Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on MONDAY 12 AUGUST 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.
AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE
MONDAY 12 AUGUST 2019

1. Chairman's notices (please see overleaf)

2. Apologies for Absence

3. Minutes of the last meeting (Pages 7 - 22)

   To confirm the Minutes of the meeting of the Committee held on 15 July 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/19/00397 - The Gatehouse, Sea End Caravan Park, Belvedere Road, Burnham-on-Crouch, Essex CM0 8AB (Pages 23 - 36)

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

6. Tree Preservation Order (TPO) 3/19 - Land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne (Pages 37 - 42)

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

7. Tree Preservation Order (TPO) 6/19 - 29 Chapel Road, Burnham-on-Crouch, Essex (Pages 43 - 50)

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

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

For further information please call 01621 876232 or 875791 or see the Council's website – www.maldon.gov.uk.
Reports for noting:

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

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

**Note:**

1. The Council operates a facility for public speaking. This will operate only in relation to the consideration and determination of planning applications under Agenda Item No. 5.

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 previous 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.
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 (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 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
   - Developer Contributions Guide SPD - 2010
   - 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.
181. **CHAIRMAN'S NOTICES**

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

182. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mrs P A Channer and N Skeens.

183. **MINUTES OF THE LAST MEETING**

**RESOLVED**

(i) that the Minutes of the meeting of the Committee held on 17 June 2019 be received.

**Minute No. 175**

That the minute be revised to reflect that Councillor V J Bell did not declare a non-pecuniary interest in Agenda Item 9 (a) FUL/MAL/18/00839 – Land Adjacent Orchard House, Nipsells Chase, Mayland, Essex.

**RESOLVED**

(ii) that subject to the above amendment the Minutes of the meeting of the Committee held on 17 June 2019 be confirmed.

184. **DISCLOSURE OF INTEREST**

Councillor R Dewick, advised the Committee that he knew the applicant on Agenda Item 7 - FUL/MAL/19/00382 – Club Nautico, Bridgemarsh Lane, Althorne, Essex but that it did not constitute an interest.
Councillor A L Hull declared a pecuniary interest in Agenda Item 7 – FUL/MAL/19/00382 – Club Nautico, Bridgemarsh Lane, Althorne, Essex, as her partner worked for the applicant. She advised the Committee she would leave the Chamber for this item of business.

Councillor A S Fluker declared in the interest of openness and transparency on Agenda Item 5 - FUL/MAL/18/01518 - Sandbeach Hockley Lane Bradwell-On-Sea Essex CM0 7QB, as his dog came from AA Rescue and Agenda Item 7- FUL/MAL/19/00382 – Club Nautico, Bridgemarsh Lane, Althorne, Essex, as he knew the applicant.

Councillor V J Bell declared a non-pecuniary interest in Agenda Item 8 - Chartwell, 120 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB, as she knew some of the objectors and had worked in the sector for a number of years.

Councillor M G Bassenger declared a non-pecuniary interest in Agenda Item 7 - FUL/MAL/19/00382 – Club Nautico, Bridgemarsh Lane, Althorne, Essex, as he was a neighbour, knew the applicant and objectors and had objected as a resident on a previous application prior to becoming a councillor. He said he intended taking part in the debate, if that was possible.

It was acknowledged that the onus was on the individual regarding how they declare and that as a general rule, if in doubt, it would be best to leave the Chamber for the respective Agenda Item. The Chairman reminded members that the recent training delivered by the Monitoring Officer, attended by all Members, had clarified where they stood in regard to interests and the issue of when in doubt had also been covered. He went on to advise that, where a Member had concerns regarding an application they should speak with the Monitoring Officer in advance of the meeting.

Following further deliberation on the first declaration, Councillor Bassenger then declared he would make a personal statement and leave the Chamber for the debate on Item 7 - FUL/MAL/19/00382 - Club Nautico, Bridgemarsh Lane, Althorne, Essex.

### 185. FUL/MAL/18/01518 - SANDBEACH, HOCKLEY LANE, BRADWELL -ON-SEA, ESSEX, CM0 7QB

<table>
<thead>
<tr>
<th>Application Number</th>
<th>FUL/MAL/18/01518</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Location</strong></td>
<td>Sandbeach Hockley Lane Bradwell-On-Sea Essex CM0 7QB</td>
</tr>
<tr>
<td><strong>Proposal</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Ms Charlene Nathan</td>
</tr>
<tr>
<td><strong>Agent</strong></td>
<td>Mr Ashley Wynn</td>
</tr>
<tr>
<td><strong>Target Decision Date</strong></td>
<td>26.04.2019 (E.o.T. 19.07.2019)</td>
</tr>
<tr>
<td><strong>Case Officer</strong></td>
<td>Spyros Mouratidis</td>
</tr>
<tr>
<td><strong>Parish</strong></td>
<td>BRADWELL-ON-SEA</td>
</tr>
<tr>
<td><strong>Reason for Referral to the Committee / Council</strong></td>
<td>Member Call In – Councillor R Dewick – Matter of public interest</td>
</tr>
</tbody>
</table>
A Members’ Update was submitted detailing a further three representations of objection. An update for one additional representation was given verbally.

Following the Officer’s presentation Michael Harris, an Objector, Parish Councillor Jean Allen, Bradwell-on-Sea Parish Council and the Applicant, Charlene Nathan, addressed the Committee.

At this point the Chairman reminded the Committee that should any Members leave the chamber during the discussion of an item on the agenda they cannot take further part in said item.

With reference to this application the Chairman said that as Ward member he had called the item in due to a number of concerns:- the location was unsustainable, not least for those employed there; the existence of an SSSI of major importance was an obvious concern; an ecology report would be necessary to deal with the presence of bats; given the previous comments dog numbers would need controlling and the public consultation was incomplete. He said, if acceptable, temporary consent would be preferable as it could assist in avoiding past mistakes. He questioned why the application was before the committee with an ongoing consultation period given the problems that arose with a similar application at the last meeting.

Councillor Helm proposed that the application be deferred to include outstanding information and completion of the consultation period so that Members, as decision makers, could make an informed decision next time round. This was seconded.

The Lead Specialist Place advised the Committee that there was no problem with presenting the report at this stage as the application had already been through public consultation twice. He advised that with any application, should a material consideration arise after a decision is made at Committee by Members and before the planning notice is issued, it would have to come back to Members for a decision. There would always be instances where this occurs given the eight-week timelines planning works to. He reassured Members that Officers had undertaken all necessary risk assessments in respect of the application and that it was possible to condition all relevant outstanding issues to overcome the harm.

