

# Unrestricted Document Pack

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

07 June 2019

Dear Councillor

You are summoned to attend the meeting of the;

## **SOUTH EASTERN AREA PLANNING COMMITTEE**

on **MONDAY 17 JUNE 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 17 JUNE 2019**

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 18)

To confirm the Minutes of the meeting of the Committee held on 21 May 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/18/01390 - Winterdale Manor, Burnham Road, Althorne** (Pages 19 - 58)

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

6. **FUL/MAL/19/00400 - Land at Myrtle Cottage, Stoney Hills, Burnham-on-Crouch** (Pages 59 - 80)

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

7. **FUL/MAL/19/00458 - Land Adjacent 9 St. Peter's Court, Bradwell-on-Sea** (Pages 81 - 100)

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

8. **FUL/MAL/00465 - Chartwell, 120 Maldon Road, Burnham-on-Crouch, Essex, CM0 8DB** (Pages 101 - 116)

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

9. **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 – 8.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

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

### **NOTICES**

#### **Sound Recording of Meeting**

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

#### **Fire**

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

## **BACKGROUND PAPERS**

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

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

### **Development Plans**

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

### **Legislation**

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

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

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

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

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

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

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

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

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



**MINUTES of  
SOUTH EASTERN AREA PLANNING COMMITTEE  
21 MAY 2019**

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**PRESENT**

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

**78. CHAIRMAN'S NOTICES**

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

**79. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors N J Skeens and W Stamp.

**80. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 8 April 2019 be approved and confirmed.

**81. DISCLOSURE OF INTEREST**

Councillor R Dewick advised the Committee that he knew the applicants under Agenda Item 9 - HOUSE/MAL/19/00396 - Lunendales Cottage, Foxhall Road, Steeple, but that he did not consider this to be detrimental to speaking and voting on this item of business.

Councillor Mrs P A Channer, CC declared a non-pecuniary interest as a member of Essex County Council, a consultee on planning application matters with respect generally, to highways, matters of access and education primarily. She further declared in respect of Agenda Item 9 - HOUSE/MAL/19/00396, - Lunendales Cottage, Foxhall Road, Steeple, as he knew both the applicants and the family.

Councillor A S Fluker declared in the interest of openness and transparency on Agenda Item 9 - HOUSE/MAL/19/00396 - Lunendales Cottage, Foxhall Road, Steeple, as he knew both the applicants and the family.

**82. OUT/MAL/18/01476 - TILLINGHAM HALL FARM, NORTH STREET, TILLINGHAM, ESSEX**

<b>Application Number</b>	<b>OUT/MAL/18/01476</b>
<b>Location</b>	Tillingham Hall Farm, North Street, Tillingham, Essex
<b>Proposal</b>	Demolition of existing agricultural buildings and erection of up to 24 No. residential dwellings with access.
<b>Applicant</b>	The Dean & Chapter Of St Paul's Cathedral
<b>Agent</b>	Mr Steven Sensecall - Carter Jonas
<b>Target Decision Date</b>	15.04.2019 (EoT agreed: 21.06.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>TILLINGHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

Following the Officer's presentation, an Objector, Mr Mick Hamblion and the Agent Mr Steven Sensecall, addressed the meeting.

A debate ensued where both the merits and demerits of the application were discussed. Some concerns were raised including issues around highway safety and NHS provision. However, in respect of highway safety, the Highway Authority had been consulted and raised no objection in terms of highway safety, efficiency and accessibility of the site. With reference to NHS provision/contribution the Lead Specialist Place advised the Committee that the NHS only consider contributions in respect of developments of 50 and above properties.

Members acknowledged that this application had been through a number of iterations, that the applicant had fulfilled all the required criteria and come back with a solution for the provision of affordable housing, which made the development policy compliant.

Councillor Fluker proposed that the application be approved in accordance with the Officer's recommendation. The Chairman put the proposal to 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 of the report to the Committee. Upon a vote being taken this was approved.

**RESOLVED** that the application be **APPROVED** subject to the aforementioned legal agreement together with the following Heads of Terms and conditions:

**HEADS OF TERMS OF ANY SECTION 106 AGREEMENT:**

- To provide on-site affordable housing contribution of 25% (6 units) in accordance with Policy H1.
- To pay the Education Contribution of £43,903.44 index linked to April 2019 to the County Council on or before the occupation date.
- To pay a contribution of £122.30 per dwelling towards RAMS (Essex Coastal Recreational Avoidance and Mitigation Strategy).



## CONDITIONS:

- 1 Details of the appearance, landscaping and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Application(s) for approval of the reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 As part of the reserved matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the LPA. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained in perpetuity as such thereafter.
- 3 The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works, including retention of the existing trees as stated in the Arboricultural Impact Assessment (dated 30.10.2018), which shall be submitted to and approved in writing by the LPA. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses. All of the hedgerow boundaries shall be retained and maintained at all times thereafter, unless otherwise agreed with the LPA.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme’s implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the LPA.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the LPA. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the LPA, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.
- 4 The development hereby permitted shall not be first occupied/provided with connection to utility services until such time as the vehicle parking area indicated on the approved plan no 2017-919-002 rev B, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking areas shall be retained in this form at all times. The vehicle parking areas shall not be used for any purpose other than the parking of vehicles that are related to the use of the approved development.
- 5 No dwelling hereby approved shall exceed two storeys in height..
- 6 The dwelling mix for the development hereby approved shall accord with the following stated housing mix:
  - 17 two-bedroom dwellings (of which 2, two-bedroom bungalows)
  - 5 three-bedroom dwellings

- 2 four-bedroom dwellings
- 7 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 preliminary risk assessment to include historical information of how each part of the site has been used in the past;
  - ii) A survey of the extent, scale and nature of contamination;
  - iii) 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;
  - iv) 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 LPA.
- 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 LPA. 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 LPA. The LPA 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 LPA must be given two weeks written notification of commencement of the remediation scheme works. 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.
- 9 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the LPA. The LPA must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation

carried out must be produced and submitted to the LPA for approval.

The written verification shall include that:

i) All contaminated material removed from the site is removed by an appropriate licensed contractor to a facility approved by the Environment Agency.

ii) All imported material is suitable for its intended use.

iii) All agreed remediation measures identified as necessary in the contaminated land assessment have been undertaken to render the site suitable for the use specified.

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

- 10 No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

- 11 No works shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

- 12 No building shall be occupied until details of a foul drainage scheme to serve the development have been submitted to and agreed in writing by the LPA. The agreed scheme shall be implemented prior to the first occupation of the development.

- 13 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the LPA. 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

- 14 The proposed main vehicle access shall be provided as shown in Drawing L641-001 (Proposed Access Arrangements) to include site visibility splays of 2.4m x 72 metres to the north and 2.4m x 47 metres to the south as measured from and along the nearside edge of the kerb.
- 15 Any redundant site accesses shall be permanently closed incorporating the reinstatement to full height of the kerbing immediately the proposed access is brought into first beneficial use.
- 16 No dwelling hereby approved shall be occupied until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the local planning authority.
- 17 Prior to first occupation of the residential aspect 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. These packs are to be provided by the Developer to each dwelling free of charge.
- 18 Prior to the occupation of the development an Arboricultural Method Statement and Arboricultural Supervision Schedule shall be submitted to and approved in writing by the LPA. No other trees shall be removed or fell unless otherwise agreed in writing by the LPA.
- 19 No development shall take place until a Written Scheme of Investigation of archaeology shall have been submitted to and approved in writing by the LPA. No development shall take place other than in accordance with the Written Scheme of Investigation.
- 20 Notwithstanding the details submitted in the Design and Access Statement, a Waste Management Plan shall be submitted to as part of the reserved matters application(s).
- 21 A strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means should be submitted to the LPA for approval in writing. The method to facilitate superfast broadband shall be implemented in accordance with the approved strategy prior to the occupation of the appropriate building.
- 22 An external fast charging point shall be provided adjacent to at least 1 parking space for each dwelling hereby approved.
- 23 No development shall commence until full details of an ecological mitigation scheme have been submitted to and approved in writing by the LPA. The ecological mitigation scheme shall follow the recommendations set out in the submitted Extended Phase 1 Habitat Survey (dated 27 March 2018), Bat Survey Report (dated 18 October 2018) and great Crested Newt Survey Report (dated 26 June 2018). The scheme shall be fully implemented and subsequently maintained, 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 LPA.
- 24 No dwelling shall be occupied until a scheme detailing ecological enhancements has been submitted to and approved by the LPA. Such details shall include ecological enhancements including the provision of bird and bat boxes. The ecological enhancements as agreed shall be implemented as approved and retain as such thereafter for a minimum period of five years from the date of completion of the development.

## INFORMATIVES

- 1 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.
  
- 2 The applicant must ensure that the work is undertaken in accordance with the Control of Asbestos Regulations 2012 and its Approved Code of Practice which is regulated by the Health and Safety Executive. Under this Duty holders must complete a risk assessments and an asbestos management plan prior to the commencement of the works. The risk assessment will determine whether the works are licensed, notifiable non-licensed work or non-licensed. It will also require that prior to demolition a refurbishment/demolition survey will be required to ensure that nobody will be harmed and the works will be undertaken in the correct way. For further information please see the HSE's website. It is also recommended that the council's Building Control department is notified of any demolition in order that requirements can be made under the Building Act 1984.
  
- 3 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.
  
- 4 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO2 - Essex Highways,  
Springfield Highways Depot,  
Colchester Road,  
Chelmsford.

CM2 5PU.

- 5 You are advised that samples of the facing materials to be used, including glazing, would be beneficial to be submitted with your reserved matters application to allow full assessment of the proposal, given its location within the Tillingham Conservation Area. Detailed drawings of the windows and doors to be used in the development, including elevations at 1:20 and section details at 1:2, would be required to be submitted to fully assess the design of the proposed dwellings. Notwithstanding the approved drawings, all garage doors should be of painted timber and side-hung.
- 6 You are advised that the development submitted as part of a reserved matters application would need to match the indicative streetscene elevations submitted with the current outline application and also reflect the character of the conservation area.

**83. FUL/MAL/19/00142 - LAND ADJACENT 104 IMPERIAL AVENUE, MAYLAND**

<b>Application Number</b>	<b>FUL/MAL/19/00142</b>
<b>Location</b>	Land Adjacent 104 Imperial Avenue, Mayland
<b>Proposal</b>	Proposed 2 bed dwellinghouse
<b>Applicant</b>	Mr and Mrs Sharman
<b>Agent</b>	Mr Greg Wiffen – Planman
<b>Target Decision Date</b>	24/05/2019
<b>Case Officer</b>	Devan Lawson
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Previous Committee Decision

The Chairman introduced the application noting that it was a previous committee decision and before the Committee with an Officer recommendation to refuse.

Following the Officer's presentation an Objector, Mr John Bedford and the Applicant Mr Richard Sharman, addressed the Committee.

It was considered that the application would result in overdevelopment of the plot resulting in material harm to the character and appearance of the site.

Councillor Boyce, having considered both the detail in the Officer's report and the public presentations, proposed that the application be refused in accordance with the Officer's recommendation. This was duly seconded by Councillor Fluker.

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

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

1. The proposed development, by virtue of the size, scale and bulk of the proposed dwelling, would appear cramped at the application site and represent the overdevelopment of the site and the surrounding area. The proposal is therefore

unacceptable and contrary to the NPPF, policies D1 and H4 of the Maldon District Local Development Plan and the Maldon District Design Guide.

