

# Unrestricted Document Pack

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

27 September 2019

Dear Councillor

You are summoned to attend the meeting of the;

## **SOUTH EASTERN AREA PLANNING COMMITTEE**

on **MONDAY 7 OCTOBER 2019** at **7.30 pm**.

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

A copy of the agenda is attached.

Yours faithfully



Head of Paid Service

### COMMITTEE MEMBERSHIP

#### CHAIRMAN

Councillor R P F Dewick

#### VICE-CHAIRMAN

Councillor M W Helm

#### COUNCILLORS

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

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

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**AGENDA**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**MONDAY 7 OCTOBER 2019**

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 9 - 14)

To confirm the Minutes of the meeting of the Committee held on 9 September 2019, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **FUL/MAL/18/01518 - Sandbeach, Hockley Lane, Bradwell-on-Sea, Essex CM0 7QB** (Pages 15 - 42)

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

6. **FUL/MAL/19/00722 - 1 Kings Road, Southminster, Essex CM0 7EJ** (Pages 43 - 68)

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

7. **FUL/MAL/19/00782 - Bacons Cottages, Glebe Lane, Dengie, Essex** (Pages 69 - 86)

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

8. **FUL/MAL/19/00834 - The Ship Inn, 52 High Street, Burnham-on-Crouch, Essex** (Pages 87 - 96)

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

9. **FUL/MAL/19/00841 - Land Rear of 148 Station Road, Burnham-on-Crouch, Essex** (Pages 97 - 122)

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

10. **FUL/MAL/19/00861 - Chartwell, 120 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB** (Pages 123 - 140)

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

11. **HOUSE/MAL/19/00862 - Ravenscot, Burnham Road, Althorne, Essex** (Pages 141 - 150)

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

12. **HOUSE/MAL/19/00863 - 2 Brook Lane, Asheldham, Essex CM0 7DY** (Pages 151 - 160)

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

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

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## Reports for noting:

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

- Other Area Planning and Related Matters – Appeals Lodged and Appeal Decisions
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### **Note:**

1. The Council operates a facility for public speaking. This will operate only in relation to the consideration and determination of planning applications under Agenda Items No. 5 – 12.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

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

## **NOTICES**

### **Sound Recording of Meeting**

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

### **Fire**

In event of a fire, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.

## **BACKGROUND PAPERS**

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

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

### **Development Plans**

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

### **Legislation**

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

## **Supplementary Planning Guidance and Other Advice**

### **i) Government policy and guidance**

- National Planning Policy Framework (NPPF) - 2018
- Planning Practice Guidance (PPG)
- Planning policy for Traveller sites - 2015
- Relevant government circulars
- Relevant Ministerial Statements (as referred to in the report)
- Essex and South Suffolk Shoreline Management Plan – October 2010

### **ii) Essex County Council**

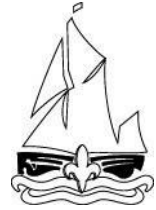
- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

### **iii) Maldon District Council**

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework – 2014 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

All Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.

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**MINUTES of  
SOUTH EASTERN AREA PLANNING COMMITTEE  
9 SEPTEMBER 2019**

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**PRESENT**

Chairman  
(In the chair)

Councillor M W Helm

Councillors

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

**1. CHAIRMAN'S NOTICES**

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

**2. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor R P F Dewick.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 12 August 2019 be approved and confirmed.

**4. DISCLOSURE OF INTEREST**

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

Councillor N Skeens declared a non-pecuniary interest in Agenda Item 5 – FUL/MAL/18/00381 – Millfields Caravan Park, Millfields, Burnham-on-Crouch, Essex as his houseboat borders Riverside Park.

Councillor A S Fluker reminded the Committee that on Agenda Item 5 - FUL/MAL/18/00381 – Millfields Caravan Park, Millfields, Burnham-on-Crouch, Essex all Members had an interest as it was Council owned land.

Councillor M G Bassenger declared a non-pecuniary interest in Agenda Item 6 – FUL/MAL/19/00656 – Mangapp Manor, Southminster Road, Burnham-on-Crouch, Essex, as he knew the agent

5. **FUL/MAL/18/00381 - MILLFIELDS CARAVAN PARK, MILLFIELDS, BURNHAM-ON-CROUCH, ESSEX**

<b>Application Number</b>	<b>FUL/MAL/18/00381</b>
<b>Location</b>	Millfields Caravan Park, Millfields, Burnham-On-Crouch, Essex
<b>Proposal</b>	Erection of building to be used as offices, shop, shower/toilet facilities, spa, pool facilities and gym, formation of hardstanding to be used as road and parking and enhanced landscaping, in association with an existing caravan site
<b>Applicant</b>	Birch's Leisure Parks Limited
<b>Agent</b>	Mr Philip Kratz
<b>Target Decision Date</b>	13.03.2019 (Extension of time agreed: 13.09.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Council Owned Land

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

A debate ensued where concerns were expressed regarding the design, materials and location of the building. It was strongly argued that this would potentially have a negative impact on the intrinsic character and beauty of the area. Conversely, given that the building would include a pool, it was also noted that this would be a good facility to have in the location.

The Lead Specialist Place informed the Committee that the application had been considered on planning merits alone and the principle of provision of facilities and services ancillary to an existing tourist use is considered acceptable. The lawful use of the site was as a caravan park and the application in front of Members was for the building only. It was noted that the fabric of the building could be conditioned to more suitable materials.

Councillor Skeens said that the application should be rejected on the grounds that it adversely affected the beauty of the countryside. This was not seconded.

Councillor Fluker, acknowledging that there had always been caravans on the site, proposed that the application be approved in accordance with the Officer's recommendation but subject to conditioning the materials used. This was duly seconded.

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

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

1. Prior to works above ground level, details of the external materials to be used in the construction of the outbuilding hereby approved shall be submitted to the Local Planning Authority for approval in writing. The construction of the

outbuilding shall be carried out in accordance with the approved details and retained as such in perpetuity.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be carried out in complete accordance with approved drawings: ATS/537/03; 10955-0020-002; 10955-0001-007; RCEF64080-SK002 REV B and RCEF64080-SK003 REV A.
4. The development hereby permitted shall only be used ancillary to the caravan park proposed as shown on approved drawing 10955-0001-007 and for no other purpose, including any type of residential accommodation, at any time.
5. The proposed development shall be implemented in accordance with the forms of mitigation included in Ecology Survey Report (dated November 2018) and be retained as such in perpetuity.
6. The use of the site hereby permitted shall be implemented in accordance with the Flood Warning and Evacuation Plan (dated 19.02.2019) 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.
7. No development shall be constructed during the wintering bird period between October – March inclusive.
8. Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
9. Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The report of the findings must include:

- i) A survey of the extent, scale and nature of contamination;
- ii) an assessment of the potential risks to:
  - a) Human health,
  - b) Properly (existing or proposed) including buildings, crops, livestock, etc, woodland and service lines and pipes,
  - c) Adjoining land,
  - d) Groundwaters and surface waters,
  - e) Ecological systems
  - f) Archaeological sites and ancient monuments;
- iii) An appraisal of remedial options, and proposal of the preferred option(s). This shall include timescales and phasing of remediation works.

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

10. Where identified as necessary in accordance with the requirements of condition 8, no development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical

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

Following completion of measures identified in the approved remediation scheme, verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

11. 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.
12. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment and the following mitigation measures detailed within the FRA:
  - Infiltration testing in line with BRE 365. If infiltration is found unviable the run-off rates from the site should be limited to 2.4 l/s
  - Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Storage should half empty within 24 hours wherever possible. An assessment of the performance of the system and the consequences of consecutive rainfall

events occurring should be submitted to and approved in writing by the Local Authority. if the storage required to achieve this via infiltration or a restricted runoff rate is considered to make the development unviable.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

13. No development shall commence, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel washing facilities
- Measures to control the emission of dust, noise and dirt during construction Hours and days of construction operations.

**6. FUL/MAL/19/00656 - MANGAPP MANOR, SOUTHMINSTER ROAD, BURNHAM-ON-CROUCH, ESSEX**

<b>Application Number</b>	<b>FUL/MAL/19/00656</b>
<b>Location</b>	Mangapp Manor, Southminster Road, Burnham-on-Crouch
<b>Proposal</b>	Construction of outbuilding for storage of classic cars and motorcycles. Formal removal of additional use of property as a wedding venue.
<b>Applicant</b>	Mr Mark Sadleir
<b>Agent</b>	Mr Michael Lewis – Bailey Lewis
<b>Target Decision Date</b>	19.09.2019
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

Following the Officer's presentation, the agent, Mr Michael Lewis, addressed the Committee.

Councillor Stamp opened the discussion by saying that she liked the application and proposed that the application be approved contrary to the Officer's recommendation but conditioned on the use restricted to car storage etc. The Lead Specialist Place clarified that where a condition can overcome the harm then it can be used. However, in this case, given that the siting of the proposed building was outside of the residential curtilage, this was not possible. He went on to say that it was the responsibility of the decision maker to look at the application for planning purposes, consider future use and plan long-term.

At this stage Councillor Skeens declared a non-pecuniary interest in this application as he knew the architect.

A long debate then ensued on the issue of residential curtilage and the Lead Specialist Place took the Committee through the case law governing this area of planning. He advised that, going forward, should Members have any queries, ideally in advance of meetings, planning staff were available to answer questions and advise on all pertinent matters.

Councillor Stamp then said she would withdraw her proposal given that it could not be conditioned. It was requested that future applications dealing with curtilage should contain a plan showing curtilage boundaries.

Cllr Fluker commented that he was unhappy with an application that was outside of the curtilage, the concerns over future use and that the design was not in keeping with the Manor building. He proposed that the application be refused in accordance with the Officer's recommendation. This was duly seconded.

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

**RESOLVED** that the application be **REFUSED** for the following reason

1. The proposed outbuilding, as a result of its siting, scale, bulk and design would be unduly detached from the host dwelling and would have a substantial and unacceptable visual impact on the intrinsic character and beauty of the countryside. This would be exacerbated by the substantial increase in built form and the fact the development is located outside of Mangapp Manor's residential curtilage resulting in the urbanisation of the countryside. The proposal is therefore unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan, policy HO.8 of the Burnham-on-Crouch Neighbourhood Development Plan and the guidance contained within the National Planning Policy Framework.

There being no further items of business the Chairman closed the meeting at 8.30 pm.

M W HELM  
CHAIRMAN



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

to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
7 OCTOBER 2019**

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

## 1. APPLICATION HISTORY

It is noted that this application was deferred from the South East Area Committee on 15 July 2019, to allow for an ecology report to be submitted. The full committee report, as written for the July committee, can be found in **APPENDIX 1**. This report includes updates following the submission of the ecology report, to the ecology section, consultee comments, representations and conditions. The recommendation to approve the application remains the same.

## 2. RECOMMENDATION

**APPROVE** subject to the conditions as detailed in Section 4 of this report

## 3. SUMMARY

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

3.1.1 It is noted that this application was originally heard at the South East Area Committee on 15 July 2019. It was decided to defer the application to allow the submission of an Ecology Report. This was submitted in August 2019 and the report has been updated to reflect the additional information.

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

3.2.1 An Ecology Report has been submitted in August 2019 and sets out the assessment and results of the survey in relation to the designated sites, habitats and protected

species. The report acknowledges that the works have already taken place and that there could have some impact on the surrounding habitats. The report concludes that the buildings and vegetation within the site were found to have negligible or low potential to support bats. Birds nests were found within the kennel block, however, any impact in relation to birds could be mitigated by the installation of bird boxes. The report also found it unlikely that any other habitats or species would have been adversely affected by the development.

- 3.2.2 A management plan has also been submitted to state how the activities outside the site will be conducted, namely that dogs will be kept on leads and will be walked in groups of maximum two dogs per member of staff or volunteer. The nature of the use requires dogs to be exercised. If dogs were to be left to run freely, it is likely they would reach the designated areas around the site and cause disturbance to the flora and fauna of the habitats. However, on the basis of the submitted management plan, it is considered that the likely effect of the use on the nearby designated site is unlikely to be detrimental. The Local Planning Association (LPA) has also consulted Natural England (NE), as a statutory consultee, and other non-statutory consultees, such as the Essex Wildlife Trust (EWT). NE's consultation response referred the LPA to the NE's standard advice which does not give rise to any concerns. The consultation response from EWT was objecting to the development on the basis that the dogs are not always walked on leads, as evidenced by the Applicant's social media page. However, it should be noted that the public footpaths are used by dog walkers frequently and any such control would not be available on these dogs.
- 3.2.3 The Council's Countryside and Coast Team have supported the installation of bird boxes, as stated within the Ecology Report and have also suggested the installation of hunting perches at heights for Birds of Prey. Some concerns have been raised in relation to foul drainage and waste, however this can be addressed through the inclusion of conditions.

### 3.3 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Natural England	Comment – the application is within a trigger zone but no bespoke advice will be provided other than the standard advice.	Comment noted and standard advice taken into account.
Essex Wildlife Trust	Object - The Ecology report concludes that there will be no operational impact on Habitats sites as the dogs are always walked on leads.  We disagree with this conclusion on the basis that evidence from the	Comment noted. Please see section 5.5 of the report.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>applicant's own social media shows that groups of up to 8 dogs at any one time are allowed to run off the lead along the seawall and its environs.</p> <p>This poses a risk of significant disturbance to nesting, roosting and feeding coastal birds, some of which may be designated features of the Dengie Special Protection Area (SPA).</p>	

### 3.4 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Countryside and Coast	<p>The preliminary ecology appraisal includes some minor after-the-fact mitigation with regard to birds which I would support, namely installation of additional nest boxes and particularly swallow roosts inside the barn. If the applicant would also consider installing some hunting perches at height for Birds of Prey, this would add to the overall benefit.</p> <p>I cannot see detail with regard to land drainage/run-off catchment, disposal of foul water, and arrangements for disposal of waste. It would be reassuring to see that these are all being suitably managed, particularly with regard to prevent or limiting drainage or runoff</p>	Comments noted.

Name of Internal Consultee	Comment	Officer Response
	<p>from contaminating the open water systems and affecting the Designated sites.</p> <p>As the ditch to the south of the site is "Main River", I am a little surprised that there is no response to the Consultation from the Environment Agency.</p> <p>They may well wish to see the above potential issues addressed and may wish to monitor local outfalls to ensure there are no future problems.</p>	

### 3.5 Representations received from Interested Parties

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

Objection Comment	Officer Response
Constantly breaks the rules – does not have a license	This is not a material planning consideration.
Aggressive dogs	This is not a material planning consideration.
Dogs are not walked on leads	This is not a material planning consideration.
Breaching tenancy agreement	This is not a material planning consideration.
Why is there no animal welfare license condition	The animal welfare license cannot be dealt with under the planning system
How will conditions be enforced	If a breach is reported to the Council, this will be investigated.
Traffic concerns	Comments noted. See section 5.4.
No ecology assessment	An Ecology Report has been submitted. See section 5.5.
Disease from imported dogs	This is not a material planning consideration. Other departments and organisations are dealing with animal imports and exports.
There are things on site that are not in the application	The application will be assessed on what has been shown on the proposed plans.

- 3.5.2 It is not considered that the comments above outweigh the planning assessment within the main report.

#### **4. PROPOSED CONDITIONS**

1. The use hereby permitted of the area hatched red within the application site on the attached plan shall only be as a dog rescue centre.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
2. The residential use of the site shall be contained within the original dwellinghouse and its curtilage and outside of the area hatched red within the application site on the attached plan.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
3. The occupation of the dwelling shall be limited to a person solely or mainly working for the dog rescue use hereby permitted and the person's household as long as the dog rescue use hereby permitted is taking place.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
4. The caravan hereby permitted shall only be used for purposes ancillary to the use of the site as a dog rescue to attend to medical needs of the dogs before their adoption.  
REASON To ensure the interests of protecting the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, T1, T2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
5. The caravan hereby permitted shall not be used as a separate business.  
REASON To ensure the interests of protecting the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, T1, T2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
6. The caravan hereby permitted shall be removed and the land restored to its previous condition within twelve (12) months from the date of this permission.  
REASON To ensure the harm to the character and appearance of the area is removed in accordance with local policies S1, S7, S8 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
7. The Management Plan which was submitted to the Local Planning Authority on 24 May 2019 and forms part of this application, shall be displayed on site and be adhered to at all times in perpetuity.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway

safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

8. The premises hereby permitted to be used as a dog rescue centre shall not be open to customers/people who are interested in adopting a dog outside of 10:00 hours and 17:00 hours on Wednesdays, Thursdays, Fridays, Saturdays and Sundays. No customers shall be present on the premises outside the permitted hours and days.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
9. Deliveries to and collections (other than collection of dogs by customers) from the site shall only be undertaken between 08:00 hours and 18:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
10. No external storage of any items and paraphernalia associated with the permitted use be carried out within the application site.  
REASON To ensure the appropriate use of the site in the interests of protecting the character and appearance of the area in accordance with local policies S1, S7, S8, E4 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
11. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a foul water drainage scheme to serve the premises has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The foul water drainage arrangements shall be kept as implemented in perpetuity.  
REASON To ensure the interests of protecting the natural environment in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
12. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a scheme for the storage and removal of waste and recyclables to serve the development has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The storage and removal of waste and recyclables shall be kept as implemented in perpetuity.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

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

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

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

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

15. The mitigation measures set out within Section 5 of the Ecology Report (August 2019) in relation to nesting birds shall be carried out within three months of the date of this permission.

REASON To protect the biodiversity value of the site, in accordance with policy N2 of the approved Local Development Plan.

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

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

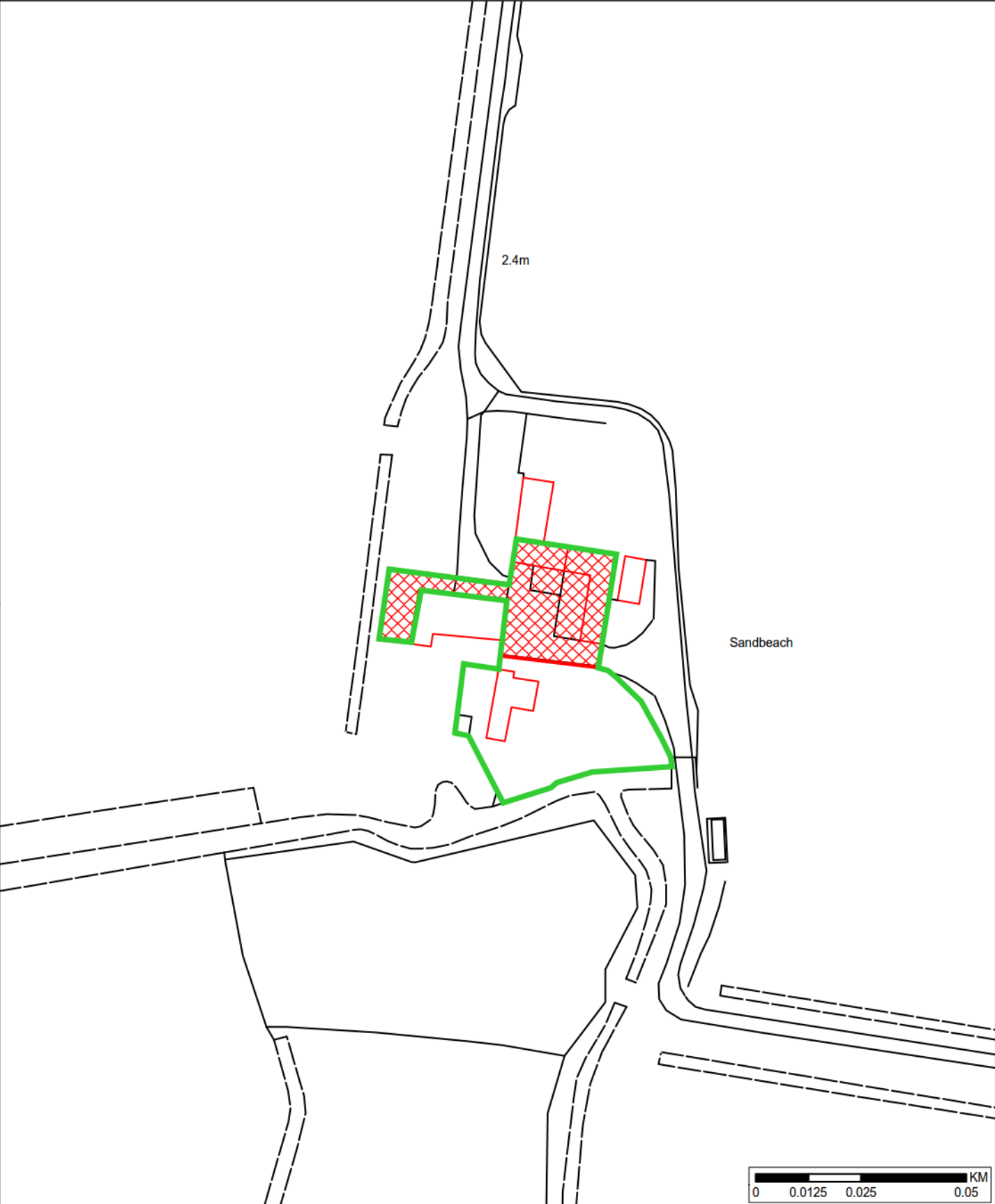
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

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



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Maldon District Council 100018588 2014



Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Area Planning Committee

Date: 03/07/2019

MSA Number: 100018588

### **3. SUMMARY**

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

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

#### **The development**

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

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

### Background

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

## **3.2 Conclusion**

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

## **4. MAIN RELEVANT POLICIES**

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

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

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

- 54 – 57 Planning conditions and obligations
- 102 – 111 Promoting sustainable transport
- 128 – 132 Achieving well-designed places
- 148 – 169 Meeting the challenge of climate change, flooding and coastal change
- 170 - 183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- E4 Agricultural and Rural diversification
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development”.*

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

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

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

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

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

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The external alterations within the site, including the stationing of the caravan, coupled with the distance from residential properties, have not given rise to any issues regarding overlooking, overshadowing or overpowering any residential properties.
- 5.3.3 Whilst the same use for the same rescue was previously refused by the Council due to the generated noise affecting the amenity of neighbouring occupiers, in this instance the distance of the application site from other residential properties and the layout of the development within and adjacent the application site reduce noise and disturbance from the dogs. Whilst it is noted that the application site is located within a tranquil rural setting with very low ambient noise levels, when officers visited the site on three occasions, no significant noise was audible outside the application site. Another source of noise and disturbance is the vehicle movements associated with the use. It is not considered likely that the use would attract such high volumes of vehicle movements that they would be an issue in relation to noise.
- 5.3.4 Although objecting comments have been received, the issue of noise and disturbance has not been raised which is indicative that the use in this location is probably not detrimentally harmful to the amenity of residential occupiers. Whilst there is a dwellinghouse within the application site, this is occupied by the Applicant. This dwellinghouse originally was not included within the application site. Hence, an independent use of the dwellinghouse from the dog rescue use would not be improbable. If that were to occur, the noise and disturbance from the activities within the application site would be detrimental to the amenity of the occupiers. If the dwellinghouse was not within the application site a condition to tie the use of the dog rescue with the occupation of the dwellinghouse by the owner of the rescue would not have passed the six tests. However, now the dwellinghouse is within the application site. As such a condition to require the house to be occupied by a person who has control over the activities of the dog rescue use would pass the six tests and would render the level of harm acceptable. Furthermore, the other nearest residential properties are located in areas near roads or villages, where the ambient noise levels are slightly higher than the ambient noise levels immediately around the application site.
- 5.3.5 The Council's Environmental Health team has been consulted for this application but raised no issues in relation to noise and disturbance due to the remoteness of the application site. The Applicant's planning statement states that the application would be supported by a noise assessment, but this has not been submitted. The Council could request the noise assessment with a planning condition as it has done in other cases when it was not clear whether a use would cause detrimental impact to the amenity of residents. It is considered that a condition to limit the number of dogs to a

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

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

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards (VPS) Supplementary Planning Document contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objective of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The development has not altered the existing parking arrangements on site or around the site. Within the application site there is an area between the building and the caravan that can be used for parking. Furthermore, to the west, north and east of the site there are extensive areas covered with concrete or hardcore material that could be used for parking by the rescue. Whilst a dog rescue use does not have a specific parking standard, the available parking areas are sufficient to accommodate a large number of cars. The access arrangements to the application site have also remained unaltered from the development. Whilst the use has attracted more vehicles on site, and the road is mainly for single file traffic, it is not considered that the development is detrimental to the highway safety of the adjacent network. The access road includes laybys to reduce conflict of incoming and outgoing traffic. Furthermore, the openness of the area allows drivers to see traffic coming from the opposite direction from longer distances. The Highways Authority has been consulted and raised no objection to the application subject to a condition to request the public footpath to be kept clear. While the adjacent highway is narrow and unlit lane, the traffic generated from the development, subject to conditions to limit the hours of operations and the number of visitors, will not be detrimental to the highway safety. Furthermore, a condition to bind the use of the veterinary caravan to the dog rescue use will pass the six tests as it would ensure there is no additional traffic generated.