A long discussion ensued on the aforementioned issues and the general consensus among Members was that there were a lot of unanswered questions and outstanding information. This was a major concern given the history with this organisation. It was acknowledged that limiting dog numbers was problematic, however, the number of dogs on site was a key concern and it was proposed that a limit be set.

The Chairman reminded Members that there was a proposal on the table from Councillor Helm to defer the application, which had been seconded by Councillor Beale.

He then put the proposal to the Committee to defer the application for a future meeting subject to additional information being sought in relation to ecology. Upon a vote being taken this was agreed.

RESOLVED that the application be DEFERRED for the following reasons:
1. Deferred for future determination subject to additional information being sought in relation to ecology.
A Members’ Update was submitted detailing an additional letter of objection.

Following the Officer’s presentation, Sharon Gough, speaking on behalf of the Applicant, addressed the Committee.

A brief debate ensued where concerns were expressed regarding the continuing development of Green Lane and the strain it put on services. However, it was also noted that the proposed development had been assessed against all material planning considerations and the principle of erecting one dwelling at this location was acceptable. The proposed development would not have a discordant impact on the character of the area and subject to appropriate conditions, considered acceptable, sustainable and in accordance with the aims of the development plan.

Councillor Boyce proposed that the application be approved in accordance with the Officer’s recommendation and this was seconded.

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

Councillor W Stamp requested that her vote to refuse the application be recorded.

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 Location Plan Rev A; 008 C; 007 and 006.
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 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, 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.

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.

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

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.

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.

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.

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.

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

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

Councillor A L Hull left the Chamber for this Item of business.

187. **FUL/MAL/19/00382 - CLUB NAUTICO, BRIDGEMARSH MARINA, BRIDGEMARSH LANE, ALTHORNE, ESSEX**

<table>
<thead>
<tr>
<th>Application Number</th>
<th>FUL/MAL/19/00382</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Club Nautico Bridgemarsh Marine Bridgemarsh Lane Althorne Essex</td>
</tr>
<tr>
<td>Proposal</td>
<td>Section 73A application for extension and alterations to barge S.S. Nautico 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).</td>
</tr>
<tr>
<td>Applicant</td>
<td>Mr John Wilsdon</td>
</tr>
<tr>
<td>Agent</td>
<td>Mr Mark Morgan - Petro Designs Ltd</td>
</tr>
<tr>
<td>Target Decision Date</td>
<td>20.06.2019 E.o.T. 19.07.2019</td>
</tr>
<tr>
<td>Case Officer</td>
<td>Spyros Mouratidis</td>
</tr>
<tr>
<td>Parish</td>
<td>ALTHORNE</td>
</tr>
<tr>
<td>Reason for Referral to the Committee / Council</td>
<td>Member Call In – Councillor Mark G Bassenger – Concerns about the application</td>
</tr>
</tbody>
</table>

Following the Officer’s presentation Mr Lakin, an Objector, Parish Councillor Mr Brian Noye, Althorne Parish Councillor and the Applicant Mr John Wilsdon, addressed the Committee.

Councillor Bassenger, having previously agreed to make a personal statement and leave the chamber, sought further clarification from the Chairman.

The Chairman, in response, again reminded Members that they had all attended the Code of Conduct training. The training had been clear on where Members stood in regard to interests and the best course of action to take if in doubt, together with the role of the Monitoring Officer and/or the Standards Committee, in respect of the code of conduct. He repeated that when in doubt on any application Members should seek the advice of the Monitoring Officer in advance of the meeting and that he could only offer advice. How a Member declared was down to the individual.

Councillor Bassenger then reverted to his original non-pecuniary declaration of interest and said he would remain for the discussion on this item of business.

Councillor Fluker, taking into consideration the stringent conditions already applied to the application, proposed that the Officer’s recommendation of approval be agreed. This was duly seconded by Councillor Helm.
In response to questions raised around access, fire standards and inclusivity the Lead Specialist Place advised that these issues were dealt with under separate legislation, they were not planning matters. With reference to concerns around parking it was clarified that parking was not a consideration as the proposed use was ancillary to the marina for those already berthed there, therefore the existing parking facilities were adequate. The conservation issues were mitigated by the seasonal nature of the use, namely April to September.

It was considered that the current scheme had addressed the previous reason for refusal. Subject to conditions, the development was 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).

Councillor Fluker proposed that, in addition to his original proposal, a recorded vote be taken on this item and this was seconded.

Councillor Stamp proposed that the applicant’s suggestion of a 12-month temporary consent from date of first opening, be included as an extra condition. This was seconded by Councillor Fluker.

The Chairman put the proposal to approve the application, with the additional condition of a 12-month temporary consent from date of opening, to the Committee and a recorded vote was taken:

**For the recommendation:**

Councillor M W Helm
Councillor R G Boyce MBE
Councillor W Stamp
Councillor A S Fluker
Councillor R P F Dewick

**Against the recommendation:**

Councillor M G Bassenger
Councillor B S Beale
Councillor V J Bell

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

1. Within twenty-eight (28) days from the commencement of the use of the premises as a clubhouse, a notice in writing shall be given to the Local Planning Authority to confirm the date the use commenced. The use of the premises as a clubhouse hereby permitted shall cease one year after the commencement of the use.
   **REASON** It is not considered that the grant of a permanent planning permission would be appropriate and a temporary permission would enable the Local Planning Authority to re-assess the impact of the development upon the residential amenity of the neighbouring occupiers and the natural environment
2. 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

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.
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.

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

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.

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

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, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

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.

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.

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

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.

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.

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.

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.

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.

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.

16. 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.

17. 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.

