response
	number of young people residing on site, it is considered unlikely that more than one larger vehicle would be required to be parked on site. The site benefits from a large sized front curtilage that can accommodate at least eight vehicles (including turning facilities). On that basis, the provision of one larger vehicle would not result in a material reduction of the off-street parking provision to an extent that would warrant refusal of the application on those grounds.
Adverse impacts on the neighbours' residential amenity.	Discussed in section 5.4 of the report.
Concerns regarding not being able to upload comments on the Council's website and therefore, the Council has not carried out its duty to seek comments from those that may be impacted from the development.	It is noted that Council has three available options to receive correspondence, including the website, an email address and by post. The Council's offices are also open and representation letters can be received at the reception. Furthermore, a short unavailability to register comments on the website, goes beyond the local planning authority's remit.
Lack of police presence to ensure vulnerable children are not targeted.	This is a matter that goes beyond the local planning authority's control.
Burnham-on-Crouch lacks facilities to support the development of the children.	Burnham-on-Crouch, according to the LDP is one of the main settlements in Maldon, that benefit from a range of facilities and services and is provided with good public transport.
The house is large with potential to be extended further and therefore, a limit on numbers should be imposed.	The Council can only assess the proposal as it has been submitted. Any further development would require the submission and assessment of a new application.
The proposed development is not incomparable to a conventional dwelling and it will result in significant impact on residential amenity, due to the number of people residing and the children's background.	Consideration has been given to the potential additional impact caused in terms of noise and activity in comparison to a conventional dwelling. However, it is noted that this is a large property that could have been occupied by a large family with dependent people. On balance, it is considered that the additional impact, due to the residential

Objection Comment	Officer Response
	nature of the development would not be greater to an extent that would warrant refusal of the application on those grounds.

7.4.2 It is noted that a letter from the agent has been submitted providing further information regarding the proposed development. These further details are summarised below:

- The purpose of the services provided is for young people to have the opportunities to achieve in the same way as their peers.
- The services provided are for long rather than short term care for young people.
- Further details in relation to the market value of the neighbouring houses to the existing residential children home in Myaland have been provided. It is also noted that only one house near this property has been for sale since the residential children home started operation, which was for sale prior to the conversion of the site to residential children's accommodation.
- Records of all police visits is kept as part of our OFSTED inspection schedule. It is confirmed that in the past 12 months there have been 4 police visits on 3 separate days at the residential children's house in Mayland. Further details of each police visit are provided.
- The additional parking need from a conventional dwelling is accepted, but it is noted that this was a reason a site like the application site was chosen, due to the existing ample parking space.
- Since the opening of the residential children's house in Mayland there has been one formal complaint, which has been resolved.
- Details of an incident where one of the children in the residential children's house in Mayland has been abusive to neighbours is given and it is stated that the placement was closed for this young person.
- It is noted that the PSS Care Group does not have a residential children's house in Rayleigh or are a large business.
- It is also noted that PSS Care group has a comprehensive complaints policy which is regulated by an independent visitor monthly and OFSTED at inspection. It is advised that copies can be made available to neighbours if they require it.





**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**  
to  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**15 JULY 2019**

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<b>Application Number</b>	<b>FUL/MAL/19/00533</b>
<b>Location</b>	Grove Farm, Stoney Hills, Burnham-on-Crouch, Essex
<b>Proposal</b>	Full planning application for replacement dwelling (Plot 6) and the erection of two detached bungalows at plots 3 and 7 (Plot 3 of outline planning permission OUT/MAL/15/01082) with associated cart lodge and garaging.
<b>Applicant</b>	Lauren Nicole Homes Ltd
<b>Agent</b>	Mr Russell Forde – Smart Planning
<b>Target Decision Date</b>	25.07.2019
<b>Case Officer</b>	Devan Lawson
<b>Parish</b>	<b>BURNHAM-ON-CROUCH NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

**1. RECOMMENDATION**

**APPROVE** subject to the conditions detailed in Section 8 of this report.

**2. SITE MAP**

Please see overleaf.