**84. FUL/MAL/19/00195 - 1 KINGS ROAD, SOUTHMINSTER, ESSEX CM0 7EJ**

<b>Application Number</b>	<b>FUL/MAL/19/00195</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 4 No. one bedroom flats and the erection of a two storey side/rear extension to provide 2 No. one-bedroom flats (all social rent), with associated off-street parking, amenity space, landscaping, external refuse and cycle store and external alteration.
<b>Applicant</b>	Ms Lisa Shead - MOAT
<b>Agent</b>	Miss Maria Cannavina - Prime Building Consultants Ltd
<b>Target Decision Date</b>	07.05.2019 (EoT agreed: 24.05.2019)
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In The application has been called-in by Councillor A S Fluker on the grounds of public interest, size, scale, bulk, design and character and appearance of the area.

A Members' Update was submitted detailing two pre-commencement conditions, further comments from the Housing Team regarding the need for units to be affordable together with additional comments from the Environmental Health Team.

Following the Officer's presentation, an Objector Mr Terry Duffy, addressed the Committee.

At this point Councillor Fluker declared in the interest of openness and transparency on this item of business as he knew the Objector, Mr Terry Duffy.

Members debated the application noting that additional affordable housing was required in the area and that improving this dilapidated building would be an advantage.

Councillor Fluker, whilst acknowledging the need for affordable housing, raised a number of concerns that he felt discounted the site for that purpose. He referred to non-compliance with planning policies around corner sites (Section C15 of the Maldon District Design Guide), building design (Policy D1) and vehicle parking standards SPD. The inadequate allocated parking provision would result in unacceptable on street parking, no disabled parking space and no charging or storage facilities for mobility scooters.

Following further discussion between Officers and Members and taking into consideration the aforementioned issues Councillor Fluker proposed that the application be refused contrary to the Officer's recommendation. This was seconded by Councillor Helm.

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

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

1. 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).
2. 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)

**85. FUL/MAL/19/00224 - LAND REAR OF 32 STEEPLE ROAD, MAYLAND**

<b>Application Number</b>	<b>FUL/MAL/19/00224</b>
<b>Location</b>	Land Rear of 32 Steeple Road, Mayland
<b>Proposal</b>	Erection of 2 No. bungalows, attached garages and erection of workshop (B1)
<b>Applicant</b>	Mr Penny – Penny Homes Ltd.
<b>Agent</b>	Mr M Jackson – Mark Jackson Planning
<b>Target Decision Date</b>	24.05.2019
<b>Case Officer</b>	Devan Lawson
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call in: Councillor M Helm Reason: Public Interest

A Members' Update was submitted detailing some additional background information, a revised plan, reduced parking needs, representations from Mayland Parish and a further letter of objection from a member of the public.

Following the Officer's presentation Mr Paul Chandler, an Objector and Mr Mark Jackson, the Agent addressed the meeting.

Members debated the application in terms of the benefits of developing infill sites, employment opportunities and the welcome addition of two bungalows.

The Lead Specialist Place reminded Members that this application had previously been refused by this Committee. In response Members referred to recent decisions at appeal by the Planning Inspectorate to approve similar infill sites and approve proposals for the



erection of buildings outside the settlement boundaries within the District. Particular weight was given to a recent appeal at Bradwell.

It was further noted that the current proposal had addressed the previous objection in relation to the loss of employment land, which was considered as a positive element of the proposal and weighed in favour of the development. Other issues considered was that the site be conditioned for B1 use with controlled daily operational hours, no operation on Sundays and Bank Holidays and parking spaces for workshop use only.

Councillor Boyce proposed that the application be approved contrary to the Officer's recommendation and this was seconded by Councillor Helm.

The Chairman agreed that the conditions be delegated to Officers in consultation with the Chairman.

The Chairman then put the proposal to approve the application to the Committee. Upon a vote being taken this was agreed.

**RESOLVED** that the application be **APPROVED** subject to conditions approved by Officers in consultation with the Chairman.

**86. HOUSE/MAL/19/00396 - LUNENDALES COTTAGE, FOXHALL ROAD, STEEPLE**

<b>Application Number</b>	<b>HOUSE/MAL/19/00396</b>
<b>Location</b>	Lunendales Cottage, Foxhall Road, Steeple
<b>Proposal</b>	Erection of a part single, part two storey side/front extension, erection of a first floor front extension, canopy and alterations to elevations of the existing dwelling
<b>Applicant</b>	Mr & Mrs Cowell
<b>Agent</b>	Mr Robert Parish
<b>Target Decision Date</b>	24.05.2019
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In : Councillor A S Fluker Reason: Public interest/size, scale and bulk, impact on location

Following the Officer's presentation, the Applicant, Mrs Caroline Cowell, addressed the Committee.

Members debated the application and agreed that it would have no adverse impact on the street scene, if anything it would enhance the area. The bulk and size were in accordance with modern day living and there was ample off-street parking for the occupiers of the dwelling. It complied with the relevant policies D1, H4 and T2 of the Local Development Plan (LDP).

In light of the aforementioned reasons Councillor Fluker proposed that the application be approved contrary to the Officer's recommendation and this was duly seconded. Standard conditions were agreed around timeframe, plans and materials.

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

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
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 accordance with the following approved plans: 18-082-pp-01; 18-082-pp-02; 18-082-pp-03.  
REASON To ensure that the development is carried out in accordance with the details as approved.
3. The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved  
REASON In the interest of maintaining the character and appearance of the area in accordance with policies D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework (2019)

There being no further items of business the Chairman closed the meeting at 9.31 pm.

R P F DEWICK  
CHAIRMAN

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

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

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

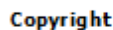
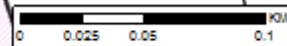
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

## 18/01390/FUL



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Malden District Council 10/001 5555 2014

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: SEAC

Date: 18/02/2019

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site comprises a parcel of land sited on the northeast corner of the junction of Southminster Road (B1018) with Burnham Road. To the south of the site is Althorne village green, to the north and west of the site are residential units that front onto Burnham Road. To the east of the application site is a commercial unit, which appears to be used for car storage and repair purposes.
- 3.1.2 The application site currently comprises a number of office and light industrial use buildings that were used in connection with Global Invacom. The use of the buildings is restricted to a personal permission for Global Invacom and to be used for purposes relating to office use only and for no other purposes.
- 3.1.3 Associated hardstanding used for car parking purposes is located mainly to the east of the site, but also between buildings no's 1, 2 and 3. The site has two accesses, one taken from the junction of Southminster Road with Burnham Road and one to the south of the site from Southminster Road.

#### **The Proposal**

- 3.1.4 Planning permission is sought for the demolition of the existing buildings and the erection of fourteen dwellings with associated infrastructure. The proposal consists of six no. two bedroom houses, set within terraces of three within the western part of the site, five no. three bedroom detached dwellings spaced across the northern central parcel of the site and three detached four bedroom dwellings proposed within the eastern part of the site.
- 3.1.5 The proposed terraces of two bedroom dwellings will have a maximum width of 14.4m and a depth of 11.6m. Each individual dwelling will have a width of 4.8m. They would have an eaves height of 3.9m and a ridge height of 7.1m. To the rear would be a single storey projection measuring 2.2m to the eaves and 3.5m to the top of the mono-pitched roof. The dwellings would each have a flat roof dormer to the front and one to the rear, with velux windows situated on the mono-pitch roof. The proposed roofs are unusual in that they appear as two separate gambrel roofs. The two bed dwellings will be clad in timber weatherboard and will have slate roof tiles.
- 3.1.6 The proposed three bedroom dwellings will measure 6.4m in width and 11.1m in depth. They will have an eaves height of 3.9m and a height of 7.5m to the top of the pitched roof. The dwellings will be constructed from brick and timber weatherboard and will feature slate roof tiles. There will be two flat roof dormers to the front and two to the rear. Three of the five, three bedroom dwellings will feature a 2.7m tall Glass Reinforced Plastic dormer.
- 3.1.7 The proposed four bedroom dwellings will have a width of 8.9m and a depth of 9.6m. In terms of height the proposed four bedroom properties, they would have a maximum eaves height of 4.7m and a maximum height of 8m to the top of the pitched roof. There are also other differing roof heights on the proposed four bedroom dwellings, a two storey side projection measuring 4.7m to the eaves and 7.3m to the ridge, a single storey front projection with a velux window in the mono-pitch roof measuring a

maximum height of 3.7m, a front porch with a maximum height of 3m which projects from the side of the mono-pitch front extension. Two of the four beds will also feature an attached garage measuring 3.2m in width and 6.5m in depth. The garages will not be accessible integrally from the host dwelling and would be set back 5.4m from the principal elevation. In contrast plot 13 will have a car port. The four bedroom dwellings will be constructed from brick at ground floor, weatherboard at first floor and slate roof tiles and one of the properties will have glass reinforced plastic detailing around the ground and first floor windows on the front elevation.

- 3.1.8 The proposed amenity areas for the two bedroom dwellings range in size from 47m<sup>2</sup> to 100m<sup>2</sup>. The proposed three bedroom dwellings have amenity areas ranging in size from 154m<sup>2</sup> to 177m<sup>2</sup> and the four beds 107m<sup>2</sup> to 435m<sup>2</sup>.
- 3.1.9 Off- street parking will be provided for each dwelling, consisting of two spaces per two bedroom property, two spaces per three bedrooomed dwelling and three to four spaces for the four bedrooomed houses. Four visitor bays will also be provided within parking bays situated within the front of the site. Access would be from the east of the site and would utilise an existing access.
- 3.1.10 The submitted plans also shows illustrative landscaping details which shows tree planting within the site. There is an area of open space along the front (southern) boundary of the site.

#### Background

- 3.1.11 The most relevant planning history to the current proposal is application OUT/MAL/15/00734 which proposed the redevelopment of the site to provide up to 9 no. dwellings. The application was refused in October 2015 for the reason of the loss of employment land, the inadequate provision for affordable housing, the urbanising and the unwelcome visual intrusion into the open countryside and the potential impact on the future residential occupiers from the noise generating sources contained within the adjoining site to the east. The reasons for refusal were as follows:
  - 1 *'The proposed development would result in the loss of employment land. No justification or evidence has been provided for the loss of this land by way of evidence that the existing use demonstrably harms the character and appearance of the area, the proposed use would be of greater benefit to the community, or that the site has been marketed for sale and that there is a confirmed lack of interest. The development would therefore have an adverse impact on the limited supply of employment generating land, contrary to policy E6 of the Adopted Maldon District Replacement Local Plan, policy E1 of the Maldon District Submission Local Development Plan and Core Planning Principles and guidance contained in the National Planning Policy Framework.*
  - 2 *The proposed development makes inadequate provision for affordable housing or a financial contribution in lieu of affordable housing contrary to policy H9 of the Adopted Maldon District Replacement Local Plan, H1 of the Maldon District Submission Local Development Plan and guidance and principles contained in the National Planning Policy Framework.*

- 3 *The proposed development would result in an intensified form of linear development that would fail to protect and enhance to the character and appearance of the rural locality. Furthermore, the development would have an urbanising effect on the rural character of the area and would result in an unwelcome visual intrusion into the open and undeveloped countryside, to the detriment of the character and appearance of the area contrary to policies CC6 and BE1 of the adopted Maldon District Replacement Local Plan, D1 and H4 of the emerging Local Plan and core planning principles and guidance contained in the National Planning Policy Framework.*
- 4 *Insufficient information has been submitted as part of the planning application to demonstrate that there would be no demonstrable impact on the amenity of the future occupiers of the proposed residential units from of the noise generating sources contained within the adjoining site to the east. The council is therefore unable to fully assess whether the proposal would represent an appropriate form of development for this site, contrary to policies CON5 and BE1 of the Adopted Maldon District Replacement Local Plan, policies D1 and D2 of the Maldon District Submission Local Development Plan, guidance contained in the Essex Design Guide and core planning principles and guidance contained in the National Planning Policy Framework.'*

### **3.2 Conclusion**

- 3.2.1 The proposed dwellings would be sited outside of the defined development boundary, contrary to policy S8. Furthermore, the proposal as a result of the scale, bulk and design of the dwellings and the layout of the site would result in a contrived form of development that results in material harm to the character and appearance of the area. The proposed development would therefore represent the unjustified sprawl of built form into the countryside and an unnecessary visual intrusion. Furthermore, one of the proposed dwellinghouses would not be provided with adequate amenity space provision and there would be a shortfall in vehicle parking requirement. The cumulative impact of these factors are considered to result in the over development of the site.
- 3.2.2 In addition to the above it has not been demonstrated that there would not be an unacceptable loss of employment as a result of the development. The development would therefore be unacceptable and contrary to policies S1, S2, S8, E1 and H4 of the Maldon District Local Development Plan (MDLDP) (2017) and Government advice contained within the National Planning Policy Framework (NPPF) (2019).
- 3.2.3 The proposed development also makes inadequate provision for affordable housing or a financial contribution in lieu of affordable housing contrary to policy H1 of the approved MDLDP and the NPPF (2019). Furthermore, in the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured.
- 3.2.4 Whilst it is noted that there are some limited benefits arising from the scheme, it is not considered that those benefits would be sufficient to outweigh objections highlighted above.