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

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

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

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

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

## **5.6 Flood Risk**

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

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

## **5.7 Sustainability and planning balance**

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

## **5.8 Other Material Considerations**

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

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

There is no relevant planning history for this application site.

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

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

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

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

## 7.2 Statutory Consultees and Other Organisations

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

## 7.3 Internal Consultees

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

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

#### 7.4 Representations received from Interested Parties

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

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

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

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

- 7.4.2 **23** representations were received **in support** of the application and the reasons for support are summarised as set out in the table below:

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

## 8. **PROPOSED CONDITIONS**

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

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

- REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
10. No external storage of any items and paraphernalia associated with the permitted use be carried out within the application site.
- REASON To ensure the appropriate use of the site in the interests of protecting the character and appearance of the area in accordance with local policies S1, S7, S8, E4 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
11. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a foul water drainage scheme to serve the premises has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The foul water drainage arrangements shall be kept as implemented in perpetuity.
- REASON To ensure the interests of protecting the natural environment in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
12. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a scheme for the storage and removal of waste and recyclables to serve the development has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The storage and removal of waste and recyclables shall be kept as implemented in perpetuity.
- REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
13. Notwithstanding the submitted details, no external illumination shall be installed or operated within the application site unless it is in accordance with a scheme that has been submitted and approved by the Local Planning Authority. Any approved external illumination shall be turned off by 20:00 hours.
- REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
14. No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the building except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.
- REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2

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



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

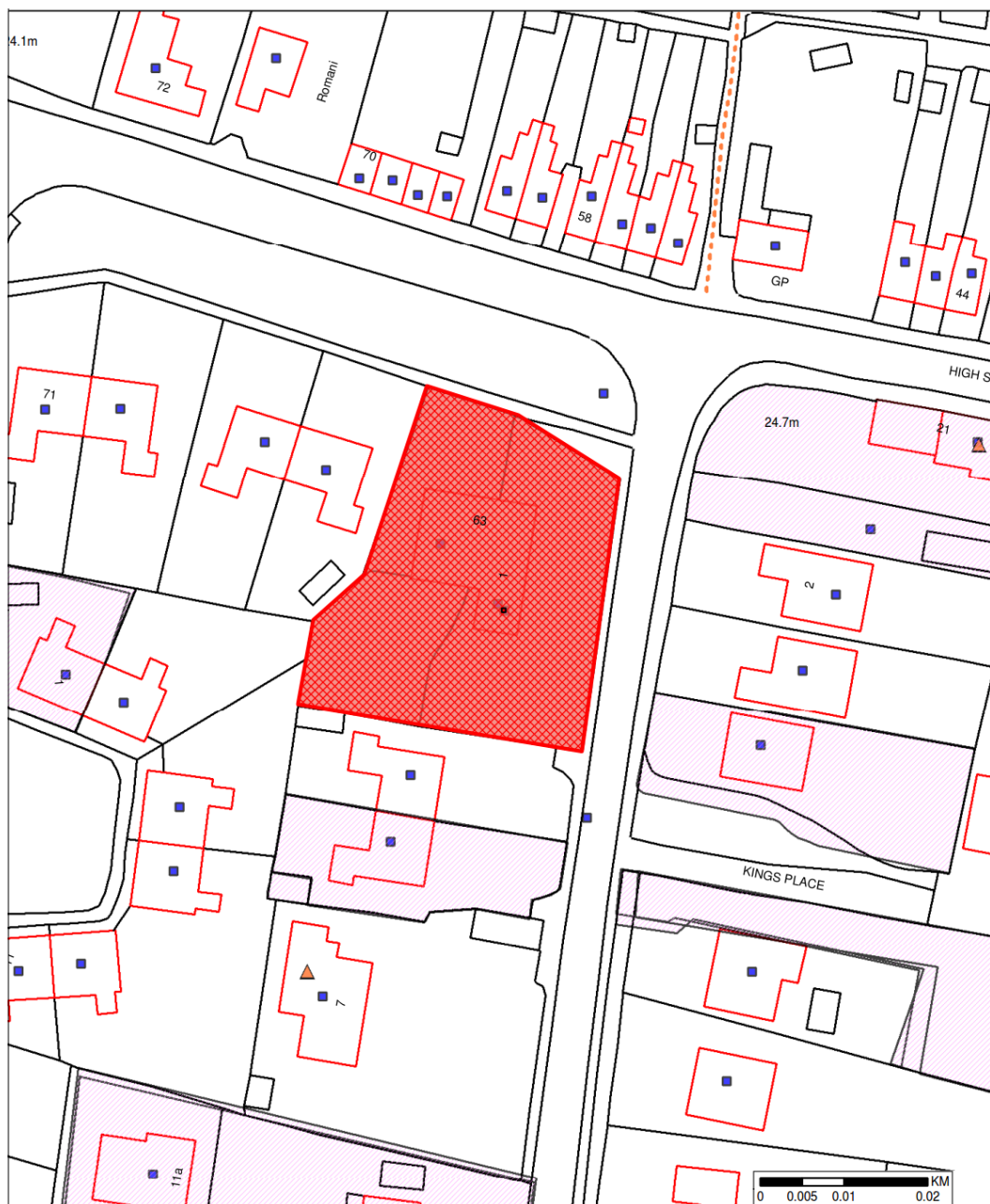
<b>Application Number</b>	<b>FUL/MAL/19/00722</b>
<b>Location</b>	1 Kings Road, Southminster, Essex, CM0 7EJ
<b>Proposal</b>	Redevelopment of the site to include the conversion of the existing building to provide 4No. one-bedroom flats and the erection of a two storey side/rear extension to provide 2No. one-bedroom flats (all social rent), with associated off-street parking, amenity space, landscaping, external refuse and cycle store and external alteration (resubmission of FUL/MAL/19/00195).
<b>Applicant</b>	Mr Russell Drury - MOAT
<b>Agent</b>	Miss Maria Cannavina - Prime Building Consultants Ltd
<b>Target Decision Date</b>	04.09.2019 (EoT agreed: 11.10.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Previous Committee Decision This application was previously refused contrary to Officers' recommendation.

## 1. **RECOMMENDATION**

**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.

## 2. **SITE MAP**

Please see overleaf.



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Scale: 1:625

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 08/05/2019

MSA Number: 100018588

### **3. SUMMARY**

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

##### *Site description*

- 3.1.1 The site is located on the corner of the junction of High Street to the north and Kings Road to the east and it is occupied by a two storey Victorian style property used as a four-bedroom house, one one-bedroom flat and one two-bedroom flat. The building has a main shallow hipped roof with double storey front canted bay windows two-storey rearward projection.
- 3.1.2 The building sits 9m back from the highway, maintaining an open landscaped corner. On the south side of this section of the road there is a linear grassed area with mature trees.
- 3.1.3 The surrounding area is residential in character comprising predominantly of Victorian and Edwardian buildings. A number of listed buildings are also sited within the vicinity of the application site. The nearest to the site are The Bays at 7 Kings Road and 21 High Street, which are both Grade II listed buildings. To the south of High Street, the character is of dwellings sited within spacious plots and set back from the highway, while to the north, the properties are relatively smaller in size, contained within small plots and sited in close proximity to the highway. Kings Road is mainly made up of a mixture of detached and semi-detached bungalows and two-storey dwellings of fairly traditional style.

##### *Description of proposal*

- 3.1.4 Planning permission is sought to erect a two-storey side/rear extension and convert the existing building to form six one-bedroom flats, all social rent affordable housing, with associated off-street parking, amenity space, landscaping, external refuse and cycle store, including space for mobility scooter. Other alterations to the external elevations of the existing building include minor changes to the fenestration to the rear elevation.
- 3.1.5 The proposed two-storey, hipped-roof extension would be erected to the southwest of the existing building, projecting 12.9m beyond its rear elevation and 2.8m beyond the eastern elevation. Overall the extension would have a maximum width of 5.6m, being 5.3m high to the eaves, with a maximum height of 7.3m. The extension would be set lower from the roof of the host property.
- 3.1.6 Internally the building would be converted to accommodate six one-bedroom flats, two of which would occupy the proposed two-storey extension. Each flat would be accessed from separate access points of the building. The size of the flats would vary between 54.3sqm to 81.5sqm.
- 3.1.7 In terms of vehicle access, the site would be accessed from both High Street, by utilising an existing access, and Kings Road, by widening the existing access to 3.6m. In terms of parking provision, one parking space would be provided per proposed flat, one of which would be a disabled parking bay and one additional visitor parking space, which will also have access to an electric charging point.

- 3.1.8 A cycle and bin store are proposed to be erected close to the southern boundary of the site. The overall depth of the store (including both the cycle and refuse store) would be 2.9m and the width would be 7.5m. The maximum height on the cycle store would be 2.5m. Another bin enclosure is proposed to be formed along the northern boundary of the site adjacent to the vehicle access to serve plots 1 and 2.
- 3.1.9 Private amenity space would be provided to the southwest of the site, with a further semi-private front garden to the northwest of the site. The area to the southwest would measure 140sqm, while the front garden is 120sqm in size.
- 3.1.10 With regard to the external finishing materials the extension would be finished in grey slates with red hip and ridge tiles, red/orange multi bricks and yellow brick quoins and soldier courses over UPVC casement windows. Rainwater goods would be black UPVC and the fascias, soffits and eaves would be white UPVC. The vehicle access and hardstanding would be formed by brick paviours, concrete paving and retained existing concrete at the front.
- 3.1.11 It is noted that during the process of the application minor amendments to introduce additional fenestration to the front elevation and yellow brick quoins to the corner of the buildings have been incorporated. The arrangement of the amenity space has also been altered to provide an open usable communal area for all future occupiers, which will also be secured and away from the parking areas. This alternative garden arrangement has resulted in minor alterations to the positioning of the windows of the residential unit 5 at ground floor to avoid overlooking from the communal area.
- 3.1.12 It is noted that the current proposal forms a resubmission following the refusal of a similar application reference FUL/MAL/19/00195 proposing the erection of a two-storey side/rear extension and the conversion of the building to six one-bedroom affordable units. This application was refused for the following reasons:
- *The application site is a prominent corner site and such development should be designed to define the corner space and contribute to the character through distinctive design. The proposed development, by reason of its design, would not meet these requirements. The development would therefore be unacceptable and contrary to the National Planning Policy Framework (2019), policies S1, D1 and H4 of the Maldon District Local Development Plan (2017) and the guidance contained in Section C15 (Corner Buildings) of the Maldon District Design Guide SPD (2017).*
  - *The proposed development, by reason of the lack of off-street visitor and disabled car parking provision, lack of mobility scooter storage area and charging points for electric vehicles would result in an unacceptable form of development that would have an impact on the free flow of traffic and highway safety contrary to the National Planning Policy Framework (2019), policies D1, H4 and T2 of the Maldon District Local Development Plan (2017) and the guidance contained in the Vehicle Parking Standards Supplementary Planning Document (2018).*
- 3.1.13 The current proposal has been revised to incorporate mainly the following amendments:

- One of the proposed parking spaces would be designated as disabled bay.
- An electric vehicle charging point is proposed.
- The depth of the proposed cycle and bin storey has been reduced by 300mm and consequently it will be located a limited distance further away from the highway.
- The height of the fence bounding the bin store has been reduced to 1.1m, thereby 900mm lower from the enclosure previously proposed.
- Provision of space for a mobility scooter has been made within the proposed cycle store.
- Windows at first and ground floor has been incorporated to the front elevation of the proposed extension, that reflects the design of the existing fenestration of the property.
- Yellow brick quoins have been incorporated to the edges of the proposed extension to continue through the design of the existing building.

## 3.2 Conclusion

- 3.2.1 The proposed development is located within the settlement boundary of Southminster, where the principle of residential development is generally considered acceptable. The development would redevelop the site to form six one-bedroom flats, a total of three additional residential units from those currently occupying the site. All units are proposed to be affordable (social rent). The site is currently occupied by three affordable units providing a total of 12 persons accommodation. In order to provide a development of equivalent level of affordable accommodation on site, all six proposed flats should be affordable units. Given that the proposed one-bedroom units are in great need in the District and subject to the completion of a S106 agreement, the proposal would meet the objectives of the NPPF and the Council's need towards smaller affordable units. The development, following amendments from the previously refused application, is considered to be of an acceptable design that protects the character of the corner building and therefore, this considers overcoming the first reason for refusal. The development would not be harmful to the amenities of the neighbouring occupiers and following amendments it would make adequate provision for off-street parking, including the necessary provision of disabled parking and a charging point for electric vehicles and cycle parking, including a secure space for a mobility scooter. The amenity space is considered being adequate to meet the needs of the future occupiers. Therefore, having assessed the development against all material planning consideration, taking into account the previous reasons for refusal, it is found that the development, following amendments, would be acceptable and in accordance with the aims of the development plan.

## 4. MAIN RELEVANT POLICIES

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making

- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 184-202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- H1 Affordable Housing
- H2 Housing Mix
- H3 Accommodation for ‘Specialist’ Needs
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

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

5.1.1 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF’s emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).

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

- 1) *Ensure a healthy and competitive local economy by providing sufficient space, flexibility and training opportunities for both existing and potential businesses in line with the needs and aspirations of the District;*
- 2) *Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations*
- 3) *Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*
- 4) *Support growth within the environmental limits of the District;*
- 5) *Emphasise the importance of high quality design in all developments;*
- 6) *Create sustainable communities by retaining and delivering local services and facilities;*
- 8) *Ensure new development is either located away from high flood risk areas (Environment Agency defined Flood Zones 2 and 3) or is safe and flood resilient when it is not possible to avoid such areas;*
- 10) *Conserve and enhance the historic environment by identifying the importance of local heritage, and providing protection to heritage assets in accordance with their significance;*
- 12) *Maintain the rural character of the District without compromising the identity of its individual settlements;*
- 13) *Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community”*

5.1.3 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that *“The Council will support sustainable developments within the defined settlement boundaries”*.

5.1.4 The site is located within Southminster settlement boundary and in light of the above policies, it is considered that the provision of residential accommodation within a residential location, where occupants would have access to adequate services and facilities, is acceptable in principle. It is noted that the applicant proposes to provide six one-bedroom affordable units, which will support and contribute towards the Council’s need for smaller (one and two -bedroom) affordable units. As stated above, the development of the site for residential development is considered acceptable in this location. The proposal would provide much needed smaller residential accommodation and therefore, it would contribute towards the Council’s need for this type of housing (one-bedroom units).

5.1.5 On the basis of the above, it is considered that the use of the site for residential purposes in this location would be acceptable in principle. Other material planning considerations, in relation to the design and impact of the development on the character of the area, the impact on the neighbouring occupiers and the highways issues are discussed below.

## **5.2 Housing Mix and Affordable Housing Provision**

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 of the NPPF where it requires local authorities *‘To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for’*. Paragraph 61 continues stating that *“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”*.
- 5.2.2 Following the publication of the February 2019 Government results of the Housing Delivery Test (HDT) the Council has revised the October 2018 Five Year Housing Land Supply (5YHLS) statement to apply a 5% buffer for choice and competition. On the basis of the March 2019 5YHLS results the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years’ (6.34) worth of housing against the Council’s identified housing requirements.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner occupied properties having three or more bedrooms. The Council is therefore encouraged in the policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.2.5 As stated above the proposed development would provide 100% smaller (one-bedroom) units and therefore, it would fully accord and contribute towards the housing needs of the District.
- 5.2.6 As discussed above, the applicant proposes that all units would be social rent flats to replace one four-bedroom house and two flats (one one-bedroom flat and one two-bedroom flat), which are affordable rent properties. As a result, the site currently provides a total of seven bedrooms (12 persons) accommodation. To outweigh the loss of the current affordable rent units, all six proposed flats, which would provide accommodation for a total of 12 persons, should be provided as social rent flats to meet the equivalent level of accommodation. The provision of six social rent flats on site, as proposed, would have to be secured through a S106 agreement.
- 5.2.7 The Council’s housing register identifies that at present the waiting list for one-bedroom properties is 218 applicants and only 20 one-bedroom units were advertised last year. On that basis, it is considered that the proposed development would significantly contribute towards a type of housing (one-bedroom units) that is the

Council's greater need. The Housing Team has been consulted and fully supported the proposed development.

- 5.2.8 In light of the above, and subject to the completion of a Section 106 agreement to secure the proposed development would provide six affordable (social rent) units, the proposal is considered acceptable and in accordance with the objectives of the NPPF for mixed and balanced communities.

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

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

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

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

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

- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:

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

- 5.3.4 Policy H4 states that “all development will be design-led and will seek to optimise the use of land having regard to the following considerations:

- 1) *The location and the setting of the site;*
- 2) *The existing character and density of the surrounding area;*
- 3) *Accessibility to local services and facilities;*

- 4) *The capacity of local infrastructure;*
- 5) *Parking standards;*
- 6) *Proximity to public transport; and*
- 7) *The impacts upon the amenities of neighbouring properties.”*

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

5.3.6 The site is located within a residential area and it is currently occupied by a well presented and attractive Victorian building which is sited in a prominent location within Southminster. Although the building is not listed, it is considered that by reason of its current appearance, the historic setting of the surrounding area and the proximity of the site to listed properties, any development should represent good design and be sympathetic to and harmonise with the streetscene. The site is a corner plot and in accordance with the previous reason for refusal, any new development should be designed to define the corner plot and contribute to the character through distinctive design

5.3.7 The proposed development would involve the erection of a two-storey side and rear extension. The extension would be sited to the southwest of the existing building projecting rearwards of and to the side beyond the west elevation of the existing building. The proposed extension would be visible from the public highway, given that the site is a corner plot. However, due to its position, a significant distance away from the highway (19.5m away from the eastern boundary and 23.6m away from the northern boundary), it would maintain limited visibility from public vantage points and would be in a less prominent position in relation to the host property.

5.3.8 The proposed extension would have a hipped roof, with roof height that would be set lower than the main roof of the existing property, maintaining a level of subservience to the main building. Although a large extension in size and scale, its size is considered acceptable in comparison to the size and volume of the main property. Whilst the depth of the extension would be similar to the depth of the existing building, given that it would be sited away from the highway and it would be partially hidden from the existing rearward projection, its depth would not be readily perceived from Kings Road.

5.3.9 In terms of its design, the proposed extension would have a roof of similar design with the existing property. Although it is not desirable in visual terms that the eaves of the extension do not match those of the existing property, it is understood that the extension has been designed so that it appears subservient to the main building. Therefore, on balance and taking into consideration the position of the extension, it would be unlikely that the roof design would materially harm the visual amenity of the building or its overall appearance from the streetscene.

5.3.10 Following amendments as discussed in the ‘proposal’ section, the proposed development would introduce additional fenestration to the elevation fronting High Street, which would be of design that reflects that of the windows on the front elevation of the existing building, but smaller in size to correspond to a subservient extension. Additional features have also been introduced, namely yellow brick quoins on the corners of the extensions. This has been introduced to continue through the design and style of the existing property, given that yellow quoins are a feature of the

host property. It is therefore considered that the amendments incorporated is an attempt to improve the appearance of the proposed extension and make it contribute to the character of the existing corner property.

- 5.3.11 It should be noted that Section C15 (Corner buildings) of the MDDG states that corner sites are visually prominent and that new buildings should be designed to define the corner space of a block and ensure the continuity of the street/space and building frontage. This section of the MDDG is relevant to new buildings rather than extensions to existing building and therefore, it is not directly relevant to this proposal. Nevertheless, consideration has been given to the appearance, design and scale of the proposed extension and its relationship with the existing corner building, which as discussed above, is considered being acceptable in design terms.
- 5.3.12 With regard to the bin and cycle store, it is considered that due to the significant reduction of the height of the bin store enclosure and marginal set back of the structure from the highway, the visual impact of this element of the development has been reduced. It is therefore considered that the amendments incorporated are sufficient to avoid visually obtrusive appearance that would have a detrimental impact on the streetscene.
- 5.3.13 The proposed development, based on the drawings submitted, would result in a good level of soft landscaping to the north, east and south of the application site, which would be sufficient to soften the appearance of the development. The existing tree at the front curtilage of the property would be retained and an additional six trees would be planted. Hedgerows and shrubs would be planted along the east and north boundaries and the rest of the area that would not be hard surfaced to provide parking and turning facilities would be grassed over. The choice of hard surfacing materials would be acceptable, and it would complement the character of the property. As a result, both the details of hard and soft landscaping are considered acceptable in design terms.
- 5.3.14 Therefore, in light of the above, it is considered that the proposed development would be acceptable in design terms and it would not be harmful to the appearance of the existing corner building or the character of the wider area. As such, it is considered that the design of the development, as amended, can overcome the previous reason for refusal.