MSA Number: 100018568

### **3. SUMMARY**

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

##### Application Site

- 3.1.1 The application site is located on the western side of Stoney Hills. The application site has recently been cleared, leaving only the existing dwelling at the site. However, prior to the demolition works the site also included a number of single storey outbuildings.
- 3.1.2 Stoney Hills is located outside of the settlement boundary of Burnham-on-Crouch and comprises of mainly large detached dwellings, set within large plots. The area has been the subject of many redevelopment proposals over recent years which have changed its character, from a rural character to a more suburban style. The properties within the wider area are mainly individual detached bungalows and dwellings which vary in terms of style, scale and form. Overall the character of the area has been turned into a more suburban residential area, with a large number of properties being accessed via cul de sacs.

##### Proposal

- 3.1.3 Planning permission is sought to erect three bungalows within the site, one of which would be a replacement of the existing dwelling to the front of the site and associated garages/cart lodge.
- 3.1.4 What is referred to as plot 6 on the Block Plan, would be located within the eastern part of the site and would be accessed from the southern side of the plot from the access road taken from the western side of Stoney Hills. The main part of the proposed bungalow would have a hipped roof measuring 2.3m to the eaves and 6.1m to the ridge. It would have a width of 8.9m and a depth of 12.8m. There would be a small front projection, with a hipped roof measuring 2.3m to the eaves and 4.4m to the ridge. It would have a width of 5.8m and a depth of 2.4m. A similar projection is included to the rear, which would be 4.8m in width, 0.4m in depth and 2.3m to the eaves and 5m to the ridge. The proposed dwelling would have three bedrooms, an open plan lounge, diner and kitchen, a bathroom and three bedrooms, one of which will be en-suite.
- 3.1.5 Forward of the dwelling would be a detached cart lodge, which would have two bays, would be open on the front and would have a pitched roof. The cart lodge would measure 2.2m to the eaves on the southern side, which would be reduced to 1.5m on the northern side. The ridge height would be 5.3m and the width would be 5.5m with depth of 7m running north to south.
- 3.1.6 What is referred to as Plots 3 on the block plan is located within the northwest of the site and would consist of a single storey dwelling, with rooms in the roof space. The main part of the dwelling would feature a gable roof running north to south and there would be a single storey hipped roof projection. The main part of the dwelling would measure 10.5m in width and 7.2m in depth, with a height of 2.5m to the eaves and 5.9m to the ridge. The single storey rear projection would measure 5.6m in width, 3.6m in depth and a height of 2.3m to the eaves and 5.1m to the ridge. The dwelling

would consist of a kitchen, dining room/lounge, an en-suite, WC and bathroom and three bedrooms, one of which would be provided in the roof space and would be served by one of the baths.

- 3.1.7 Plot 7 would be located to the west of the dwelling proposed at plot 3 and would consist of a single storey dwelling with a hipped roof and a smaller hipped roof rear projection. The bulk of the dwelling would measure 13.2m in width and a depth of 7.9m. It would have an eaves height of 2.3m and a ridge height of 5.5m. The rear projection would extend 4.3m beyond the rear elevation and would have a width of 5.7m. It's eaves height would match the main dwelling and the ridge height would be 5m. The dwelling would consist of three bedrooms, one of which would be en-suite, an open plan lounge, dining and kitchen area, a utility room and a bathroom.
- 3.1.8 Between plots 3 and 7 would be a double detached garage measuring 6.4m in width and 7m in depth, with an eaves height of 2.3m and a ridge height of 5.3m.
- 3.1.9 The proposed dwellings and outbuildings will be constructed from facing brickwork and feather edged boarding, clay tiles or similar and UPVc openings.

