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DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE'S OFFICE
DIRECTOR OF STRATEGY, PERFORMANCE
AND GOVERNANCE
Paul Dodson

15 November 2019

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **MONDAY 25 NOVEMBER 2019 at 7.30 pm.**

in the Council Chamber, Maldon District Council Offices, Princes Road, Maldon.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP	CHAIRMAN	Councillor Mrs M E Thompson
	VICE-CHAIRMAN	Councillor R H Siddall
	COUNCILLORS	E L Bamford M F L Durham, CC Mrs J L Fleming K W Jarvis J V Keyes C P Morley Miss S White

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
NORTH WESTERN AREA PLANNING COMMITTEE
MONDAY 25 NOVEMBER 2019

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 10)

To confirm the Minutes of the meeting of the Committee held on 28 October 2019, (copy enclosed).

4. **Disclosure of Interest**

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

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

5. **FUL/MAL/19/01016 - East Cottage, Witham Road, Tolleshunt Major** (Pages 11 - 24)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

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

Reports for noting:

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

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

Note:

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

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

NOTICES

Sound Recording of Meeting

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

Fire

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Health and Safety

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Closed-Circuit Television (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.

BACKGROUND PAPERS

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

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

Development Plans

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

Legislation

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

Supplementary Planning Guidance and Other Advice

i) Government policy and guidance

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

ii) Essex County Council

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

iii) Maldon District Council

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

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



**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
28 OCTOBER 2019**

PRESENT

Chairman	Councillor Mrs M E Thompson
Vice-Chairman	Councillor R H Siddall
Councillors	E L Bamford, M F L Durham, CC, Mrs J L Fleming, K W Jarvis, J V Keyes, C P Morley and Miss S White

1. CHAIRMAN'S NOTICES

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

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 30 September 2019 be approved and confirmed.

4. DISCLOSURE OF INTEREST

Councillor M F L Durham, CC, declared a non-pecuniary interest as a member of Essex County Council, a consultee on planning application matters with respect generally to highways, matters of access and education primarily.

He also declared a pecuniary interest in Agenda Item 6 FUL/MAL/19/00843 - The Warren, Old London Road Woodham Walter, as his parents live in a dwelling immediately adjacent to the site and he had previously carried out consultancy work for the company. He informed the Committee that he would leave the Chamber for this item of business.

Councillor J V Keyes declared a non-pecuniary interest in Agenda Items 5 - FUL/MAL/19/00473, Heath Farm Bungalow, Grove Farm Road, Tiptree and 6 FUL/MAL/19/00843 - The Warren, Old London Road, Woodham Walter as he had procured items from the applicant in the past and provided haulage services in a previous business.

5. **FUL/MAL/19/00473 - HEATH FARM BUNGALOW, GROVE FARM ROAD, TIPTREE**

Application Number	FUL/MAL/19/00473
Location	Heath Farm Bungalow, Grove Farm Road, Tiptree
Proposal	Extension of residential curtilage and detached garden room.
Applicant	Mr Purdy
Agent	Mr Peter Le Grys
Target Decision Date	29.10.2019
Case Officer	Hayleigh Parker-Haines
Parish	Tolleshunt D'Arcy
Reason for Referral to the Committee / Council	Member Call In – Councillor J V Keyes – policies being D1, H4 & S3

A Members' Update was submitted detailing comments from Essex Highways Authority. Following the Officer's presentation, Mr Peter Le Grys, the Agent, addressed the Committee.

The Chairman opened the debate and proposed that the application be refused in accordance with the Officer's recommendation. This was duly seconded by Councillor Bamford.

A lengthy debate ensued where some Members expressed sympathy with the applicant, but the Committee was concerned that it contravened the Local Development Plan policies. It was noted that the previous identical application for the outbuilding had been refused by the Council in 2018.

The Lead Specialist Place advised that it was not just the issue of the outbuilding but the proposed change of use to residential curtilage together with the outbuilding that resulted in the proposal being contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan.