Councillor A L Hull returned to the Chamber

188.  FUL/MAL/19/00465 - CHARTWELL, 129 MALDON ROAD, BURNHAM-ON-CROUCH, ESSEX, CM0 8DB

<table>
<thead>
<tr>
<th>Application Number</th>
<th>FUL/MAL/19/00465</th>
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</thead>
<tbody>
<tr>
<td>Location</td>
<td>Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB</td>
</tr>
<tr>
<td>Proposal</td>
<td>Change of use from Class C3 dwellinghouse to a residential children’s home Class C2 (residential institution).</td>
</tr>
<tr>
<td>Applicant</td>
<td>Mr Frederik Booysen - PSS Care Group</td>
</tr>
<tr>
<td>Agent</td>
<td>Miss Nichola Brown - PSS Care Group</td>
</tr>
<tr>
<td>Target Decision Date</td>
<td>28.06.2019 (Extension of time agreed until 19.07.2019)</td>
</tr>
<tr>
<td>Case Officer</td>
<td>Anna Tastsoglou</td>
</tr>
<tr>
<td>Parish</td>
<td>BURNHAM NORTH</td>
</tr>
</tbody>
</table>
Reason for Referral to the Committee / Council

<table>
<thead>
<tr>
<th>Member Call In</th>
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<tbody>
<tr>
<td>Cllr Stamp has requested the application to be presented before Members of the South Eastern Area Planning Committee on the grounds of public interest.</td>
</tr>
</tbody>
</table>

A Members’ Update was submitted detailing an additional letter of objection.

Following the Officer’s presentation, Janice Overall, an Objector and the Agent, Nichola Brown, addressed the Committee.

A debate ensued where the issue of temporary permission with an annual review was discussed. The Lead Specialist Place advised that the issue of temporary consent had been addressed in the report. The application had been assessed against the development plan, found to be acceptable therefore it would be inappropriate to apply a temporary consent. A further consideration was the financial burden on the applicant. He suggested it would be better to refuse or grant permission.

Cllr Fluker, whilst acknowledging the Committee’s social responsibility, also expressed concern for the residents as the application was adjacent to existing residential properties. He proposed that given the potential large upfront costs, temporary permission for a 3-year period be granted. This would afford the applicant three years to recoup the costs and prove, beyond all reasonable doubt, that the facility could be delivered without any disruption to the community. This was seconded by Councillor Stamp.

Councillor Stamp further requested that it be noted, given the previous measured proposal, that the Committee was listening to residents and taking their concerns on board.

The Chairman put the Officer’s recommendation to approve, with the additional condition of a 3-year temporary consent from date of opening, to the Committee. Upon a vote being taken this was agreed.

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

1. Within twenty-eight (28) days from the commencement of the use of the premises as a children’s home, a notice in writing shall be given to the Local Planning Authority to confirm the date the use commenced. The use of the premises as a children’s home hereby permitted shall cease three years after the commencement of the use.

   REASON It is not considered that the grant of a permanent planning permission would be appropriate and a temporary permission would enable the Local Planning Authority to re-assess the impact of the development upon the residential amenity of the neighbouring occupiers, the parking provision and the character of the area.

2. 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).

3. The development hereby permitted shall be carried out in complete accordance with approved drawings: Location Plan and Block Plan.
To ensure the development is carried out in accordance with the details as approved.

4. 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.

5. 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.

189. **FUL/MAL/19/00533 - GROVE FARM, STONEY HILLS, BURNHAM-ON-CROUCH, ESSEX**

<table>
<thead>
<tr>
<th>Application Number</th>
<th>FUL/MAL/19/00533</th>
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<tbody>
<tr>
<td>Location</td>
<td>Grove Farm, Stoney Hills, Burnham-on-Crouch, Essex</td>
</tr>
<tr>
<td>Proposal</td>
<td>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.</td>
</tr>
<tr>
<td>Applicant</td>
<td>Lauren Nicole Homes Ltd</td>
</tr>
<tr>
<td>Agent</td>
<td>Mr Russell Forde – Smart Planning</td>
</tr>
<tr>
<td>Target Decision Date</td>
<td>25.07.2019</td>
</tr>
<tr>
<td>Case Officer</td>
<td>Devan Lawson</td>
</tr>
<tr>
<td>Parish</td>
<td>BURNHAM-ON-CROUCH NORTH</td>
</tr>
<tr>
<td>Reason for Referral to the Committee / Council</td>
<td>Departure from the Local Plan 2017</td>
</tr>
</tbody>
</table>

A Members’ Update was submitted detailing comments from Burnham Town Council, Local Highways Authority and Natural England.

Following the Officer’s presentation Mr Russell Forde, the Agent, addressed the Committee.

Councillor Stamp said she would not be supporting this application as she felt the location was not sustainable and services were already under strain in the area. This was noted by the Committee.

However, having taken all material planning considerations into account, including the extant outline planning permission (APP/X1545/W/16/3147227), it was found that the principle of erecting dwellinghouses in this location had been accepted. Therefore, albeit reluctantly, it was not considered that one additional dwelling and a replacement dwelling would provide any considerations that would alter this stance.
The Chairman put the Officer’s recommendation of approval to the Committee and upon a vote it 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.
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.
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.
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).
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 walkover 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.

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.

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.

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.

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.

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.

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.
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.

190. ANY OTHER ITEMS OF BUSINESS THAT THE CHAIRMAN OF THE COMMITTEE DECIDES ARE URGENT

Councillor Fluker expressed thanks to the Principal Planning Officer, Mr Mouratidis for all his hard work on behalf of Maldon District Council and wished him well in his new role.

Councillor Helm requested that a meeting to discuss enforcement issues be scheduled.

There being no further items of business the Chairman closed the meeting at 9.49 pm.

R P F DEWICK
CHAIRMAN
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REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE
to
SOUTH EASTERN AREA PLANNING COMMITTEE
12 AUGUST 2019

Application Number  FUL/MAL/19/00397
Location  The Gatehouse, Sea End Caravan Park, Belvedere Road, Burnham-On-Crouch, Essex, CM0 8AB
Proposal  Variation of condition 2 on approved planning permission FUL/MAL/95/00407 (Retention of consent refs. BUR/23/51 without compliance with condition 3 BUR/21/59 condition 1 and MAL/909/77 condition 3 to allow occupancy of caravans from 1 March to 30 November annually.)
Applicant  Mr M Annis - Rice & Cole Ltd.
Agent  Mr Mark Southerton
Target Decision Date  02.07.2019 (EoT agreed: 16.08.2019)
Case Officer  Anna Tastsoglou
Parish  BURNHAM SOUTH
Reason for Referral to the Committee / Council  Major application

1. **RECOMMENDATION**

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

2. **SITE MAP**

   Please see overleaf.
3. **SUMMARY**

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

*Site description*

3.1.1 The site is a parcel of land used as a holiday caravan site, which lies to the east of Burnham-on-Crouch, north of the riverside footpath and marshland and it is located outside the development boundaries. The site falls within Flood Zone 3; a high risk flood zone. The caravan park is sited immediately adjacent to the east of the sewage works.