#### Background

- 3.1.10 It is noted that outline planning permission including access and layout was granted on appeal (APP/X1545/W/16/3147227) in October 2016 for five bungalows. This application relates to one of those dwellings and omits plots 1, 2, 4 and 5. This application also includes an additional dwelling at plot 3, hence there now being a plot 7 and includes the existing dwelling which is to be replaced and is known as plot 6. Therefore, the wider site is now proposed to provide seven dwellings as opposed to six.
- 3.1.11 The full application being considered as part of this report has been submitted in full rather than as a reserved matters application, because the proposal features a revision to the layout and the number of units which was approved in outline as part of the appeal decision. The application site and proposal, as stated above, now also includes a replacement dwelling at the front of the site. The alterations to the layout in relation to the previous permission consist of:
- An additional dwelling will be provided within the northwest of the site
  - An additional garage is proposed between plots 3 and 7
  - The design and scale of the dwelling at plot 3 has been altered and is as set out above.
- 3.1.12 It should also be noted that the scale of the dwellings proposed as part of this application differ to what was shown indicatively on the block plan (13.2169/P204 Rev A) approved as part of the outline application. Nevertheless, scale was a matter reserved for future consideration and therefore, was not considered in full.
- 3.1.13 More recently planning permission was granted under application FUL/MAL/18/01477 which related to plots 1, 2, 4 and 5 at the site. That application featured the following amendments to the outline permission:

- The dwelling at plot 1 was brought forward by 3m.
- The existing garage previously retained in plot 1 was removed and a double garage was proposed.
- A shared double garage was proposed between plots 4 and 5 opposed to parking spaces only.
- Plot 2 was re-configured, and a garage is now proposed.

3.1.14 It should be noted that plots 1, 2,4 and 5 are not for consideration as part of this application.

## **3.2 Conclusion**

3.2.1 It is noted that the proposal is contrary to policy S8 of the Local Development Plan (LDP). However, having taken all material planning considerations into account, including the extant outline planning permission (APP/X1545/W/16/3147227), it is found that the principle of erecting dwellinghouses in this location has been accepted. Therefore, it is not considered that one additional dwelling and a replacement dwelling would provide any considerations that would alter this stance. The impact of the development on the character of the area and the countryside has been assessed and having regard to the previous appeal decision, the proposal is not considered to result in material harm to the character and appearance of the area or the intrinsic character and beauty of the countryside. The development would not cause a detrimental impact on the amenity of the neighbouring occupiers and it would provide a suitable living environment for the future occupiers. Off-street parking could be provided in accordance with the Vehicle Parking Standards subject to a condition, and the local planning authority is satisfied that the development would not adversely impact on the public rights of way. Therefore, whilst the development would not wholly accord with the approved LDP and the guidance contained in the National Planning Policy Framework (NPPF) and the supplementary Maldon District Design Guide (MDDG), subject to conditions, it is considered that the proposed development cannot be deemed to be unsustainable and should not therefore be refused.

## **4. MAIN RELEVANT POLICIES**

### **4.1 National Planning Policy Framework 2019 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
- 77-79 Rural Housing
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 178-183 Ground conditions and Pollution

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

- S1 Sustainable Development
- S2 Strategic Growth
- S6 Burnham-on-Crouch Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- 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
- Maldon District Vehicle Parking Standards SPD
- Burnham-on-Crouch Neighbourhood Development Plan

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

5.1.1 The application site lies beyond the development boundaries of Burnham-on-Crouch, in an area that forms a separate ‘suburban’ style development extending into the open countryside.

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

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

5.1.4 It is noted that a number of new dwellings have been approved in the area in recent years, some of which on appeal. On each occasion it has been acknowledged that whilst the local highway is not adopted and provides no dedicated facilities for pedestrians, the area is considered to be in an accessible location. It has also been acknowledged that the character of the area has evolved over time so it is no longer an area of scattered residential development but a more suburban residential one.