The Chairman then put the proposal to refuse the application in accordance with the Officer's recommendation to the Committee. Upon a vote being taken it was carried.

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

- 1 The proposed change of use to residential curtilage is considered to be excessive and would result in the unnecessary urbanisation of the surrounding countryside. This is further exacerbated by the scale and bulk of the proposed outbuilding. The proposed development would detract from the open character and appearance of the rural landscape and the intrinsic beauty of the countryside. Therefore, the proposal would be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government guidance contained in the National Planning Policy Framework.

6. FUL/MAL/19/00843 - THE WARREN, OLD LONDON ROAD, WOODHAM WALTER

Application Number	FUL/MAL/19/00843
Location	The Warren Old London Road Woodham Walter
Proposal	New surface to existing car park
Applicant	Mr Neil Vaughan
Agent	Ms Annabel Brown
Target Decision Date	01/11/2019
Case Officer	Hannah Bowles
Parish	Woodham Walter
Reason for Referral to the Committee / Council	Major Application

Following the Officer's presentation, the chairman proposed that the application be approved in accordance with the Officer's recommendation. This was duly seconded by Councillor Morley.

A brief debate ensued, and it was acknowledged that there were no concerns with the Officer's recommendation.

The Chairman then put the proposal to approve the recommendation in accordance with the Officer's recommendation to the Committee. Upon a vote being taken this was carried.

RESOLVED that the application be **APPROVED** with the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with approved drawings and documents: EZH_001, A18553A/PP09 received on 08/10/2019 and Drainage Strategy received on 09/10/2019.
3. The materials to be used for the surface of the car park hereby approved shall be black tarmac to the circulation areas and buff tar and chip to the parking bays, unless otherwise agreed in writing by the LPA.
4. Prior to any part of the new surface hereby permitted being laid, a scheme detailing the infiltration techniques to serve the development shall be submitted to and agreed in writing by the local planning authority. The scheme shall include BRE 365 infiltration testing, as recommended in the submitted drainage strategy dated February 2019. The agreed scheme shall be implemented prior to the first beneficial use of the new car park surface and retained in perpetuity.

**7. FUL/MAL/19/00871 - LAND SOUTH WEST OF BROADFIELD FARM,
BRAXTED PARK ROAD, GREAT BRAXTED**

Application Number	FUL/MAL/19/00871
Location	Land South West Of Broadfield Farm, Braxted Park Road, Great Braxted, Essex
Proposal	Agricultural Storage Barn
Applicant	Mr Purdy
Agent	Mr Peter Le Grys - Stanfords
Target Decision Date	01.10.2019
Case Officer	Kathryn Mathews
Parish	GREAT BRAXTED
Reason for Referral to the Committee / Council	Member Call-in – Councillor J V Keyes for Policy D1

Following the Officer's presentation, Mr Peter Le Grys, the Agent, addressed the Committee.

A debate ensued where it was noted that the application was an improvement on the previous one, however, it still lacked demonstrable evidence of need for the building.

The Lead Specialist Place informed the Committee that the Planning Department had not received enough information to conclude that there was an agricultural need for the building in this location hence the same reasons for refusal as the previous application had emerged again. The issue was not with the appearance of the barn but a lack of evidence on need. He advised that given the information was not materially different from the previous application, it did not warrant making a different decision.

The Chairman then put the proposal to the committee, seconded by Councillor Bamford, to refuse the application in accordance with the Officer's recommendation. Upon a vote being taken it was carried.

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

1. The proposed development would be outside the development boundary and within the countryside. There is no justifiable and functional need for the building/activity, the function of the proposed building/activity is not directly linked, and ancillary to, the existing use and it has not been demonstrated that the building/activity could not reasonably be located elsewhere within the District. Therefore, the development is contrary to Policies S1, S8 and E4 of the Maldon District Approved Local Development Plan, and the NPPF.
2. The proposed building, for which a functional need has not been demonstrated, as a result of its size and height, would be visually incongruous and have an adverse impact on the character and appearance of this part of the countryside, contrary to Policies S1, S8, D1 and E4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.