#### **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
- 64 Affordable Housing Requirements
- 79 Avoiding Isolated Homes in the Countryside
- 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
- S2 Strategic Growth
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- E1 Employment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards SPD
- Althorne Village Design Statement (2015)

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

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

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).



- 5.1.2 Policies S1, S2 and S8 of the approved MDLDP seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.3 Policy S8 of the Local Development Plan (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 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 open-market housing.
- 5.1.4 It is noted that the site is adjacent to the development boundary, but as a matter of fact it is outside of the settlement boundary. The boundaries have only recently been confirmed as a result of the approval of the Local Development Plan in 2017 and therefore, it must be deemed that the boundary was deemed to be in the appropriate location, balancing the needs of housing provision and environmental/landscape protection.
- 5.1.5 Within appeal APP/X1545/W/18/218535, which was for two dwellings within Mangapp Chase, Burnham-on-Crouch, The Inspector stated
- ‘policy S8 of the Local Plan defines the site as being outside of the settlement boundary of Burnham-on-Crouch. The site is therefore within the countryside, which policy S8 seeks to protect for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Consequently, the development within the countryside is restricted to those types identified within policy S8 of the Local Plan, none of which has been advanced by the appellants’*
- 5.1.6 The Inspector then goes on to discuss how the NPPF at paragraph 68 states that windfall sites should be suitable and within existing settlements for homes and therefore they were not persuaded that the site was suitable for development.
- 5.1.7 Although the characteristics of the abovementioned appeal are different to this application and that is acknowledged, the matter of fact is that the Inspector notes the importance of policy S8 and that residential development should not be permitted outside of the defined settlement boundaries.
- 5.1.8 Further in relation to the above full history search of the surrounding area from 2013 to the present day has also been conducted (see **APPENDIX 1**) and it must be noted that no comparable (in terms of policies position) planning applications for new dwellings have been granted by the Council or at appeal in recent years. This weighs heavily against this application and demonstrates that sites outside the defined settlement boundaries of Althorne are not considered suitable locations for housing.
- 5.1.9 The proposal will also result in the loss of an employment site. Although the site is currently vacant, it was previously used by a communications company for office and

light industrial purposes. On that basis, the redevelopment of the site to provide residential accommodation would result in the loss of employment land and therefore, the development would need to be assessed against policy E1.

5.1.10 Policy E1 of the MDLDP 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 the at 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.*

5.1.11 In relation to criterion 1, it is noted that the exiting use of the site is not considered to cause harm to the character of the locality, given that the majority of the buildings are single storey and reflect the rural nature of the surrounding area.

5.1.12 It is also noted that the Manor House historically had a residential use, which was then converted into an office building along with the outbuildings at the application site. The permission to use the site as an office building was a personal permission (FUL/MAL/89/01060 and FULF/MAL/91/00565). The applicant suggests that the reason for the personal permission may have been because the Council did not consider that an open office use would have been acceptable in this area and if the use had not been restricted then the applicant could have converted the buildings to residential under permitted development rights. However, the decision notices relating to the above mentioned applications state that the personal permissions were granted for the following reasons:

- FUL/MAL89/01060 - *‘in view of the personal circumstances of the applicant only and to ensure that the use remains within the class specifically applied for having regard to the need to protect the amenities of adjacent residential properties and to ensure that the highway implications of any proposed changes are considered’*
- FUL/MAL/91/00565 - *‘in view of the personal circumstances of the applicant only’*

5.1.13 Given that the reason for the personal condition was altered as part of the 1991 application, omitting matters relating to neighbouring amenity and highway implications, it is not considered that the applicant’s assumption that the personal permission was granted because an office use would be acceptable in this area is incorrect. Therefore, this does not demonstrate that the existing use harms the amenity of the surrounding area.

5.1.14 In addition to the above, given that there is no established fall-back position in relation to permitted development rights it is not considered that the conversion of the

buildings under the prior approval process can be attributed any weight in determining this application.

- 5.1.15 In relation to the second consideration, it is noted that although the proposed development would result in the provision of fourteen dwellings, the Council has an up-to-date development plan and is able to demonstrate a 6.34 year housing land supply against its adopted targets and therefore, can meet the requirements of the NPPF in terms of housing delivery. Thus, the authority is able to meet its housing needs targets without recourse to allowing development which would otherwise be unacceptable. It is therefore considered that although the development would have some benefit towards providing housing accommodation; that would be limited and also it has not been demonstrated that the proposed housing would support the need for small scale units, other than the provision of six, two bedroom dwellings, as stated in Policy H2, or would contribute towards affordable housing provision. Therefore, it is considered the existing lawful use has a greater community benefit than that proposed.
- 5.1.16 Regarding the third criterion, three letters have been provided, one dated July 2014, the other September 2015, along with the supporting statement, which state that the site was marketed during this period. The applicant considers that the letters provide evidence that the site was marketed and that there was no interest. However, there has been no evidence submitted with the letters to demonstrate that the marketing discussed has occurred or indeed how long for. Furthermore, if any marketing did occur at this time then it is now considered the findings of that marketing would be outdated given the letters are dated over three to four years ago. Therefore, it has not been demonstrated that a commercial use on the site is no longer viable and an objection is raised in relation to the loss of the existing commercial floorspace.
- 5.1.17 Of further relevance to the third criterion is the personal permission discussed above. The applicant has made no attempt to remove the personal permission and therefore, any commercial interest in the site is likely to be limited whilst the restriction on the site exists. This is highlighted within Fenn Wright's letter dated 8<sup>th</sup> March 2019, which discusses the commercial offering at the site. Whilst it is not possible to comment on the acceptability of an open B1 use, as there have been no applications to remove the personal permission, given that the reasoning for the personal permission was due to personal circumstances, it is considered this is an avenue which could be explored prior to carrying out the required marketing at the site. Therefore, it is considered that there are further opportunities to market the site effectively in relation to the third criterion, to explore the potential long-term market demand for the site, which the applicant has failed to do.
- 5.1.18 The application site represents previously developed land. To make effective use of land, paragraph 118 of the NPPF requires that policies and decisions should '*give substantial 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(3) of the LDP which promotes the effective use of land and prioritises development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations. It should be noted that although the site can be considered as previously developed land, it should be highlighted that paragraph 118(c) of the NPPF refers to suitable brownfield land within settlements for homes and other

identified needs. As discussed above, the development is outside the defined settlement boundaries. It is also important to note that the Council can demonstrate a housing supply in excess of 5 years and although this should not work as a ceiling to housing provision, it is clear that the Council is not in a position that would be required to allow development which would otherwise be unacceptable and that the Council can give full weight to the content of the development plan.

- 5.1.19 In light of the above assessment it is considered that the development would be in conflict with the policies of the development plan and the guidance contained in the NPPF (2019) as it would result in unjustified residential development outside of the settlement boundary and the unjustified loss of employment land.
- 5.1.20 Other material planning consideration including the impact of the development on the character of the area and the amenity of the neighbouring occupiers, the living conditions of the future occupiers and highways issues are assessed below.

## **5.2 Housing Need and Supply**

- 5.2.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.2 Policy H2 of the LDP and its 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, and around 71% of all owner occupied properties having three or more bedrooms.
- 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.
- 5.2.4 The proposal would provide the following dwelling mix:
- 6 No. 2-bedroom dwellings
  - 5 No. 3 bed dwellings
  - 3 No. 4 bed dwellings

On the basis of the above, the proposal, when assessed in its totality, the development would provide 43% smaller (one and two-bedroom) dwellings, and 57% of larger (three and four-bedroom) dwellings. None of the dwellings are affordable. It is therefore considered that the development would be well below the required percentage of smaller dwellings (60%) to meet the District's housing need. Therefore, the proposal would fail to meet the Council's indented needs for smaller dwelling and it would not support the provision of mixed and balanced communities are required by the NPPF.

- 5.2.5 Of relevance to this is an appeal (APP/X1545/W/17/3182361) at Whitecap Mushroom Farm, Mill Road, Mayland, which was for the demolition of a former Mushroom Farm and the erection of up to 35 dwellings. The Inspector notes at paragraph 26 that an 11.4% affordable housing contribution would assume a housing mix on site that is clearly unacceptable to the Council. He then went on to state '*It is plain from evidence*

*that such a mix would be refused at reserved matters stage as being contrary to LDP policy H2.'*

- 5.2.6 Although the matter was revisited within the planning balance section of the decision where the Inspector noted that any affordable housing provision would be welcomed and so that factor weighed in favour of the planning balance, he acknowledged that the failure to provide a policy compliant housing mix was contrary to policy and should, subject to other considerations, be refused. Given that this application fails to provide any affordable housing provision, it is not considered that there are the same benefits to this scheme and therefore, the failure to provide a suitable housing mix weighs against the application.