- 5.1.5 It is also noted that the site benefits from an extant outline planning permission for the erection of one dwelling and that policy H4 supports the construction of replacement dwellings in principle subject to certain criteria. The current proposal, as noted above, has been altered in terms of the layout, and the number of dwellings. However, the principle of the erection of a dwelling within the application site has been previously found to be acceptable and it is not considered that an additional dwelling, garage and replacement dwelling would provide any considerations which would alter that stance. Therefore, although the principle of development is contrary to Policy S8 of the LDP, having regard to the previous decision, which is a material consideration, it is considered that the principle of the erection of two dwellinghouses, a garage and replacement dwelling in this locality would be acceptable.
- 5.1.6 Other material planning considerations, including design and impact on the character of the area, the impact on neighbouring occupiers and any traffic or transport issues are discussed below.

## **5.2 Housing Need**

- 5.2.1 The Council has undertaken a full assessment of the Five Year Housing Land Supply in the District and it is concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements.
- 5.2.2 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two bedroom units to create better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.3 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units, with around 71% of all owner occupied properties having three or more bedrooms.
- 5.2.4 The Council is therefore encouraged in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. In this respect, the proposal would not meet this policy requirement and therefore, is of negligible benefit in terms of improving the Council's housing stock in terms of dwelling size.

## **5.3 Affordable Housing**

- 5.3.1 Policy H1 of the LDP states that housing developments of more than 10 dwellings or more than 1,000sqm will be expected to contribute towards affordable housing. Within the Strategic Allocations the expected requirement is 40%. Any relaxation of this requirement will only be considered where the Council is satisfied that such requirement will render any development proposals unviable.
- 5.3.2 In addition to the supporting text within the policy it states that '*the need for a contribution towards affordable housing will be based upon the gross number of homes developed on all sites in cases where a site segregated into smaller units.*' Case law also supports this stance.

5.3.3 However, the combined footprint of the development (approx. 910sqm) proposed under the terms of this application and that which was approved under the terms of application FUL/MAL/18/01477 does not exceed 1,000sqm. Therefore, there is no requirement for affordable housing to be provided as part of this application.

#### **5.4 Design and Impact on the Character of the Area**

5.4.1 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.

5.4.2 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”.

5.4.3 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.

5.4.4 The above policy should also be read in conjunction with Policy H4 of the LDP in relation to Backland and Infill Development. The policy states that backland and infill development will be permitted if the relevant criteria are met.

5.4.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).



- 5.4.6 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.
- 5.4.7 As discussed above, outline planning permission for the erection of a bungalow including the layout and access to the site, was previously granted at the site in 2016 as part of an appeal. It is therefore, relevant to firstly consider the amendments to the layout in relation to the previous application.
- 5.4.8 The proposed revisions to the layout consist of adding an additional dwelling at plot 3 to create plot 7 and also the addition of a double garage within this part of the site. This has also resulted in the scale of the dwelling at plot three being altered.
- 5.4.9 The additional bungalow within the site would result in a higher density of dwellings within the rear of the site and would create two plots that are approximately 100sqm smaller than the next smallest plot (plot 4). However, although the density would increase, it is considered that a suitable separation distance would be maintained between the dwellings and that the additional dwelling would not materially alter the character of the site in relation to the previous approved layout.
- 5.4.10 The addition of the shared double garage between plots 3 and 7 will further increase the built form at the site. However, it is not an overly large structure and would not materially alter the character of the site. Therefore, it is not considered that the addition of the garage in relation to scale, bulk and layout would cause material harm to the character and appearance of the site, particularly in relation to the layout as previously approved.
- 5.4.11 In relation to above it is noted that the Inspector as part of the previous application considered that ‘The layout would be in keeping with recent developments including Mill Farm and land west of Mirfield where houses are set back from the frontage of Stoney Hills and layouts respond to site constraints and opportunities rather than following a rigid linear form.’ It is not considered that the revisions to the layout would alter this stance and therefore, there are no objections in this regard.
- 5.4.12 In terms of design, the proposed bungalows are of a fairly generic design for this type of development. The bungalow within plot 7 follows the design principles of the dwellings approved under the terms of application FUL/MAL/18/01477, located within the wider site and in terms of scale, bulk and footprint is a replica of the dwelling approved at plot 2 to the east, although there are some design differences such as the positioning of doors. Having regard to this it is considered that the design of the proposed dwelling at plot 7 would be acceptable.
- 5.4.13 The dwelling proposed at plot 3 is the only dwelling, including those within the wider site that do not form part of this application, which proposed a first-floor level of accommodation. However, with a ridge height of 5.9m, the proposed dwelling would be 0.2m lower than the ridge height of the replacement dwelling proposed at plot 6 and the one approved at plot 1. Furthermore, whilst the scale and bulk of the bungalows proposed differ, it is noted dwellings within Stoney Hills are of varying heights and therefore, this would not have a harmful impact on the site or the surrounding area.