There being no further items of business the Chairman closed the meeting at 8.13 pm.

MRS M E THOMPSON
CHAIRMAN



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

to
**NORTH WESTERN AREA PLANNING COMMITTEE
25 NOVEMBER 2019**

Application Number	FUL/MAL/19/01016
Location	East Cottage, Witham Road, Tolleshunt Major
Proposal	Replacement dwelling
Applicant	Mr E King
Agent	Mr Peter Le Grys – Stanfords
Target Decision Date	EOT: 29.11.2019
Case Officer	Devan Hearnah
Parish	TOLLESHUNT MAJOR
Reason for Referral to the Committee / Council	Member Call In by: Councillor J V Keyes Reason: Policies D1, D2, S1, H2 & H4

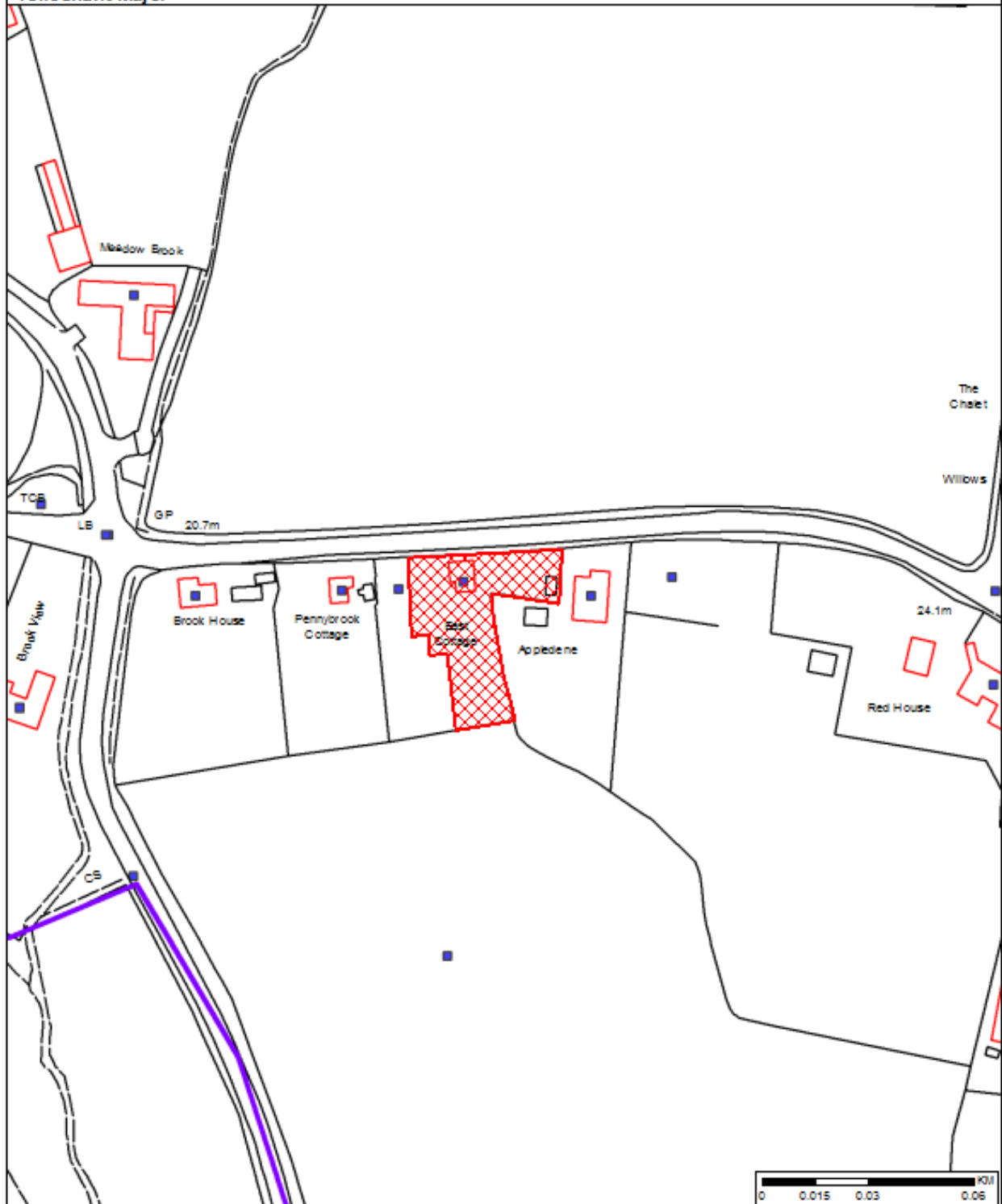
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