## **5.4 Impact on Residential Amenity**

- 5.4.1 The basis of Policy D1 of the LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section C07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 The application site is surrounded by two storey residential dwellings. The proposed development would result in increased levels of activity, by reason of the erection of additional flats. However, on balance, it is not considered that the proposed residential development would have a materially harmful impact on the residential amenity of the neighbours, in terms of noise and disturbance, given the nature of the use, which is compatible with the use of the existing residential area.

- 5.4.3 The proposed extension would maintain a minimum of 3.2m separation distance to the western boundary. Although the proposed extension would project beyond the rear elevation of the neighbouring dwelling to the west (no. 65 High Street) by 17.5m, it would maintain a reasonable separation distance (around 10m) from the adjacent property and its direct outdoor amenity area. Furthermore, a detached outbuilding is located to the southeast of the neighbouring property, which already causes an overshadowing impact on the adjacent property and also a visual barrier between the house and the application site. It is therefore considered that the proposed development would not have a detrimental impact on the amenity of the neighbouring occupiers, in terms of being overbearing or resulting in loss of light. All proposed first floor windows to the west elevation would be glazed in obscure glass to protect the neighbours' privacy. A high level (above 1.7m) roof light is proposed to be installed to the west roof slope, which would not result in a material increase in overlooking.
- 5.4.4 To the rear (south) the extension would be sited 3.2m away from the southern boundary and 6.7m to the neighbouring dwelling to the south. The neighbouring dwelling to the south (no. 3 Kings Road) has an existing outbuilding to the rear of the house and the proposed extension would not project beyond this outbuilding, which blocks the views towards the application site and thus, the proposed development would not appear overbearing or result in sense of enclose when viewed from the immediate outdoor amenity area of the neighbouring dwelling. The development is located to the north of the dwelling at 3 Kings Road and thus, it would not result in loss of sun light. There would be no outlook from the proposed first floor window to the south elevation of the extension, given that the internal staircase is located to the southwest and this section is open at ground and first floor. On that basis, the development would not result in overlooking.
- 5.4.5 Concerns have previously been raised in relation to the impact of the proposed cycle and bin store to the occupants of the property to the south. This structure would be located 3.7m away from the neighbouring dwelling to the south and the height of the bin enclosure has been significantly reduced. As such, only the cycle store will be of a maximum of 2.5m, which is still considered being of limited height. Therefore, following amendments the part of the structure that would be higher than the fence and positioned forward of the neighbouring dwelling to the south, would be the cycle storey, which will project no more than 3m beyond the front elevation of the adjacent dwelling. Given the limited scale and height of this structure and its separation distance to the neighbouring dwelling, it is not expected to result in an overshadowing or overbearing impact.
- 5.4.6 The development by reason of its location and separation distance to all other neighbouring dwellings to the north and east, would not be materially harmful to the residential amenity of any other neighbouring occupiers.
- 5.4.7 It is therefore considered that the development would not have a detrimental impact on the amenity of the residential neighbouring occupiers.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

### *Access*

- 5.5.2 Access to the site would be gained by widening the existing access onto Kings Road (3.6m width) and by utilising the existing vehicle access onto High Street. These accesses would be sufficient to allow a safe access and egress to the site. Furthermore, sufficient turning facilities would be provided within the site to allow vehicles to exit the site in a forward gear. The Highway Authority has been consulted and subject to conditions, no objection was raised in terms of highway safety, efficiency and accessibility of the site. The proposed accesses to the site are therefore considered acceptable.
- 5.5.3 No changes to the existing pedestrian accesses are proposed.

### *Parking provision*

- 5.5.4 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.5.5 The parking requirement for one-bedroom properties is one space per residential unit. Furthermore, for new flats with communal parking, an additional visitor parking space per four units is required. The proposed development would be served by a total of seven off-street parking spaces of which one would be for visitor parking. The visitor parking would also provide access to a charging point for electric vehicles, in accordance with paragraph 155 of the Vehicle Parking Standards, which require the provision of one charging point for every 20 spaces, when residential parking is provided in a communal form.

- 5.5.6 In accordance with table 14 of the Vehicle Parking Standards SPD advises that for new flats incorporating communal parking which is not designated to individual housing units would require a minimum of 1 disabled parking bay near the entrance to the building. Consideration has been given to this requirement, at this amended proposal and one space has been designated for disabled parking only. This space is located in close proximity to the entrance of one of the flats and therefore, no objection is raised in terms of disabled parking provision.
- 5.5.7 The proposed development makes provision for a safe and secured mobility scooter space. Although such provision is required for residential developments provided for an older population under table 15 of the Vehicle Parking Standards, it is considered a positive element of the development that consideration has been given to the provision of a space for a mobility scooter space.
- 5.5.8 One cycle parking space is proposed to be provided per proposed flat, in a secure and covered store. Therefore, the development would be supported by policy compliant cycle parking to meet the needs of the future occupiers and also promote alternative to private vehicle modes of transport.
- 5.5.9 It is therefore considered that the revised development would be supported by sufficient and policy compliant off-street vehicle (including a disabled and electric vehicles), cycle and mobility scooter parking provision.

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

- 5.6.1 With regard to the size of amenity spaces, the Council has adopted the MDDG as supplementary guidance to support its policies in assessing applications for residential schemes. The guidance indicates that for flats a minimum 25sqm of amenity space should be provided. Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable.
- 5.6.2 The development would be served by a 140sqm of private amenity space to the southeast of the application site. An additional semi-private front garden of 120sqm would be retained to the northwest of the site. The proposed amenity space has been separated from the vehicle parking spaces and it is considered providing a good level of usable outdoor amenity space for the future occupiers. The front garden is already used as amenity space and the provision of protecting hedging around it to separate it from the parking areas, is considered that would encourage the future occupiers to use this area as semi-private outdoor amenity. On that basis, it is considered that adequate provision of outdoor amenity space would be provided for the future occupiers of the proposed flats.
- 5.6.3 In relation to unit 5 that is going to be located near the communal amenity space, it is noted the windows in the west elevation adjacent to the communal garden would be secondary to the habitable rooms and would be glazed in obscure glass to protect privacy of the future occupiers.
- 5.6.4 All proposed flats would be served by windows which would provide adequate light, outlook and ventilation to all habitable rooms. A good level of accommodation would be provided per flat. Furthermore, in terms of the internal layout, consideration has been given to rooms that are usually noisier, such as kitchens, bathrooms and living

areas, which are positioned away from walls against bedrooms, to protect the future occupiers living environment and amenities.

- 5.6.5 On the basis of the above, it is considered that the development would provide a good level of living environment to the future occupiers.

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

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

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

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

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

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

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

Test 2 – the integrity test

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

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

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

## **5.8 Other Material Considerations**

### *Archaeology*

- 5.8.1 The Historic Environment Officer was consulted and based on the comments submitted, the proposed development is sited on the edge of the historic settlement of Southminster and therefore, any development on the site should be preceded by a programme of archaeological investigation. Together with the current submission, the

applicant has provided an Archaeological Project Design document (dated May 2019). The Historic Environment Officer advised that subject to the development being implemented in accordance with the project design details included within the submitted document, the development, any archaeological assets can be protected.

### *Waste Management*

- 5.8.2 Adequate refuse store would be provided for the proposed flats, which will be positioned in a convenient and easily accessible location for all flats. No objection is therefore raised in relation to refuse provision.

## **5.9 Pre-Commencement Conditions**

- 5.9.1 Two pre-commencement conditions are recommended and approval for the use of these conditions has been provided by the applicant's agent in correspondence received on 24.09.2019
- 5.9.2 It is considered that the pre-commencement condition for the implementation of the development in accordance with the submitted programme of archaeological work is necessary on the grounds that it goes to the heart of the permission, given that it is not a minor detail and it should be complied with prior to the commencement of the development, as any archaeological findings would be affected by the first phase of any works at the site. As a result, it is considered reasonable that the abovementioned condition is dealt with prior to the commencement of the development. Furthermore, a condition requiring the submission of details of the Construction Method Statement is considered necessary to be submitted prior to the commencement of the development and any ground works, given that vehicles would be required to be parked on site during works below ground level. It is also reasonable that materials would have to be stored on site prior to the construction of the development. As a result, it is considered reasonable that the abovementioned condition is dealt with prior to the commencement of the development.

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

- **FUL/MAL/17/00832** – Demolition of 1No. 4 Bed House and 2No. 1 Bed Flats (conjoined) construction of 5No. 2 Bed Flats, 1No. 1 Bed/2 Person and 1No. 2 Bed wheelchair user flat with 7No. off street car parking spaces and associated landscaping. Planning permission refused.
- **FUL/MAL/19/00195** - Redevelopment of the site to include the conversion of the existing building to provide 4No. one bedroom flats and the erection of a two storey side/rear extension to provide 2No. one-bedroom flats (all social rent), with associated off-street parking, amenity space, landscaping, external refuse and cycle store and external alteration. Planning permission refused.

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

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

Name of Parish / Town Council	Comment	Officer Response
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<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Southminster Parish Council	Support the application. It is suggested that all construction vehicles park within the site and working hours are between 8am and 6pm Monday to Friday and 8am until 1pm on Saturdays	Matters in relation to parking of construction vehicles are to be dealt with by condition in relation to construction method statement. An informative would be added in relation to working hours.

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	The Highway Authority does not object to the proposals as submitted, subject to conditions.	Noted and suggested conditions are imposed.
Archaeology	The Essex Historic Environment Record (EHER) shows that the proposed development is sited on the edge of the historic settlement of Southminster (EHER 19416). Any development of the site should therefore be preceded by a programme of archaeological investigation in accordance with the submitted Archaeological Project Design.	Comments noted and a condition would be imposed to secure that the development would not adversely impact on potential archaeological assets.
Natural England	It has been highlighted that the application site falls within the 'Zone of Influence'. A Habitat Regulation Assessment is required before the grant of any planning permission	Comment noted and addressed at section 6.7 of the report.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Housing Team	The site will provide a 100% onsite affordable housing contribution and for this reason Strategic Housing Services fully supports the application which would provide much needed affordable housing that would meet the housing needs of the District. It has also been previously highlighted that the waiting list for one-bedroom units is 218 applicants and only 20 one-bedroom flats have been delivered in the last year.	Comments noted and discussed in section 6.2 of the report.
Environmental Health Team	No objection is raised, subject to the imposition of a condition in relation to surface water details.	Noted and condition is imposed.

### 7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
It is confirmed that the previous reasons of objection remain unaltered and will only be removed if yellow lines will be enforced along High Street and Kings Road.	It is noted that the Local Planning Authority has no control over enforcing double yellow lines.
The revised submission addresses the objections raised at the South Eastern Area Planning Committee. However, the concerns previously raised in relation to on-street parking and highway safety as a result of the proposed development remain. So, the objection to the development arises only due to the failure of the Highways Department to provide realistic parking restrictions at this crucial section of Kings Road	Matters discussed in section 6.5 of the report. Also as noted above the Local Planning Authority has no control over enforcing double yellow lines.
Reference is made to an application (18/00960/OUT) at land adjacent to 2	It should be noted that for this application, unlike the current

<b>Objection Comment</b>	<b>Officer Response</b>
Kings Road, Southminster that was dismissed on appeal and in particular in relation to highway safety.	application, an objection was raised by the Highway Authority, due to the lack of suitable visibility from the access point and resultant unacceptable degree of hazard to road users. The same point was reiterated by the Inspector, who dismissed the appeal on the basis of the significant harm to highway safety. This is therefore considered being a completely different case to the current proposal, which will utilise existing vehicle access points and no objection has been raised by the Highway Authority.
No adequate parking.	Comment noted and addressed in section 6.5.
Traffic and noise generated during construction.	It is noted that the impact from contractors' vehicles would be temporary and not such harmful to warrant refusal of the application on those grounds. Working hours are enforced by the Environmental Health Team.
Traffic congestion along Kings Road. There would be problems with the access of emergency vehicles.	It is considered that the provision of a total of additional three residential properties on site would be unlikely to result in a road congestion. No objection has been raised by the Highway Authority.
The development would result in increased vehicle movements during construction.	A construction method statement condition will be imposed to address construction related matters.
The proposed bike store would affect the views from the neighbouring dwelling.	It is noted that loss of view is not a material planning consideration. The impact of the proposed cycle store on the neighbouring dwelling is assessed in section 6.4.
Resulting loss of light and overbearing impact.	These matters are assessed in section 6.4 of the report.

## 8. **HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

- Provide six one-bedroom affordable (social rent) units on site.

## **PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in complete accordance with approved drawings 014.1890-001 P3; 014.1890-002 P3; 014.1890-003 P3; 014.1890-004 P3; 014.1890-009 P5; 014.1890-010 P7; 014.1890-005 P12; 014.1890-070 P7; 014.1890-006 P10; 014.1890-018 P1 and 014.1890-008 P11.  
REASON To ensure the development is carried out in accordance with the details as approved.
3. The development shall be implemented in accordance with the details of external finishing materials included in the submitted application form and detailed in plan no. 014.1890.600 P1 and be retained as such in perpetuity.  
REASON To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
4. The development shall be implemented in accordance with the boundary treatment details included in plan no. 014.1890.005 P12 and be retained as such in perpetuity.  
REASON To ensure the external appearance of the development is appropriate to the locality and that the development would protect the amenities of the neighbouring occupiers in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
5. The first floor windows on the west elevation of the proposed two storey extension shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal floor level unless otherwise agreed in writing by the local planning authority. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.  
REASON To protect the privacy and environment of people in neighbouring residential properties, in compliance with the National Planning Policy Framework (2019) and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
6. Within the first available planting season (October to March inclusive) following the occupation of the development the landscaping works as shown on 014.1890.005 P12 and specifications attached to and forming part of this permission shall be fully implemented and be retained as such in perpetuity.  
REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD.
7. No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - The parking of vehicles of site operatives and visitors

- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel washing facilities
- Measures to control the emission of dust, noise and dirt during construction

Hours and days of construction operations.

REASON To ensure that on-street parking of these vehicles in the adjoining streets Local Plan, and policies D1 and T2 of the submitted Local Development does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with BE1 and T2 of the adopted Replacement Plan.

8. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.

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

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

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

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).

9. No development above ground level shall be occur until details of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).

10. The vehicular access onto Kings Road shall be widened as shown on planning drawing 014.1890-005 P12. The access constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be no wider than 6 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge and carriageway.

- REASON To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy T2 of the approved Local Development Plan.
11. Prior to the occupation of the development the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form in perpetuity. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
- REASON To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with policies D1 and T2 of the approved Local Development Plan.
12. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- REASON To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy T2 of the approved Local Development Plan.
13. There shall be no discharge of surface water onto the Highway.
- REASON To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with policy T2 of the approved Local Development Plan.
14. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.
- REASON In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies S1 and T2 of the approved Local Development Plan and the guidance contained in the National Planning Policy Framework.
15. The refuse and cycle stores hereby approved shall be provided prior to the first occupation of the development and be retained for such purposes in perpetuity thereafter.
- REASON To ensure that adequate bicycle parking and refuse facilities are proposed in accordance with policies D1 and T2 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
16. No development shall take place until the programme of archaeological work has been implemented in accordance with the details included in the submitted Archaeological Project Design document (dated May 2019).
- REASON To protect the site which is of archaeological interest, in accordance with policy D3 of the approved Local Development Plan.

## **INFORMATIVES**

### **1. Refuse and Recycling**

The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed.

### **2. Land Contamination**

Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.

### **3. Construction**

The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:

- a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
- b) No dust emissions should leave the boundary of the site;
- c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
- d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

Where it is necessary to work outside of these recommended hours the developer and builder should consult the local residents who are likely to be affected and contact the Environmental health Team for advice as soon as the work is anticipated.

### **4. Timing of submission of details**

It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur

until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.

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

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<b>Application Number</b>	<b>FUL/MAL/19/00782</b>
<b>Location</b>	Bacons Cottages, Glebe Lane, Dengie
<b>Proposal</b>	Construction of annex for occupation by family members
<b>Applicant</b>	Mr & Mrs Maddocks
<b>Agent</b>	TMA Chartered Surveyors
<b>Target Decision Date</b>	09.10.2019
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>DENGIE</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor R P F Dewick Reason: Scale and bulk and public interest

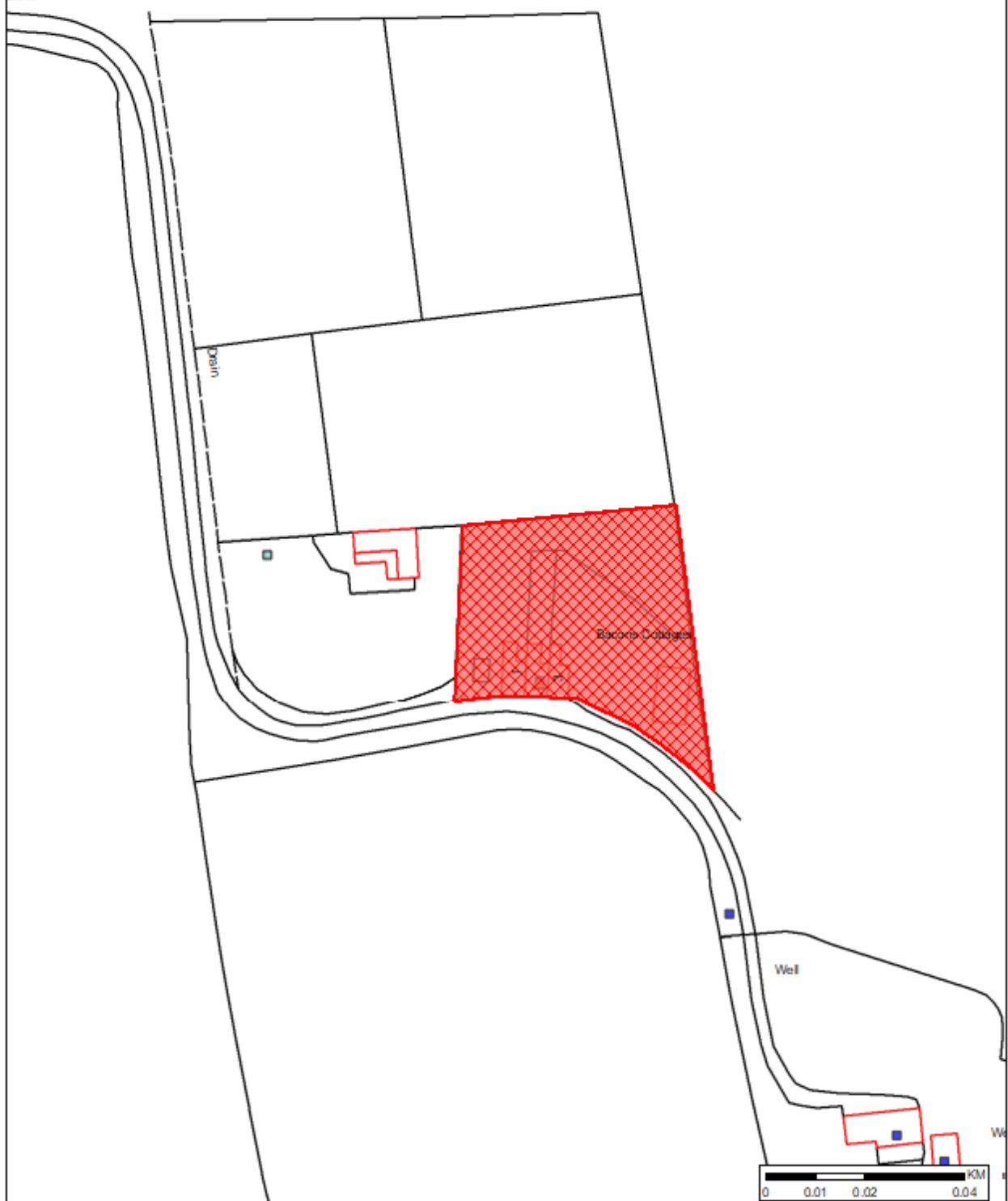
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**19/00782/FUL**  
**Bacons Cottages**



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 Maldon District Council 100018588 2014

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Scale: 1:1,084

Organisation: Maldon District Council

Department: Department

Comments: South East Area Committee

Date: 11/09/2019

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the north side of Glebe Lane, outside of any defined settlement boundary. The dwelling on the site is a grade II listed building and is situated towards the south boundary of the site, adjacent to the road. Bacons Cottages were built in the mid/late 19<sup>th</sup> century as a row of three, two-storey timber-framed and weather boarded cottages; however, they have been converted into one dwelling. A detached brick outbuilding is located to the west of the cottages, with a recent cart lodge addition to the east of the site. The site is within an isolated rural location, with no immediate neighbours.
- 3.1.2 The application seeks permission for an outbuilding to be used as an annex by family members of the occupants of the main dwelling.
- 3.1.3 The development will be of a staggered design. In total, it will measure 16 metres wide, 8.1 metres deep, 2.5 metres high to the eaves and 4.4 metres high overall. The building will be formed of three parts. The northern-most section will measure 6 metres wide and 6 metres deep, the whole building will then step in 1 metre to the east, with the second section measuring 6 metres deep and 5 metres wide; the building steps in again by 1 metre to the east with the third section measuring 6 metres deep and 5 metres wide. There will be a covered porch over the front door measuring 2.9 metres wide and 1 metre deep.
- 3.1.4 In terms of materials, the walls will be made of timber weatherboarding to match the existing car port, the roof will use slate tiles, the windows will be double glazed and made of timber and the doors will be timber and glazed.
- 3.1.5 The development will have one bedroom with an en-suite, a wet room, a sitting room and a kitchen/dining room. The supporting statement states that the occupiers of the development will rely on the main dwelling for clothes washing facilities.
- 3.1.6 A supporting statement has been submitted with the application justifying the need for the development and setting out the current family situation and why the development is the most suitable option.

#### **3.2 Conclusion**

- 3.2.1 It is considered that, due to the level of accommodation proposed within the development, its location within the site and that it will be occupied independently to the main dwelling, it is not considered to be an ancillary building and therefore the proposal is considered to relate to a new dwelling rather than annex accommodation. It is therefore considered that, due to the location of the proposal outside of the defined settlement boundaries, the proposed development would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site, representing the sprawl of built form outside of a defined settlement boundary. Furthermore, the site would be disconnected from any existing settlement and by reason of its location, it would provide poor quality and limited access to sustainable and public transportation and would have limited access to services and facilities, to the detriment of the future

occupiers of the dwelling. The development would therefore be unacceptable and contrary to policies S1, S8, D1, H4 and T2 of the Maldon District Local Development Plan (MDLDP) (2017) and Government advice contained within the National Planning Policy Framework (NPPF) (2019).