### **5.3 Affordable Housing Provision**

- 5.3.1 Policy H1 requires that all housing development of more than 10 units or 1,000sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing. The site falls within the sub-area of Rural South and therefore, the requirement towards affordable housing has been set at 40% of the total amount of housing provided.
- 5.3.2 Any relaxation in the abovementioned requirement will only be considered where the Council is satisfied, on a site by site basis, that such requirement will render any development proposals unviable. Affordable housing should be provided on-site, the contribution from developers should comprise of free serviced land to provide the number, size, type and tenure of affordable homes required by the Council's policies in accordance with the Strategic Housing Market Assessment (SHMA), the Council's adopted Maldon District Affordable Housing and Viability Supplementary Planning Document (SPD) 2018 and relevant housing strategies of the Council. In exceptional circumstances the Council may consider accepting financial contribution from the developer where it is justified that affordable housing cannot be delivered on-site, or that the District's need for affordable housing can be better satisfied through this route. Commuted sums will also be charged for an incomplete number of affordable units provided on site. The development of any affordable housing and the calculation of any financial contributions should be in conformity with the details set out in the Maldon District Strategic Housing SPD.
- 5.3.3 Originally the application was for 17 dwellings and the proposal was supported by a Financial Viability Assessment (October 2018), which concluded that the site would not be viable if any affordable housing contribution was made. Therefore, the scheme proposes no affordable housing.
- 5.3.4 The Financial Viability Assessment was reviewed by an independent consultant who did not agree with all of the points and assumptions made within the appraisal. The independent consultant produced a Viability Report (February 2019) in response to the applicants assessment and concluded that the scheme for 17 dwellings would be viable for a 40% affordable housing contribution. Following this the scheme was then reduced to 14 dwellings and the applicant then produced a rebuttal statement for both the 17 (6<sup>th</sup> March 2019) and 14 dwellings (10<sup>th</sup> March 2019). The independent consultant provided a further rebuttal on the 17 units (15<sup>th</sup> April 2019) and then the 14 units (May 2019), which both still concluded that the scheme would be viable for a

40% contribution. The main points of contention raised by the independent viability consultant were:

- Sales Values
- Build Cost Assumptions
- Land Value Benchmarks

- 5.3.5 Despite the comments and concerns raised by the independent viability consultant, the applicant has remained firm in their stance that the site would not be able to be viably developed if any affordable housing was provided and there were no significant changes to the applicants approach to viability.
- 5.3.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. Therefore, regardless of whether it can be demonstrated or not that the development is unviable and it cannot support any provision towards affordable housing, it is the Council's view that a development that provides less than a minimum 40% affordable housing in this location, in accordance with the policy requirement, would not be considered acceptable.
- 5.3.7 In relation to the above, it is therefore necessary to consider the planning balance of this proposal; this application does not comply with the Council's policy (H1) for affordable housing. The updated five year housing statement (March 2019) shows that the Council can demonstrate 6.34 years' worth of housing land supply against its identified housing targets therefore there is no demand for the development. Furthermore, the housing mix is not in accordance with the District's need for smaller housing units. Therefore, the significant shortfall in affordable housing weighs heavily against the application. Consequently there is not a pressing need to allow the development of the site with such a significant shortfall and the minimal benefits of the scheme do not outweigh the harm from the development.
- 5.3.8 Generally, there are not considered to be any material considerations that weigh heavily in favour of the development. It must be noted that the site is not a strategically allocated site, is not a site highlighted by the Council for redevelopment and the Council is able to demonstrate in excess of five years' worth of housing supply; so there are no obvious or clear material considerations that weigh in favour of the application. The shortfall in affordable housing would not meet the social strand of the NPPF and therefore, when taking into account the tripartite definition of sustainability provided by the NPPF, the scheme cannot be considered sustainable development.
- 5.3.9 Appeal APP/X1545/W/17/3182361, which was mentioned above, is also relevant in relation to this. As part of the appeal the applicant proposed an affordable housing contribution of 11.4%, which is far greater than the 0% proposed as part of this application. However, in the planning balance the Inspector considered that the material considerations that weighed in favour of the proposal did not clearly and demonstrably outweigh the conflict with the development plan. It is considered that the benefits of the appeal which were the limited affordable housing provision, the boost to the supply of homes and the very modest and short term economic benefits of the scheme, were greater than the benefits of this scheme. Therefore, given that the Inspector did not feel that the benefits of the appeal scheme outweighed the identified

harm and those benefits were greater than those as part of this application, it is not considered that a different stance should be reached in relation to this application.

- 5.3.10 In an appeal decision (APP/X1545/W/15/3139154 Nipsells Farm Lodge, Nipsells Chase, Mayland, Essex) for an application to erect 150 dwellings outside the development boundary, including the required 40% affordable housing provision, the Inspector concluded that although the development would have some social benefits through the provision of additional dwellings and affordable housing units, these together with some economic benefits that have been identified, were not considered to weigh in favour of the proposed development.
- 5.3.11 On the basis of the abovementioned appeal, it is considered that the benefits of an unacceptable development outside the development boundary, which would also result in harm from the loss of employment and the impacts on the character and appearance of the area and does not meet the minimum requirement towards affordable housing provision cannot weight in its favour.
- 5.3.12 Furthermore, the development does not propose any other contributions in order to mitigate the impacts of the development. Therefore, it is considered that the lack of contributions together with the lack of affordable housing provision would result in a form of development that does not comply with the development plan as a whole and does not constitute sustainable development in terms of the Framework.

#### **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 local design standards, 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:-
- 5.4.4 Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate:

- Height, size, scale, form, massing and proportion;
  - Landscape setting, townscape setting and skylines;
  - Layout, orientation, and density;
  - Historic environment particularly in relation to designated and non-designated heritage assets;
  - Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
  - Energy and resource efficiency.
- 5.4.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.6 The Althorne Village Design Statement discussed Buildings of Special Interest and states, wherever possible buildings should be saved rather than demolished and replaced. However, it is noted that Winterdale Manor is not one of the buildings listed.
- 5.4.7 The application site lies outside the defined settlement boundaries of Althorne. 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.
- 5.4.8 The proposal would result in a spread of built form across the majority of the application site. Whilst there are existing buildings within the application site, their floor area coverage is very limited, leaving large areas open and undeveloped. Furthermore, all buildings are set well back from the boundaries of the application site the highway and also, except for the Winterdale Manor property, which is a two storey building, the rest of the structures within the application site are single storey and of a rural nature.
- 5.4.9 The proposed development, in contrast to this, by reasons of its layout and built area would represent a more suburban style of residential development, which would be out of keeping with the current appearance of the application site. Furthermore, whilst it is noted that there is some existing built form within the site, as noted above those buildings are of a rural nature and are concentrated largely to the northwest of the site. Therefore, the density of development proposed would appear as a ‘bolt on’ of residential development to the adjacent settlement, which would result in the intensification of the site and the countryside for residential purposes. Although it is accepted that the existing site comprises a high level of hardstanding, the increase in the amount of built form on the site and the encroachment of the development to the east of the site, which is currently undeveloped, is not considered to protect or enhance the rural character and appearance of the locality.
- 5.4.10 Further, in relation to the layout of the site, it is noted that the dwellings appear to be positioned within the site with a consideration to meeting policy requirements such as amenity space provision rather than following principles of good layout. For example



the dwellings have no active participation with the street frontage. The side elevations of the two and four bedroom dwellings front the highway, opposed to the principal elevations and the three bedroom dwellings are set 34m from the highway. Furthermore, the scheme fails to follow a set building pattern, which results in the two bedroom terraces to the north facing onto the side elevation of plot 7 and plot 13 being set further forward than plot 14, which will appear contrived from Southminster Road.

- 5.4.11 It is also noted that there is a commercial business to the east of the application site. However, this is an isolated occurrence, characterised by single storey commercial buildings and therefore is not comparable to this scheme and does not provide rational reasoning for increasing the level of built form within the application site.
- 5.4.12 In terms of the scale and bulk of the individual terraces and dwellings it is considered that the significant depth of each house type results in ill-proportioned properties. This is particularly apparent with the two and four bedroom properties where their side elevations would be highly visible from within Southminster Road.
- 5.4.13 In relation to the design of the scheme it is considered that there are a number of unresolved design elements. These include but are not limited to, the convoluted roof forms upon the two and four bedroom properties, which as stated would be highly visible from within the streetscene and would appear as a contrived form of development, the number of differing projections on the four bedroom properties, the inconsistent fenestration patterns proposed, particularly in relation to the four bedroom dwellings and also the extensive roof pitches which are exacerbated by the small scale of the dormer windows, which are not considered to be a good design feature. Although it is noted that flat roof dormer windows are a characteristic feature of more modern dwellings within the Althorne village and therefore, it would not be reasonable to object on the basis of the dormer windows alone, it is considered that they contribute to the harm resulting from the design of the scheme, which is not reflective of the character and appearance of the surrounding area and considered to be contrived in design.
- 5.4.14 The proposed level of hardstanding resulting from driveways and the access road alone are not considered to result in demonstrable harm to the character and appearance of the area. However, the combined impact of the hardstanding and the increase of other built form at the site and the fact that there will be ten vehicle parking bays to the front of the site, which due to their positioning would result in a car dominated frontage, it is considered that the hardstanding and parking areas within the site only further exacerbates the suburbanising impacts of the development.
- 5.4.15 It should also be noted that the Environmental Health department have requested a 2.4m close boarded fence along the entire eastern boundary of the site. Although it is noted that the fence would run north to south and so would not directly front the streetscene, a fence of this height is likely to have a demonstrable impact on the character and the site, especially when approaching the site from the east. The necessity for the fence is discussed in section 5.5 of this report. However, it is worth noting that the requirement for the fence in terms of residential amenity further increases the harm on the impact on the character and appearance of the area.

- 5.4.16 In terms of soft landscaping, the MDDG at section C05 states that streets and spaces should include trees and soft landscaping that reflect the order of the street. The species provided should be appropriate to the environment and their location, both at the time of planting and maturity.’
- 5.4.17 It is noted that there is a large area of open greenspace to the front of the site, which is a welcomed addition, as the extensive level of tree and other planting proposed. However, it is noted that the proposed landscaping is indicative and therefore, if the application were to be approved a condition would be required in order to secure an acceptable level of soft landscaping.
- 5.4.18 Having regard to the above assessment it is considered that the proposal would result in a contrived form of development, which fails to maintain the rural character of the locality and would represent the encroachment of built form into the site to the detriment of the character and appearance of the site and the surrounding area contrary to policies S1, S8, H4 and D1 of the approved MDLDP.

## **5.5 Impact on Residential Amenity**

- 5.5.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.5.2 Having regard to the above assessment it is not considered that the development would be detrimental to neighbouring amenity and is therefore, in accordance with policy D1 of the LDP.
- 5.5.3 The application site has five neighbouring residential properties to the west/northwest (Winterdale Cottages, 1 Ravendale Cottage and Melford Lodge) and one neighbouring commercial site (Bush Grove Farm) to the east.
- 5.5.4 Section C 07 of the MDDG requires that where new development backs on to the rear gardens of existing housing, the distances between the buildings should be 25m. The second floor of the two storey terraces would be located approximately 25m from the rear elevations of Winterdale Cottages. Therefore, given that a suitable separation distance has been achieved between the first floor windows and the neighbouring properties, to the west it is not considered that the proposal would result in undue harm by way of overlooking, loss of privacy or by being overbearing.
- 5.5.5 In relation to Melford Lodge to the northwest, which would be located 2.3m from the shared boundary, approximately 3.9m from the carport proposed within the northwest corner of the site and 10.9m from the nearest proposed dwelling to the south, given that there is only one window in the first floor northern elevation of the closest dwelling to Melford Lodge, which would serve a bathroom and would be conditioned to be obscure glazed, it is not considered that the proposal would result in a loss of privacy to the occupiers of Melford Lodge. Furthermore, it is not considered that the development would result in a loss of light to, or have an overbearing impact on the occupiers of Melford Lodge due to the separation distance between the proposed dwellings and neighbouring boundary and also because the proposed cart lodge is of a limited height (5.3m).