East Cottage, Witham Road Tolleshunt Major



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	
	Date:	25/04/2019
	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 southern side of Witham Road, outside of the defined settlement boundary of Tolleshunt Major. The area is predominantly rural in character. The application site lies between Appledene and Pennybrook Cottage. Pennybrook Cottage is Grade II listed. The site is occupied by a two-storey detached dwellinghouse on the northernmost part of the site adjacent to Witham Road. The dwelling is currently vacant and dilapidated.
- 3.1.2 Planning permission is sought to demolish the existing dwelling and to replace it with a new chalet style dwelling with four bedrooms. It is noted that two of the bedrooms are located on the ground floor and there is the potential that more of the ground floor rooms such as the dining room and study could be used as bedrooms. However, as this would not involve an increase in things such as vehicle parking requirements or amenity space provision it is not considered fundamental to the consideration of this application.
- 3.1.3 On the ground floor the dwelling would accommodate a hall, kitchen, study, living room, dining room, utility room, sun room, two bedrooms, one with an en-suite and a WC. On the first floor the dwelling would accommodate two bedrooms, both with en-suites. The proposed dwelling would be 'L-shaped' and would have an overall width of 16 metres, an overall depth of 18.7 metres and a height of 6 metres. The projection to the rear which forms the 'L shape' would measure 6.4m in depth and 6.1m in width. The dwelling would be located 13.5 metres from the front boundary of the site with a driveway to the front and a new vehicular access. The existing vehicular access would be closed off and the existing garage demolished.
- 3.1.4 The proposed dwellinghouse would be finished with red brick walls and a red tile roof. There would be two gable style dormer windows within both the front and rear roof slopes and there would be a rooflight between the two dormer windows on the principal roof slope. There would also be two hipped roof projections to the front of the dwelling measuring 4.2m in width, 1m in depth and 4.5m in height. There is also a gable porch projection proposed on the principal elevation, which measures 4.1m in height 1.5m in depth and 2.8m in width. The rear of the dwelling would feature three hipped roof projections, which create a 'stepped' appearance, due to their differing depths. The largest rear projection, which is made up of part of the kitchen and sunroom, measures 6.4m in depth, 6.1m in width and 5.3m in height.
- 3.1.5 It is noted that the red line boundary on the location plan has been drawn to exclude the flood zone to the west of the site. Therefore the area outlined in blue, which is also owned by the applicant, would not form part of the residential curtilage of the property should permission be granted and does not form part of the development site. It is however, therefore, noted that the doors as shown on the floor plan leading from the dining room would lead out onto an area which does not form part of the application site, therefore restricting their use. Nevertheless, it is noted that there are other doors to the rear of the proposed dwelling leading out onto the rear amenity space, within the application site.

- 3.1.6 Planning permission was refused both in 2018 and earlier in 2019 for a similar development for a replacement dwelling (reference FUL/MAL/18/01004, FUL/MAL/19/00261). The reason for refusal of the 2018 application was:

The proposed development represents a substantial building that would, as a result of its excessive width, scale, bulk, mass, height and unsympathetic design, create a prominent and visually intrusive development on this part of Witham Road. The proposed development would be detrimental to the visual amenity and character of the site, its immediate surroundings, the setting of the Grade II listed building Pennybrook Cottage, and the wider rural area. The proposal would therefore be contrary to policies S1, S8, D1, D3 and H4 of the Maldon District Local Development Plan and Government advice contained in the National Planning Policy Framework.