#### **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
- 54-57 Planning conditions and obligations
- 59-79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

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

- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD
- Maldon District Vehicle Parking Standards SPD

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 The proposal relates to the provision of annex accommodation in a detached outbuilding to the north east of the dwelling on the site, which would include one bedroom with an en-suite, a wet room, a sitting room and a kitchen/dining room. There would be no clothes washing facilities within the annex and therefore the occupiers of the annex would rely on the main dwelling for this.
- 5.1.2 It is a conventional expectation that annex accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities and for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annex.
- 5.1.3 The proposed development would be located 20.2 metres from the host dwelling. Due to this distance, this is considered to erase any visual link between the dwelling and the proposed development. This is further exacerbated by the fact the dwelling and the development would be separated by a row of trees and therefore this creates a physical separation between the two. Therefore, the physical separation gives the sense of two separate curtilages. Whilst it is noted that it would be located within the residential curtilage of the site, the site has an open frontage and therefore it is considered that a subdivision of the site could occur.
- 5.1.4 Given that the development is separate to the main dwelling, concerns are raised in relation to the creation of a separate planning unit; this is exacerbated by the level of accommodation proposed which is considered to go beyond satisfying the functional needs of the occupier of an annex and the proposal could represent a self-contained unit of accommodation. The presence of primary accommodation within the proposed development does not necessarily mean that it would not be occupied as ancillary to the main dwelling, however due to the concerns raised in relation to the siting of the development and the possible separation between the main dwelling and the proposed development, it is not considered that it has been sufficiently demonstrated that it would be used ancillary to the host dwelling. The supporting evidence submitted with the application states that it would be occupied by the elderly parents of the occupiers of the main dwelling and that the only link between the annex and the main dwelling would be for clothes washing facilities and therefore it is considered that there would be a very limited relationship between the annex and the main dwelling in a functional way. It therefore appears that the development will be occupied independently of the main dwelling and therefore, it cannot be considered as an annex. The statement considers that the potential occupiers wish to maintain their independence as much as possible, with support only needed when their health eventually deteriorates. This indicates that the provision of accommodation is more for the convenience of the occupiers of the main dwelling rather than significant need benefiting the potential occupiers of the proposed development, which therefore supports the concern regarding the creation of a separate planning unit.
- 5.1.5 Having regard to the above, it is not considered that the proposal relates to a building that would be used ancillary to the existing dwelling on the site, due to its location, level of accommodation and that it would be occupied independently to the main

dwelling and therefore it is considered that the proposal relates to a new dwelling and the application will therefore be assessed as such.

- 5.1.6 Policies S1, S2 and S8 of the approved MDLDP seeks to support sustainable development within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.7 Policy S8 of the LDP indicates that outside defined settlements housing will not normally be allowed and that the landscape will be protected for its own sake. The site is outside the development boundary and is in the countryside for purposes of the application of planning policy. As such the proposal is in conflict with the approved policies. Policy S8 also includes a list of acceptable forms of development within the countryside which does not include new market dwellings.
- 5.1.8 The abovementioned policies are in compliance with the NPPF which, in order to promote sustainable development in rural areas, suggests that housing should be located where it will enhance or maintain the rural communities, such as small settlements. It is also stated that local authorities should avoid new isolated residential developments in the countryside, unless special circumstances indicate otherwise.
- 5.1.9 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the LDP which emphasises the need for sustainable development.
- 5.1.10 In economic terms, it is reasonable to assume that there may be some support for local trade from the development. This would however be extremely limited given the scale of the proposal of one dwelling. Equally, there is no guarantee that the limited construction works required for this development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minor.
- 5.1.11 In social terms, Dengie is identified as an 'Other Village' which is described as a rural village with no defined settlement boundary. It has no immediate access to public transport, employment opportunities, retail or education facilities. It is therefore considered to be located within an unsustainable location in this regard.
- 5.1.12 The environmental strand of sustainability will be assessed in the report below.
- 5.1.13 On the basis of the information provided, the proposal would not fall within any of the categories listed within policy S8 and is considered to be situated within an unsustainable location. It is therefore considered that the principle of development would be unacceptable unless material considerations outweigh this presumption.

## **5.2 Housing Need**

- 5.2.1 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units. The Council therefore, encourages, in Policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated SHMA, published in June 2014, identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% for three-bedroom plus units. The proposed dwelling will not make a significant contribution to the District's Housing Need, but it will result in the contribution of one dwelling. However, it is not considered that the provision of one residential unit would contribute substantially enough to the District's housing need as to justify residential development within the countryside.
- 5.2.2 In addition to the above, the Council has an up-to-date development plan which will generally deliver the housing required. As part of its Five-Year Housing Land Supply Statement, the Council has published information on its potential housing supply (5 year supply of housing plus an additional 5% buffer as required by the NPPF). The statement provided evidence that the Council is able to demonstrate a housing land supply in excess of five years against its adopted targets and therefore, meets the requirements of the NPPF in terms of housing delivery. Thus, the authority is able to meet its housing need targets without recourse to allowing development which would otherwise be unacceptable.

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

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*
- “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.*
- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

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

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

5.3.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.

5.3.6 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, policy D3 of the approved MDLDP states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

5.3.7 The proposal would result in a form of residential intensification by creating a detached dwelling within the grounds of Bacons Cottages, which would be visible from Glebe Lane. The proposed dwelling would be located 20.2 metres northeast of the existing dwelling on the site and there are no other immediate neighbouring properties. Whilst it is noted there are other buildings within the land owned by the occupiers of Bacons Cottages, these are buildings used in relation to the dwelling of Bacons Cottage, consisting of a cart lodge, outbuilding and stables and therefore they are not considered to have the same visual impact as the erection of a dwelling. The proposed development would cause material harm to the character and openness of the countryside by resulting the domestication and urbanisation of the site and the sprawl of built form beyond the settlement boundary. The intrinsic character of the countryside is that it should be open and free from unnecessary development. Erecting a dwelling in this location would therefore erode the character and appearance of the site and represent the intrusion of residential development into the site. The erection of a dwelling would therefore cause the sprawl of development and would be visible from Glebe Lane to the south and as such it is considered that the

dwelling would have a visual impact on the countryside that is contrary to the policies of the LDP.

- 5.3.8 Notwithstanding the concerns regarding the location of the proposed development, its overall design, fenestration and use of materials could be found acceptable when viewed in isolation.
- 5.3.9 Whilst it is noted that the Council's Conservation Officer has not objected and that the proposal would not cause significant harm to the listed building, this is not considered to outweigh the harm identified above.

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

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that the development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The proposed dwelling would be located over 20 metres from the existing dwelling on the application site, with a row of trees in between. Whilst it cannot always be ensured that these trees will remain, due to the separation distance and the proposed dwelling being single storey, it is not considered that it would have a significant impact in terms of a loss of light or a loss of privacy to the existing dwelling.
- 5.4.3 There are no other immediate neighbouring dwellings and therefore there are no concerns in relation to the impact on the residential amenity of neighbouring sites.
- 5.4.4 It is considered that the future occupiers of the proposed dwelling would have acceptable living conditions and would not be overlooked or overshadowed by the existing dwelling on the site, due to the separation distance of over 20 metres.

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

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

the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

5.5.3 The existing site provides sufficient parking for at least three vehicles, for the existing dwelling and the additional bedrooms in the proposed dwelling. Therefore, there is no objection to the level of car parking provided.

5.5.4 There are no alterations proposed to the access of the site.

## **5.6 Private Amenity Space and Landscaping**

5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.

5.6.2 The proposal would result in some loss of amenity space. However, there is sufficient private amenity space situated to the rear of the existing dwelling which is in excess of the required standards. Therefore, there is no objection in this regard.

## **5.7 Ecology and Impact on Designated Sites**

5.7.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.

5.7.2 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).

5.7.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.

5.7.4 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

5.7.5 In terms of off-site impacts, Natural England have advised that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new

residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered ‘in combination’ with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. Natural England advise that Maldon District Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

- 5.7.6 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘Zones of Influence’ of these sites cover the whole of the Maldon District.
- 5.7.7 Natural England anticipate that, in the context of the local planning authority’s duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered ‘alone’ or ‘in combination’. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiply Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.8 Prior to the RAMS being adopted, Natural England advised that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – Natural England has provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.7.9 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £122.30 per dwelling.
- 5.7.10 To accord with Natural England’s requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a ‘Likely

Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test (see APPENDIX 1)

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

Does the planning application fall within the specified development types? Yes

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

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

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

Summary of Appropriate Assessment – as a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account that Natural England's interim advice is guidance only, it is not considered that mitigation, in the form of a financial contribution, is necessary, in this case.

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

## **5.8 Other Material Considerations**

- 5.8.1 It is noted that it would not be considered reasonable or necessary to condition the development to be used ancillary to the main dwelling as it cannot be considered an ancillary development, due to the level of accommodation provided, its location within the site and that it would be occupied independently to the existing dwelling on the site. It is therefore considered that a condition in regard to the building being used ancillary to the main dwelling would not meet the six tests, as set out within the PPG and the NPPF and therefore cannot be included.
- 5.8.2 Whilst the Council is sympathetic to the situation of the occupiers of the dwelling and their relatives and regard is had to the justification within the supporting statement, it is not considered that the justification provided justifies the harm identified within the assessment above.
- 5.8.3 The Council's Environmental Health team have requested conditions in relation to surface water drainage and foul drainage. It is noted the plans submitted with the application state that a Biodisk package treatment plant will be used for foul drainage. However, a condition requiring this to be carried out would be included if the application were to be approved. No details regarding surface water drainage have been submitted, however the site is surrounded by a large expanse of fields and therefore details in relation to surface water drainage are not considered necessary.

- 5.8.4 The Council's Conservation Officer has recommended conditions in relation to samples of the materials to be submitted. If the application were to be approved, this would be included in order to protect the special character of the listed building on the site.

**6. ANY RELEVANT SITE HISTORY**

- **FUL/MAL/03/00850** – Change of use of land to paddock incorporating the erection of stabling for 2 horses, incorporating small hay store & tack room for private use only – Approved
- **LBC/MAL/03/01187** – Internal and external alterations and replacement of windows – Approved
- **FUL/MAL/04/00187** – Amendment to siting and size of stables (FUL/MAL/03/00850) – Approved
- **FUL/MAL/04/00766** – Outdoor riding arena in field behind stables. 40m x 20m, against existing fence line. – Approved
- **FUL/MAL/06/00697** – Retention of floodlighting to outdoor riding arena – Approved

**7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Asheldham and Dengie Parish Council	No response	N/A

**7.2 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objections subject to conditions	Comments noted
Conservation Officer	The proposal would cause some minor harm to the setting of the listed building due to the erosion of the rural setting. However, the impact is limited by the modest scale of the annex, its distance from the dwelling and the intervening vegetation. The design of the building is unusual but the use of slate and timber cladding reference the materials on the dwelling.	Comments noted.

Name of Internal Consultee	Comment	Officer Response
	<p>The annex poses a minor conflict with the requirement to preserve the setting of listed buildings but could be outweighed by public benefits.</p> <p>No objection subject to a condition requiring samples of weatherboarding and slate to be submitted.</p>	

### 7.3 Representations received from Interested Parties

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

Supporting Comment	Officer Response
<p>Strongly support this application</p> <p>Both MDC and national government have a policy of marking housing provision for the elderly and encouraging care at home. These aims are what the application seeks to achieve. Family can care and support each other, allowing independence for longer.</p> <p>The siting, scale and design of the new building will blend in well with the surrounding area. It will not visually impact on Bacons Cottages.</p> <p>It has no adverse impacts on neighbours.</p>	<p>Comments noted.</p> <p>There is no objection to the principle of having annex accommodation. The concerns are set out in section 5.2.</p> <p>See section 5.2.</p> <p>See section 5.3.</p>

## 8. REASON FOR REFUSAL

- The application site lies outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the character of the area and have an unacceptable visual impact on the countryside through

the urbanisation and domestication of the site, representing the sprawl of built form outside of a defined settlement boundary. Furthermore, the site would be disconnected from any existing settlement and by reason of its location, it would provide poor quality and limited access to sustainable and public transportation and would have limited access to services and facilities, to the detriment of the future occupiers of the dwelling. The development would therefore be unacceptable and contrary to policies S1, S8, D1, H4 and T2 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.

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## APPENDIX 1

### Stage 1 of the HRA

Application No:	<b>FUL/MAL/19/00782</b>
Location:	Bacons Cottages, Glebe Lane, Dengie
Proposal:	Construction of annex for occupation by family members
Consultation Expiry Date:	29.08.2019
Application Expiry Date:	09.10.2019
Parish Council Response:	No response
Case Officer:	Louise Staplehurst
Recommendation:	<b>REFUSE PLANNING PERMISSION</b>

### Site Description

The application site is located on the north side of Glebe Lane, outside of any defined settlement boundary. The dwelling on the site is a grade II listed building and is situated towards the south boundary of the site, adjacent to the road. Bacons Cottages were built in the mid/late 19<sup>th</sup> century as a row of three, two-storey timber-framed and weather boarded cottages; however, they have been converted into one dwelling. A detached brick outbuilding is located to the west of the cottages, with a recent cart lodge addition to the east of the site. The site is within an isolated rural location, with no immediate neighbours.

### The Proposal

The application seeks permission for an outbuilding to be used as an annex by family members of the occupants of the main dwelling.

The development will be of a staggered design. In total, it will measure 16 metres wide, 8.1 metres deep, 2.5 metres high to the eaves and 4.4 metres high overall. The building will be formed of three parts. The northern-most section will measure 6 metres wide and 6 metres deep, the whole building will then step in 1 metre to the east, with the second section measuring 6 metres deep and 5 metres wide; the building steps in again by 1 metre to the east with the third section measuring 6 metres deep and 5 metres wide. There will be a covered porch over the front door measuring 2.9 metres wide and 1 metre deep.

In terms of materials, the walls will be made of timber weatherboarding to match the existing car port, the roof will use slate tiles, the windows will be double glazed and made of timber and the doors will be timber and glazed.

The development will have one bedroom with an en-suite, a wet room, a sitting room and a kitchen/dining room. The supporting statement states that the occupiers of the development will rely on the main dwelling for clothes washing facilities.

A supporting statement has been submitted with the application justifying the need for the development and setting out the current family situation and why the development is the most suitable option.

Due to the location of the development, the level of accommodation proposed and that it would be occupied independently to the main dwelling, it is not considered that the proposal relates to a building that would be used ancillary to the existing dwelling on the site and therefore it is considered that the proposal relates to a new dwelling and the application will therefore be assessed as such.

### **Assessment**

The Conservation of Habitats and Species Regulations 2017, section 24 (Assessment of implications for European sites) states that:

*Where it appears to the appropriate nature conservation body that a notice of a proposal under section 28E(1)(a) of the WCA 1982 relates to an operation which is or forms part of a plan or project which -*

*(a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and*

*(b) is not directly connected with or necessary to the management of that site,*

*they must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.*

Where any plan or project may have a “likely significant effect” (LSE) on a European site (as in this case) the HRA process must be followed. This is generally considered to consist of four stages which are:

1. Screening for an LSE
2. Appropriate Assessment (AA) and the Integrity Test
3. Alternative Solutions
4. Imperative reasons of overriding public interest (IROPI) and compensatory measures

The proposal falls below the threshold of that which would receive bespoke advice.

Therefore, the proposed works were considered against the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 by Maldon District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

The Local Planning Authority have carried out screening for a likely significant effect and it is considered that due to the proposal only relating to one dwelling and that there would be limited additional residential activity, it is not considered that there would be a likely significant effect on any designated sites. Therefore, having carried out a ‘screening’ assessment of the project, the competent authority has concluded that the project would not be likely to have a significant effect on any European site, either alone or in combination with any other plans or projects (in light of the definition of these terms in the ‘Waddenzee’ ruling of the European Court of Justice Case C – 127/02) and an appropriate assessment is not therefore required.

### **Conclusion**

The Competent Authority hereby determines that the development would not be likely to have a significant impact on the designated sites and therefore, further assessment is not required.



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

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
7 OCTOBER 2019**

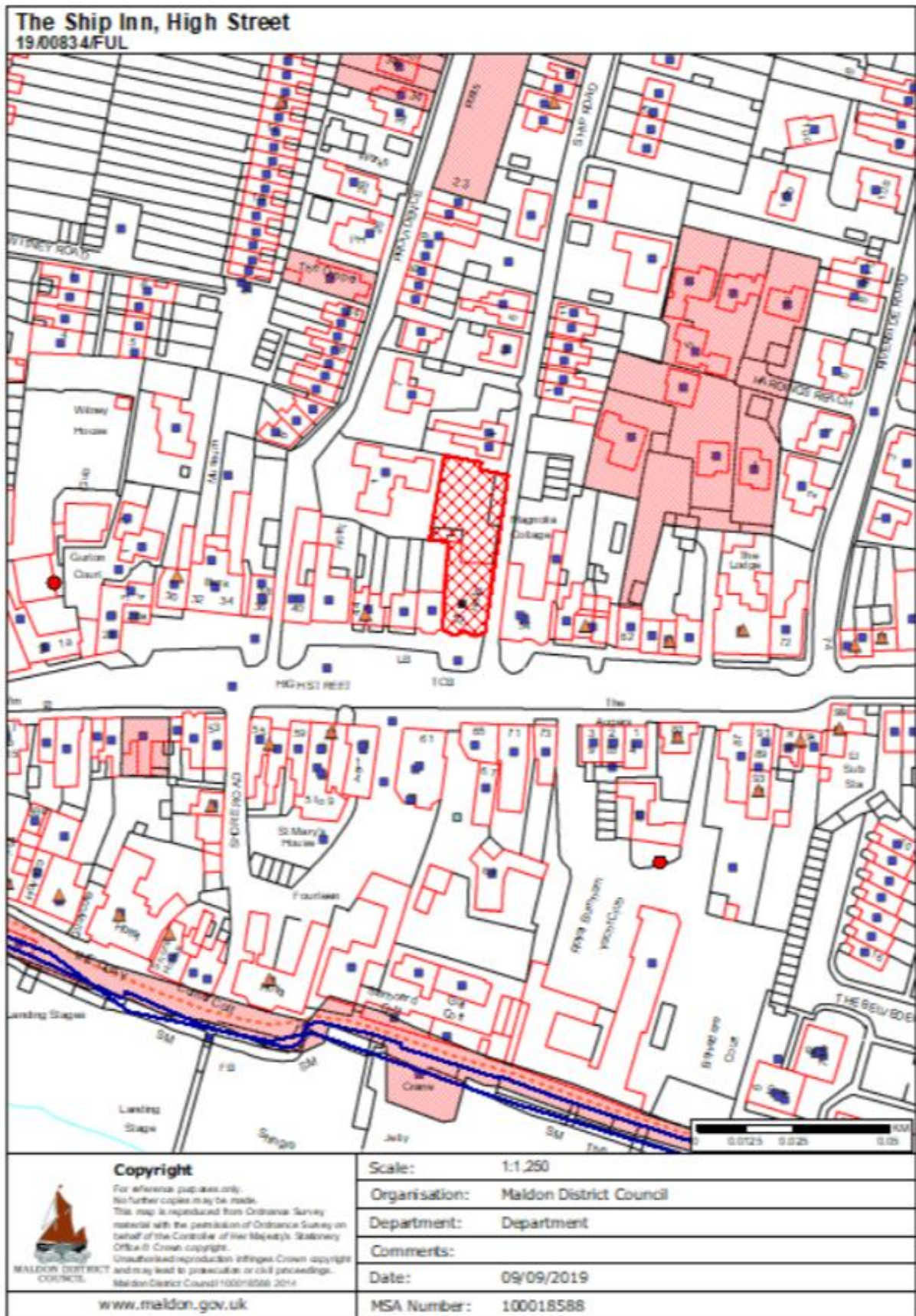
<b>Application Number</b>	<b>FUL/MAL/19/00834</b>
<b>Location</b>	The Ship Inn, 52 High Street, Burnham-On-Crouch
<b>Proposal</b>	Section 73A application for the Installation of a replacement extractor fan, and the installation of a sky dish at the rear of the property.
<b>Applicant</b>	Justin Cracknell
<b>Target Decision Date</b>	10.10.2019
<b>Case Officer</b>	Nicola Ward
<b>Parish</b>	<b>BURNHAM SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor W Stamp – Public interest as restrictions on ventilation causing harm to business and could be a safety issue.

1. **RECOMMENDATION**

**APPROVE** subject to the relevant condition in Section 8.

2. **SITE MAP**

Please see overleaf.



### 3. **SUMMARY**

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

3.1.1 The application seeks planning permission (under the terms of Section 73A of the Town and Country Planning Act 1990) for the erection of a satellite dish located on the side elevation of the building and an extractor fan located to the rear elevation. The satellite dish and extractor fan have been installed therefore, the application is retrospective in nature.

3.1.2 The application is a resubmission of approved application FUL/MAL/18/01141 and proposes no alterations to the previous application. Planning application FUL/MAL/18/01141 was granted subject to a number of conditions.

#### **3.2 Conclusion**

3.2.1 It is considered that in terms of the scale and appearance of the development has not resulted in any demonstrable harm to the character and appearance of the Conservation Area. The harm caused by the noise and disturbance can be mitigated by the imposing of conditions. It is therefore considered that the development is in accordance with policies D1, D3 and H4 of the LDP and the guidance contained in the National Planning Policy Framework.

### 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:**

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

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The principle of providing facilities in association with the commercial premises is considered acceptable in line with policies D1, D3 and H4 of the approved LDP.

#### **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”.*
- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will contribute positively towards the public realm and public spaces around development and contribute to and enhance local distinctiveness.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.2.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly Policy D3 of the approved LDP states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting- including its streetscape and landscape value.
- 5.2.6 The current application hosts no alterations in terms of the development, to the previously approved application reference: FUL/MAL/18/01141, therefore, the assessment findings remain the same.
- 5.2.7 The satellite dish due to its size would not alter the shape of the host building but the location of the dish, to the side elevation of the host building, would be slightly visible within the streetscene on the High Street and Ship Road. However, because it

would be well above eye level and be a relatively small addition to the building, it is not considered to result in such demonstrable harm to the character and appearance of the Conservation Area to warrant refusal. Furthermore, historic photographs indicate that a satellite dish has been located within the same position since 2009 which would therefore indicate that the satellite dish could be immune from enforcement action.