- 5.5.6 Whilst the proposed driveway to the north of the site would result in an increase number of vehicle movements in close proximity to the boundary of Melford Lodge, given that the cart lodge will only provide parking provision for one dwelling and would be located a minimum of 3.9m from the neighbouring property, it is not considered that the proposal would result in unacceptable noise or light impacts by way of increased vehicle movements.
- 5.5.7 The four bedroom dwellings to the east of the site would be located a minimum of 5.2m from the eastern boundary shared with the neighbouring commercial site. The Environmental Health Team has been consulted and have requested conditions including the erection of a 2.4m close boarded fence along the eastern boundary to protect the future occupiers of the proposed dwellings from the noise impacts arising from the neighbouring site. Whilst this would be sufficient in overcoming the potential harm resulting from unacceptable noise, along with a condition requiring all window glazing to be provided in accordance with the detail outlined in the submitted Sharps Gayler acoustic report dated 30<sup>th</sup> November 2018, it is considered that a 2.4m high metre fence to the rear of plot 13, combined with the garage serving plot 14 and the car port serving plot 13 would create a sense of enclosure for the occupiers of plot 13. However, given that plot 13 would be served by adequate amenity space provision as discussed at section 5.7, it is not considered that the harm on the amenity of the future occupiers would be so significant as to warrant refusal of the application.
- 5.5.8 In terms of the inter-relationship between the proposed dwellings, it is not considered that any of the proposed occupiers would be subject to undue harm by way of overlooking because any first floor windows in the side elevations would serve bathrooms and would therefore likely be obscure glazed, which could be secured via a condition.
- 5.5.9 The proposed garage at plot 12 would extend approximately 4m further than the rear of plot 11. However, given the separation distance between the two proposed dwellings (3.1m) and the limited height of the garage (4.6m) it is not considered that the siting of the garage would create a sense of enclosure within the rear amenity space of plot 11.
- 5.5.10 Having regard to the above assessment, subject to conditions, it is not considered that the proposal would result in demonstrable harm to residential amenity which would warrant refusal of the application.

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

- 5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government

guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.6.3 The proposed two and three bedrooms have a vehicle parking requirement of two parking spaces per dwelling and the four bedrooms properties have a vehicle parking requirement for three spaces. Furthermore, the vehicle parking standards require that one visitor space is provided per four dwellings. Therefore, there is a vehicle parking requirement for 31 allocated spaces at the site and four visitor spaces. The parking standards also state that a vehicle parking bay should measure 2.9m x 5.5m and a carport/garage for one vehicle should measure 3m x 7m.
- 5.6.4 31 vehicle parking spaces will be provided for the fourteen dwellings along with four visitor bays. This is not including the garages as they are not shown on the block plan as allocated vehicle spaces. Of the 31 spaces there are two parking bays within the site (plots 12 and 13) that do not meet the required standards and the proposed car ports fall below the required standard at 6.4mx5.7m (plan WM-P-08 A), as would the proposed garages at 6.5mx3.2m. Whilst it is noted that the car ports appear to measure to scale on the proposed block plan, the plans are not consistent and therefore, it is not possible to ascertain whether the car ports and garages would provide sufficient vehicle parking spaces.
- 5.6.5 The adopted parking standards state that '*smaller bays will not be considered a useable parking space.*' This means that only 26 of the allocated spaces can be considered as vehicle parking bays. Furthermore, even if the car ports were provided to the correct standards, the two parking bays at plots 12 and 13 do not meet the required standards and therefore, there would still be a shortfall of two spaces. It is noted that the car ports could be omitted and two of the visitor bays could be allocated to dwellings, which would provide another five vehicle parking spaces, providing the requirement of 31 spaces amongst the dwellings. However, this would leave a shortfall of two visitor spaces. When considering the cumulative impact of the harm identified, by way of design, a lack of amenity space provision, which will be discussed below, and the lack of sufficient car parking provision, it is clear that the proposed development would result in overdevelopment of the site.
- 5.6.6 The development will take access from the east of the site, from the north of Southminster Road. It is considered that the access is suitably located in terms of visibility. Furthermore, upon consultation with the Local Highway Authority it is considered that the predicted number of trips to the development is likely to be slightly higher than suggested in the Transport Statement. However, it is not considered that the proposal would exceed the number of trips generated by the

existing permitted use of the site when fully operational. Having regard to these points it is considered that the proposal would be acceptable in terms of highway safety.

- 5.6.7 It is noted that the proposal would not provide sufficient vehicle parking provision. Therefore, although the proposed access is considered acceptable and the development would not result in a significant increase in vehicle movements, as discussed above, the cumulative impact of the insufficient amenity space provision, the design and layout of the proposal and the insufficient parking provision is considered to result in overdevelopment of the site.

## **5.7 Private Amenity Space**

- 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 Each of the dwellings are provided with suitable amenity spaces in terms of their size, with the exception of plot 2 which has useable amenity area measuring 47m<sup>2</sup>. The provision of 50m<sup>2</sup> for a dwelling is not considered to be particularly onerous and a shortfall in amenity space is not considered acceptable, particularly in relation to a two bedroomed property, which is likely to be a family unit. Whilst it is noted that there is a public play area and skate park to the south of the application site, this does not offer an area of private amenity space and is located on the opposite side of a national speed limited road. Therefore, it would not be safe for young children to access the playground alone. Consequently, the provision of the neighbouring park does not make up for the deficit in rear amenity space provision.
- 5.7.3 When considering the shortfall in amenity space alone, it may be considered that a shortfall of 3m<sup>2</sup> of amenity space for one dwelling would not result in demonstrable harm. However, as noted in the previous section, the cumulative impact of the insufficient amenity space provision, the design and layout of the proposal and the insufficient parking provision is considered to clearly indicate the proposal is overdevelopment of the site.
- 5.7.4 Having regard to the above it is considered that the application should be refused on the basis that the proposal would result in the overdevelopment of the site.

## **5.8 Contamination**

- 5.8.1 Policy D2 of the Approved MDLDP states that where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source. The Council will expect development proposals to take into account environmental issues such as air quality, water consumption and quality, drainage, sewerage, energy, noise, light, waste, contamination, design and building materials.
- 5.8.2 Given the site represents previously developed land and the length of time that this and the surrounding land has been developed for mainly commercial enterprises, it is

possible that there may be contamination present at the site. The application was supported by JP Chick and Partners Phase 1 Contaminated Land Assessment issue 1.0 (26<sup>th</sup> September 2018), which identified that further intrusive investigation is required in order to confirm whether or not contamination is present at the site, to what extent it may be present and what works for remediation (if any) are necessary. Therefore, if the application were to be approved conditions in relation to those points would be necessary. The Environmental Health Team has been consulted and supports this stance.

## **5.9 Sustainability**

- 5.9.1 Althorne is described under policy S8 as being a smaller village, with little or no services and facilities and very limited or no employment opportunities.
- 5.9.2 By being in close proximity to the development boundary, it is noted that the site is in reasonably close proximity to the services, facilities and public transport connections of Althorne, particularly in relation to the nearest bus stops which are located at Althorne Post Office and Althorne Fords Corner, which are sited 0.1 miles and 0.6 miles from the application site, respectively.
- 5.9.3 Therefore, having regard to the content of policy T2, although the proposal would be accessible by public transport, it must be noted that accessibility is only part of the assessment of sustainability and the acceptability in this respect does not outweigh the environmental unsustainability that arises as a result of the development of land outside of the settlement boundary that was discussed in the above sections.
- 5.9.4 The supporting statement suggests that the proposal would bring long term benefits to the community and that the construction would lead to local employment. The applicant is a local developer who has lived in the village for over 20 years and lives within 200m of the site (as the crow flies) and therefore, seeks to ensure that the homes provided would assist local people and would ensure that the development is of high quality.
- 5.9.5 In economic terms, it is reasonable to assume that there may be some support for local trade from the development. This would however be limited given the scale of the proposal of fourteen dwellings. Equally, whilst the applicant's intentions are noted there is no guarantee that the construction works required for this development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minor. Furthermore, whilst the residents of the proposed dwellings would bring some economic benefits to the village, which may provide some support to existing services, it is not considered that the benefits would be substantial. Additionally, despite the supporting statement suggesting that the shop/post office in the village, which is permanently closed, is set to be re-opened by new tenants shortly, there is nothing before the Council to suggest that this is true or that the shop will remain open and be successful in the future. Therefore, due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 5.9.6 In social terms, development should assist in supporting a strong vibrant and healthy community, but local services are very limited. Given that there is no evidence of

the local shop re-opening, for the purposes of this application, it must be noted that there is no local convenience store or post office within the village and therefore, residents are required to travel further afield with the closest amenities being in the nearby village of Latchingdon, which is located approximately 2,200m from the application site (as the crow flies). Whilst it is noted that there is a Village Hall and an active Parish Council, these facilities alone are not considered sufficient in ensuring social sustainability. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the LDP. Therefore, it is not considered that the social and economic benefits of the development would outweigh the harm in terms of environmental unsustainability, which will be discussed further below.

## **5.10 Nature Conservation and Biodiversity**

- 5.10.1 Paragraph 170 of the NPPF states that *‘Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.’*
- 5.10.2 Strategic LDP 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.
- 5.10.3 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, 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 (MDC) must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.10.4 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘zones of influence’ of these sites cover the whole of the Maldon District.
- 5.10.5 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), 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.

- 5.10.6 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.10.7 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.
- 5.10.8 To accord with Natural England’s requirements, a 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

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the previously listed 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, without mitigation, 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 Natural England’s advice, it is considered that mitigation, in the form of a financial contribution of £ 1712.2 is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.



5.10.9 Based on the lack of secured mitigation through RAMS the proposal would be contrary to policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

## 5.11 Pre-Commencement Conditions

5.11.1 No pre-commencement conditions are proposed at this stage.

## 6. ANY RELEVANT SITE HISTORY

- **MAL/MAL/89/01060** – Retention of use of building as offices and formation of a new access. **Approved** subject to a personal condition.
- **FULF/MAL/91/00565** – Retention of consent ref. MAL/1060/89 for use of building as offices without compliance with condition 6 – (sole benefit of Powell Creative Design). **Approved** subject to a personal condition.
- **FUL/MAL/98/00942** - Change of use of existing coach house to annexed office accommodation. **Approved**
- **FUL/MAL/98/00943** - Change of use of existing outbuilding/workshop for light industrial. **Approved.**
- **FUL/MAL/04/00769** - Change of use of existing coach house to annexed office accommodation. Renewal of expired planning approval FUL/MAL/98/0942. **Approved.**
- **FUL/MAL/04/01196** - Extension to existing Coach House for annexed office accommodation. **Approved**
- **FUL/MAL/05/00172**- Demolition and rebuilding of Coach House due to structural failure for office accommodation. **Approved.**
- **FUL/MAL/05/01033** - Provision of Temporary Offices to facilitate relocation of office employees for duration of remedial structural work to Winterdale Manor. **Approved**
- **FUL/MAL/06/00874** - **Provision of meeting rooms and commercial conservatory.** Demolition of existing Nissan Hut. **Approved**
- **FUL/MAL/15/00734** - The conversion of Winterdale Manor and redevelopment of the site to provide up to 9 x dwellings. **Refused**

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Althorne Parish Council	Object: - Unsustainable location - Outside the village envelope - Poor infrastructure, concerns of flooding	- Addressed at section 5.9 - Addressed at section 5.1 - Drainage can be addressed via a

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>and poor drainage</p> <ul style="list-style-type: none"> <li>- Highway concerns of increased traffic and accidents</li> <li>- Urban sprawl in a rural location</li> </ul>	<p>condition. It is not considered that 14 dwellings requires contributions towards infrastructure.</p> <ul style="list-style-type: none"> <li>- Addressed at section 5.6</li> <li>- Addressed at section 5.4</li> </ul>