- 3.1.7 Further to this the previous 2019 application was refused for one reason, which was:

'The proposed development represents a substantial building that would, as a result of its excessive width, scale, bulk, mass and unsympathetic design, create a prominent and visually intrusive development on this part of witham road. The proposed development would be detrimental to the visual amenity and character of the site, its immediate surroundings and the wider rural area. The proposal would therefore be contrary to policies s1, s8, d1 and h4 of the maldon district local development plan and government advice contained in the national planning policy framework.'

- 3.1.8 From the most recent application (FUL/MAL/19/00261) the following main changes have been made:

- The ridge height of the dwelling has been reduced from 8.6 metres to 6.6 metres, creating a chalet style dwelling with dormers within the roofspace.
- The use of weatherboard/cladding has been omitted.
- The overall depth of the dwelling has been increased from 14.3m to 18.7m, although the main width and depth has not been altered.
- The proposed chimney has been omitted

3.2 Conclusion

- 3.2.1 Although a number of alterations have been proposed to the previously refused scheme, including the height of the proposed dwelling which has been reduced by 2 metres, it is not considered that the amendments made to the proposed development sufficiently overcome the Council's previous concerns with regard to the width, scale, bulk and mass of the dwelling. While there is no objection in principle for a replacement dwelling on this plot, it is considered that the proposed dwelling is excessive in its overall size in comparison to the neighbouring residential properties. Also, the design and appearance of the dwelling would create a prominent and visually intrusive development out of keeping with the existing dwellings in the locality. The proposal would therefore fail to accord with policies D1 and H4 of the Local Development Plan (LDP) and government advice 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	Achieving sustainable development
11	The presumption in favour of sustainable development
47-50	Delivering a sufficient supply of homes
102-105	Promoting sustainable transport
117-118	Making effective use of land
124-128	Achieving well-designed places
148-165	Meeting the challenge of climate change, flooding and coastal change
184-199	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 the Countryside
D1	Design Quality and Built Environment
D3	Conservation and Heritage Assets
D5	Flood Risk and Coastal Management
H2	Housing Mix
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 application site lies outside of the defined settlement boundary. However, as the proposal is for a replacement dwelling the principal of a dwelling being located at this site is already established. Policy H4 of the approved Maldon District Local Development Plan (MDLDP) states that planning permission for the replacement of an existing dwelling with a new dwelling will only be granted if:

- 1) The residential use of the original dwelling has not been abandoned;
- 2) The original dwelling is not a temporary or mobile structure;
- 3) The original dwelling is not worthy of retention because of its design and relationship to the surrounding area;
- 4) The proposed replacement dwelling is of an appropriate scale to the plot and its setting in the landscape;
- 5) The proposed replacement dwelling is of a design appropriate to its setting; and
- 6) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.

- 5.1.2 Since the previous application (FUL/MAL/19/00261) which was determined by the Council on the 15 May 2019, the existing property at the site has deteriorated rapidly, most notably the roof has been removed. However, having regard to the previous applications it is noted that the residential use of the original dwelling has not been abandoned and that it is not a temporary or mobile structure, in accordance with criterion 1 and 2. The cottage lacks architectural merits and is simple in design. Therefore, there is no objection in principle to the refurbishment or replacement of the existing building, subject to all other considerations. While the site is next to Pennybrook Cottage, a Grade II listed building, the proposal would not result in the loss of any heritage features. No important landscape or ecology interest has been recorded on this site. The proposal would accord with Policy H4 (1) (2) (3) and (6) of the LDP. With regards to points 4 and 5, this is discussed in the report below.