- 5.2.8 It is considered that the extractor fan is a typical feature commonly associated with public houses that serve food. Whilst the unit is not considered to be of any architectural merit, it is located to the rear of the public house with little to no views from the public domain. Therefore, on balance, it is considered that in terms of the extractor fan appearance and impact, it is considered to result in no detrimental harm to the character and appearance of the conservation area.
- 5.2.9 In addition, the Conservation Area Officer has raised no objection to the development.
- 5.2.10 Overall, it is considered that the development, by means of its scale and style is acceptable in its setting and does not detract from the appearance of the locality, nor the character and appearance of the Conservation Area. Therefore, the development is considered to comply with the stipulations of policy D1, D3 and H4 of the LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 Concerns have been raised regarding the impact on the amenity and living conditions of adjoining residents. At the time of the last application it was considered that the harm could be mitigated through the imposition of conditions on the granting of any planning permission. This was primarily in relation to the operating hours and limiting the speed of the fan.
- 5.3.3 Condition 1 of permission FUL/MAL/18/01141 stated:
- ‘The extraction system hereby approved shall only be operated during the following times:  
Monday to Saturday (inclusive) – 10:00 until 22:00  
Sunday – 10:00 until 21:00 hours.’*
- 5.3.4 Condition 2 of permission FUL/MAL/18/01141 stated:
- ‘The  $LA_{eq,5\text{ minute}}$  arising from use of the extraction system hereby approved shall not exceed 55dB(A) at any time when measured at a height of 3.5 metres and a distance of 2m from the plant.’*
- 5.3.5 Whilst this has not formally been submitted as part of the application the Applicant has raised the current proposal is seeking to remove these conditions and to allow a more generous planning application.
- 5.3.6 It is reasonable for occupiers of adjoining residential properties to expect a level of amenity that allows them to enjoy their properties. At quiet times such as early

mornings, weekends and night times due to the lack of background noise, noise generated from the extractor fan can be much more of a disturbance. However, it is an accepted point of planning law that when a condition can be imposed to overcome the harm then this is the correct approach to be undertaken. The report from the Applicant has confirmed that when the fan runs at the limit imposed by the current condition, 55 d(A), there would be a 0dB difference between noise level of the plant and the background. However, if the fan was allowed to be used unrestricted, at full speed, it would exceed the background level by 15 dB(A) which would have a significantly adverse affect on the amenity of the neighbouring occupiers. It is also important to note that the submission also acknowledges there are ways of mitigating the harm.

- 5.3.7 After additional correspondence, during the application process, from the Applicant raising concern with the conditions already imposed the Council's Environmental Health team was consulted again and stated:

*"The reason for the condition applying some level of restriction on hours of operation of the extraction fan previously was for a number of reasons:*

- 1. The applicant's own acoustic report demonstrated that a significant impact existed for local residents if the fan was operated at higher speeds.*
- 2. The applicant did not/could not seemingly install a silencer so noise levels were not demonstrated to be acceptable other than through restricting fan operating speeds.*
- 3. The applicant did not/could not physically restrict fan operating speeds on safety grounds through the implementation of a fan speed restrictor.*
- 4. This Department had identified from local resident complaint that the fan was capable of causing a statutory nuisance and no changes other than "management control" through staff training and a promise to operate the fan at lower speeds was proposed at the time of application because of the aforementioned apparent inability to impose a technical/physical control.*
- 5. Without the reassurance of an engineered noise control, in order to protect the amenity of local residents conditions (2 of them) were requested to any permission granted. The one restricting hours was modified slightly I understand by Planning in order to better reflect the concerns of the applicant at the time.*

*The noise level restriction applied to the permission is an attempt to help provide some reassurance and a quantifiable "level" to help ensure that noise levels are not excessive from the use of the extraction in the absence of a speed limiter or silencer – both of the latter would have been my preference. However, the level contained in the condition is not likely to lead to "inaudibility" at the gardens of local residents and that will likely impact upon the amenity of those residents during the operating hours of the fan, but more so particular at quieter times such as early evening when during warmer weather a resident would reasonably expect to have a good standard of amenity and enjoyment of their garden. The provision of the "hours restriction" condition on top of a more fixed noise level was designed to give respite and guaranteed amenity time for local residents rather than simply suggesting that some level of noise from the fan should be acceptable whenever the pub sought to use it.*

*Given the generous hours of operation already afforded in the permission and the lack of extra reassurances/technical information provided by the applicant at this re-*

*application I have no grounds to suggest anything different to that made at the previous application.*

*I reiterate that the test of impact upon amenity for Planning purposes is a lower threshold than for determination of a statutory nuisance. Consequently, the planning system and any decisions made should not rely upon subsequent “noise complaints” and the statutory nuisance regime to remedy problems that may occur after grant of a permission.”*

- 5.3.8 The Council is required to take a pragmatic approach to the determination of planning applications and there is a need to balance both the needs of a business against the reasonable expectations of a resident to enjoy their dwelling; this is often a difficult task to achieve. Notwithstanding this, the Council is keen to take proactive measures to ensure that commercial activity is able to take place effectively and unrestricted within the District. The Applicant has stated that the current two conditions imposed are too onerous and would have a detrimental impact on the long-term viability and vitality of the business. The Council acknowledges that any restriction can be problematic, but this needs to be weighed against the Applicant’s own submission that acknowledges that an unrestricted use will have an unacceptable impact on the amenity of the adjoining residents, the fact that there are other forms of mitigation available and also the material consideration that is the extant permission.
- 5.3.9 With this in mind, it is considered reasonable to consider other ways of mitigating the harm, rather than through restricting the operation, both in terms of speed and hours, of the plant equipment. With this in mind it is considered that a condition could be imposed that would ensure that the harm to the neighbouring properties is mitigated through technical methods. This would allow the Applicant to either implement this permission and mitigate the harm of the unrestricted use or to implement the previous permission but with the restrictions imposed.

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

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

opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.4.3 The proposed development has not altered the current parking provision on site or the number of bedrooms at the application site. Therefore, there are no concerns in relation to parking.

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

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
<b>FUL/MAL/96/00502</b>	Refurbishment alterations and extension to existing public house/hotel and demolition of dilapidated outbuildings	Approved
<b>CON/MAL/96/00503</b>	Refurbishment alterations and extension to existing public house/hotel and demolition of dilapidated outbuildings	Approved
<b>FUL/MAL/18/01141</b>	Installation of a replacement extractor fan to existing commercial kitchen and installation of satellite dish at the rear of the property	Approved

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

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham Town Council	No Comment received at the time of writing the report.	Comments noted

### 7.2 **Representations received from internal consultation**

<b>Name of internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Conservation Officer	No Objection	Comments noted
Environmental Health Officer	This is a resubmission of an application for which planning permission was granted previously (FUL/MAL/18/01141) with appropriate conditions applied to it. It appears that this application differs only in that the local MP has suggested re-submission to request removal of the time restriction on extraction fan operation. There is nothing in this	Comments noted

Name of internal Consultee	Comment	Officer Response
	submission for consideration which suggests why the conditions previously applied should be removed, or are unduly restrictive, and consequently I do not consider that there is reason to suggest deviation from the conditions previously applied.	

### 7.3 Representations received from Interested Parties

7.3.1 No letters of representations have been received.

### 8. PROPOSED CONDITION

1. The extraction system hereby permitted shall be removed and all materials shall be removed within 3 months of the date of this decision if the noise level (rating level LAeq) arising from the extraction system, when assessed from any noise sensitive dwelling, is not at least 5 dB(A) below background (LA90) at all times. The method of assessment will be in accordance with BS4142 methodology. The equipment shall be maintained in good working order and shall at no time in the future shall the noise level (rating level LAeq) arising from the extraction system, when assessed from any noise sensitive dwelling, exceed 5 dB(A) below background (LA90)”  
REASON To protect the amenities of neighbouring residents in accordance with policies D1 and D2 of the Maldon District Local Development Plan.

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

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
7 OCTOBER 2019**

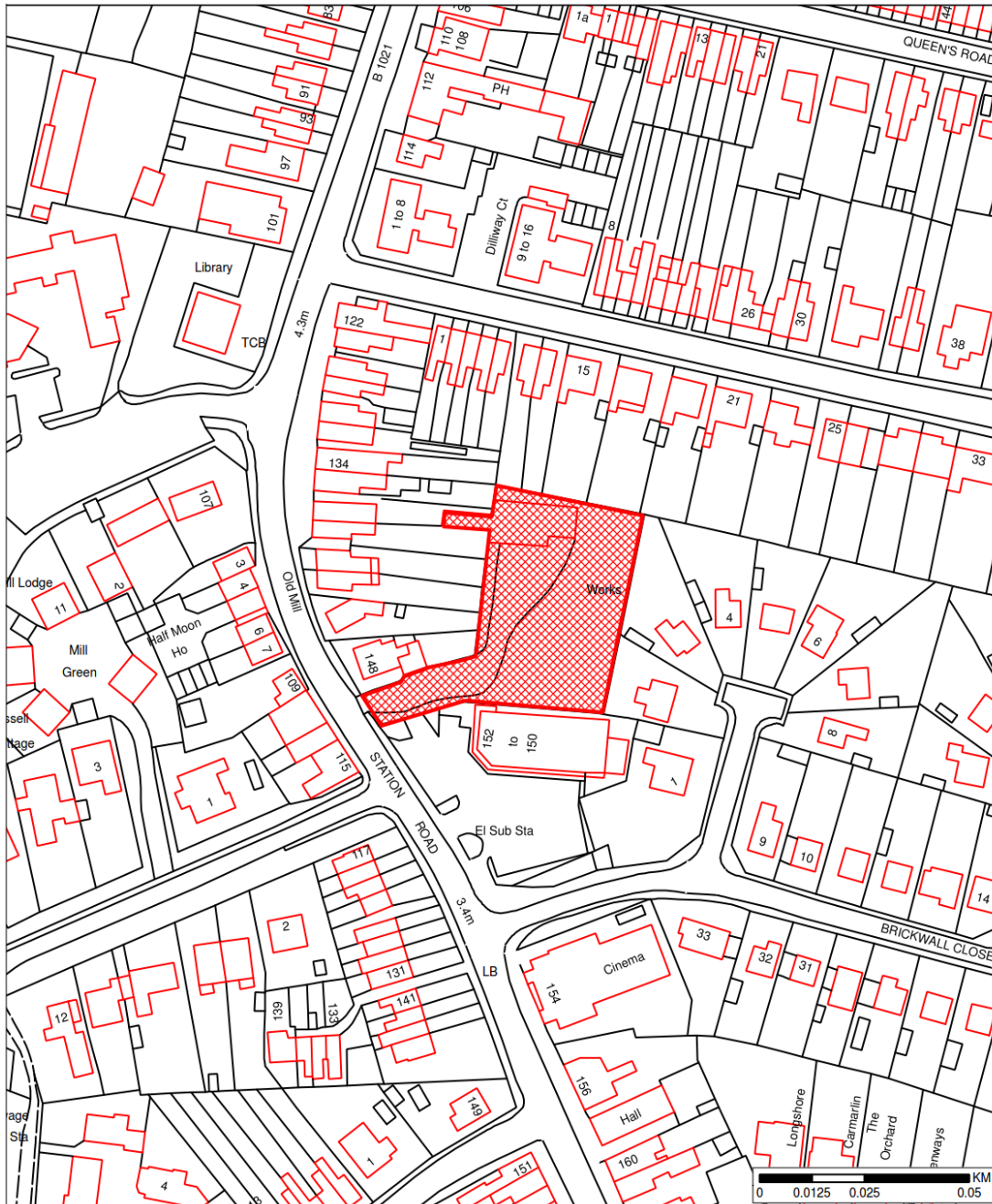
<b>Application Number</b>	<b>FUL/MAL/19/00841</b>
<b>Location</b>	Land Rear Of 148 Station Road, Burnham-On-Crouch, Essex
<b>Proposal</b>	Proposed change of use from Class B1 and B2 to Class C3, demolition of existing industrial building and erection of 5 new residential dwelling houses, ancillary development and landscaping
<b>Applicant</b>	Mr Levy - Countryside Style Ltd
<b>Agent</b>	Chris Wragg - Arcady Architects Ltd
<b>Target Decision Date</b>	27.09.2019 (EoT agreed: 11.10.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Previous Committee decision

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee

Date: 29/08/2018

MSA Number: 100018588

### **3. SUMMARY**

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

##### *Site description*

- 3.1.1 The site is almost a rectangular parcel of land located to the rear of Tesco Express on Station Road, abutting the rear gardens of dwellings along Western Road, Station Road and Brickwall Close. Access to the site is gained via a service road off of Station Road.
- 3.1.2 The site currently contains a single storey part flat, part pitched roof building, which according to the Design and Access Statement submitted was used as a rubber factory. A large part of the site is currently covered by overgrown grass and shrubs, whilst there are parts that are hard surfaced.
- 3.1.3 The site abuts the Burnham-on-Crouch conservation area to the southwest. The site is adjacent the historic town and historic buildings are sited opposite the site. The site is accessed by Station Road, a main historic route that is part of the historic High Street and route to the mid Victorian Railway Station.
- 3.1.4 Station Road is mixed in character, comprising a variety of residential and commercial uses, mainly at ground floor. Although the dwelling adjacent to the site access is a chalet style dwelling, the majority of the properties along this section of Station Road are three storey properties. The Tesco store on the other side of the site's entrance has been designed with a low level flat roof.
- 3.1.5 Western Road is characterised by a mixture of house types and community buildings fronting the street, with small front gardens including bungalows, some with roof accommodation, two and three storey dwellings. The buildings are representative of the Victorian, Edwardian, inter-war and post-war eras.
- 3.1.6 Brickwall Crescent is a fairly modern cul-de-sac development with mainly chalet style dwellings set centrally in large plots with deep front gardens.
- 3.1.7 The access of the site and the southernmost part of the site lie within Flood Zone 3. Flood Zone 2 extends further towards the north, but the majority of the application site sits within Flood Zone 1.

##### *Description of proposal*

- 3.1.8 Planning permission is sought for the change of use of the site from rubber factory (B2/B1 use class) to residential (C3 use class), the demolition of the existing industrial building and the erection of five two-storey dwellings, with associated off-street parking, amenity areas, cycle and bin stores and landscaping.

3.1.9 The application is a resubmission following the dismissal of an appeal (application reference FUL/MAL/17/01480, appeal reference: APP/X1545/W18/3216601) for a similar development that sought permission for erection of a two-storey block of ten flats. The appeal was refused due to the unacceptable impact of the development on the character and appearance of the area.

3.1.10 Although the principle of the current proposal remains the same, which is for the residential development, it has been amended in terms of the number and types of residential units proposed, the details of which are as follows:

- Plots 1 and 2 would form a pair of semi-detached dwellings, with a front projecting gable running in a north-south direction linked vertically with a gabled roof running in an east-west direction. The properties would have front open porches and fenestration incorporating lintel detailing. The properties would have a maximum width of 10.1m and depth of 9.8m. The eaves height would be at 5.3m and the maximum height would be 8.6m. The dwelling at Plot 1 would be a three-bedroom dwelling, with an internal floor area of around 94.8sqm and an amenity space measuring 180sqm. The dwelling at Plot 2 would be a two-bedroom dwelling, having an internal floor area of 79sqm and amenity space measuring 99sqm.
- Plots 3 and 4 would also be a pair of semi-detached properties, with a main gabled room running in an east-west direction. The properties will be of a simple design with front open porches, fenestration incorporating lintel detailing and varying materials between first and ground floor. In terms of external dimensions, the dwellings would measure, 10.5m wide and 8.8m deep, with a maximum height of 8.2m and an eaves height of 5.3m. Both properties would be two-bedroom dwellings, measuring internally 79sqm and being provided with an open amenity space of 92sqm.
- Plot 5 would accommodate a detached two-storey, three-bedroom dwelling, with a hipped roof. The property would measure, 5.8m wide, 9.8m deep, 5.3m high to the eaves, with a maximum height of 8.6m. The site would benefit from a garden measuring around 177sqm.

3.1.11 Parking for the proposed dwellings would be provided in the form of a car park at the front of the properties along the southern boundary of the application site. Two parking spaces per dwelling are proposed to be provided, plus an additional visitor space. It appears from the submitted plans that all properties would have cycle stores.

## **3.2 Conclusion**

3.2.1 The proposed development is a resubmission of an application for residential development, following the dismissal of an application for the erection of a block of ten flats. The current application although different in terms of type of mass form, design and residential development proposed, is not considered to overcome the reasons for the previous dismissal. The development is considered to result in an unacceptable design, adversely impacting on the character and appearance of the area. This is considered to be

also indicative of the overdevelopment of the site and its unsuitability to accommodate the proposed level of development. Furthermore, no details in relation to the provision of sufficient sustainable urban drainage systems has been submitted with the application and thus, it cannot be secured that the development would be safe in terms of flooding. It is considered that the proposal would be unacceptable and contrary to the aims of the development plan.

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

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 80-82 Building a strong competitive economy
- 59-66 Delivering a sufficient supply of homes
- 91-94 Promoting healthy and safe communities
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 184 – 202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E1 Employment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

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

- Policy HO.1 – New Residential Development
- Policy EN.2 – New Development and flood Risk

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).
- 5.1.2 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that *"The Council will support sustainable developments within the defined settlement boundaries"*.
- 5.1.3 Policy HO.1 of the Burnham Neighbourhood Plan states that *"Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan."*
- 5.1.4 The site is located within Burnham-on-Crouch settlement boundary and in light of the above, it is considered that the provision of additional residential accommodation within a residential location, which lies within the defined settlement boundaries, is considered acceptable in principle.

#### *Employment*

- 5.1.5 As noted in the Design and Access Statement, the site was last in use as a rubber factory and therefore, whilst no longer in use, it still falls within employment land uses.

5.1.6 Policy E1 of the LDP states that “*Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:*

- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
- 2) The site would have a greater benefit to the local community if an alternative use were permitted; or*
- 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site’s existing and potential long-term market demand for an employment use.”*

5.1.7 In order for a development to be compliant with policy E1 it should meet one of the above requirements. The site was last in use as a rubber factory and according to details submitted as part of the previous application (FUL/MAL/17/01480), the site has been vacant since 2013. It was advised, as part of the previous application that the site was marketed for almost three years until 2016 and before it was purchased by the current applicant no interest was raised to purchase the site and use it for B2 purposes. Whilst the information previously submitted in relation to the marketing period and the interest expressed (an online advert from an estate agent has been submitted, which includes information in relation to the marketing period and the asking price) was limited, it was accepted that the site was marketed for a reasonable price. It is also evident, following a site visit, that the site has not been in use for a very long period.

5.1.8 The site is surrounded by mixed town centre uses and a large number of residential uses. An industrial use is considered being incompatible with its surrounding residential uses. A letter was previously submitted by the applicant, which put forward an argument that the site, if developed as a general industrial unit, in accordance with its lawful use, would potentially increase unacceptable levels of noise, pollution, smells and vehicle movements to the detriment of the residential amenities of the neighbouring occupiers. On the basis of the information previously submitted, as part of application FUL/MAL/17/01480, it was accepted that the use of the site for purposes that falls under B2 uses would result in detrimental impacts on the amenities of the neighbouring occupiers and thus, it was accepted that the loss of the existing employment use at this location would not be objected to, as it would comply with the requirements of policy E1.

5.1.9 The Inspector that assessed the proposal did not raise an objection in relation to the use of the site for residential purposes. It is therefore considered that the previous assessment would still be relevant to the current proposal, which proposes the conversion of the currently employment site to residential (albeit of a different type). Hence, the proposal would still be policy compliant.

*Effective use of land*

- 5.1.10 Policy H4 of the LDP suggests that infill development will be permitted if all the following criteria are met:
- 1) There is a significant under-use of land and development would make more effective use of it;*
  - 2) There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;*
  - 3) There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and*
  - 4) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*
- 5.1.11 The proposed development would reuse an existing employment site for residential purposes. It is therefore considered that the proposed use would be equally an effective use of the land to provide housing with a settlement boundary. Whilst the amenities of the neighbouring occupiers are discussed in detail below, it is considered that in terms of noise and disturbance, the proposed use would be less harmful to the amenities of the nearby occupiers, as it would result in a development compatible with the existing surrounding uses. The site is not designated as a site of local social, economic, historic or environmental significance and it does not involve any important landscape, heritage or ecological features. It is therefore, considered that the development would be compliant with policy H4 of the LDP.
- 5.1.12 Paragraph 118 of the revised NPPF states that decisions should give weight to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. This is also supported by policy S1 of the LDP. It is therefore considered that taking into consideration that the development would comply with policy E1, in terms of the loss of the existing employment land, it is considered that the principle of development would be acceptable and in accordance with the guidance contained in the NPPF and the policies of the development plan.
- 5.1.13 Policy S2 and S6 of the LDP identifies that the infrastructure of Burnham-on-Crouch is limited and therefore development above the identified limit of 450 dwellings will not be supported. In this instance, taking into consideration that the site constitutes a brownfield site that complies with the development plan policies and also the limited number of the dwellings proposed, the development is not expected to impose an additional burden of existing infrastructure to an extent that would justify the refusal of the application.
- 5.1.14 Although the Council can demonstrate housing supply in excess of five years, taking into account that the development would be located within the boundaries of the settlement boundary and it would result in a development compatible with the existing uses on site, no objection is considered reasonable to be raised in relation to the principle of residential development in this location. Nonetheless, in order for a development to be acceptable, it should comply with the aims of the development plan and also be sustainable against all

three aspects of sustainability. Thus, the rest of the material considerations relating to flood risk, the impact of the development on the amenity of the neighbouring and future occupiers, highways issues and impact on the character of the area are assessed below.