- 5.4.14 In addition to the above, although the appearance of the dwelling proposed at plot 3 would be slightly different in relation to the other approved and proposed dwellings within the site and the wider site, the underlying architectural style of the dwelling is in keeping with the other dwellings to an acceptable degree, but also provides a degree of variation to provide architectural interest. Having regard to this there is no objection to the design, style, scale or bulk of the dwelling proposed at plot 3.
- 5.4.15 In relation to the replacement dwelling, whilst it is noted that the proposal is of a differing design to the existing single storey bungalow, the proposed dwelling would be a handed version of the neighbouring dwelling approved under the terms of application FUL/MAL/18/01477 within plot 1 located to the north of the application site. Furthermore, the dwelling would have a width that is approximately 2.5m lesser in width than the existing dwelling. Having regard to this it is considered that the proposed replacement dwelling would be in keeping with the character and appearance of the surrounding area to an acceptable degree.
- 5.4.16 The siting of the proposed detached garage to serve the replacement dwelling would be situated almost on the site frontage and would fill approximately half the width of the plot. Therefore, the proposal would create an increased level of built form adjacent to the public realm which would be highly prominent from the streetscene. However, it is noted that Linden Grange, the site to the south of Grove Farm has a large detached garage situated in a similar position to the proposed garage and there are a number of other dwellings within Stoney Hills which have detached garages situated to the front of the site. Furthermore, to the north of the replacement dwelling within plot 1 a similar garage, albeit slightly further back from the highway was approved under the terms of application FUL/MAL/18/01477. Therefore, given the presence of other garages of a similar positioning within the surrounding area as that of the proposed garage, it is not considered that the resulting level of harm would be so significant as to justify the refusal of the application.
- 5.4.17 Having regard to the above assessment and subject to conditions requiring full details of materials, it is not considered that the development will result in detrimental harm to the character and appearance of the site or the surrounding area in accordance with policies S1, S8 and D1 of the LDP, policy HO.8 of the BOCNDP and guidance contained within the MDDG and the NPPF.

## **5.5 Impact on Residential Amenity**

- 5.5.1 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).
- 5.5.2 The proposed bungalows towards the northern boundary of the site would be located a minimum of 3.6m away from the boundary shared with Stapleton to the north and approximately 26m from that neighbouring dwelling. It is noted that there is an extant outline permission for three houses (OUT/MAL/18/00544) within the neighbouring site. Although indicative as layout is a matter reserved for future consideration plan 1734-101 submitted as part of that permission shows that the closest dwelling would be located approximately 9.37m from the shared boundary.

The proposed garage serving plots 3 and 7 would be situated on the northern boundary.