3.1.2 The site is licensed for the stationing of static caravans which are arranged mainly in a north south direction. The site is accessed via a private service road off of Belvedere Road.

3.1.3 To the south of the site is the Crouch estuary and the Caravan Park is bounded predominantly by soft landscaping. To the west of the site is the Burnham sewage works. The application site is in close proximity to the Crouch and Roach Estuaries Special Protection Area (SPA), Essex Estuaries Special Area of Conservation (SAC) and the Outer Thames Estuary SPA. It is also listed as the Crouch and Roach Estuary Ramsar site and also notified at a national level as the Crouch and Roach Site of Special Scientific Interest (SSSI). It should also be noted that the site is adjacent to the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone (MCZ).

*Description of proposal*

3.1.4 The proposal seeks permission for the variation of Condition 2 on planning permission reference FUL/MAL/95/0407 to allow the occupation of the site at any time of the year. Condition 2 of this original planning permission restricted occupation of the site between 1 December and 1 March in the following year. The condition states:

*“The caravan shall not be used for human habitation between 1 December in any one year and 1 March in the following year.*

**REASON:** The site is within an area where it is the policy of the Planning Authority to prevent permanent residential use. Planning permission is given in this instance for holiday use only.”

3.1.5 The proposal seeks to allow occupation of the caravans for all year round and effectively the site would provide an “open” period of 12 months.

3.1.6 It is noted that the current application is a resubmission following refusal of a similar application (Reference Number: FUL/MAL/18/00849) for the following reason:

*“The proposed extended occupancy period of the caravan site to any time of the year has a potential significant impact upon the nature conservation designations and protected species. The Applicant has submitted insufficient information to allow the Local Planning Authority to complete a Habitats Regulation Assessment to demonstrate that the year round use of the site has not significant impact or the*
significant impact is such that it can be mitigated or compensated in a satisfactory way. The development is therefore unacceptable and contrary to policies S1, D2 and N2 of the Local Development Plan as well as guidance contained within the National Planning Policy Framework."

3.1.7 The current application is supported by an Ecology Report, namely ‘Habitats Regulation Assessment, dated 30/05/2019, which includes information regarding the likely significant effects of the proposed development on the nature conservation sites and measures to mitigate any impacts.

3.2 Conclusion

3.2.1 Having taken all material planning considerations into account, it is found that the development would be acceptable in principle and it would not have a detrimental impact on the character of the area or the amenities of the neighbouring occupiers. The proposal would not adversely affect highway safety or increase flood risk. Furthermore, given that sufficient information has been submitted to demonstrate that the development would not be harmful to the sensitive nature conservation designations and the protected species, the previously raised objection has been overcome. Therefore, the development is considered acceptable and in accordance with the aims of the development Plan and the guidance contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 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
- 83-84 Supporting a prosperous rural economy
- 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
- 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
- D5 Flood Risk and Coastal Change
4.3 Burnham-on-Crouch Neighbourhood Development Plan (7 September 2017):
- Policy EC.6 – Tourism
- Policy EN.1 – Flood Prevention
- Policy EN.3 – Enhancement of the Natural Environment
- Policy RI.2 – Design Sensitivity of Riverside Developments

4.4 Relevant Planning Guidance / Documents:
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

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 Policy E5 of the 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. Furthermore, Policy EC.6 of the Burnham-on-Crouch Neighbourhood Plan States that “Proposals that would improve and extend the tourism offer in the Town will be supported”. It is considered that the principle of the proposal would be in line with the main thrust of policies E5 and EC.6 as the extension of the occupancy period of a holiday caravan park would contribute to the local tourism.

5.1.4 The proposed development is to extend the time period of the operation of the holiday caravan site at any time of the year. Concerns with regard to ensuring control of permanent occupation were previously raised by the Local Planning Authority for a similar proposal to use a holiday caravan site full year round (Application Ref.: FUL/MAL/15/00573, Eastland Meadows Caravan Park). The application, which was tested on appeal (Appeal Ref.: APP/X1545/W/16/3146670) and was allowed by the
Inspector, who considered that a condition to maintain an up to date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses would be sufficient to control permanent occupancy and would also be enforceable. On that basis, any concerns regarding using the caravans as permanent residence, due to the year round operation of the site could be overcome, by the imposition of a condition as stated above.

5.1.5 Among other considerations, the policy supports proposals subject to environmental considerations. Sea End Caravan Site is a well-established tourist facility on the northern bank of the River Crouch. Like other caravan parks close to the coast, the site is subject to restrictions on the use of the park accommodation during the winter months. Policy N2 of the LDP states that where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

5.1.6 The proposed development is supported by an Ecology Report, namely ‘Habitats Regulations Assessment’ which includes information in relation to the likely significant effects of the development on the nature conservation sites, as well as mitigation measures to address any potential impacts of the development. Furthermore, surveys for wintering birds have been carried out. The details of this information are further assessed below in the relevant section of the report.

5.1.7 Other matters, such as the impact of the development on the character of the area, the potential impact on neighbours and any flood risk and highways issues are also assessed below in relevant sections.

5.2 Design and Impact on the Character of the Area

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

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

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

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

5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;

b) Height, size, scale, form, massing and proportion;

c) Landscape setting, townscape setting and skylines;

d) Layout, orientation, and density;

e) Historic environment particularly in relation to designated and non-designated heritage assets;

f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and

g) Energy and resource efficiency.

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

5.2.5 The proposal is to extend the occupancy period for caravans located within an established and existing caravan park. Therefore, the proposal would not alter the character and appearance of the area in any material way. On this basis, the impact of the proposal upon the character and appearance of the area is acceptable.

5.3 Impact on Residential Amenity

5.3.1 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.

5.3.2 The nature of the proposal is such that it would not alter the relationship of the existing plots with their neighbouring plots or the relationship of the use with residential properties nearby and as such, there would be no greater detrimental impact upon the amenity of the neighbouring residents by the extension of the occupancy period, in terms of overshadowing, domination, loss of privacy or sense of enclosure. The development due to the extended time period of occupancy would result in greater activity and movements on winter months, but this would not be greater than that already caused, given that the proposal would not increase the size of the caravan site. Furthermore, due to the distance of the development to residential units, it is not expected that a year round access to the site would cause undue disturbance.

5.4 Access, Parking and Highway Safety

5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council’s adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council’s adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
5.4.2 The Council’s adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents’ reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards 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.