## **5.2 Housing Need and Supply**

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

### 5.3 Flood Risk

- 5.3.1 The site where the five dwellings are proposed to be located lies within Flood Zone 1; however, the access to the site, is within Flood Zones 2 and 3.
- 5.3.2 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.
- 5.3.3 Paragraph 158 states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”*
- 5.3.4 Policy D5 of the LDP states that the Council’s approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.
- 5.3.5 The proposed houses would be located in Flood Zone 1; however, consideration should be had to the ingress and egress point of the site, which sits in flood Zone 3. It is acknowledged that the residential development has been located in the part of the site that lies within the area of the lowest risk of flooding and for that reason, in this particular instance, it is considered unnecessary for the sequential test to be applied in a District wide level in terms of alternative sites in lower risk of flooding, given that the development (the dwellings) is located in such area.
- 5.3.6 Following the application of the Sequential Test, if not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. Whilst in this instance the development (the block of flats) would be located at Flood Zone 1, it is considered that all other considerations related to flood risk and the sustainability credentials and wider benefits of the proposal should be undertaken as part of the exception test.
- 5.3.7 In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:
- *it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*

- *a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

- 5.3.8 As discussed above the development would provide wider sustainability benefits to the community as it would contribute towards the District's identified need for smaller type of accommodation and a use that is compatible with its surroundings. The footprint of the buildings, as currently proposed, would be less than the previously submitted application, which was proposing the erection of a block of flats. A Flood Risk Assessment accompanies this application and although no response has yet been received by the Environment Agency or the Lead Local Flood Authority, it should be noted that no objection was previously raised for a larger application. Therefore, given that the development is located in the area with lower risk of flooding and for the reasons further discussed below with regard to safety of the development in its lifetime, it is considered that the Exception Test is passed.
- 5.3.9 The Environment Agency had previously raised no objection to the erection of a block of ten flats, considering that the site is currently defended by Shoreline Management Plan. The site is currently protected by flood defences with an effective crest level of 4.7m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.56m AOD. Therefore, the site is not at risk of flooding in the present-day. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change. The submitted FRA advises that the proposed dwelling would not be affected by floods up and including 1:1000 years plus climate change.
- 5.3.10 With regard to the access of the site, which lies within Flood Zone 3, a Flood Risk Assessment has been submitted including a Flood Risk Management Plan. A flood evacuation plan is recommended, which suggests that evacuation route should be formalised and agreed with the Emergency Services before being communicated to all residents. It is also recommended that residents are made aware of, and make use of, the Environment Agency flood warning service. In the event that escape is not possible, it is recommended that residents take refuge within the dwelling until such time that flood waters subside and they are instructed to leave by emergency services. The Flood Emergency Planner had previously requested that full details of the evacuation plan are submitted. This can be dealt with by condition.
- 5.3.11 The built-up and hard surfaced area would increase by the proposed development and therefore, to ensure that surface water is managed, a drainage strategy should be submitted.
- 5.3.12 It is noted that the Lead Local Flood Authority has been consulted for this application and an objection has been received for the following reasons:
- *No drainage information has been submitted therefore there may be an increased risk of flooding associated with the site*

- *Small sites should minimise the areas of hardstanding, where hard surfaces are necessary unlined permeable paving should be used.*
- *Discharge rates should be limited to the greenfield 1 in 1 year rate or 1l/s, whichever is greater, if it is deemed that is not achievable evidence must be provided before developers seek to achieve a 50% betterment minimum on existing run off rates for brownfield sites and the discharge rates should be limited close to greenfield 1 in 1 year rates.*
- *Where it is not possible to meet the greenfield 1 in 1 rate, rainwater re-use should be used to reduce the run off rate from the site, it should be demonstrated why this is not feasible if it is not proposed*
- *All areas of the site should receive sufficient water treatment and above ground features are preferable*
- *Maintenance plan - Prior to first occupation a maintenance plan detailing the maintenance arrangements should be submitted including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies*
- *Infiltration testing/ground investigation to assess the viability of using infiltration on site- there should be some ground testing for geology and then the worst case rates for that soil type should be used*
- *If the site is directing water to a single point of infiltration then we would need to see infiltration testing for that location. However if the water is being distributed evenly across the site as the rain lands on the ground then we do not require infiltration testing as it is mimicking natural processes.*
- *There is no drainage plan. A site layout, location of features, outfall location, conveyance should be included*
- *Exceedance flows should be considered to ensure potential off-site flooding is managed*
- *A 10% allowance for urban creep should be included within the storage calculations Engineering drawings should be provided detailing the SuDS components used within the drainage system*

5.3.13 In the absence of sufficient information to address the abovementioned matters, it is considered that it cannot be demonstrated that the site would be able to provide adequate ways of discharging surface water to avoid flood risk. Given that the site is located partially within flood zone 3 this is a matter that is pertinent to be addressed concurrently with the submission of an application rather than as part of a condition. Hence, an objection is raised in relation to the lack of sufficient information demonstrating that sustainable urban drainage systems are in place to avoid the risk of flooding.

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

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

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

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

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

- 5.4.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:

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

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

- 5.4.5 The is located in close proximity to the Burnham-on- Crouch Conservation Area and long views of the proposed development would be maintained from within the conservation area. In accordance with policy D3 of the LDP, development proposals that affect a heritage asset (whether designated or non-designated) will be required to preserve or enhance its special character, appearance, setting – including its streetscape and landscape value - and any features and fabric of architectural or historic interest.

- 5.4.6 The proposed development is located in a backland location to the rear of properties along Station Road, Western Road and Brickwall Close. Access to the site would remain unaltered via a service road off of Station Road, as currently provided for the industrial building that was previously used as rubber factory. This is an existing access and thus, no objection is raised in terms of its impact on the character and appearance of the area.

- 5.4.7 The area is mixed in terms of the size, style and design of the properties; however, as previously noted by the Inspector assessing the previous application, a degree of uniformity and openness is achieved, *“which, coupled with a range of roofscapes and mature landscaping, creates a pleasant suburban environment.”*
- 5.4.8 The site is currently occupied by a single storey part pitched, part flat roof building which is in poor condition, as it appears that it has been left vacant for several years. The building is currently located on the northwest corner of the development, whilst the proposal would mainly utilise the central and southern part of the site to retain the dwellings away from the areas within the higher risk of flooding.
- 5.4.9 It is accepted that the current proposal is materially different from the previous development that was dismissed on appeal, in terms of type of residential development proposed and the overall mass, form and design. Nevertheless, the previous Inspector’s assessment in relation to the impact of the development on the character of the area is still considered relevant and it should form the starting point for the assessment of the current application.
- 5.4.10 The Inspector has given consideration to the scale, layout and design of the previously dismissed development. It was in particular stated that *“the layout of the proposal would create a discordant form of development that appears to be forced into the north-eastern corner of the site in order to accommodate a large expanse of hardstanding for parking and turning areas. Consequently, despite the level of communal garden area provided, the proposal would nonetheless cover the majority of the site with built development resulting in a proposal that would dominate the site, giving it a constrained and cramped appearance, which is further exacerbated by the large areas of hardstanding. The development would result in material harm to the area by eroding and failing to respond to the more open and spacious character of the area.”*
- 5.4.11 Although the footprint of the currently proposed development has been decreased, in terms of the proposed layout, it is noted that the proposed dwellings would expand almost along the full width of the site, with minimal gaps (1.5m and 2m wide) being maintained between the proposed dwellings. This combination taken together with the two-storey height of the proposed dwellings is considered to result in an inappropriate layout and a discordant visual impact. Although it is acknowledged that the ground coverage of the previous development in comparison to the current development was greater, it should be considered that the continuity of the front elevation and mass of the building was broken down. The current proposal would effectively result in a long continuous front building line and two storey mass, providing limited articulation and openness to the site. Furthermore, the previously raised concerns in relation to the large expanse of the hardstanding, is not considered to be overcome, given that the area to the south of the proposed dwellings would be car dominated, providing the almost same amount of parking spaces. It should also be noted that no direct access to Plots 2, 3 and 4 can be provided due to the position of the parking spaces blocking the access to these units. All the above matters result in an unacceptable impact on the character of the area and are also indicative of the overdevelopment of the site.

- 5.4.12 Moreover, in relation to the layout of the proposed development, a poor relationship is achieved between Plots 4 and 5. Whilst the reason behind this relationship is understood (it is to address the impact of the development on the amenities of the neighbouring site at 3 Brickwall Close), it is considered that the forward position of this housing in relation to Plot 5, in such close proximity is also indicative of the unsuitability of the site to accommodate the amount of development proposed.
- 5.4.13 Although the number of units proposed on site has been reduced, consideration should be had to the fact that the previous proposal was for eight one-bedroom flats and two, two-bedroom flats, whilst the current proposal is for a mixture of three and two-bedroom dwellings, of which size and scale is materially different to small flats.
- 5.4.14 In relation to the elevational design of the dwellings, it is considered that although of simple design, the dwellings at Plots 1 to 4 would have an appropriate roof design, that would correspond to the prevailing roof design of properties in the surrounding area. Sufficient level of fenestration is proposed to be incorporated to all elevations, there would be variation to the use of finishing material and provision of detailing around the windows and between the first and ground floor, which would help with providing visual interest to these properties. However, concerns are raised in relation to the design of the proposed dwelling at Plot 5, which due to its position and relationship with the neighbouring dwelling at Plot 4 would result in a large expanse of a blank wall on the west elevation. This property would not blend well with the design of the properties at Plots 1 to 4 and it is considered would result in a detrimental impact on the appearance of the dwelling itself and character of the area. It is considered that the design is reflective of a desire to provide a level of accommodation that can be reasonably provided within the site and to not reflect a design led approach.
- 5.4.15 With regard to the impact of the development on the nearby conservation area, it is noted that although it is acknowledged that the development would be visible from within the conservation area, given its two-storey height behind a single-storey building (Tesco), on balance due to distance being maintained and the backland position of the development, it is not considered that an objection would be reasonable to be raised in that respect. It is noted that the Inspector previously considered that the impact of the block of ten flats would have a neutral impact on the conservation area. It is not considered that the current proposal would have a greater impact on the Burnham-on-Crouch conservation area.
- 5.4.16 In light of the above, it is considered that the development would materially harm the character and appearance of the area and would be contrary to the Policies S1, D1 and H4 of the LDP.

## **5.5 Impact on Residential Amenity**

- 5.5.1 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.

- 5.5.2 The proposal is to convert previously commercial land and erect five dwellings. Given the nature of the former use of the site, although the development would result in a level of activity from the future occupants of the dwellings, this would be likely to result in less activity and associated noise than the previous commercial use. Therefore, it would not result in a materially harmful impact on the residential amenity of the nearby neighbours, in terms of noise and disturbance and in some respect would represent an improvement.
- 5.5.3 The proposed development would be sited in close proximity to no. 3 Brickwall Close. Plot 5 would be sited around 8.5m away from this dwelling. The easternmost section of the dwelling would be positioned away from the outlook of the windows of no. 3 Brickwall Close. Although it is accepted that the development would have some impact on the amenity of the occupants of no.3, in terms of dominance, on balance, it is not considered that the impact would be such to warrant refusal of the application. The development, given its arrangement and its position against the eastern boundary, would not result in an undue sense of enclosure to the occupants of no. 3 Brickwall Close. With regards to overlooking, it is noted that the sole first floor window on the east elevation of the dwelling at Plot 5 would be a bathroom window, which will be glazed in obscure glass. Thus, the development would not result in loss of privacy or material increase in overlooking.
- 5.5.4 With regard to the properties to the north, unlike the previously dismissed development, the current proposal would maintain a minimum 25m separation distance to the northern boundary and thus, no objection is raised in terms of overlooking, overshadowing or dominance.
- 5.5.5 With regard to the properties to the west, a minimum of 23m separation distance would be maintained. This separation distance is considered sufficient to mitigate against any unacceptable loss of light or obtrusive impact. With regard to loss of privacy and overlooking, it is noted that similar to Plot 5, the dwelling at Plot 1 would only have an obscure glazed, first floor, bathroom window on the west elevation, which will protect the neighbour's privacy.
- 5.5.6 A single storey building is located up to the northwest boundary of the application site. This building is against the existing boundaries and therefore, it is unlikely that windows are located to its south, east and north elevations. Whilst the use of this building is unclear, due to its position, it is not considered that the proposed development would result in any adverse impact on this building, in terms of overshadowing or overlooking.
- 5.5.7 To the south the site abuts the Tesco store and as such, no further impacts on residential amenity are expected to be caused by the proposed development.

- 5.5.8 In light of the above, it is considered that the development would not have a detrimental impact on the character and appearance of the area and it would not detract from the character of the nearby conservation area.

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

- 5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 In terms of the access to the application site, the proposed development would utilise an existing access. The Highways Authority has been consulted and raised no objection to the proposed development. In particular it is stated that *"the Highway Authority is satisfied that the proposals will not represent an intensification in use of the site compared to its existing permitted use"*. It is therefore considered that subject to conditions the proposed access to the site would be acceptable and it would not result in an adverse impact on highways safety. Whilst dual use, the access is considered being wide enough (around 8.8m wide) to be able to provide a safe access to vehicles and allow sufficient space for pedestrians to enter and egress the site safely.
- 5.6.3 The proposed development would replace an existing rubber factory (B2 use class) with five residential properties. Taking into account the amount of development (a total of five residential units), it is considered that traffic movements would not significantly increase. Furthermore, if the site is developed as a B1/B2 use, it can potentially attract a very high volume of traffic movements in comparison to those generated by a residential development of ten dwellings. No objection is therefore raised in relation to the impact caused to the highway network from the potential vehicle movements. The Highways authority has been consulted and raised no objection in that respect.
- 5.6.4 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.

- 5.6.5 With regard to off-street parking, a total of eleven parking spaces are proposed to be provided, including one visitor parking space, to serve the development. The development is to provide three no. two-bedroom dwellings and two no. three-bedroom dwellings. A minimum of one parking space is required per new build dwelling in town centres and an additional visitor space for every four dwellings when communal car parking allocated to each dwelling is provided. The proposed development would provide two parking spaces per proposed dwelling, plus one visitor parking space. Plots 1 and 5 will benefit from an electric charging point adjacent to one of the designated parking bays. For communal residential parking areas, one charging point is required for every twenty spaces and thus, the development would be compliant with the requirements as set out within the vehicle parking standards. The proposed parking spaces would meet the standards as set out in the Vehicle Parking Standards SPD and a 6m distance between the parking spaces to allow adequate turning facilities within the site.
- 5.6.6 The proposal is also located in very close proximity to public transportation and local amenities. In particular it is noted that the closest bus stop is only 150m away from site and provides links with the surrounding towns and villages and the train station is only 0.4miles from the site. Many facilities are within walking distance of the site, including; school (950m), sports club(150m), supermarkets (10m), cinema (150m), library (150m), high street and river frontage with a variety of shops, pubs and restaurants and Yacht Club is around 350m away. It is therefore considered that the parking provision would be more than adequate and the development would not result in an increased demand in on-street parking.
- 5.6.7 Details of secure and covered cycle store have been submitted. Should permission be granted, the provision of cycle parking in accordance with the submitted details would have been secured by condition.
- 5.6.8 Each dwelling will have an allocated on plot storage for the discreet storage of waste and the details of the bin store have been submitted within the Design and Access Statement. Thus, no objection is raised in relation to the provision of refuse store.

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

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.7.2 The proposed dwelling would benefit from large enough rear gardens that meet the requirements as set out in Maldon Design Guide SPD. As such, no objection is raised in

terms of the provision of sufficient outdoor amenity space to meet the needs of the future residents.

- 5.7.3 Adequate light, outlook and ventilation will be provided to all habitable rooms of the proposed dwellings and as such, no objection is raised in terms of the living environment provided for the future occupiers.
- 5.7.4 The site is located to the north of the Tesco store and thus, higher levels of noise and disturbance are expected due to the commercial nature of the neighbouring site and the associated vehicle movements of customers and deliveries and noise generated by the necessary external plant and equipment. For that reason a noise assessment has been submitted to address these issues during the process of the application. Revised comments from the Environmental Health Department have been received and although there are some reservations about the approach the noise survey does still offer some reassurance over the conditions existing at the site. On that basis it is suggested that there are no grounds to recommend refusal of the application on these grounds. Officers are therefore satisfied that the neighbouring use would not materially harm the amenities of the future occupiers of the development.

## **5.8 Landscaping and Trees**

- 5.8.1 As noted above the proposed development would increase the amount of built-up area and hardstanding on site and for that reason replacement soft landscaping is considered necessary to soften the appearance of the development.
- 5.8.2 With regard to the loss of trees, the Arboricultural Officer as part of the previous application stated that there is only one tree which is a Pine, adjacent to the site which could be considered worthy of retention. A tree report and a tree protection plan have been submitted in support of the application. The report states that the building will be located far enough away from T2 (Pine), the only tree to be retained, which would be able to be protected from construction pressures. Protection measures are suggested within the report, including the installation of hard fencing and ground protection to protect the tree. It is therefore considered that subject to conditions to secure the protection of the only valuable tree on site, no objection is raised to the loss of the other two trees to accommodate the proposed development.
- 5.8.3 To compensate the loss, replacement trees are proposed to be planted. Additional landscaping is also proposed including planting of hedges in the periphery of the amenity area and amenity grass over the part of the open areas at the south part of the application site and the outdoor amenity area. On balance, it is considered that the amount of soft landscaping would be sufficient to improve the visual amenity of the site. Nonetheless, further details and a plant management plan would be required to be submitted and agreed in writing by the Local Planning Authority (LPA).

## **5.9 Ecology**

- 5.9.1 The NPPF (the Framework) 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.
- 5.9.2 Policy N2 of the LDP which states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”*
- 5.9.3 A Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (dated February 2018) accompanies the application, which states that the development is not expected to have an adverse impact upon statutory or non-statutory designated locations. Although no evidence of bats has been identified, it is probable that bats from nearby roosts will forage across the site and in the gardens of adjacent properties. This behaviour would be expected to continue after any building work has been completed and therefore it is considered that the planning proposal for this site will not have a detrimental effect on the local bat population. It is not considered reasonably likely that great crested newt or reptile species would be adversely affected by the development proposals given absence of potentially suitable habitats within the site. Furthermore, no evidence of badger activity was identified. Although it is not expected that the development would result in any adverse impacts on protected/priority species, it is considered that mitigation and enhancement should be adhered to.
- 5.9.4 A section including recommendations is included within the submitted Survey, including consultation of a pest control specialist prior to the commencement of the development, coverage of trenches overnight during construction, protection of nesting birds if identified during breeding season, provision of habitat boxes and relatively open boundaries in order to allow wildlife to radiate in the area. Subject to the development being implemented in accordance with these details, no objection is raised in relation to the impact of the development on protected or priority species or habitats.

## **5.10 Contamination**

- 5.10.1 Given the nature of the former use of the site as a rubber factory the potential of land contamination should be considered. To address that a Phase 1 Geo-Environmental Desk Study Report has been submitted with the application. This report identifies the need for further investigation, which according to the Environmental Health Department's comments it is considered that it can be dealt with by condition. On that basis, subject to the imposition of a condition for the carrying out of a phase 2 intrusive investigation prior to the commencement of the development, no objection is raised to the impact of the development on the future or neighbouring occupiers and other receptors, in terms of the undue contamination of the site.

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

- 5.11.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘zones of influence’ of these sites cover the whole of the Maldon District.
- 5.11.2 Natural England anticipate that, in the context of the local planning authority’s duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered ‘alone’ or ‘in combination’. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.11.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - Natural England have provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.11.4 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.11.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.11.6 To accord with Natural England’s requirements, a Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a ‘Likely

Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

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

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

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

Test 2 – the integrity test

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

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

5.11.7 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. Natural England does not need to be re-consulted on this Appropriate Assessment.

5.11.8 It is noted that the Coastal Recreational Avoidance and Mitigation Strategy is currently on consultation and it therefore, constitutes an emerging document for the Council. Given the current preliminary stage of the document and low amount of development proposed (five residential units), in this instance, it is considered that it would be disproportionate and unreasonable to require the developer to mitigate the impact of the five dwelling on the protected habitats and thus, it would be unreasonable to refuse the application on the grounds that the proposal has not mitigated the impacts of the development. Notwithstanding the guidance of Natural England, it is considered that the likely impact of three additional dwellings in this location would not be harmful in terms of additional residential activity to a degree that would justify the application being refused.

## **5.12 Pre-Commencement Conditions**

5.12.1 No pre-commencement conditions are proposed.

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

- **FUL/MAL/17/01480** - Application for the change of use from Class B1 and B2 to Class C3, the demolition of the existing dilapidated industrial building and the erection of 10 new residential flats, ancillary development and landscaping on land to the rear of 148 Station Road, Burnham on Crouch. Dismissed on appeal.

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

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-on-Crouch Town Council	Object to the development for the following reasons: <ul style="list-style-type: none"><li>• Inappropriate design</li><li>• Overdevelopment</li><li>• Poor relationship to surroundings</li><li>• Loss of Privacy</li><li>• Flooding issues</li><li>• Parking issues</li><li>• Cumulative effects of “windfall developments”</li><li>• Loss of employment</li><li>• Bats reside on site</li></ul>	Noted and discussed within the main body of the report.

### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No objection subject to conditions.	Noted.
Lead Local Flood Authority	An objection has been raised and the details are discussed in section 5.3 of the report.	Noted and addressed in section 5.3 of the report.

### 7.3 **Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection in principle.	Comments noted.

Name of Internal Consultee	Comment	Officer Response
	Contaminated land conditions shall be applied.	
Conservation Officer	No objection raised. The application site falls outside the Burnham-on-Crouch Conservation Area, but within the setting of this heritage asset. The site is some distance from the boundary of the conservation area, and is separated from it by intervening buildings and streets. Although the proposed development is likely to be visible from within the Conservation Area, and at the junction of Station Road and Brickwall Close, bearing in mind the separation distance, the new buildings would not harm the surroundings in which the heritage asset is experienced and as such, would have a neutral impact on the setting of the Conservation Area.	Noted and addressed in section 5.4.

#### 7.4 Representations received from Interested Parties

- 7.4.1 Two letters were received at the time of writing the report **objecting** to the application and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
Adverse impact on the surrounding area	Noted and discussed in section 5.4 of the report.
Loss of light and privacy. Dominant and overbearing impact.	Noted and discussed in section 5.5 of the report.
Loss of value.	This is not a material planning consideration.

<b>Objection Comment</b>	<b>Officer Response</b>
Impact on wildlife.	Noted and discussed in section 5.9 of the report.
There is no need for further development in Burnham. Impact on the existing services.	Noted and addressed in section 5.1.
Loss of trees	This matter is addressed in section 5.8.
Insufficient parking provision	Addressed in section 5.6.

## 8. **REASONS FOR REFUSAL**

- 1 The proposed development by reason of its layout, mass, height, overall width, limited space between the built form and expanse of hardscaping would be detrimental to the character and appearance of the area. This is also indicative of the overdevelopment of the site and its unsuitability to accommodate the amount of development proposed. The development is therefore unacceptable and contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan (2017), Policy HO.1 of the Burnham-on-Crouch Neighbourhood Development Plan, the guidance contained in the Maldon District Design SPD and Government advice contained within the National Planning Policy Framework (2019).
- 2 Plot 5 by reason of its poor design, including the large expanse of blank walls and relationship with the other dwellings would result in an unacceptable and detrimental impact on the appearance of the proposed development itself and the character of the area, contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan (2017), Policy HO.1 of the Burnham-on-Crouch Neighbourhood Development Plan, the guidance contained in the Maldon District Design SPD and Government advice contained within the National Planning Policy Framework (2019).
- 3 Insufficient information has been submitted in relation to provision of adequate Sustainable Urban Drainage Systems on site demonstrating that the development would not result in flood risk. The development would therefore be unacceptable and contrary to Policies S1 and D5 of the Maldon District Local Development Plan (2017) Policy EN.2 of the Burnham-on-Crouch Neighbourhood Development Plan and Government advice contained within the National Planning Policy Framework (2019).

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

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
7 OCTOBER 2019**

<b>Application Number</b>	<b>FUL/MAL/19/00861</b>
<b>Location</b>	Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB
<b>Proposal</b>	Permanent change of use from class C3 dwellinghouse to a residential children's home class C2 (residential institution).
<b>Applicant</b>	Mr Frederik Booyesen - PSS Care Group
<b>Agent</b>	Mr John Pearce - Attwells Solicitors
<b>Target Decision Date</b>	03.10.2019 (EoT agreed: 11.10.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Previous Committee decision

**1. RECOMMENDATION**

**APPROVE** subject to conditions as detailed in Section 8.

**2. SITE MAP**

Please see overleaf.



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Maldon District Council 100018588 2014

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Scale: 1:625

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 03/06/2019

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 It should be noted that the Director of Strategy, Performance and Governance has requested that this application is presented at committee due to public interest and concerns previously raised by Members regarding the proposed development. This was accepted by the Chairman of the Committee.