5.2 Housing Mix

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 61 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’* and to plan for houses needed including *‘the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)’*.
- 5.2.2 The proposal seeks to demolish the existing three-bedroom dwelling and to replace it with a four (or more) bed dwelling house. 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 high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units. Policy H2 therefore encourages the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council’s updated Strategic Housing Market Assessment (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.
- 5.2.3 The Council is therefore encouraged in Policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. While the principle of development is acceptable, the Council considers that the residential scheme proposed in this application would fail to provide smaller units for the District in accordance with the SHMA. However, as the existing dwelling contains three bedrooms and the replacement dwelling will have four (or more) bedrooms, it is considered the proposal would make a neutral contribution, in respect of social sustainability.

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 Maldon District Design Guide (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 In addition, the proposal is for a replacement dwelling. Policy H4 seeks to encourage development only if the proposed replacement dwelling is of an appropriate scale and

design to the plot and its setting. It is not considered that the existing dwelling is worthy of retention because of its design and relationship to the surrounding area.

- 5.3.7 Although the proposed dwelling would be set back further into the site than the existing dwelling, at 13.5 metres from the road, it would still be visible within the public realm. This would be emphasised by the substantial width of the proposed building which would be much greater (8.9m) than the existing dwelling and the surrounding dwellings along Witham Road. Therefore, although the impact on the streetscene would be slightly reduced in relation to the previous application due to the reduction in height of the proposal, it is still considered that the proposed development would have a demonstrable impact on the streetscene and the character of the area.
- 5.3.8 The proposal is for the construction of a four-bed (or more) detached dwelling house. The application site is located between two modest dwellings Pennybrook Cottage (Grade II listed) and Appledene, where they both stand within large plots with good amounts of space surrounding. In the previous appeal decision, for a new dwellinghouse at the land to the west of East Cottage (reference FUL/MAL/14/00320 and APP/X1545/A/14/2228672), the Planning Inspectorate had noted that the plots along Witham Road have spacious settings with views between buildings, above planting on the highway boundary in some areas, towards the undeveloped countryside beyond. This creates a distinctly rural, green and spacious character. This is particularly so in the immediate vicinity of the site where buildings are more modest and spaced out than the row of dwellings on Plains Road on the opposite side of the crossroads to the west.
- 5.3.9 The proposed dwelling would be larger than its immediate neighbouring properties. In terms of width, the dwelling would increase from 7 metres to 16 metres. Although the ridge height would be reduced in relation to the previous property, the exaggerated roof profile in order to fit two levels of accommodation, further exacerbates the overall bulk of the proposed dwelling. The replacement dwelling would be significantly larger where the total floor area of the new build will be approximately 350m² when compared to the existing dwelling of East Cottage which measures 98m². The dwelling would be symmetrical in design and suburban in appearance however it is considered that the scale and bulk of the new build is such that it would be out of keeping with the modest sized cottages to the east and west of the application site. As the characteristics of this part of Witham Road is a rural and spacious environment, it is considered that the new build would significantly reduce the gap between the proposed and existing dwelling Pennybrook Cottage thus eroding the sense of openness and views between properties.
- 5.3.10 Although the existing dwelling and the neighbouring properties Pennybrook Cottage and Brook House are located directly adjacent to Witham Road, the neighbouring property at Appledene is set back further into the site. The proposed dwelling would result in a staggered building line as it would be set back further than the building line of Pennybrook Cottage but not as far back as the building line of Appledene. Therefore it is not considered that the dwelling's location, set back into the site, would form a reason for refusal.
- 5.3.11 It is noted that the height of the proposed dwelling has been reduced by 2 metres since the previously refused application (FUL/MAL/19/00261). This is considered to result

in some reduction in the impact of the proposal, however the proposed width, and siting of the proposed dwelling would remain as per the previous application and the depth would be increased which formed part of the reason for refusal. Therefore, it is not considered that all the Council's previous concerns have been satisfactorily overcome.