5.4.3 The proposal would not alter the highway access or parking arrangements. Furthermore, as there is an established use on the land, the extension of the occupancy period is not considered to create any significant additional traffic. On this basis, the proposal is considered acceptable in terms of access, parking and highway safety.

5.5 Private Amenity Space and Living Conditions of the Future Occupiers

5.5.1 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.

5.5.2 The proposal would not alter the physical dimensions of the plots or the caravans occupying them. As such there are no objections in terms of private amenity space. In any case, the land is a caravan site and therefore conditions to allow sufficient space between the caravans are controlled through licensing.

5.5.3 As noted above, no alterations to existing layout or landscaping of the caravan site are proposed and thus, no objection is raised in terms of landscaping.

5.6 Flood Risk

5.6.1 The application site is located within Flood Zone 3a, defined by Planning Policy Guidance (PPG) as having a high probability of flooding. Policy D5 of the LDP, in line with national policy, provides local flood risk considerations and seeks to direct development to the lower risk flood zones.

5.6.2 The proposed variation of the occupancy period would not alter the classification of the use in relation to its vulnerability to flooding as per the relevant classification table contained in the PPG. The site is at risk of flooding, but benefits from sea defences and the development will not increase the number of people at risk from flooding, as the number of caravans allowed will remain the same. Nevertheless, according to the submitted Flood Risk Assessment (FRA), the prospects for a major flood event are not considered to be significantly greater in the winter period but
logically would have as much potential to occur over the existing ‘open’ season when a period of severe winds and adverse tidal conditions could potentially raise water levels higher than under any normal circumstance. It is suggested that implementing appropriate flood risk management measures represents a greater overall reduction in risk compared to the modest reduction if the closed period was to be retained. To reduce flood risk it is suggested that sufficient provision of adequate EA flood warnings and an evacuation plan and procedure are put into place. For that reason a flood evacuation plan has been submitted with the FRA.

5.6.3 It is also noted that, due to the nature of the development, the proposal will have no impacts on the ability of the site to absorb surface water as there will be no increase in surface water discharging to the ground. With regard to Sequential Test, paragraph 158 of the NPPF states that is to steer new development to areas with the lowest risk of flooding. The proposal does not involve new development, but variation of a condition previously imposed to an approved development. On that basis, it is not considered that a sequential test should be applied.

5.6.4 The Environment Agency has been consulted and raised no objection to the proposal. Provided the caravans are still being used for short term holiday use, the vulnerability classification of the development will not change. This is to ensure that in case of a flood event, the holiday makers would have an alternative residence available and would not lose all of their possessions. The Environment Agency suggests that the site users should register with their warning service and a flood plan should be provided for the site and its users. The application is accompanied with a flood warning plan that covers all three possible flood events (flood alert, flood warning and severe flood warning). An evacuation plan has also been submitted, as well as procedures to evacuate the site.

5.6.5 In light of the above, the proposed development is not considered to give rise to any demonstrable increase in flood risk on the site or elsewhere and it would not risk the lives of the occupiers. A condition to secure the details of the food warning and evacuation plan will be imposed.

5.7 Ecology

5.7.1 The NPPF states that if significant harm to priority habitats and species, resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

5.7.2 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 human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

5.7.3 Policy N2 of the LDP states that:

“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either
individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”

5.7.4 The application site is within close proximity to nationally and internationally designated nature conservation sites, including the Crouch and Roach Estuaries Special Protection Area (SPA), Essex Estuaries Special Area of Conservation (SAC), the Outer Thames Estuary SPA, the Crouch and Roach Estuary Ramsar site and also notified at a national level as the Crouch and Roach Site of Special Scientific Interest (SSSI). It should also be noted that the site is adjacent the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone (MCZ). As stated previously, policy N2 of the LDP states that where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

5.7.5 If the Local Planning Association (LPA) is considering to grant planning permission in relation to any development likely to affect a designated site of conservation of nature, Section 63 of the Habitats Regulations require the LPA to carry out an appropriate assessment (also known as a Habitat Regulation Assessment (“HRA”)) to fully consider the impact of the proposal to the designated site. To do so, the Applicant has to provide sufficient information to the LPA to allow them to carry out the HRA. As noted above, the application is supported by an Ecological report, which includes information in relation to the likely significant effects of the proposed development and mitigation measures to overcome any potential impacts.

5.7.6 The submitted report recognises that there would be no direct or indirect effects caused by construction impacts, given that the proposal would only relate to extension of the time period of the existing holiday caravan use of the site. However, it is noted that the proposal would result in an extension of three months of the occupancy of the site at the most sensitive time of the year and as such there will likely be significant effects arising from the increased recreational pressure during these months.

5.7.7 As noted above a wintering birds survey has been carried out to understand the interruption of wintering birds. It is stated that four site visits were conducted during winter months (between 28/11/2018 and 25/02/2019) and a likely significant impact has been identified on foraging waterbirds within 1km of the site, predominantly caused by walkers with dogs.

5.7.8 To overcome the main direct effects, including noise and lighting, it is proposed that all major maintenance, except emergency work, will be scheduled for the summer months (April to August) to avoid the sensitive winter period. Furthermore, noise is not expected to be significant and also the existing sea-wall provides an effective buffer to noise sources. Lighting mitigation to limit the light pollution of the estuary would be reviewed for the sensitive winter months.

5.7.9 To mitigate the indirect effects, including recreational disturbance and issues such as fly-tipping, two information signs (one near the entrance of the caravan park and one at the sea wall) would be installed including information about the protected area and species. Furthermore, two smaller signs are proposed to be installed in similar locations, requesting dogs to be kept on leads between November and February. A dog bin to be managed by the applicant will be located at the entrance to the caravan
park. Moreover, an information pack including details of the protected area will be provided to all occupants.

5.7.10 The submitted Ecology Report concludes that, subject to the proposed mitigation measures, the integrity of the site would not be affected either in isolation or when taken in combination with other projects.

5.7.11 Natural England has been consulted and assessed the information submitted by the applicant and considers that subject to securement of the mitigation measures proposed, the development would not have an adverse effect on the integrity of the nature conservation sites.

5.7.12 It is also noted that the Council’s Countryside Officer has been consulted and raised no objection regarding the impact of the proposal on protected species, subject to the implementation of the development in accordance with the proposed mitigation measures.

5.7.13 In light of the above, it is considered that sufficient information to demonstrate that the proposal will not cause any adverse effect to the integrity of the designated site has been submitted with the application and as such, an objection is no longer raised regarding the potential impact of the development on the nature conservation site and the protected species.