- 5.5.3 The roof lights proposed within plot 3 would face towards the eastern side elevation of plot 7. However, there are no windows within the eastern side elevation of plot 7 that would be directly viewable from the rooflights. Furthermore, given that the proposed dwellings would only be single storey and taking into account the separation distance between the development and the neighbouring dwellings, it is considered that the development at plots 3 and 7 would not have a materially harmful impact on the residential amenity of the nearby occupiers by being overbearing or resulting in a loss of light or privacy.
- 5.5.4 The replacement dwelling at plot 6 would be located 3m from the dwelling approved to the north and 1.8m from the estate road. There would be one window and door in the northern side elevation which would serve the dinning/kitchen area. The neighbouring dwelling would also feature the same openings. Whilst the separation distance is not overly great, given that there will likely be a boundary treatment situated between the dwellings at this point and that these rooms are not habitable rooms of accommodation it would not be reasonable to object to the application on those grounds. However, a boundary treatment condition would be necessary to ensure that appropriate mitigation is included.
- 5.5.5 The access to the south of the site which would serve plots 7 and 3, would be located directly adjacent to Grove Farm, the existing bungalow at the site. There is a window in the southern side elevation of the replacement dwelling and so there is concern that the vehicular movements associated with people accessing the rear plots would result in harm by way of noise disturbance and light pollution. However, given that the access has not differed from what was previously approved at appeal and the window would serve an en-suite, it would not be reasonable to raise an objection in this regard.
- 5.5.6 In terms of the interrelationship of the dwellings, it is noted that due to their orientation and separation distance, they would not result in dominance or in overshadowing to habitable rooms. Furthermore, a condition can be imposed requiring details of boundary treatments to ensure that rear gardens remain private, as well as ensuring that they are appropriate for the area.
- 5.5.7 Having regard to the above it is not considered that the development would result in undue harm to the amenity of neighbouring occupiers in accordance with policies S1 and D1 of the LDP and guidance contained within the MDDG.

## **5.6 Access, Parking and Highway Safety**

- 5.6.1 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.

- 5.6.2 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.
- 5.6.3 The adopted Vehicle parking standards state that a three bedroom dwelling should provide space to park two vehicles within parking bays measuring 2.9x5.5m or within garages measuring 3mx7m for a one car garage or 6mx7m for a double garage. The submitted plans demonstrate that there is sufficient parking provided within the site to meet these standards. Therefore, there is no objection in this regard.
- 5.6.4 As previously outlined the access was previously approved as part of the outline application. As there are no alterations to the proposal in relation to access there is also no objection in relation to this.
- 5.6.5 The proposal is therefore, in accordance with policies S1, T1 and T2 of the LDP.

## **5.7 Private Amenity Space and Landscaping**

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.7.2 The proposal relates to three, three-bedroom bungalows and therefore, there is a requirement for 100m<sup>2</sup> of amenity space per dwelling. The submitted information demonstrates that each dwelling will be provided with amenity space in excess of the stated requirement and therefore, there is no objection in this regard. Whilst there are concerns in regards to the position of the amenity spaces, most notably serving plot 6, due to it being adjacent to the estate road, given that layout was previously approved and the siting of the rear amenity space has not altered it is not considered reasonable to raise an objection in this regard.

## **5.8 Contamination**

- 5.8.1 Policy D2 of the Approved Maldon District Local Development Plan states that where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source. The Council will expect development proposals to take into account environmental issues

such as air quality, water consumption and quality, drainage, sewerage, energy, noise, light, waste, contamination, design and building materials.

- 5.8.2 Following the approval of application FUL/MAL/18/01477 where full land contamination conditions were imposed that application as submitted contamination assessments by Brown 2 Green (Phase 1, April 2019 and Phase 2, May 2019), which identified a single action in relation to identified asbestos-containing fragments on site (section 8.2). Therefore, following consultation with Environmental Health, it is no longer considered necessary to re-impose the previous conditions relating to contamination. However, conditions relating to the potential risk of contamination have been recommended and are considered necessary.

## **5.9 Waste Storage and Collection**

- 5.9.1 The clarification for Policy D2 of the Approved Maldon District Local Development Plan states that ‘New development should seek to minimize the amount of waste produced and to ensure that it is treated and disposed of in an environmentally acceptable way. New Developments should provide adequate facilities for storage, recycling and collection of waste during occupation’
- 5.9.2 Section C09 of the MDDG states that ‘the management of waste needs to be considered early on in the design to avoid inconvenient waste storage for residents, inefficient waste collections of waste produced or unsightly bin storage areas.
- 5.9.3 The proposed block plan shows that a refuse store would be provided on the southern side of the site, 34m to the west of the access. The refuse store would be located a large distance from the proposed dwellings which may prevent it being used. However, there is sufficient space within the site close to the dwellings where waste storage could be provided and so there is no objection in that regard.