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Natural England	A Habitats Regulation Assessment should be undertaken	Addressed at section 5.10
Archaeology	There is no record of any archaeological remains in the immediate vicinity of the site. There has also been a degree of disturbance from previous occupation at the site. Therefore, no archaeological conditions are being made.	Noted.
Anglian Water Services	<p>The foul drainage from this development is in the catchment of Maylandsea Water Recycling Centre that will have capacity for these flows.</p> <p>The development will lead to an unacceptable risk of flooding downstream. A condition is requested requiring a phasing plan and/or on-site drainage strategy.</p> <p>The surface water</p>	The comments are noted and if the application were to be approved the conditions should be imposed to prevent any unacceptable risk of flooding downstream.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>strategy/flood risk assessment which has been submitted is unacceptable.</p> <p>However, we will require infiltration logs in accordance with the Building Regulations, Part H and the proposed rate of 2.0l/s as per FRA 5.04.2 is considered below Anglian Water's self-cleansing rate. The application needs to consult with Anglian Water and the agreed strategy should be reflected in the planning approval.</p> <p>Conditions are proposed.</p>	
Cadent Gas Network	No response received at the time of writing this report.	Noted
UK Power Network	No response received at the time of writing this report.	Noted
Essex and Suffolk Water	No objection subject to compliance with their requirements and on the condition that a water connection for the new dwelling is made onto their company network for revenue purposes.	This is not something that can be enforced by planning legislation
Sustainable Drainage Team Essex County Council	No objection subject to conditions.	If the application were to be approved then the conditions should be imposed to ensure that there is not an unacceptable increase in surface water flooding.
Education at Essex County Council	Application is under the current threshold for requesting education contributions.	Noted.
Essex Wildlife Trust	No response received at the time of writing this report.	This is noted. However, the site is largely consists of hardstanding and

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
		existing buildings and so it is unlikely that there are any protected species within the site.
Essex Bat Group	No response received at the time of writing this report.	This is noted. However, the site is mainly laid to lawn and so it is unlikely that there are any protected species within the site.
Local Highway Authority	The predicted number of trips to the development is likely to be slightly higher than what's stated in the Transport Statement. However, the number of trips would not exceed the number of trips generated by the existing permitted use of the site when fully operations. Therefore, there is no objection subject to conditions.	Addressed at section 5.6
Environment Agency	No objection subject to land contamination and surface water drainage conditions.	Noted and addressed at section 5.8.
Fire and Rescue	<p>Access for Fire Service purposes is satisfactory in accordance with the Essex Act 1987 Section 13.</p> <p>Additional water supplies for firefighting may be necessary for the development. The applicant should contact the Water Technical Officer at the Service Headquarters.</p> <p>Would recommend a risk based approach to the inclusion of Automatic Water Suppression Systems which can substantially reduce the risk to life and property loss.</p>	This information could be included via an informative if the application were to be approved.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Public Rights of Way	No response received at the time of writing this report.	There are no public footpaths within the site that would be affected by the development.

### 7.3 Internal Consultees

<b>Name of consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Housing	This Application is not proposing any Affordable Housing contribution and as such does not comply with Policy H1 of the Maldon District Local Development Plan 2014 – 2029. Strategic Housing Services therefore does not support this Application.	Addressed at section 5.3
Environmental Health	<p>JP Chick and Partners Phase 1 Contaminated Land Assessment 1.0 (26<sup>th</sup> September 2018) has been reviewed and identifies that further intrusive investigation is required in relation to contamination.</p> <p>The Sharps Gayler report (Nov 2018) has been reviewed and is satisfactory. In order to safeguard the nearest properties from potential noise impacts from the adjacent workshop, a suitable barrier fence along the eastern boundary should be installed.</p> <p>Conditions in relation to these matters have been suggested.</p>	Addressed at sections 5.5 and 5.8
Economic Development	Proposal would result in a loss of employment land and there is insufficient evidence to justify that the loss of employment land	Addressed at section 5.1

Name of consultee	Comment	Officer Response
	would be acceptable. The Council has an up-to-date development plan and can demonstrate a 5 year supply of housing without allowing development which would be otherwise unacceptable. There is also insufficient evidence to suggest any significant economic contribution that this development would make to the Maldon District or a housing need in this locality.	
Conservation Officer	As this application would not affect any heritage assets, I have no comments to make on it.	Noted
Emergency Planner	No comment as the development is not in a flood zone	Noted

#### 7.4 Representations received from Interested Parties

- 7.4.1 19 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objecting Comment	Officer Response
Traffic is already a problem in the village and the roads are dangerous with excessive speeding. There is a double bend at the site entrance	Addressed at sections 5.6 and 5.9
The village has no facilities and you need to drive to get the essentials	Addressed at sections 5.6 and 5.9
The sewage system cannot cope	This can be addressed via conditions
There is a lack of infrastructure including, doctors, shops and school places. Maylandsea medical centre is only open in the mornings and so afternoon appointments have to be in Tillingham	The proposal of 14 dwellings does not require a contribution to these services.
Station Parking is limited	This is not something that can be dealt with through this application
Single dwelling applications have been refused in the area.	Each application must be assessed on its own merits

Objecting Comment	Officer Response
<p>Winterdale Manor is a landmark within the village and new build dwellings would affect the village's character. The Manor should be repaired and renovated.</p>	<p>The proposal must be assessed in relation to what is proposed. However, the impacts on the character and appearance of the area are discussed at section 5.4</p>
<p>The site is in the 'old' part of Althorne and new housing wouldn't blend well.</p>	<p>Impacts on the character and appearance of the area are discussed at section 5.4</p>
<p>Proposal will overlook the cottages on Burnham Road.</p>	<p>Addressed at section 5.5</p>
<p>The trees and hedgerows around the site have been removed.</p>	<p>The trees and hedgerows were not subject to tree preservation orders and therefore could be removed without consent.</p>
<p>New dwellings should be located adjacent to the car 'wrecking' site to the east.</p>	<p>Addressed at section 5.5</p>
<p>There are no buses which go to Althorne station which is at least a 25 minute walk from the site.</p>	<p>Addressed at section 5.9</p>
<p>The road to the station is dark, unlit and hazardous to pedestrians so requires a car to get there.</p>	<p>Addressed at section 5.6</p>
<p>There are no buses on Sundays</p>	<p>Accessibility is addressed at section 5.9</p>
<p>There are not enough visitors parking spaces</p>	<p>Addressed at section 5.6</p>
<p>The site is in an unsustainable location. Application FUL/MAL/17/01010 presented to the SEAC demonstrated that since 2013 17 proposals for new dwellings were refused and 10 were appealed and dismissed, with all but one being refused due to being sited within an unsustainable location.</p>	<p>Application FUL/MAL/17/01010 was a slightly different proposal to this application as it was located further outside the settlement boundary. However, the sustainability of the site is discussed at section 5.9</p>
<p>SHLAA site S19 Land South of Button's Hill produced no positives for sustainability as part of the sustainability assessment. This site is located close to Winterdale Manor.</p>	<p>The sustainability of the site is discussed at section 5.9</p>
<p>Page 23 of the Althorne Village Design Statement states that <i>'wherever possible old buildings should be saved rather than</i></p>	<p>Impacts on the character and appearance of the area are discussed at section 5.4. Given that Winterdale</p>

<b>Objecting Comment</b>	<b>Officer Response</b>
<p><i>demolished and replaced.</i> ' This approach should be adopted for Winterdale Manor.</p> <p>Allowing permission for these dwellings would contravene the intention of the LDP as the housing trajectory allocates a total of 100 dwellings to Neighbourhood Plans/ rural locations up to 2028/29.</p> <p>The Althorne parishioners in the development of the Neighbourhood Plan indicate little enthusiasm for any large scale development and wish to maintain a small village with open views of the landscape and river.</p> <p>A nature reserve would be a better proposal, protecting Great Crested Newts that live at this end of the village and would teach environmental friendliness.</p> <p>Proposal would set a precedent for future developments.</p> <p>Inappropriate noise levels</p> <p>Reduce other property values</p> <p>Increased pollution</p>	<p>Manor is not a locally listed heritage asset its retention worth is limited.</p> <p>This is not a maximum figure. However, as discussed at sections 5.1 and 5.2, the presence of a five year housing land supply does give the Local Planning Authority to ability to resist inappropriate development.</p> <p>This is noted and the impacts of the large scale addition to the village on its character and appearance are addressed at section 5.3</p> <p>The application must be assessed on what is proposed.</p> <p>The application must be assessed on what is currently proposed. It is not possible to speculate on future intentions.</p> <p>Addressed at section 5.5</p> <p>This is not a planning consideration</p> <p>It is not considered a housing development would produce any greater pollution, including through vehicle movements, than the existing use of the site if it were fully functional.</p>

7.4.2 **7** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

<b>Supporting Comment</b>	<b>Officer Response</b>
<p>The space is used well whilst the site is enhanced with planting.</p> <p>The housing mix will ensure a mix of people and families to allow the village to thrive.</p>	<p>Addressed at section 5.4</p> <p>Addressed at section 5.2</p>



<b>Supporting Comment</b>	<b>Officer Response</b>
The village is suitable due to the bus service and train station which is walkable for some. Routes are provided to Burnham-on-Crouch, Maldon and Chelmsford. There is also a playground, tennis courts and a wooded walk opposite.	Addressed at section 5.9
The village shop is a minute walk away. Although close at the moment, a couple hopes to re-open it and there is a tea room in walking distance. Also there is the Marina, Fords Coaches who run days out, a church and a village hall.	Addressed at section 5.9
Current site is an eyesore and will continue to worsen.	The existing state of the site does not provide reasoning to approve inappropriate development.
Site is brownfield and not farmland.	Addressed at section 5.1
The site in its current form will attract attention from unlawful occupancy.	The existing state of the site does not provide reasoning to approve inappropriate development and the point raised is not a planning consideration.
Village needs development on its brown field sites as there are a number of disused areas within the village that makes it appear as though it's in decline.	Whilst government guidance encourages the effective use of land, this does not provide reasoning to approve inappropriate development
It would provide an opportunity to improve the junction.	No contributions towards infrastructure improvements have been proposed.
Scheme adds value to the village by providing affordable homes for the younger generation who work within the local economy and whose employment supports local services.	No affordable housing is proposed.
It would increase community spirit and make use of the park opposite the site.	Social sustainability is addressed at section 5.9. The proposal does not include any affordable housing or any community services. Therefore, the local benefits are limited.
Site has its own space and style due to its small degree of separation form the village.	Addressed at section 5.4

**8. REASONS FOR REFUSAL**

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

5. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.

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**Approved new dwellings and relevant refused dwellings in Althorne from the beginning of 2013 to present.**

**Approved replacement dwellings:**

**FUL/MAL/14/01287:** Appleby Old Heath Road Althorne - Proposal for a replacement detached house with cart lodge & part conversion of existing outbuilding for a home office & gym.

**FUL/MAL/15/00460:** Peyton Cottage Summerhill Althorne - Demolition of existing house and replace with new build part two and single storey house.

**FUL/MAL/18/01094/ & FUL/MAL/18/00424:** Meadow View Barnes Farm Drive Althorne - Replacement dwelling and a double garage.

**FUL/MAL/18/00355:** Tamarisk Lodge Bridgemark Lane, Demolition of existing dwelling and garage and erection of replacement dwelling and garage, formation of a new site access and landscaping.

- The principle of replacement dwellings are established and are assessed under different policies to this proposal.

**Refused applications for proposed new dwelling/s:**

**FUL/MAL/18/00684** – Maythorne, The Endway Althorne. Section 73A application for the change of use of the barns to three dwellinghouses, including new link to boiler room, garden extensions and shed conversion to garages.

- Refused due to a lack of amenity space provision, on site car parking provision, the site is in an unsustainable location and the impact on the intrinsic character and beauty of the rural area.

**FUL/MAL/17/01010** – Land Adjacent Fiddlers Rest The Endway Althorne, Demolition of existing sheds with road side frontage and development of a new, separate dwelling within the existing garden curtilage.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area – 05.12.2017

**FUL/MAL/17/00468:** Redbraes Summerhill Althorne - Demolition of existing bungalow and construction of a new residential dwelling.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area - 22.06.2017

Please note this application was not assessed as a replacement dwelling due to the abandonment of the residential use.