5.8 Pre-Commencement Conditions

5.8.1 No pre-commencement conditions are suggested.

6. ANY RELEVANT SITE HISTORY

- **BUR/21/59** – Extension of caravan site. Approved 27.05.1959
- **MAL/909/77** - Extension of caravan park. Approved 01.07.1980
- **MAL/458/76** - Extension of caravan site. Refused 06.12.1976
- **FUL/MAL/95/00407** - Retention of consent refs. BUR/23/51 without compliance with condition 3 BUR/21/59 condition 1 and MAL/909/77 condition 3 to allow occupancy of caravans from 1 March to 30 November annually. Approved 20.09.1995
- **FUL/MAL/07/00542** - Erection of prefabricated log cabin to replace existing sales office caravan. Approved 18.07.2007
- **FUL/MAL/07/00534** - Change of use of land for the station of a mobile home for full time resident warden. Approved 18.07.2007
- **FUL/MAL/18/00849** - Variation of condition 2 on approved planning permission FUL/MAL/95/00407 (Retention of consent refs. BUR/23/51 without compliance with condition 3 BUR/21/59 condition 1 and MAL/909/77 condition 3 to allow occupancy of caravans from 1 March to 30 November annually.) Refused 10.10.2018
7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

<table>
<thead>
<tr>
<th>Name of Parish / Town Council</th>
<th>Comment</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burnham-on-Crouch Town Council</td>
<td>Object to the application. The development would not comply with the Neighbourhood Plan, it will have an adverse effect on tourism, it may result in permanent residency and it would set an unacceptable precedent in Burnham-on-Crouch.</td>
<td>All of the matters raised are discussed within the main body of the report (predominantly in section 5.1).</td>
</tr>
</tbody>
</table>

7.2 Statutory Consultees and Other Organisations

<table>
<thead>
<tr>
<th>Name of Statutory Consultee / Other Organisation</th>
<th>Comment</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural England</td>
<td>No objection, subject to necessary mitigation measures.</td>
<td>Noted and condition is imposed.</td>
</tr>
</tbody>
</table>

7.3 Internal Consultees

<table>
<thead>
<tr>
<th>Name of Internal Consultee</th>
<th>Comment</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Health Team</td>
<td>No objection – subject to conditions that the site remains in a holiday use and the owners/operators of the site shall maintain an up to date register of the names of all owners/occupiers of individual holiday accommodation units.</td>
<td>Comments noted and conditions are imposed.</td>
</tr>
<tr>
<td>Coast and Countryside Officer</td>
<td>No objection to the proposed development, subject to the suggested mitigation measures, which are considered to be reasonable.</td>
<td>Comments noted and condition are imposed.</td>
</tr>
</tbody>
</table>
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. No holiday accommodation shall be used as a person's sole or main place of residence.
   **REASON** In order to ensure that the approved use is carried out in accordance with the submitted details, that the use of the site is for holiday purposes only, that there is no adverse effect to the adjoining designated nature conservation site and to ensure that the impact from any flood events is limited in line with policies S1, S8, E5, D1, D2, D5 and N2 of the approved Local Development Plan, policies EC.6, EN.1 and EN.3 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework.

2. The holiday accommodation shall be used for holiday purposes only.
   **REASON** In order to ensure that the approved use is carried out in accordance with the submitted details, that the use of the site is for holiday purposes only, that there is no adverse effect to the adjoining designated nature conservation site and to ensure that the impact from any flood events is limited in line with policies S1, S8, E5, D1, D2, D5 and N2 of the approved Local Development Plan, policies EC.6, EN.1 and EN.3 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework.

3. The owners/operators shall maintain an up to date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
   **REASON** In order to ensure that the approved use is carried out in accordance with the submitted details, that the use of the site is for holiday purposes only, that there is no adverse effect to the adjoining designated nature conservation site and to ensure that the impact from any flood events is limited in line with policies S1, S8, E5, D1, D2, D5 and N2 of the approved Local Development Plan, policies EC.6, EN.1 and EN.3 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework.

4. The proposed development shall be implemented in accordance with the forms of mitigation included in section 5 of the submitted "Habitats Regulations Assessment" (written by Southern Ecological Solutions, dated 30/05/2019) and be retained as such in perpetuity.
   **REASON** In order to ensure that there is no adverse effect to the adjoining designated nature conservation site in line with policies S1, S8, E5, D1, D2 and N2 of the approved Local Development Plan, policy EN.3 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework.

5. The use of the site hereby permitted shall be implemented in accordance with the Flood Warning and Evacuation Plan submitted with this application. The Plan shall be made available to all users of the site at all times throughout the lifetime of this permission.
REASON In order to ensure that the impact from any flood events is limited in line with policy D5 of the approved Local Development Plan, policy EN.1 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework.
REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE
to
SOUTH EASTERN AREA PLANNING COMMITTEE
12 AUGUST 2019

<table>
<thead>
<tr>
<th>Application Number</th>
<th>TPO 3/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne</td>
</tr>
<tr>
<td>Proposal</td>
<td>Confirmation of TPO 3/19</td>
</tr>
<tr>
<td>Owner</td>
<td>Samantha Lonergan, Georgina McHugh (H Bass and Sons), Mr Lee Batt, Mrs Batt, Mr Michael Bass.</td>
</tr>
<tr>
<td>Confirmation by</td>
<td>01.10.2019</td>
</tr>
<tr>
<td>Case Officer</td>
<td>Hayleigh Parker-Haines</td>
</tr>
<tr>
<td>Parish</td>
<td>ALTHORNE PARISH COUNCIL</td>
</tr>
<tr>
<td>Reason for Referral to the Committee / Council</td>
<td>Decision on confirmation of a Tree Preservation Order as per the Council’s scheme of delegation</td>
</tr>
</tbody>
</table>

1. **RECOMMENDATION**

   **CONFIRM Tree Preservation Order (TPO) 3/19** without any modifications.

2. **SITE MAP**

   Please see overleaf.
Tree Preservation Order

3/19

Land to north and east of The Boathouse, Bridgemarsh Lane, Althorne

Details

W1 - Mixed Species, including Oak, Ash & Field maple

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www.maldon.gov.uk

Scale: 1:5,000
Organisation: Not Set
Department: Not Set
Comments: HMH
Date: 27/03/2019
MSA Number: 100018568

Agenda Item no. 6
3. **SUMMARY**

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

3.1.1 In March 2019, the Council received information that part of the above woodland was up for sale. The sale of this land was considered to put the woodland at risk and therefore, a Tree Evaluation Method for Preservation Orders (TEMPO) assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO assessment scored the woodland 19 out of 25 and concluded that the woodland was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 1st April 2019.