## **5.10 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast RAMS**

- 5.10.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘Zones of Influence’ of these sites cover the whole of the Maldon District.
- 5.10.2 Natural England anticipate that, in the context of the Local Planning Authority’s (LPA) duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zones of Influence constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered ‘alone’ or ‘in combination’. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.

- 5.10.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA). Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.10.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.10.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England would not provide bespoke advice. However, Natural England's general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.10.6 To accord with Natural England's requirements, a Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes – The proposal is for two dwellings and one replacement dwelling

HRA Stage 2: Appropriate Assessment - Test 2 - the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No

Summary of Appropriate Assessment

- 5.10.7 As a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account that Natural England's interim advice is guidance only, it

is not considered that mitigation would, in the form of a financial contribution, be necessary in this case.

## **5.11 Conclusion**

- 5.11.1 Notwithstanding the guidance of Natural England, it is considered that the likely impact of the development of the scale proposed, in this location would not be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission.

## **5.12 Other Matters**

- 5.12.1 The conditions imposed by the Inspector as part of APP/X1545/W/16/3147227 have been considered in relation to this application and can be re-imposed where relevant and necessary in order to provide consistency. Where required the conditions were updated to reflect changing guidance, which includes resisting the use of pre-commencement conditions unless necessary.

- 5.12.2 It is also noted that a drainage strategy was submitted with the application (Civillistix drainage strategy 31<sup>st</sup> May 2019), which provided suitable content and recommendations in relation to the disposal of both surface and foul water drainage. Therefore, conditions relating to those matters have been updated to reflect this.

## **5.13 Pre-Commencement Conditions**

- 5.13.1 One pre-commencement condition is proposed relating to the disposal of asbestos related materials. It is important that this is dealt with prior to the commencement of the development to ensure that there is no risk to the health of the workers of site or the future occupiers.
- 5.13.2 The applicant's agent in a letter/email dated 01<sup>st</sup> July 2019 agreed to the imposition of this pre-commencement condition.

## **6. ANY RELEVANT SITE HISTORY**

- **FUL/MAL/18/01477** - Erection of four detached bungalows (Plots 1, 2, 4 & 5 of outline planning permission OUT/MAL/15/01082) with associated garaging. **Approved**
- **DEMPA/MAL/18/00150** - Prior notification for the demolition of eight timber framed outbuildings. **Prior Approval Required and Approved.**
- **OUT/MAL/15/01082** - Outline application for the erection of five bungalows in lieu of existing commercial and agricultural buildings. **Appeal Allowed**
- **OUT/MAL/15/00445** - Outline application for one dwelling including determination of access. **Appeal Allowed**

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
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<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-on-Crouch Town Council	No response received at the time of writing this report	Any future response will be communicated by Members update.

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Local Highway Authority	No response received at the time of writing this report	Any future response will be communicated by Members update.
Natural England	No response received at the time of writing this report	Any future response will be communicated by Members update.

## 7.3 Internal Consultees

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	<p>The Brown 2 Green contamination assessments (Phase 1, April 2019 and Phase2, May 2019) and am satisfied with their content. The Phase 2 report advises an action in relation to asbestos-containing fragments on site. Therefore, conditions in relation to this are proposed.</p> <p>The Civilistix drainage strategy (31<sup>st</sup> May 2019) is satisfactory. Conditions are recommended in relation to the disposal of surface and foul water drainage relating to the reports recommendations.</p>	Noted, the proposed conditions are addressed at sections 5.8 and 5.11.