**FUL/MAL/17/00940:** Land At Former Maldon Fencing Co Burnham Road Althorne - Residential development comprising 8No. bungalows.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area - 11.10.2017

**FUL/MAL/17/00136:** Land Adjacent Crouch Hall Fambridge Road Althorne - Provision of lifetime's home bungalow.

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area and coastal zone. - 11.04.2017

**OUT/MAL/15/00734:** Winterdale Manor Burnham Road Althorne - The conversion of Winterdale Manor and redevelopment of the site to provide up to 9 x dwellings.

- This application was refused for four reasons; one of them being due to 'the development would have an urbanising effect on the rural character of the area and would result in an unwelcome visual intrusion into the open and undeveloped countryside.' - 21.10.2015

**OUT/MAL/14/00081:** Crouch View Fambridge Road Althorne - Application for outline planning permission to demolish existing dwelling and construct 2 No. dwellings with detached garages.

- Refused due to being within an unsustainability location and the impact on the character and visual appearance of the area. - 20.03.2014

**FUL/MAL/13/00829:** Land East Of 1 Red Brick Cottages The Endway Althorne - Erection of detached two bedroom bungalow with driveway and parking.

- This application was refused for three reasons two of them are relevant to this application; one being the detrimental impact to the landscape character of the rural countryside and the other being the unsustainability of the location. - 20.01.2014

**FUL/MAL/13/00028:** Land Rear Of 2 River View Terrace Fambridge Road Althorne - Two detached dwelling units including garaging to Plot 1.

- Refused due to being within an unsustainability location and the harmful impact on the rural character and appearance of the area. - 21.03.2013

**Refused application and dismissed at appeal for proposed new dwelling/s:**

**FUL/MAL/16/00190:** High View Fambridge Road Althorne - Demolition of existing property & outbuildings and erection of a replacement dwelling.

- This application is a replacement dwelling refused on design and is not comparable to the application site. - 11.04.2016 – Appeal dismissed - 02.09.2016

**OUT/MAL/16/01182:** Land Adjacent The Old Forge And Thornley Cottage Burnham Road  
- Construction of 2 bedroom detached residential bungalow (Resubmission).

- Refused due to being within an unsustainable location and the impact on the intrinsic beauty and character of the rural area - 18.01.2017 – Appeal dismissed and reason for refusal was upheld by the Inspector. - 31.05.2017

**OUT/MAL/16/00171:** Mansion House Farm Burnham Road Althorne - Demolition of all buildings on site (save for C19th former dairy building which is a non-designated heritage asset on the site frontage) and residential redevelopment for 48 dwellings, new access and associated works to include on site open space, sustainable urban drainage and associated strategic landscaping.

- This application was refused for three reasons one of which is relevant to this application; the relevant reason for refusal states that it would be an ‘intrusive form of unsustainable development, remote from day to day services and facilities, out of character with this rural location and the rural setting of the village. - 18.05.2016 - Appeal dismissed and the relevant reason for refusal was upheld by the Inspector. - 08.05.2017

**OUT/MAL/15/00559:** Land Rear Of The Thicket Summerhill Althorne - Outline application for proposed new 2 bedroom home with the matter of access for determination.

- This application was refused for four reasons; two of them are relevant to this application. The relevant reasons for refusal relate the unsustainability of the area and the visual intrusion into the open and undeveloped countryside. - 08.07.2015 – Appeal dismissed and relevant reasons for refusal were upheld by the Inspector. - 26.05.2016

**FUL/MAL/14/00810:** Stitches Farm Lower Chase Althorne - Replacement of existing flat above garage with a two bedroom bungalow including repositioning on site.

- Refused due to the unwelcome visual intrusion into the open and undeveloped countryside. - 11.11.2014 – Appeal dismissed and the reason for refusal were upheld by the Inspector - 20.08.2015

**OUT/MAL/14/00047:** Land Adjacent Althorne House Station Road Althorne - Construction of three dwellings, all matters reserved at Land North of Althorne Station Road.

- Refused due to being within an unsustainable location and the harmful impact on the rural countryside - 27.05.2014 – Appeal dismissed and the reasons for refusal were upheld by the Inspector - 18.02.2015

**OUT/MAL/14/00046:** Land Adjacent Cliffords Farm Burnham Road Althorne - Construction of four dwellings, all matters reserved at Land at Burnham Road, Althorne.

- Refused due to being within an unsustainable location and the harmful impact on the rural countryside - 27.05.2014 – Appeal dismissed and the reasons for refusal were upheld by the Inspector - 29.12.2014

**OUT/MAL/13/00999:** Land Adjacent 1 River View Terrace Fambridge Road Althorne - Erection of dwelling.

- This application was refused for two reasons; one is relevant to this application. The relevant reason for refusal was due to being within an unsustainable location and the harmful impact on the rural landscape. - 19.12.2013 – Appeal dismissed and the reasons for refusal were upheld by the Inspector - 05.06.2014

**FUL/MAL/13/00974:** 6 River View Terrace Fambridge Road Althorne - Demolition of extension for provision of 2no. semi-detached dwellings.

- Refused due to being within an unsustainable location and the harmful impact on the rural landscape. - 20.01.2014 – Appeal dismissed and reason for refusal was upheld by the inspector. - 20.01.2014

**OUT/MAL/13/00357:** Catherine Cottage Summerhill Althorne - New dwelling house.

- Refused due to being within an unsustainable location and the harmful impact on the rural landscape. - 12.06.2013 – Appeal dismissed and reason for refusal was upheld by the inspector. - 29.01.2014

**Approved Agricultural workers dwelling:**

**FUL/MAL/16/00055:** Land North West Of Stitches Farm Lower Chase Althorne - Re-siting of an Agricultural Workers Dwelling approved at FUL/MAL/14/01008.

- Agricultural workers dwellings fall within one of the categories listed within policy S8 as an exception to development within the countryside and are assessed under different policies to this proposal.

**Approved Prior Approval for a Proposed Change of Use of Agricultural Building to a Dwellinghouse:**

**COUPA/MAL/16/00991:** Maythorne Mushrooms The Endway Althorne - Prior approval for proposed change of use of agricultural building to three dwellinghouses (C3), and for associated operational development.

**COUPA/MAL/16/00195:** Cow Shed Dairy Farm Dairy Farm Road - Prior approval of proposed change of use of agricultural building to a dwellinghouse (C3), and for associated operational development.



- These applications are not planning applications assessed against the Local Development Plan. They are assessed against a set of criteria within the legislation that does not take into account the sustainability of the area. As such would these approvals are given minimal weight in determining this current scheme.

Officer notes

It is clear from the above approved and refused applications, that no dwellings comparable to this proposal, outside of the settlement boundaries of Althorne have been approved planning permission, since 2013. It should also be noted that the Councils position is strengthened by the ability to demonstrate a five year housing land supply as many of the earlier appeal decisions were dismissed at a time when the Council could not identify a five-year supply of deliverable housing land.

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

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

**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.





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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	23/05/2019
www.maldon.gov.uk	MSA Number:	100018588



### **3. SUMMARY**

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

##### *Site Description*

- 3.1.1 The application site is located on the eastern side of Stoney Hills. The site forms part of the amenity area of Myrtle Cottage and it comprises a detached outbuilding, used as a garden and bike store. The western part of the application site is used for parking purposes with a boundary fence being recessed from the highway by around 7 metres.
- 3.1.2 Myrtle Cottage is a chalet style dwelling with pitched roof dormers along the front elevation and overhanging first floor, finished in timber weatherboarding painted white. To the north, Orchard House, which is a recently erected dwelling, is also a chalet style dwelling with dormers to the front and bay windows at ground floor, finished in multi bricks. The surrounding area comprises dwellings of varied mass, form and design. To the rear of the application site, is an open field that benefits from planning permission, allowed on appeal, for the erection of six bungalows.
- 3.1.3 The area of Stoney Hills, within which the application site sits, is located outside of the settlement boundary of Burnham-on-Crouch and comprises of mainly large detached dwellings, set within large plots. The area has been the subject of many redevelopment proposals over recent years which have significantly changed its character, adopting a less homogeneous or uniformed appearance. Instead of the original single dwellings in large plots, a number of groups of dwellings have been recently built, notably at land west of Mirfield, three dwellings permitted at The Hollies and six bungalows currently being under construction north of Charwood. It is also noted that a number of dwellings have recently been allowed on appeal, including six bungalows to the rear of the application site (APP/X1545/W/17/3187513), two dwellings to the rear of Hedge End (APP/X1545/W/18/3198533), four dwellings to the north of Hillcrest (APP/X1545/W/18/3211805) and three dwellings at Stapleton (APP/X1545/W/18/3207171). Overall the character of the area has been turned into a more suburban residential area, with a large number of properties being accessed via cul de sacs.

##### *Description of proposal*

- 3.1.4 Planning permission is sought to erect a detached chalet style, two-bedroom dwelling, with associated off-street parking to the front and amenity space. The dwelling would feature front and rear projecting gables, a pitched roof dormer to the front and a projecting canopy over the entrance door. The existing detached outbuilding would be demolished.
- 3.1.5 The dwelling would be sited almost centrally at the application site and its main section would measure 4.3m deep, with the front projection coming forward around 700mm and the rear approximately 2.9m. The property would have a maximum height of 7m, with the eaves being at a height of 4m.
- 3.1.6 Internally the dwelling would accommodate an open plan kitchen and garden room, a living room and a WC at ground floor and two bedrooms and a bathroom at first floor.

- 3.1.7 The external elevations of the dwelling are proposed to be finished in weatherboard and render, with a tiled roof.
- 3.1.8 In terms of amenity space, approximately 180sqm of usable amenity space would be provided. The amenity space retained for the existing dwelling would be around 390sqm.
- 3.1.9 The site would be accessed from Stoney Hills, providing off-street parking for at least two vehicles. A cycle and bin store are proposed to be formed within the curtilage of the proposed dwelling.
- 3.1.10 It is noted that following discussion with the applicant, amended plans have been received, incorporating the following revisions:
- The eaves line at the front elevation has been aligned with the projecting feature and dormer.
  - The front projecting feature has been widened, so that is proportionate with the overall width of the dwelling to avoid an overly narrow and squat appearance.
  - The depth of the projecting canopy has been reduced, in order to avoid competing with the main feature of the house, which is the front projection.

## **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against all material planning considerations, including the previous permissions and appeals allowed within Stoney Hills for similar types of developments, and in this instance; it is considered that the principle of erecting one dwelling within the envelope of the developed area of Stoney Hills is acceptable. Following amendments, it is not considered that development would have a discordant impact on the character and appearance of the area or the intrinsic beauty of the countryside. No objection is raised in relation to the impact of the development on residential amenity or the parking provision. The majority of the trees on site would be retained and also, subject to conditions, the development would not create a land contamination risk. Therefore, subject to appropriate conditions, the development is considered acceptable and sustainable and in accordance with the aims of the development plan.

## **4. MAIN RELEVANT POLICIES**

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes

- 77-79 Rural Housing
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S6 Burnham-on-Crouch Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

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

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

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).
- 5.1.2 Along with policies S1 and S2, policy S8 of the approved Local Development Plan (LDP) seeks to direct development to within settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and

ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.