3.1.2 One letter of objection has been received relating to the serving of TPO 3/19 on Land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne.

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

3.2 **The Site**

3.2.1 The Woodland is located to the eastern side of Bridgemarsh Lane, to the North and east of The Boathouse. The woodland is a feature that can be seen from Bridgemarsh Lane and public vantage points within the surrounding area; it is therefore considered to be an important landscape feature. This is a mixed species woodland which includes oak, Ash and Field Maple.

3.2.2 The woodland comprises of young trees which are considered to have a significant retention span which would provide significant amenity value to the character and appearance of the site and surrounding area in the future. Therefore, it is considered that this woodland plays a significant role in underscoring the value of the visual amenity of the surrounding area.

3.3 **Ownership**

3.3.1 The Woodland is owned and managed by a number of different people. The known owners at the time of writing this report are Georgina McHugh (H Bass and Sons), Samantha Lonergan, Mr Michael Bass, Mr Lee Batt and Mrs Batt. It should be noted that the woodland was planted using a grant from the Forestry Commission in 2002.

4 **MAIN RELEVANT POLICIES**

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

4.1 **Relevant Planning Guidance / Documents:**

- Planning Practice Guidance (PPG)

4.2 **Government Guidelines:**

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

4.2.2 If Members decide to Confirm TPO 3/19, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:

1. that the TPO is not within the powers of the Act, or
2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.

4.2.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

5 MAIN CONSIDERATIONS

5.1 The woodland is to the eastern side of Bridgemarsh Lane, to the north and east of The Boathouse. It is a feature of the landscape of the area and is considered to have future high amenity value as once the trees have reached maturity, they will be highly visible and prominent from the public realm.

5.2 Planning Practice Guidance states (Paragraph 10 reference ID: 36-010-21040306) ‘It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.’. The sale of a parcel of the woodland was brought to the Council attention. The woodland is not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, any of the trees within this woodland could have been removed without the permission of Maldon District Council, which would damage the amenity value that the woodland offers within the surrounding landscape.

5.3 In the interest of protecting this prominent landscape feature and the amenity value of the woodland within the locality, the woodland was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the woodland scored highly for the suitability of a TPO for the amenity of the woodland as there are medium trees with limited visibility to the public with tree groups or principle members of groups important for their cohesion. The expediency assessment reflected the perceived threat of the tree as mentioned in section 5.2. The woodland scored an overall total 19 out of 25 which means that the woodland would definitely merit a TPO.
5.4 It is worth noting that the guidance provided to sit alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only). It is considered that the sale of the land is a greater threat than this.

5.5 It should be noted that the TPO would not prevent works to the trees from being carried out, however it would control any works to ensure that they were suitable, justified and did not harm the health of the trees within or the amenity value the woodland as a whole offers to the surrounding area.

6 ANY RELEVANT SITE HISTORY

6.1 No relevant site history.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

7.1.1 One letter was received objecting to the serving of the TPO 3/19 and the reasons for objection are summarised as set out in the table below:

<table>
<thead>
<tr>
<th>Objection Comment</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The woodland is not under threat, H Bass and Sons have managed the woodland for the last 17 years according to the Forestry Commission Woodland Grant Scheme</td>
<td>1. It was brought to the Local Authority’s attention that the Woodland was up for sale, this was considered to be a perceived threat.</td>
</tr>
<tr>
<td>2. The woodland does not have significant amenity value; Maldon District Council could not provide any evidence of ‘amenity’ of this woodland during the preparation of the LDP (2014-2029) and the government inspector at the time forced MDC to remove the woodland as ‘Green Space and Amenity’ from the LDP</td>
<td>2 and 3. The woodland is a visible landscape feature within the surrounding area and therefore have amenity value. Furthermore, the trees are young, with good management the trees will provide significant amenity value in the future. Furthermore, the serving of a Tree Preservation Order on this woodland is not classifying the woodland as green space or amenity space, it is being put in place in order to protect a woodland which is deemed to be of significant amenity value. Works can still be carried out to trees within the woodland if a tree preservation order is served, works would need to be granted by the Local Planning Authority. In this instance the Local Development Plan is not a</td>
</tr>
<tr>
<td>3. The woodland is surrounded by private land and there is no public access. Legal advice is that TPO’s should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an order they should be able to show that protection</td>
<td></td>
</tr>
</tbody>
</table>
4. The Town and Country Planning Act 1990 states that Tree Preservation Orders do not have effect in respect of anything done by or on behalf of the forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 and therefore the TPO has no effect in respect to anything done on this woodland until 2032.

5. A Guide to tree preservation procedures (2012) point 13 states that permission is required for all works to a tree subject of a TPO unless the works are the cutting down of trees in accordance with one of the Forestry Commissions grant schemes, or where the Commission has granted a felling licence.

4 and 5. Although, the trees are planted using a grant from the Forestry Commission, this does not prevent the Local Planning Authority from serving a Tree Preservation on the woodland, just that any works agreed with the Forestry Commission would override the Tree Preservation Order. However, the Forestry Commission do consult with the Local Planning Authority when felling licenses are requested for their feedback. Furthermore, the serving of a Tree Preservation Order does not prevent works/felling of the trees, an application is required to ensures that the proposed works are appropriate and represent good tree management. I have confirmed with the Forestry Commission that currently there is not a plan or felling licence in place in relation to the Woodland.