##### *Site description*

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

##### *Description of proposal*

- 3.1.5 Planning permission is sought for permanent change of use of the residential property to a residential children's home (Use Class C2).
- 3.1.6 The application is a resubmission following the approval of application reference FUL/MAL/19/00465 for a temporary period of three years. The reasons for the temporary permission was to allow 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. The current application is of the same nature with the previously approved application but seeks permission for a permanent change of use of the site.
- 3.1.7 The purpose of the proposed residential children's home is to support children with their personal, social and educational lives. The current application is supported by a statement that includes further information in relation to the operation of the proposed children's home, as well as additional details responding to the concerns previously raised and concluded to the imposition of a condition restricting the time period of the permission. These matters are discussed in detail below within the main body of the officer's report.
- 3.1.8 The home would care and provide accommodation for up to five children between the ages of 10 and 18 with one additional bed for an emergency placement. There would be six part time staff and seventeen fulltime staff. It is stated that at full capacity a total of six staff would be on site during day time and three over nights. Additional

staff may attend as and when required. No external alterations or additions are proposed to the existing property.

### **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against all material planning considerations and given consideration to the additional information provided with the application and the clear policy support for the provision of housing for people with specialist needs it is considered that the proposed development would be acceptable in principle on a permanent basis. The development would also support the Council's requirement for the creation of employment opportunities. The development would not result in external alterations and therefore, it would not have an adverse impact on the character of the area. The parking area to the front of the site, is already hard surfaced and used for parking purposes. According to the details submitted, even at full capacity, the parking area would not be occupied by a number of vehicles that would result in a visually harmful impact. On the basis of the additional information provided, it is considered that the development would not be detrimental to the residential amenity of the neighbouring occupiers and it would not result in an increased vehicle movement or on-street parking that would be harmful to highway safety. The development would also provide good quality accommodation for the young people occupying the site. Therefore, the development, subject to appropriate conditions, is considered acceptable and in accordance with the aims of the development plan.

## **4. MAIN RELEVANT POLICIES**

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 80-82 Building a strong competitive economy
- 59-66 Delivering a sufficient supply of homes
- 91-94 Promoting healthy and safe communities
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S6 Burnham-on-Crouch Strategic Growth

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

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

- Policy HO.1 – New Residential Development

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF’s emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).
- 5.1.2 Policy S1 of the Local Development Plan (LDP) advises that to support sustainable development policies and decisions should take into consideration the key principles, which *inter alia* include the support of a healthy and competitive economy and the delivery of a sustainable level of housing growth that meets the local needs in sustainable locations.
- 5.1.3 The proposal is to change the use of an existing property from residential dwelling (Use Class C3) to a residential institution (Use Class C2) where people live in a residential environment but receive care and supervision. In this particular case, the proposed development would provide accommodation for children with emotional and behavioural difficulties. However, the submitted information highlights that the majority of young people are not looked after as a result of their own behaviour but rather down to parental issues.
- 5.1.4 Policy H3 of the LDP supports the provision of housing to meet specialised needs in the District and therefore, although the development would result in loss of an existing conventional dwelling, it would provide accommodation for people with specialised needs. Whilst the compliance of the development with policy H3 is

further assessed below, in relation to the loss of an existing dwelling, it is noted that the Council can demonstrate a supply of deliverable homes in excess of five years and therefore, the loss of one market dwelling to provide specialised accommodation is not considered that would detrimentally harm the supply of homes in the District. This taken together with the fact that the development would provide accommodation for children with specialised needs to improve their health, social and cultural well-being in accordance with paragraph 92 of the NPPF, it is considered that would weigh in favour of the proposed development against the loss of one dwelling.

- 5.1.5 The proposed development would provide accommodation for up to five children between the ages of 10 and 18 with one additional bed for an emergency placement. As noted above the application is supported by a Statement of Purpose of the proposed development which explains the nature of the development and how the facility will be run. According to the registration details the development would be run by Personal Security Service Care Group which is a company providing specialist care facilities and is registered and inspected by the Office for Standards in Education, OFSTED. Within the statement it is advised that the children referred to the unit may exhibit one or more of the following:

- Behaviour that challenges, including verbal and physical aggression.
- Self injury or harm.
- Attention Deficit Hyperactivity Disorder (ADHD).
- Language/ communication difficulty or delay.
- Autistic Spectrum Disorder (ASD) including Pathological Demand Avoidance (PDA) & Asperger's Syndrome.
- Oppositional Defiant Disorder (ODD).
- Attachment difficulties or disorders.
- Mild to Moderate Learning Disability.
- Mental Health needs.

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

- 5.1.7 Policy H3 of the LDP states that "*Proposals for specialist needs housing such as homes for older people, people with disabilities, or homes for other specific groups who may require properties that are specifically designed and / or allocated will be supported where:*

- 1) There is a clearly identified need that cannot be addressed elsewhere in the District;*
- 2) The development is located in an area that is sustainable to meet the social as well as housing needs of the intended residents;*
- 3) It will not lead to a concentration of similar uses that would be detrimental to the character and function of an area and/or residential amenity;*
- 4) It will not detrimentally impact on the capacity of public services, including health and social care;*

- 5) *It Is in close proximity to everyday services, preferably connected by safe and suitable walking / cycling routes or public transport appropriate for the intended occupier;*
- 6) *It can be demonstrated that the development is designed and managed to provide the most appropriate types and levels of support to its target resident;*
- 7) *It can be demonstrated that revenue funding can be secured to maintain the long term viability of the scheme; and*
- 8) *The scheme is supported by the relevant statutory agencies.”*

5.1.8 To identify whether the proposal complies with policy H3, the following assessment against the abovementioned eight criteria is carried out:

- 1) It was previously confirmed, as part of application FUL/MAL/19/00465 that there are not enough beds in residential homes for children in Essex. Consequently, there are a number of Essex children placed out of the county. The register provided who submitted the application for the change of use of the site, wishes to support the Local Authority to place their children in county. Although there is no identified need particularly in Burnham, it is stated that when placement teams search for provisions they are generally looking for locations that offer facilities and security. Due to its location, Burnham-on-Crouch provides a sense of security and an accessible enough location for Social Workers and other professionals to access. Furthermore, Burnham offers a number of facilities and experiences for teenagers, such as a secondary school, cinema, sailing clubs, fitness clubs and sports facilities, which are ideal for young people, as those who would reside in this residential children’s home. On the basis of the above justification, it is considered that there is an identified need in Essex that needs to be met and the location of this property meets the criteria for the proposed specialised needs type of accommodation.
- 2) The site lies within the settlement boundary of Burnham-on-Crouch which is classified as a “Main settlement” by LDP policy S8 and so has a range of services and opportunities for employment, retail and education and it is also provided with good public transport links. As such, it would be regarded as a sustainable location. The applicant advises that the children will be encouraged to join local sports or other groups.
- 3) It is understood that the nearest children’s homes are in Mayland, which was approved in 2016 (FUL/MAL/16/01058). There are also further similar residential children’s homes in Tiptree, Chelmsford and Colchester. On that basis, the development would not result in a concentration of similar uses in the area which could be harmful to the character of the area.
- 4) Whilst the occupiers’ needs may be marginally greater than that of a conventional household, at least some of these needs could be addressed directly by staff and net impact is likely to be small. The development would be subject to occasional school workers’ visits every six weeks and children’s review visits every six months, which are expected to reduce the need of use of existing social care services.

- 5) The site is located in a sustainable location in terms of its accessibility to facilities and services, most of them, including schools, transport and everyday services, within safe walking distance.
- 6) The information accompanying the application demonstrates that an appropriate level of support and care would be provided for the targeted group of people occupying the site. This would include everyday care, safeguarding and care plans specialised to each individual, as well as occasional school workers' and children's review visits.
- 7) Although no details of revenue funding have been provided to the authority, it is noted that PSS Care Group is a registered provider offering services to local authorities and it is licensed by OFSTED.
- 8) The home must be registered with OFSTED which will carry out at least two inspections per year. In addition a monthly independent inspection is carried out which is reported to OFSTED. This will ensure that the development is supported and inspected for its lifetime.

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

5.1.10 The proposed residential children's home would provide six part time and seventeen fulltime jobs, including a dedicated Deputy manager, Team Leaders working together with Registered Managers, as well as staff providing care, support and site maintenance. On that basis, the development would also support the Council's aim to provide employment generating opportunities to meet the need for 2,000 net additional jobs by 2029. As such, the development would also comply with policy E1.

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

## **5.2 Housing Need and Supply**

5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 of the NPPF where it requires local authorities *'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be*

*planned for'. Paragraph 61 continues stating that "Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies".*

- 5.2.2 Following the publication of the February 2019 Government results of the Housing Delivery Test (HDT) the Council has revised the October 2018 Five Year Housing Land Supply (5YHLS) statement to apply a 5% buffer for choice and competition. On the basis of the March 2019 5YHLS results the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' (6.34) worth of housing against the Council's identified housing requirements.
- 5.2.3 On the basis of the above, it is evident that the Council can meet its housing needs and provide a supply of home in excess of five years. Thus, the loss of one dwelling to provide a different type of residential accommodation would not result in a shortfall of housing that would make the Council unable to meet its housing needs.

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

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

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

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

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

- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
  - b) *Height, size, scale, form, massing and proportion;*
  - c) *Landscape setting, townscape setting and skylines;*
  - d) *Layout, orientation, and density;*
  - e) *Historic environment particularly in relation to designated and non-designated heritage assets;*

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

- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 The proposed development would not involve external alterations to the existing property and thus, no objection is raised in relation to the appearance of the property and its relationship to the wider area.
- 5.3.6 One of the reasons for the imposition of the condition restricting the time limit of the permission for a period of three years was to assess whether the development would have an impact on the character of the area, due to its alternative use. The concern was raised predominantly in relation to the potential impact caused from the extensive use of the front curtilage of the property for parking purposes. The additional supporting information provided with the current application highlights that although 24-hour cover will be provided, this will be on a rotational basis. On full capacity, six members of staff will be present on site. Taking the worst-case scenario, when all members of staff individually drive to work in their own vehicles, a maximum of six vehicles will be on site. The presence of a maximum of six vehicles on the existing hard surfaced area of the site, which is a large unit and can potentially accommodate ten vehicles, it is not considered being detrimental to the appearance of the streetscene or have a visually discordant impact on the character of the area. Consideration should be had to the fact that the existing dwelling can potentially be used by a large family (five-bedroom dwelling with an annex), including older children with access to their own vehicles and grandparents, with their own vehicle(s). On that basis, it is considered that the increased impact, in terms of vehicles being parked on site, from the proposed children's accommodation would be marginally greater (if at all). It should be also taken into account that the site is located in a sustainable location, with access to public transportation and within the boundaries of the settlement. As a result, it is likely that the staff would use alternative to private vehicles modes of transport.
- 5.3.7 The development would still provide accommodation in a form of a domestic household and as addressed above, the potential increased impact from the use of the front curtilage for parking purposes would be minimal and not materially harmful to the character of the area. Thus, it is considered that on the basis of the information provided, the proposed development would not significantly alter the functionality or the character of the property itself or adversely impact on the character and appearance of the wider area. The concerns raised in relation to the impact of the development on the character of the area are considered unfounded to justify the imposition of a temporary permission.

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

- 5.4.1 The basis of Policy D1 of the LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section C07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

- 5.4.2 The application site is surrounded by residential dwellings and partially to the north by a school. The dwelling is a five bedroomed dwelling and no physical changes to the dwelling are proposed. The proposed development would provide accommodation for up to five children who will be living as a household albeit with care and supervision. The applicant has submitted a supporting statement, to address some of the concerns previously raised in relation to the impact of the development on the amenities of the neighbouring occupiers.
- 5.4.3 It is noted that a high level of supervision and support for the young people in their care is proposed, with a range of on-site educational and recreational activities. Furthermore, it is confirmed that the home would be subject to inspections and regulation by OFSTED. It is highlighted that complaints can be raised directly to OFSTED and the applicant has an obligation to respond to all complaints and are formally regulated against this on a monthly basis by an independent person (regulation 44 of The Children's Homes (England) Regulations 2015). The independent person writes a report on the home and this report is then passed over to OFSTED, the Local Authority and all the Placing Authorities. It is considered that the information submitted by the applicant provides justification that all necessary steps would be followed to reduce any beyond acceptable increase of noise levels from the young children. It should be noted though that the decorum of occupants is not controlled by planning and it should not be necessarily assumed that the chances of the proposed use resulting in antisocial behaviour are greater than those of a conventional residential use.
- 5.4.4 It is noted that at full capacity there would be a total of six members of staff during day time and three staff overnight. Details of the forecasted activity on site have been submitted. At day time activity is expected between 7.30 and 10.00 hours, when the staff on day shift would arrive on site, as well as the manager. School pick up and grocery delivery have also been included within the expected morning vehicles movements. In the afternoon, vehicle movements are expected to be created due to school drop off, lifts to support social activities and night shift staff. These movements would take place between 14.00 and 20.00 hours. Except of the abovementioned movements, occasional school work visits every six weeks and children's review visits every six months would occur. It is considered that the above stated vehicle movements are not at dissimilar hours to those of a conventional domestic household, given they are at times that people commute to work and pick up their children from school. It is also not unusual that families have grocery deliveries at home. Therefore, on balance, it is considered that the movements would be at times similar to those of the movements expected to occur at a family house. Although it is acknowledged that the number of vehicles may be marginally greater than those of a domestic household, consideration should be had to the fact that the current property is a five-bedroom dwelling with an annex and thus, could be occupied by many people that have access to their own vehicles (further discussed in para's 5.3.6 and 5.3.7). The occasional six-week and six-month visits are not expected to result in a vehicle movement demonstrably harmful to the amenities of the neighbouring occupiers. It is therefore considered that the information provided, is sufficient to demonstrate that any potential impact caused to the amenities of the neighbouring occupiers, in terms of noise and disturbance, would not be materially greater than that of the current use of the site or at unsociable hours to justify the need of a condition restricting the time period of the permission.

- 5.4.5 In light of the above assessment, it is considered that information provided with the current application is sufficient to demonstrate that the impact of the development on the residential amenity of the neighbouring occupiers would be acceptable and addresses the concerns that necessitate the impositions of a temporary permission condition.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 Access to the site would be gained off of Maldon Road, utilising an existing vehicular access. No new access is proposed to be formed and therefore, the development would be accessed via an acceptable access, sufficient to allow a safe access and egress of vehicles from the site.
- 5.5.3 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.5.4 In terms of off-street parking spaces, the following are the requirements set out in the vehicle parking standards for residential care homes:
- 1 space per residential staff
  - 1 space per 2 other staff
  - 1 space per 3 bed spaces / dwelling units
- 5.5.5 As noted above, there would be six part time staff and seventeen fulltime staff. However, it is stated that at full capacity a maximum of six staff would be on site at any one time. On that basis, a maximum of six vehicles would be parked on site if assumed that all employees are using private vehicles for commuting. Given that the proposed development would provide accommodation for five children an additional two parking spaces should be provided in accordance with the Vehicle Parking Standards SPD. Thus, a total of eight parking spaces would be the parking

requirement for the proposed use. The site benefits from a large sized front garden, which is laid with gravel and it is used for parking purposes. It is considered that around eight parking spaces could be provided on site allowing sufficient turning space for vehicles to exit the site in forward gear.

- 5.5.6 Considering the information provided by the applicant, in the worst-case scenario of all employees using their individual vehicle to access the site, six vehicles would be parked on site (if all night shift staff is still on site when all day shift staff is on site). A school bus and a grocery delivery vehicle would also temporarily park on site at day times, when the majority of vehicle occupancy of the parking area is expected. Therefore, the site can provide sufficient parking space for the above number of vehicles, without obstructing the free flow of traffic or resulting in highway safety issues. As a result, it is considered that the development would provide sufficient off-street parking that meets the needs of the proposed development.
- 5.5.7 The proposed development would require one cycle parking space per two members of staff and an additional one per beds for visitors. Similar to the above assessment, considering that the maximum number of staff on site at one time would not exceed six, the cycle requirement would not be greater than six for the staff. One more cycle space would be required for visitors. Therefore, a total of seven cycle spaces would be required to be provided. Whilst not required by the Council's Vehicle Parking Standards, any additional cycle parking provision would be welcomed to be used by the young people residing on the site. Although no details of adequate cycle parking have been provided, the site benefits from a large sized rear garden where a cycle store can be provided for both staff and young people living on site. This is to promote sustainable modes of transport and therefore, a condition would be imposed for the cycle store details to be submitted and approved in writing by the Local Planning Authority (LPA).

- 5.5.8 In relation to vehicle movement, the applicant has submitted the following details:

Morning

07:30 - Staff arrive on shift (some may have slept in), night staff depart.

08:00-10:00 - School Drop Off (it should be noted that Ormiston Rivers is a 2 minute walk so any young people attending this school would walk)

09:00 - Manager on site

10:00 - Grocery run

Afternoon

14:00-16:00 - School Pick Up

16:00-19:00 - Lifts to support social activities, clubs and family contact (average of 2 trips per night).

20:00 - Night staff arrive on shift day staff depart.

- 5.5.9 On the basis of the above details, it is not expected that the forecasted vehicle movements would be materially greater than those of the current use of the site (large sized dwelling with an annex) to an extent that would justify the need of the imposition of a condition restricting the time period of the permitted development. The impact of the development on the existing highway network is not expected to be materially detrimental.

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

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

## **5.7 Other Matters**

- 5.7.1 The submitted Supporting Statement makes reference to the appropriateness of the previously imposed condition that restricted the use of the site for a temporary period of three years. It is stated that the condition is unreasonable and that it imposes an unjustifiable financial burden. It is advised that the necessary modifications for the conversion would include renovation to requisite standards, in particular replacing the bathrooms and modernising the kitchen, painting, plastering. Furthermore, it is advised that fire alarms are approximately £8000-£10000 for the wireless system, fire doors are required and electrics often need rewiring to ensure all Health and Safety requirements are met.
- 5.7.2 It is also highlighted that although the time period given was for a period of three years, any subsequent application would have to be submitted significant time before the expiry of the permission, increasing the financial risk to allow the applicant to invest into the property and commence the use.
- 5.7.3 It is stated that the previously approved temporary permission would potentially result in upheaval for the children, harming their ability to blend with the community and progress of individuals within society.
- 5.7.4 It has been raised that the Council previously approved an application of a similar nature in Mayland (FUL/MAL/16/01058) without imposing a condition for a temporary permission. Although it is acknowledged that permission for a similar proposal was previously approved elsewhere, it should be noted that this permission was granted prior to the adoption of the Local Development Plan and also each application is assessed on its own merits.
- 5.7.5 Paragraph 55 of the NPPF requires *“planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”*. Furthermore, the Planning Practice Guidance states that *“A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.”*
- 5.7.6 It is considered that the submitted information is sufficient justifying that the proposed use would not be harmful to the character of the area, the amenities of the neighbouring occupiers and it would not adversely impact upon highway safety and parking capacity. Furthermore, the financial burden imposed to the application, given that no material harm is expected to be caused by the proposed development, would

be unreasonable. It is therefore considered that the details provided with the current application are sufficient to allow the permanent conversion of the property to a residential children's home and the previously imposed temporary permission is no longer considered meeting the six tests of planning conditions as set out in paragraph 55 of the NPPF; in particular those requiring conditions to be reasonable and necessary.

## **5.8 Pre-Commencement Conditions**

5.8.1 No pre-commencement conditions are proposed.

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

- **FUL/MAL/19/00465** - Change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution). Temporary planning permission granted

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

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-on-Crouch Town Council	No comments received at the time of writing the application. However, the Town Council previously supported the proposal.	No comment.

### **7.2 Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No comments received at the time of writing the report. However, no objection was raised previously for an application for the same development (FUL/MAL/19/00465).	No comment.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Team	No comments received at the time of writing the report. However, no objection was raised previously for application reference FUL/19/00465.	No comment.

### 7.4 Representations received from Interested Parties

- 7.4.1 One letter was received at the time of writing the report **objecting** to the application and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
With the exception of vehicle movements, no attempt has been made to address any of the concerns raised by the local neighbours.	It is noted that the applicant had to address the concerns that resulted to the imposition of the temporary condition. The new information provided by the applicant is assessed in detail within the main body of the officer's report.
There are parts within the submitted Statement of Purpose that have been left blank, such as the grating by OFSTED.	It is considered reasonable that such parts within the submitted document remain blank, given that the approved use should first commence in order to be assessed and get a grading by OFSTED.
The submitted information support the previous argument that the development would result in a noise, visual and general disturbance impact.	These matters are assessed within sections 5.3, 5.4 and 5.5 of the Officer's report.
Limited public transport.	Burnham-on-Crouch, according to the LDP is one of the main settlements in Maldon that benefit from a range of facilities and services and is provided with good public transport.
It is not addressed how this intensification of use is safe taking into account the proximity of the main road and junction.	Although no comments from the Highway Authority have been received yet, it is noted that no objection was raised before for the same proposal (FUL/MAL/19/00694).
Impact from increased noise levels,	This matter is addressed in section 5.4.

<b>Objection Comment</b>	<b>Officer Response</b>
which the Environmental Health Team would not be able to deal with, due to the use of the site.	
The proposal would result in disturbance due to behavioural issues.	It is noted that the decorum of occupiers is not controlled by planning. The matter is further addressed in section 5.4 of the report.
The previously imposed condition restricting the temporary use of the site as residential children's home should be retained.	Noted and addressed within the main body of the officer report.