## **7.4 Representations received from Interested Parties**

7.4.1 No letters of representation have been received.

## **8. PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 17.4387/P222 Rev A, 17.4387/M001, 17.4387/E101A, 17.4387/M002 Rev A, 17.4387/P202 Rev F, 17.4387/P214, 17.4387/P215, 17.4387/P216, 17.4387/P217, 17.4387/P218, 17.4387/P219, 17.4387/P220, 17.4387/P221, Brown 2 Green Phase Geo-Environmental Desk Study Report April 2019, Civilistix Grove Farm, Stoney Hill Drainage Strategy 31 May 2019, Brown 2 Green Geo-Environmental Site Investigation Report May 2019.  
REASON To ensure that the development is carried out in accordance with the details as approved.
3. No development works above ground level shall take place until details or samples of the facing material to be used, 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.  
REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development.
4. A surface water drainage system in accordance with section 3 of the Civilistix drainage strategy (dated 31st May 2019) shall be provided to the site and be operational prior to first occupation of any residential dwelling on site. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan detailed within section 3.8 of the document stated above.  
REASON To ensure that adequate provision is made for surface water and foul water drainage in accordance with policies D1 and D5 of the Maldon District Local Development Plan.
5. Foul drainage shall be connected to the combined public sewer in accordance with details contained in section 4 of the Civilistix drainage strategy (dated 31st May 2019).  
REASON To ensure that adequate provision is made for surface water drainage in accordance with policies D1 and D5 of the Maldon District Local Development Plan.
6. All asbestos-containing fragments must be removed from the site prior to the commencement of the development. The remediation should consist of a site walkover to hand pick the fragments that are present. All asbestos containing materials should be disposed of to a licenced waste disposal facility.

Following the removal of the fragment's validation should be undertaken by a Contaminated Land Consultant. The validation should consist of a detailed walk-over of the site to confirm that all fragments have been removed.

On completion of the validation a report should be prepared that provides details of the site inspection, photographs of the inspected area and copies of all waste disposal notes. This report must be provided to the Local Planning Authority for approval.

REASON To prevent undue risks to human health and the environment as a result of contamination in accordance with policy D2 of the approved Maldon District Local Development Plan.

7. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

REASON To prevent undue risks to human health and the environment as a result of contamination in accordance with policy D2 of the approved Maldon District Local Development Plan.

8. Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include, for example:
  - i. Proposes finished levels contours;
  - ii. Means of enclosure;
  - iii. Car parking layouts;
  - iv. Other vehicle and pedestrian access and circulation areas;
  - v. Hard surfacing materials;
  - vi. Minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, signs, lighting);
  - vii. Proposed and existing functional services above and below ground (e.g drainage power, communications cables pipelines etc, indicating lines, manholes, supports);
  - viii. Retained historic landscape features and proposals for restoration, where relevant.

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

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

REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development.

9. Details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.

REASON In the interest of the character and appearance of the area and neighbouring amenity in accordance with policy D1 of the approved Local Development Plan.

10. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no 17.4387/P202 F for six cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available for such purposes in perpetuity.

REASON To ensure that there is sufficient parking at the site to prevent an increase in on-street parking in accordance with policies S1 and T2 of the LDP.

11. The garages shall not be used other than for the accommodation of private motor vehicles or for any other purpose incidental to the enjoyment of the dwelling house as such and shall not at any time be converted or used as habitable space / living accommodation.

REASON To ensure that there is sufficient parking at the site to prevent an increase in on-street parking in accordance with policies S1 and T2 of the LDP.

12. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than incidental outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

REASON In the interest of the character and appearance of the area and residential amenity in accordance with policy D1 of the approved Local Development Plan.

13. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no dormer window or other form of addition or opening shall be constructed in the roof or gable walls of the building(s)/ extension hereby permitted without planning permission having been obtained from the local planning authority.

REASON In the interest of the character and appearance of the area and neighbouring amenity in accordance with policy D1 of the approved Local Development Plan.

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