8 CONCLUSION

8.1 The woodland subject of the TPO makes a contribution to the character and appearance of the surrounding area and has the potential to provide significant amenity value to the character and appearance of the surrounding area due to the size and density of the woodland. Given that the woodland has a TEMPO score of 19, it is considered that the TPO should be confirmed to prevent inappropriate works being carried out which could harm the amenity value and overall health of the woodland.
REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE
to
SOUTH EASTERN AREA PLANNING COMMITTEE
12 AUGUST 2019

<table>
<thead>
<tr>
<th>Tree Preservation Order</th>
<th>TPO 6/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>29 Chapel Road, Burnham-on-Crouch, Essex</td>
</tr>
<tr>
<td>Proposal</td>
<td>Confirmation of TPO 6/19</td>
</tr>
<tr>
<td>Owner</td>
<td>Mr Dean Lawrence</td>
</tr>
<tr>
<td>Confirmation by</td>
<td>24.12.2019</td>
</tr>
<tr>
<td>Case Officer</td>
<td>Annie Keen</td>
</tr>
<tr>
<td>Parish</td>
<td>BURNHAM SOUTH</td>
</tr>
<tr>
<td>Reason for Referral to the Committee / Council</td>
<td>Decision on confirmation of a Tree Preservation Order as per the Council’s scheme of delegation</td>
</tr>
</tbody>
</table>

1. **RECOMMENDATION**

   **CONFIRM Tree Preservation Order (TPO) 6/19** without any modifications.

2. **SITE MAP**

   Please see overleaf.
3. **SUMMARY**

3.1 Proposal/brief overview, including any relevant background information

3.1.1 In May 2019, the Council received a notification under the terms of Section 211 of the Town and Country Planning Act 1990, to undertake works to a tree within a Conservation Area. The notification proposed to fell the Silver Birch tree growing in the rear garden of 29 Chapel Road, Burnham-on-Crouch. The proposed removal of the tree was considered to materially impact on the amenity of the area. Therefore, a Tree Evaluation Method for Preservation Orders (TEMO) assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO assessment scored the tree 16 out of 25 and concluded that the tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 24 June 2019.

3.1.2 Four objections have been received relating to the serving of TPO 6/19 and it has not been resolved, and therefore the question of whether or not to confirm the TPO has been brought before members to decide.

3.2 The Site

3.2.1 The Silver Birch tree is located within the rear garden of 29 Chapel Road, Burnham-on-Crouch. It is located on the north eastern boundary. The site is within the settlement boundary and conservation area of Burnham-on-Crouch.

3.2.2 The site is located east of Chapel Road and south of Witney Road. The tree is positioned close to the north eastern boundary within the rear garden of the site. To the south east of the tree there is a car park, the tree is highly visible from this car park and Witney Road with views of the tree from Chapel Road.

3.2.3 The location of the tree to the north east of the site, and the lack of many other trees of a similarly large size in the immediate area means that the tree plays a significant role within the streetscene.

3.3 Ownership

3.3.1 The tree is within the property of 29 Chapel Road, which is known to be owned by Mr Dean Lawrence.

4. **MAIN RELEVANT POLICIES**

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

4.1 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
4.2 Government Guidelines:

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

4.2.2 If Members decide to Confirm TPO 6/19, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:

1. that the TPO is not within the powers of the Act, or
2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.

4.2.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO is confirmed.

5. MAIN CONSIDERATIONS

5.1 The T1 Silver Birch tree is located along the north east boundary of 29 Chapel Road. It is a large tree which is situated to the rear of the dwelling but within an open location to the north east of the site and is therefore highly visible from the public realm within Witney Road and the car park to the east of Chapel Road, with glimpses of the tree from Chapel Road. The T1 Silver Birch tree is therefore considered to hold significant amenity value, adding to the character and appearance of the surrounding area, which is a conservation area.

5.2 There are other trees to the south of the Silver Birch tree, within neighbouring gardens along Chapel Road, however, the T1 Silver Birch tree is the largest and most prominent tree, in particular from views from the south of Witney Road and the car park to the rear of the site. The Silver Birch tree is therefore considered to hold significant amenity value, adding to the character and appearance of the surrounding conservation area. Please see APPENDIX 1 for the site photos.

5.3 The Tree Preservation Order was served in response to a request being made to fell the tree. The proposed felling of the tree was considered excessive and unnecessary and the tree’s amenity value would have been lost to the detriment of the conservation area. Further to this, the justification for the works were not considered sufficient in mitigating the harm caused by the loss of the tree. Therefore, the Silver Birch tree was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) and the tree scored 16 out of 25 which means that a TPO is defensible.

5.4 Within the objections to the TPO (summarised below) it was stated that the tree should be removed due to it outgrowing the locality and the possibility of the tree falling. However, it is considered that insufficient evidence has been provided to show that the Silver Birch tree is unstable. Furthermore, there has been no evidence provided that demonstrates removing the tree is the only solution and it appears no other management regimes for the tree have been explored. It is therefore considered the works are not justified and the concerns raised in relation to the impact of the retention of the tree do not outweigh the contribution the tree makes to the amenity of
the area. If an application for works to a protected tree is received by the Council, this is information that would be taken into consideration and assessed at that time.

5.5 It is relevant to note that the serving of a TPO does not prevent an application being made for reasonable works to the tree but does give the LPA the ability to assess those works.

6. **SITE HISTORY**

- 05/01337/TCA – T1 Silver Birch – Reduce height of Silver Birch tree and re-shape crown – Allowed To Proceed

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Interested Parties**

Four letters of objection have been received in relation to the serving of the TPO 6/19. The contents have been set out in the table below:

<table>
<thead>
<tr>
<th>Objection Comment</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The tree has outgrown its location and is too large for a residential area.</td>
<td>Comments noted. There is no evidence to suggest it has outgrown its location.</td>
</tr>
<tr>
<td>The tree bends in the wind and if it fell, it would damage properties and could cause injury.</td>
<td>Comments noted. There is no evidence to suggest it is likely to fall.</td>
</tr>
<tr>
<td>Birches near by have been killed Other Silver by Honey Fungus.</td>
<td>Comments noted. There is no evidence to suggest the tree is diseased.</td>
</tr>
<tr>
<td>The tree blocks the sun from the garden.</td>
<td>This is not considered to justify the removal of the tree. Please see section 8.2</td>
</tr>
<tr>
<td>Do not feel the tree is worthy of a TPO</td>
<td></td>
</tr>
</tbody>
</table>

8. **CONCLUSION**

8.1 The silver birch tree subject of the TPO makes a significant contribution to the character and appearance of the Burnham-on-Crouch conservation area due to its position and its mature and attractive nature.

8.2 There has been insufficient justification provided to suggest that the tree is unstable and will fall resulting in damage to properties and people. Furthermore, there has been no evidence provided which suggests that other management regimes have been explored to prevent the need of removing the tree. Therefore, given that the tree has a TEMPO score of 16 out of 25, it is considered that the TPO should be confirmed to prevent the loss of a significant tree which plays a significant role in shaping the character and appearance of the Burnham-on-Crouch Conservation Area.
Site Photos

View from Chapel Road looking east towards the dwelling to the west of the tree.
APPENDIX 1

View from the car park to the east of Chapel Road looking north, towards Witney Road.
View from Witney Road looking to the south.