## 8. **PROPOSED CONDITIONS**

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

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

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<b>Application Number</b>	<b>HOUSE/MAL/19/00862</b>
<b>Location</b>	Ravenscot, Burnham Road, Althorne
<b>Proposal</b>	Single storey extension used as an annexe and link extension (amendment to previous approval ref: HOUSE/MAL/16/01057)
<b>Applicant</b>	Mr & Mrs Bowles
<b>Agent</b>	Ms Nicola Wombwell – Nwg Design
<b>Target Decision Date</b>	24.10.2019
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>ALTHORNE</b>
<b>Reason for Referral to the Committee / Council</b>	Member of Staff

**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**19/00862/HOUSE**  
**Ravenscot, Burnham Road, Althorne**



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	<p>www.maldon.gov.uk</p>	<p>Organisation: Maldon District Council</p>
		<p>Department: Department</p>
		<p>Comments: South East Area Committee</p>
		<p>Date: 11/09/2019</p>
		<p>MSA Number: 100018588</p>

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the north eastern side of Burnham Road, within the settlement boundary of Althorne. The dwelling on the site is located towards the eastern boundary of the site, with the amenity space located to the north of the dwelling and the parking area located to the west of the surrounding area
- 3.1.2 The annex extension will have a gable roof, projecting from the rear elevation of the dwelling and the link will be of a cross-gabled design, projecting from the east side of the annex and the rear elevation of the dwelling.
- 3.1.3 The annex extension will measure 9.2 metres deep, 4.5 metres wide, 2.5 metres high to the eaves and 3.9 metres high overall. There will be a bedroom, sitting room and bathroom within this extension.
- 3.1.4 The link extension will project out 1.7 metres from the eastern side of the rear elevation and will measure 3.3 metres wide, before stepping in 0.5 metres and extending a further 2 metres to join onto the annex extension. This extension will be used as a link between the annex extension, the main dwelling and the rear garden.
- 3.1.5 In terms of materials, the walls will use white painted weatherboard cladding, the roof will use slate tiles and the windows and doors will be white painted timber.
- 3.1.6 It is noted that a previous application on the site, under the terms of HOUSE/MAL/16/01057, granted permission for an extension to be used as an annex and is extant. A supporting statement has been submitted with the application stating that the annex would be used by an older relative of the family who resides in the main dwelling. The statement confirms that the works approved under application HOUSE/MAL/16/01057 have begun and the foundations and the framework are in place.
- 3.1.7 The current application proposes to amend the previously approved development . The fenestration will be altered on the western elevation and link extension will be built to the rear of the dwelling, on the eastern side of the annex extension. The annex extension itself is not being altered in terms of its scale and dimensions, however the previously proposed flue has been removed from the scheme.

#### **3.2 Conclusion**

- 3.2.1 Overall, it is considered that the proposed development would be suitably in keeping with the host dwelling and would not harm the character and appearance of the site or the surrounding area. The proposal would cause detrimental harm in relation to the amenity of neighbouring occupiers, car parking or private amenity space. The proposal is therefore in accordance with policies D1 and H4 of the Maldon District Local Development Plan (MDLDP) 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
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

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

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

- Maldon District Vehicle Parking Standards SPD
- Maldon District Design Guide (MDDG)
- Planning Policy Guidance (PPG)
- Specialist Needs Housing SPD

#### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The principle of extending an existing dwellinghouse and providing facilities in association with residential accommodation is considered acceptable and in line with policies S1 and H4 of the approved LDP, subject to the assessment below.
- 5.1.2 The proposal relates to the provision of annex accommodation in the form of an extension; it will provide a sitting room, a bedroom and a bathroom. There will also be a further link extension built on the eastern side of the rear elevation.
- 5.1.3 It is a conventional expectation that annex accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities and for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annex.

5.1.4 In addition to the above, the Specialist Needs Housing SPD, which was adopted in September 2018, states that proposals for annex accommodation will not only be required to meet the criteria in policy H4 but also the criteria within the SPD which is as follows:

- 1) Be subservient / subordinate to the main dwelling;
- 2) Have a functional link with the main dwelling (i.e. the occupants' dependant relative(s) or be employed at the main dwelling);
- 3) Be in the same ownership as the main dwelling;
- 4) Be within the curtilage of the main dwelling and share its vehicular access;
- 5) Be designed in such a manner to enable the annex to be used at a later date as an integral part of the main dwelling;
- 6) Have no separate boundary or sub-division of garden areas between the annex and the main dwelling; and
- 7) Have adequate parking and amenity facilities to meet the needs of those living in the annex and the main dwelling.

5.1.5 Criteria 1 will be assessed in section 5.3 of the report. In regards to criteria 2, the supporting statement submitted with the application confirms that an older relative of the occupiers of the dwelling would inhabit the annex and therefore criteria 2 is satisfied. The annex would be within the same ownership as the main dwelling and therefore this accords with criteria 3. The annex would be located within the residential curtilage of the dwelling and would share its vehicle access, in accordance with criteria 4. The annex has been designed in the form of an extension to the main dwelling and therefore it has the potential to be used as part of the main dwelling in the future, complying with criteria 5. The proposal would comply with criteria 6 as the annex would adjoin the main dwelling and there would be no separate boundary. The provision of parking and amenity space will be discussed in the report.

5.1.6 Consideration is also given to the extant permission, under the terms of HOUSE/MAL/16/01057, which approved permission for an annex extension and therefore it would be unreasonable to object to the principle of the proposal on these grounds.

5.1.7 Having regard to the above, it is considered that the principle of development is considered acceptable and in line with the policies contained within the LDP, subject to the assessment below.

## **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 It is important to note that the permission granted under the terms of application HOUSE/MAL/16/01057 is extant and has been started. The annex has almost finished being built, with the main external structure being in place and therefore there is no fundamental objection to this part of the proposal. The differences between the approved design and the proposed design of the annex extension itself are the positioning of a window and door on the west elevation. These alterations are not considered to have a harmful impact on the character and appearance of the site, host dwelling or surrounding area.

5.2.6 The main addition to this application is the link extension to the rear of the dwelling and the east side of the annex extension. This will not be visible from the streetscene and will therefore not have an impact on the public views of the dwelling. It will be a modest addition to the dwelling due to its size and single storey nature and would not dominate views of the rear elevation from within the site. The extension will have a gable roof design which would be in keeping with the host dwelling, particularly by having the same roof style and pitch which would align with the two storey part of the host dwelling.

5.2.7 The proposed annex extension would be located on the western side of the rear elevation of the dwelling. Due to the positioning of the dwelling on the site and the planting and boundary treatments within the site, the proposed extension would not be visible from the streetscene. The link extension will be located on the eastern side of the annex extension, on the rear elevation of the dwelling and would also not be

visible from the public realm. The proposal is therefore not considered to have a harmful impact on the character and appearance of the surrounding area.

- 5.2.8 The materials used in the development will match those used in the host dwelling and therefore there are no objection to these.
- 5.2.9 Overall, the proposal is considered to be acceptable and in line with policies D1 and H4 of the LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The neighbouring dwelling to the east, Hartfield, will be located 6.8 metres from the proposed link extension and 12 metres from the proposed annex extension. There will not be any windows on the side elevation of the link extension but there will be two windows on the east elevation of the annex extension. However, due to the separation distance and the single storey nature of the proposal, it is not considered that it would result in a significant loss of privacy to this neighbour. Furthermore, due to the separation distance and the overall height of the proposal, it is not considered to result in a loss of light to the neighbour to an extent that would justify the refusal of the application.
- 5.3.3 The proposal will be located a minimum distance of 26 metres from the neighbour to the north, Grandee. Due to this significant distance and the single storey nature of the proposal, it is not considered to detrimentally harm the residential amenity of this neighbour.
- 5.3.4 All other neighbours are located at a distance where the proposal would not harm their residential amenity.
- 5.3.5 Overall, the proposal is not considered to result in detrimental harm to the residential amenity of neighbouring occupiers, in accordance with policy D1 of the LDP.

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

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of

promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

5.4.3 The existing site provides sufficient parking for at least three vehicles, for the existing dwelling and the additional bedroom proposed in the annex. Therefore, there is no objection to the level of car parking provided.

5.4.4 There are no alterations proposed to the access of the site.

## **5.5 Private Amenity Space and Landscaping**

5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.

5.5.2 The proposal would result in some loss of amenity space. However, there is sufficient private amenity space situated to the rear of the existing dwelling which is in excess of the required standards. Therefore, there is no objection in this regard.

## **5.6 Other Matters**

5.6.1 It is noted that condition 4 of the previously approved application required an internal access to be retained between the annex extension and the main dwelling. That application proposed an access between the sitting room of the annex and the sitting room of the host dwelling. Whilst this has been removed from this application, an access will be retained between the annex, the link extension and the main dwelling and therefore an acceptable link will remain between the annex and the main dwelling. It is therefore not considered necessary or reasonable to refuse the application on the basis that the door into the sitting room of the main dwelling has been removed. A condition will however be included to ensure that the annex remains a part of the dwelling known as Ravenscot and is not used as a separate residential unit.

5.6.2 It is noted that the development has begun and therefore the condition relating to the timing of the commencement of the development will not be included as it is not necessary.

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

- **FUL/MAL/93/00071** – Formation of vehicular access – Approved
- **FUL/MAL/05/01243** – Single storey extension – Approved

- **FUL/MAL/08/00844** – Two storey side extension – Approved
- **HOUSE/MAL/16/01057** - Proposed single storey extension and demolition of existing single storey garden summer house – Approved

## **7. CONSULTATIONS AND REPRESENTATIONS**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Althorne Parish Council	No response at the time of writing the report	N/A

### **7.2 Representations received from Interested Parties**

7.2.1 No letters of representation have been received at the time of writing the report.

## **8. PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be carried out in accordance with the following plans: P001 A, P002, P003 Rev D  
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 2 The external surfaces of the development hereby approved shall be as set out within the application form/plans hereby approved.  
REASON: To ensure that the development is carried out as approved and is in keeping with site and surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.
- 3 The development hereby permitted shall be occupied only as an extension for purposes ancillary and incidental to and in conjunction with the use of the existing property, known as Ravenscot, as a single dwellinghouse and not as a separate or independent unit of residential accommodation.  
REASON: To protect the amenity of neighbouring occupiers, in accordance with policy D1 of the Maldon District Local Development Plan.

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**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**  
to  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**7 OCTOBER**

<b>Application Number</b>	<b>HOUSE/MAL/19/00863</b>
<b>Location</b>	2 Brook Lane, Asheldham, Essex CM0 7DY
<b>Proposal</b>	Demolition of existing carport/store & erection of single storey annex, first floor extension over existing kitchen wing & additional surface parking
<b>Applicant</b>	Mrs Hannah Sams
<b>Agent</b>	Mr Patrick Stroud - Sole Practitioner
<b>Target Decision Date</b>	22.10.2019
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>ASHELDHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor R P F Dewick Public interest, scale and bulk

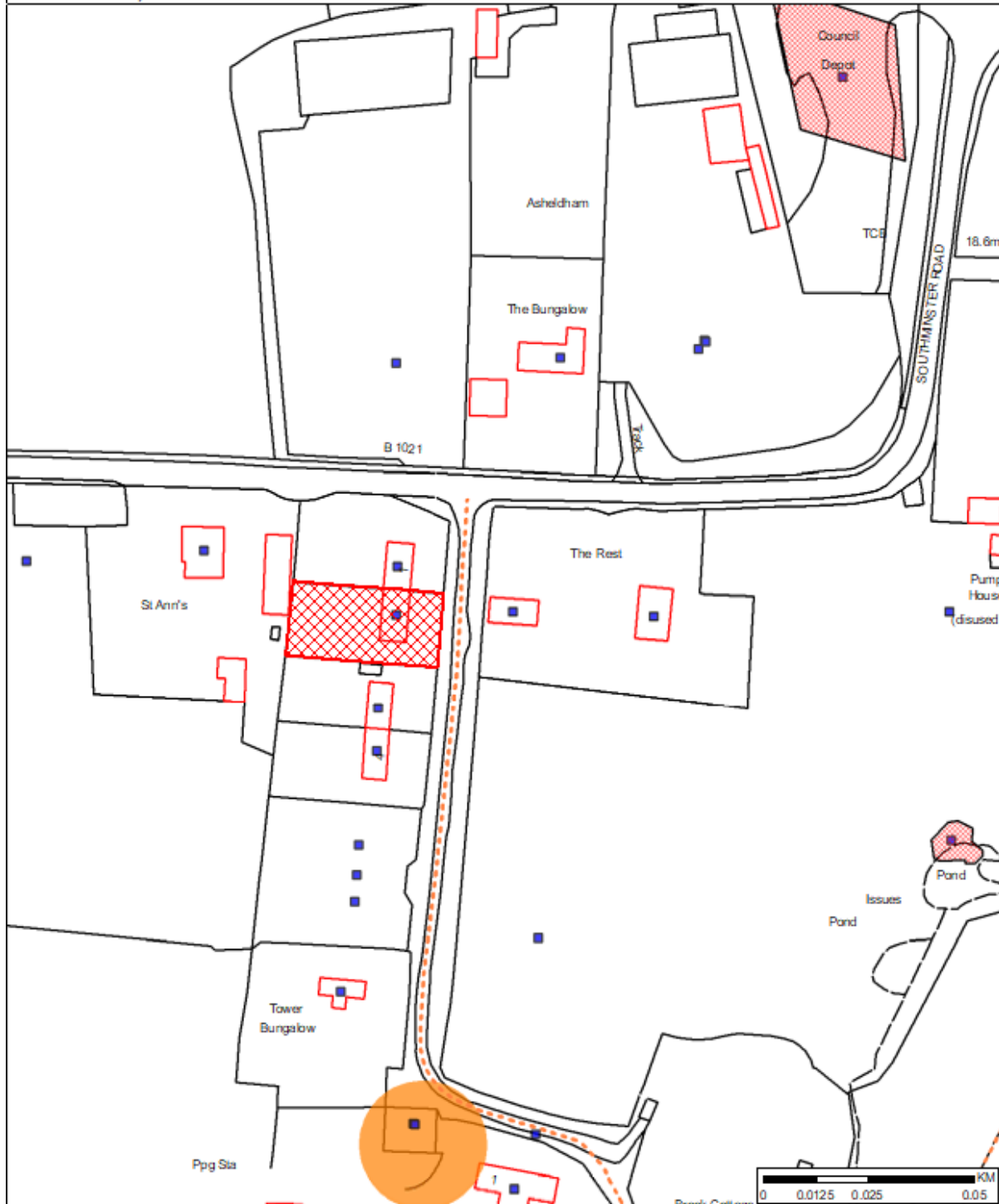
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**19/00863/HOUSE**  
**2 Brook Lane, Asheldham**



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 Maldon District Council 100018588 2014

**MALDON DISTRICT COUNCIL**

[www.maldon.gov.uk](http://www.maldon.gov.uk)

Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	South Eastern Committee
Date:	16/09/2019
MSA Number:	100018588

### **3. SUMMARY**

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

- 3.1.1 Permission is sought for the demolition of a carport/store and the construction of a first floor extension creating an additional bedroom and a single storey side extension. Whilst the application describes the single storey development as a side extension, the plans reflect that this element of the development would form an annexe with a living/dining area, wet room and space which could be used for two bedrooms.
- 3.1.2 The proposed annexe would measure 3.3 metres in width at the narrowest part widening to 4.2 metres. The depth of the development would measure 12.8 metres in depth along the northern elevation with an eaves height of 2.6 metres and a maximum roof height of 4.1 metres to the top of the gable style roof.
- 3.1.3 The proposed first floor extension would measure 3.3 metres in width and 5.2 metres in depth with an eaves height of 5.4 metres and a maximum roof height of 7.6 metres.
- 3.1.4 The materials proposed for the construction of the development would be buff brick with black boarding, red concrete roofing tiles and uPVC windows and doors to match the existing dwelling.
- 3.1.5 It is noted a supporting statement has been submitted detailing the need for the annexe and first floor side extension. It is stated the requirement for the annexe is due to the applicants wish to house her parents when they retire with the requirement for the first floor side extension being to add an additional bedroom for their daughter to move into, enabling one of the existing bedrooms to be used as an office.
- 3.1.6 This application is a resubmission of the previously refused application HOUSE/MAL/19/00480, which was refused due to the following:
- 1 *The proposed first floor extension and single storey annexe, by reason of their scale, bulk and design, are considered to be large additions which in unbalancing the pair of semi-detached dwellings, would fail to reflect and would be out of keeping with and harmful to the character and appearance of the existing dwelling and the streetscene. The proposal is therefore contrary to policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.*
  - 2 *The proposed development, would increase the number of bedrooms on-site from three to six, resulting in the available level of on-site car parking provision being unacceptable and would likely to result in parking on the lane to the detriment of the free flow of vehicles, contrary to policies D1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.*
- 3.1.7 The proposed development, which is the subject of this application, has not been altered from the previous submission, with only the annotations from the floor plan having been removed.

### **3.2 Conclusion**

- 3.2.1 It is considered that the first floor side extension and single storey annexe, by reason of their scale, bulk and design, would harm the appearance of the host dwelling and character of the locality, unbalancing the pair of semi-detached dwellings. It is therefore considered that the development is contrary to policies D1 and H4 of the LDP.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 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
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

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

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

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD MDDG)
- Maldon District Vehicle Parking Standards SPD
- Maldon District Special Housing Needs SPD

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 The principle of erecting ancillary accommodation to provide facilities in association with the existing residential accommodation are considered acceptable and in line with Policies S1 and H4 of the Local Development Plan (LDP).

- 5.1.2 It is an expectation that annexe accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities and for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe.
- 5.1.3 In addition, the Specialist Needs Housing SPD which was adopted September 2018, states that proposals for annexe accommodation will not only be required to meet the criteria in policy H4 but also the criteria within the SPD which is as follows:
- Be subservient/subordinate to the main dwelling
  - Have a functional link with the main dwelling (i.e. the occupants dependent relative(s) or be employed at the main dwelling)
  - Be in the same ownership as the main dwelling
  - Be within the curtilage of the main dwelling and share its vehicular access;
  - Be designed in such a manner to enable the annex to be used at a later date as an integral part of the main dwelling;
  - Have no separate boundary or sub division of garden areas between the annexe and main dwelling; and
  - Have adequate parking and amenity facilities to meet the needs of those living in the annexe and main dwelling.
- 5.1.4 The proposal states an element of the development would be a single storey side extension, which would be used as an annexe. The proposed extension would provide a hallway, wet room, a living area, a sitting room and another large room which, whilst its use is unspecified, could be used as a bedroom. The presence of primary accommodation within the proposed annexe does not necessarily mean that it would not be occupied as ancillary to the main dwelling, it is noted that the proposed annexe would share the same site access and kitchen and there appears to be no separate curtilage of the site, due to this the annexe would remain part of the curtilage of the host dwelling and used ancillary to that dwelling. Whilst no details have been provided regarding the use of and functional link between the host dwelling and the annexe, a condition could be imposed to limit the use of the annexe to ensure its use would be in accordance with the policies outlined above.
- 5.1.5 It is therefore considered that the development can be found acceptable in principle, subject to the imposition of a suitable condition to control the use.

## **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, 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 proposed first floor side extension would create a bedroom within the main dwelling, potentially increasing the number of bedrooms within the main dwelling to four. Whilst it is noted that the applicant has stated that the intention is to use the existing bedroom as an office, it is necessary to consider the development across its entirety and future residents may require this as a bedroom. Due to the scale and bulk of the development the proposed side extension would be a dominant addition to the site, with the ridge height only being 0.3 metres lower than the existing dwelling. Furthermore, the proposed first floor side extension would unbalance the pair of semi-detached dwellings, which are of a handed design and similar in appearance to the two semi-detached dwellings to the south of the site. The proposed development would therefore impact upon the existing symmetry within the streetscene.

5.2.6 The proposed single storey side extension, which would create a annexe, would be a large, bulky addition to the dwelling and would project 12.8 metres in depth along the southern boundary, dominating the site. Additionally, the development would be highly visible from the streetscene, with views of the side extension being seen from the south.

5.2.7 The proposed materials would not have a detrimental visual impact upon the appearance of the host dwelling or the streetscene and therefore are considered acceptable.

5.2.8 It is considered that the development, by reasons of its scale, design and appearance would result in a demonstrable harm to the character and appearance of the existing

dwelling and the locality and therefore would be contrary to policies D1 and H4 of the LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The neighbouring dwelling to the north, No.1 Brook Road, would be situated 12.3 metres from the proposed development. Due to the position of the first floor extension and annexe, the proposed development would not result in overlooking of the neighbouring private amenity space or result in overshadowing of the neighbouring occupiers.
- 5.3.3 The proposed annexe would be situated 0.9 metres from the shared boundary and 5.6 metres from the neighbouring dwelling to the south, No.3 Brook Road. The plans show the annexe would have a door with windows at ground floor level on the southern elevation, which would face the neighbouring dwelling. However, any views of the neighbouring private amenity space would be shielded by a boundary fence and an outbuilding, therefore the annexe would not result in overlooking of the neighbouring private amenity space. The plans show there are no other windows on this elevation. The first floor extension, which adjoins the southern elevation of the main dwelling would be situated 8.9 metres from the neighbouring dwelling. The plans show there are no windows to the southern elevation of the first floor extension and therefore due to this and the separation distance the first floor extension would not result in overlooking or overshadowing of the neighbouring site.
- 5.3.4 The proposed development site would share the western boundary with the neighbouring dwelling to the west, St Anns, Southminster Road. The proposed development would be situated a minimum of 14.9 metres from the shared boundary. Due to this separation distance, the development would not result in overlooking of the neighbouring private amenity space or result in overshadowing of the neighbouring occupiers.
- 5.3.5 The neighbouring dwelling to the east, The Rest, Southminster Road, would be situated a minimum of 10 metres from the proposed development site. Due to this separation distance, the development would not result in overlooking of the neighbouring private amenity space or result in overshadowing of the neighbouring occupiers.

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

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.4.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The Highways Authority were consulted on the proposed parking scheme, however no response has been received at the time of writing the report.
- 5.4.4 The previous application (HOUSE/MAL/19/00480) showed the proposed side extension would provide provision for two bedrooms, whilst the first floor side extension would potentially increase the number of bedrooms on-site to six. These annotations have been omitted from this revised application with one of the bedrooms at first floor level being labelled as an office. The Maldon District Vehicle Parking Standards SPD stipulates the parking requirements for a three bed dwelling are two car parking spaces whilst a dwelling of four or more bedrooms would require three car parking spaces. The proposed plans show the parking area to the front of the dwelling would be increasing to enable parking for five vehicles, however under the stipulations of the Maldon District Vehicle Parking Standards SPD only three vehicles would fit in the proposed space with parking bays measuring the required 2.9 metres in width by 5.5 metres in depth. Nevertheless, the proposed driveway would provide sufficient car parking space for a dwelling of four or more bedrooms, in accordance with policies D1 and T2 of the LDP.

## **5.5 Private Amenity Space and Landscaping**

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.5.2 The dwelling sits on a large site measuring in excess of the required 100m<sup>2</sup> amenity space specified within the Maldon Design Guide. The garden will remain in excess of 100m<sup>2</sup> after the construction of the proposed development, therefore the proposed development is in compliance with policy D1 of the LDP.

**6. ANY RELEVANT SITE HISTORY**

- **HOUSE/MAL/19/00480** - Demolition of existing single storey carport / store & erection of new single storey side extension. First floor extension over existing single storey kitchen wing – Refused - 11.07.2019

**7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Asheldham and Dengie Parish Council	Support as it will be a huge improvement on what is currently standing.	Comments noted

**7.2 Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No comments received at the time of writing.	Noted

**External Consultees**

<b>Name of External Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Tree Consultant	No response	Noted

**7.3 Representations received from Interested Parties**

No representants were received for this application

**8. REASON FOR REFUSAL,**

- 1 The proposed first floor extension and single storey side extension, by reason of their scale, bulk and design, are considered to be large additions which in unbalancing the pair of semi-detached dwellings, would fail to reflect and would be out of keeping with and harmful to the character and appearance of the existing dwelling and the streetscene. The proposal is therefore contrary to policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

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