- 5.3.12 The Council's Conservation Officer objected to the previous 2018 application on the grounds that it would result in some harm to the setting of this heritage asset and its significance. However, when considering the previous 2019 application the Conservation Officer considered that the amendments to the scheme would overcome the previous concerns in relation to the impact on the neighbouring listed building. The Conservation Officer's previous concerns in relation to the 2018 application (FUL/MAL/18/01004) were regarding the scale and bulk of the dwelling resulting in an overbearing relationship with the listed building, in particular the central roof which was considered to look 'awkwardly tall'. However, the Conservation Officer has now stated that the reduction in height has resulted in the proposal having a much less overbearing relationship with the listed cottage than the previous scheme. Therefore, the Conservation Officer has not objected to the current application.
- 5.3.13 Having taken into account the design and appearance of the development, it is considered that the proposal would harm the rural character of the area. While it is noted in the submitted Planning Statement that there is an opportunity to introduce additional soft landscaping to the front of the dwelling now that it is set back some distance from the highway, it is considered that this would not be a justification to allow the development in the countryside as the benefit of planting would not outweigh the environmental harm the development would have on its rural setting. In this respect, the proposal would fail to accord with Policies D1 and H4 of the LDP.

5.4 Impact on Residential Amenity

- 5.4.1 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).
- 5.4.2 The application site would have two neighbouring properties, Pennybrook Cottage on Witham Road to the west and Appledene on Witham Road to the east.
- 5.4.3 The boundary of Pennybrook Cottage would be 15 metres from the proposed development and is a grade II listed building. The proposed dwelling would also be set back into the plot by 13.5 metres compared to the dwelling at Pennybrook Cottage which is in close proximity to the road. Therefore, it is not considered that the proposed dwelling would have an overbearing impact on this neighbouring dwelling. There would be no first-floor windows in the side elevations of the proposed development. Therefore, as any windows in the side elevation are ground floor only, it is not considered that they would result in any overlooking into the dwelling and private amenity space of Pennybrook Cottage.
- 5.4.4 The boundary of Appledene would be 1.5 metres from the proposed development and the main dwelling at Appledene would be 22 metres from this proposed dwelling, although it is noted that there are some outbuildings on this neighbouring site which

would be closer. Due to the distance from the main dwelling, although the proposed dwelling would be significantly larger than the existing building on site in terms of footprint, it is not considered to have an overbearing impact on Appledene. As the proposed windows in the side elevations are on ground floor level only, it is not considered that they would result in a loss of privacy to the neighbouring dwelling to the east.

- 5.4.5 The proposed dwelling does have two dormer windows on the rear elevation. However, although the property is set back further into the site, it is not considered that these windows would result in a level of overlooking which is significantly different than the first floor windows of the existing property on the site.
- 5.4.6 Therefore, is not considered that the replacement dwelling would represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of D1 of the LDP.

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 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.
- 5.5.3 The site plan shows two car parking spaces to the front of the proposed dwelling. As the proposed dwelling would have four bedrooms, the vehicle parking standards would require a minimum of three car parking spaces and therefore the proposed development would not be in accordance with this requirement. However, it is shown that more hardstanding would be provided at the site which would be able to provide additional parking and therefore this would not form a reason for refusal.

- 5.5.4 The Highways Authority has been consulted on the proposed development in relation to the amended access point to the site from Witham Road and have no objections subject to the inclusion of seven conditions.

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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.6.2 The proposed site plan shows a private amenity space of around 340m² and therefore this would be in accordance with the requirement in the SPD. It is noted that this only includes the area within the red line boundary of the site, any other land also owned by the applicant would be outside of the residential curtilage.
- 5.6.3 Limited details haven been provided regarding the hard and soft landscaping for the site and therefore it is considered reasonable for a condition to be imposed for the details to be submitted should the application be approved.

5.7 Flood Risk

- 5.7.1 The proposed dwelling will be located outside the area of flood risk but having considered the close proximity of the site and to the flood zones, it is considered appropriate to address this in this application as the existing planning unit appears to include this land, but the application site has been amended to exclude this land.
- 5.7.2 The Environment Agency Flood Data shows that the land immediately to the south west and west of the application site and the proposed dwelling lies within Flood Zones 2 and 3. In zones 2 and 3 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high and medium probability of flooding. New dwellings and residential uses are classified as more vulnerable as defined in the NPPG and previously in the technical guidance to the NPPF, therefore to comply with the NPPG and NPPF new built form would be expected to comply with the sequential test and the exception test.
- 5.7.3 In addition to the above, 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.
- 5.7.4 The proposal is for a replacement dwelling on this site. It is noted that the replacement dwelling has been positioned just outside the area of flood risk (Flood Zone 2) edged in red and the flood risk area edged in blue. As such, no Flood Risk Assessment would be required as the application site does not include any land within the flood zone and it is also noted that the dwelling is proposed to be erected on land outside the flood zones.

- 5.7.5 As per the previous applications (FUL/MAL/18/01004 and FUL/MAL/19/00261), the Council has taken a pragmatic approach when assessing the proposal and while no Flood Risk Assessment has been submitted by the Applicant to demonstrate that the relevant tests have been applied or met. Having considered the dwelling's position within the plot on land that is outside Flood Zone 2, it would not be reasonable to object to the proposed dwelling on the grounds of flood risk.
- 5.7.6 It is noted that the Council's Environmental Health team has not responded to this application but previously objected in relation to the previous application due to the absence of a flood risk assessment. However as discussed above, the proposed dwelling is located outside of the flood zones 2 and 3 and therefore a flood risk assessment and consultation with the Environment Agency is not a statutory requirement.

5.8 Other Matters

- 5.8.1 Concerns have been raised within the letters of representation regarding a drainage ditch which runs across the front of the site. However, the Council's Environmental Health team previously made no reference to a ditch on the site and therefore it is not considered that this would form a reason for refusal. Should the application be approved a condition could be included regarding surface water drainage to ensure that any existing methods of drainage on the site are to be retained or replaced sufficiently.

6. ANY RELEVANT SITE HISTORY

East Cottage, Witham Road, Tolleshunt Major:

- **FUL/MAL/19/00261** -Replacement dwelling – refused.
- **FUL/MAL/18/01004** – Replacement dwelling – Refused
- **FUL/MAL/14/00320** – New dwelling house – Refused and dismissed at appeal

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tolleshunt Major Parish Council	A smaller dwelling would be more suitable for the site. The proposal is excessive in bulk and would be prominent and visually intrusive	Addressed at section 5.3

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	The Highways Authority does not object to the proposals as submitted subject to the inclusion of seven conditions.	Comments noted and conditions would be included if the application were to be approved.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	The proposal would not cause harm to the setting of the listed building, Pennybrook Cottage to the west of the application site, subject to the inclusion of one condition relating to materials	Comments noted

7.4 Representations received from Interested Parties

- 7.4.1 1 letter was received **commenting** on the application and the reasons for objection are summarised as set out in the table below:

Comment	Officer Response
No objection to the principle of a replacement dwelling.	Addressed at section 5.1
The reduced height reduces the impact on the amenities of the neighbouring occupier.	Addressed at section 5.4
A garage could be constructed under permitted development	Possible developments cannot be considered as part of this application. A condition could be included to restrict permitted development rights on the site if deemed necessary.
The removal of much of the existing planting has had an adverse impact on the appearance of the area and a landscaping scheme should be required. The finished development should incorporate appropriate landscaping to enable it to blend into the rural landscape.	Discussed in section 5.6

Comment	Officer Response
There is a drainage ditch that runs across the front of the site, which should be maintained and not filled.	Discussed in section 5.8.

8. REASON FOR REFUSAL

- 1 The proposed development represents a substantial building that would, as a result of its excessive width, scale, bulk, mass and unsympathetic design, create a prominent and visually intrusive development on this part of Witham Road. The proposed development would be detrimental to the visual amenity and character of the site, its immediate surroundings and the wider rural area. The proposal would therefore be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government advice contained in the National Planning Policy Framework.