- 5.1.3 The application site lies beyond the development boundaries of Burnham-on-Crouch but is within the curtilage of an existing dwelling. Stoney Hills forms a separate ‘suburban’ style development, north of the main settlement of Burnham-on-Crouch extending into the open countryside.
- 5.1.4 Policy HO.1 of the Burnham Neighbourhood Plan states that *“Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan.”*
- 5.1.5 Although the proposed development is a departure from the development plan, consideration should be had to the evolved character of Stoney Hills and recent appeal decisions in the area for similar proposals to erect new dwellings, as this is a material planning consideration.
- 5.1.6 It is noted that a number of new dwellings have been approved and some of them already erected in the area in recent years. On each occasion it has been acknowledged that whilst the local highway is not adopted and provides no dedicated facilities for pedestrians, the area is considered to be in a sustainable location. It has also been acknowledged that the character of the area has evolved over time so it is no longer an area of scattered residential development but a more suburban residential one.
- 5.1.7 In the most recent appeal decision in Stoney Hills, concerning the demolition of an existing dwelling and the erection of three dwelling (Stapleton, Stoney Hills, Burnham-On-Crouch CM0 8QA - Appeal Ref: APP/X1545/W/18/3207171, dated 8<sup>th</sup> May 2019) the Inspector in relation to the character of the area stated *“in recent years a number of planning permissions have been approved for new housing development within these large plots, built around shared access driveways. Examples of these include new housing developments at: Mirfield (Council Reference: 14/00224/OUT, allowed on appeal); the Hollies (Council References: 16/00408/FUL and 16/00849/OUT); Hilcrest (Council Reference: 16/00196/OUT); and Sunnyside (Council Reference: 17/00735/OUT). A number of these new developments have been carried out and I observed during my site visit that the character of the area has changed from a rural one to more suburban residential character. I also observed that house sizes, design and styles vary considerably within the area.”*
- 5.1.8 Similar approach was taken from another Inspector assessing a proposal for the erection for two dwellings at Hedge End (Appeal Ref: APP/X1545/W/18/3198533, dated 28 September 2018) where it was stated that *“The area’s character appears to have changed gradually from a more rural and scattered environment as a result of development of single dwellings or groups of dwellings. The existing pattern of development across Stoney Hills includes detached bungalows and two-storey houses, some of which are sited in larger plots and others are located in cul de sacs off the main road through the area. The design, size and appearance of houses and bungalows throughout Stoney Hills varies considerably”*



- 5.1.9 The same argument has been reiterated in another two recent permissions, allowed on appeal for the erection of four dwellings at the land north of Hillcrest (Appeal Ref: APP/X1545/W/18/3211805, dated 2<sup>nd</sup> May 2019) and that the erection of six dwellings at the land to the rear of the application site (Land South of Charwood, Stoney Hills, Burnham-on-Crouch CM0 8QA, Appeal A Ref: APP/X1545/W/17/3187513, dated 28<sup>th</sup> September 2018). Furthermore, it must be noted that costs were awarded to the Applicants for these appeals, as it was considered that the refusal of the planning application was unreasonable.
- 5.1.10 Having regard to all the abovementioned appeal decisions and many others that have been previously allowed and some of them implemented, it is considered that the acceptability of the principle of additional residential accommodation in the area of Stoney Hills has been established from previous decisions. The application site is clearly contained within the boundaries of the curtilage of an existing dwelling (Myrtle Cottage) within the Stoney Hills residential area. Therefore, the development would not unacceptably impinge or sprawl into the open countryside. For that reason and giving due weight to the previous appeal decisions, it is considered that in this instance, the introduction of a new dwelling in this location, in between residential units, would not cause demonstrable harm.
- 5.1.11 According to policy H4 “Backland and 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.”*
- 5.1.12 The proposal would intensify the use of the application site, which currently forms part of the amenity area of Myrtle Cottage. Albeit a residential amenity space cannot be considered as under-use of the site, it should be noted that the development would still result in amenity space provision beyond the minimum standards as set out in the MDDG. The impact of the development upon living conditions and the amenity of nearby occupiers is further assessed below, in the relevant section. The proposal would not result in loss of land which is of local social, economic, historic or environmental significance. It is also noted that the site is not known to host any important landscape, heritage features or ecology interests.
- 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, it is considered that one additional would not impose an additional burden of existing infrastructure to an extent that would justify the refusal of the application.
- 5.1.14 On the basis of the above assessment, the principle of the proposed development is considered acceptable. Other material considerations relating to the impact of the development on the character of the countryside, the living conditions of the future and neighbouring occupiers, highways issues and ecology are assessed below.

## **5.2 Housing Need and Supply**

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

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

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

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

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

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

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

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

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

- 1) *The location and the setting of the site;*
- 2) *The existing character and density of the surrounding area;*
- 3) *Accessibility to local services and facilities;*
- 4) *The capacity of local infrastructure;*
- 5) *Parking standards;*
- 6) *Proximity to public transport; and*
- 7) *The impacts upon the amenities of neighbouring properties.”*

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

5.3.6 Appendix 2 in conjunction with policy HO.8 of the Burnham-on-Crouch Neighbourhood Plan highlights the housing design principles. In particular, principle NHD.9 states that “*The design of new homes in the area should reflect the materials, forms and scale of traditional local buildings. Sensitive modern interpretations of the*

*local vernacular are encouraged and the town centre conservation area provides many high quality examples of local forms”.*

- 5.3.7 The application site lies outside the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.8 As stated above, the site is located outside the defined settlement boundaries of the District, but within the boundary of an existing dwelling and within the envelope of the residential area of Stoney Hills. The site is contained within the existing envelope of development, abutting the residential area of Stoney Hills to the north, south and west. To the east although currently the site is undeveloped, it benefits from planning permission for the erection of six bungalows and therefore weight should be given to the fact that it has potential to be developed. On that basis and given that the site is already in residential use, as an amenity area of a residential dwelling, it is considered that the development would not result in demonstrable harm on the visual amenity of the countryside, in terms of sprawling development onto the open countryside or result in unacceptable urbanisation effect.
- 5.3.9 With regard to its layout, the proposed dwelling would be oriented facing the highway, being in line with the neighbouring dwelling to the north, in a slightly recessed position in relation to Myrtle Cottage. Therefore, the dwelling would preserve the existing frontage line along this section of Stoney Hills. Sufficient gaps would be maintained between the proposed dwelling and the neighbouring buildings, protecting the rhythm of development and built pattern of the area.
- 5.3.10 In terms of ridge height, the dwelling would be set in line with the dwelling to the south and marginally lower from that to the north, and thus, it would not result in an unacceptable juxtaposition or appear dominant or visually obtrusive.
- 5.3.11 Although it is accepted that the proposed dwelling would be considerably smaller than the neighbouring dwellings and be more dominant within the plot, taking into account the varying form, mass, design and style of dwellings in the surrounding area, it is not considered that the development would appear out of keeping with the streetscene or the area more widely.
- 5.3.12 In terms of the design of the proposed dwelling, as noted in the ‘Proposal’ section of the report, a number of amendments have been incorporated to improve the appearance of the dwelling. The dwelling was originally proposed to feature a cat-slide roof projecting forward the main gable feature, with misaligned eaves and a projecting feature considerably disproportionate to the overall width of the dwelling. Following amendments, the proposed dwelling would have a roof with aligned eaves, which would also take cues from the neighbouring dwelling to the north. The forward projection would be of a width and height that is proportionate to the dwelling, giving the impression of the main feature of the house, without being overly prominent, as it would still be lower than the ridge of the main dwelling and narrower than the width

of the main section of the house. The canopy over the entrance of the dwelling will no longer project beyond the front building line of the gable projection and thus, it no longer competes with this feature of the house. Overall the amendments incorporated to the proposed dwelling have materially improved its appearance.

- 5.3.13 With regard to the proposed dormer to the front elevation, it is noted that dormers are common features in the area and thus, it would not appear at odds with development in the immediate vicinity. It seems that consideration has been given to the principle of maintaining a hierarchy between the windows at ground and first floor. Whilst no windows are proposed to the north and south elevations (side elevations) it is considered that due to the staggered elevations and subject to the provision of good quality materials, the development would not result in unattractive external elevations.
- 5.3.14 No objection is raised to the proposed gable roof of the dwelling, as there are numerous examples of gabled roofs in the surrounding area. Whilst the pitch of the main gable roof would differ from that of the forward and rearward gable projections, it is considered that this would not be easily read from the public realm and it would not be harmful to the appearance of the proposed dwelling to an extent that would warrant refusal of the application.
- 5.3.15 The proposed rearward projection would add interest to the rear elevation, given that it would break the continuity of the elevation and it would introduce detailing to the external elevations (timber detailing against render at ground floor with timber cladding at first floor) that would reflect the fairly traditional character of the proposed dwelling.
- 5.3.16 The development makes provision for a bin store to the north of the proposed dwelling, away from public views and therefore, no objection is raised in terms of the visual impact of the refuse storage on the streetscene
- 5.3.17 In light of the above, it is considered that the proposed dwelling would be of an acceptable design itself and it would not be harmful to the character of the wider suburban area or the appearance of the streetscene. The development would accord with policies D1 and H4 of the LDP, the housing design principles set out in the Neighbourhood Plan and the guidance contained in the MDDG.

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

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

- 5.4.3 The proposed dwelling would be located 3.3m away from the northern boundary, around 5m away from the neighbouring property to the north. The proposed house would be located almost in line with the front building line of the neighbouring dwelling to the north. To the rear the house would be recessed in relation to the Orchard House to the north. Therefore, considering the separation distance between the properties and the position of the proposed dwelling with respect to the position of the Orchard House, the development would not result in an overbearing or overshadowing impact on the neighbours to the north. The property to the north has no windows installed onto the south elevation and thus, no habitable windows would be affected by the proposed development. The proposed ground floor windows on the north elevation would not adversely impact on the amenity of the neighbouring occupiers, in terms of loss of privacy, given that outlook from them would be blocked by the existing high boundary fence.
- 5.4.4 An approximate 14m separation distance would be maintained between the proposed dwelling and that to the Myrtle Cottage to the south. This separation distance is more than adequate to prevent from any unacceptable overshadowing or overbearing impact. The development would not result in overlooking, taking into account that no windows are proposed to be installed on the south elevation of the proposed dwelling.
- 5.4.5 As noted above, the site to the rear of the application site, which is currently an open field, benefits from outline planning permission for the erection of six houses, in an oblique position in relation to the proposed dwelling, to the southeast of the site. A 10m separation distance would be maintained to the rear boundary, which is sufficient to mitigate against loss of privacy or overlooking.
- 5.4.6 The development due to its position would not result in a greater impact on the residential amenity of other nearby occupiers. As a result, the development would have an acceptable impact on the amenity of the neighbouring residential occupants.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 Access to the site would be gained off of Stoney Hills, utilising an existing vehicular access. No new access is proposed to be formed and therefore, the development would be provided with an acceptable access, sufficient to allow safe access and egress of vehicles from the site. The Highway Authority has been consulted and raised no objection to the proposed development.
- 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 Two off street parking spaces are required for the proposed two-bedroom dwelling. The development would be able to provide two off-street spaces, as a minimum, in accordance with the Vehicle Parking Standards. With regard to the existing dwelling, the submitted plans show that three parking spaces would be able to be provided within the curtilage of this dwelling. Thus, whilst the proposed parking area for the proposed dwelling appears to be currently used for parking purposes, taking into account that both dwellings would be served by sufficient parking spaces that meet the Council's vehicle parking requirements, it is not considered that the development would adversely impact on the highway network or free flow of traffic by reason of vehicles being parked on street.
- 5.5.5 A bike store is proposed to be erected to the rear garden of the proposed dwelling, which will be located in an easily accessible position. Details of the cycle store ensuring that is secured and covered would be secured by the imposition of an appropriate planning condition. This is to secure that 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.
- 5.5.6 Although the development proposes the demolition of an existing bike and garden store that currently serves Myrtle Cottage, it is noted that the existing dwelling would still benefit from a large sized garden where a bike/garden store could be erected. On that basis, no objection is raised in terms of loss of the existing bike/garden store.

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

- 5.6.1 With regard to the size of amenity spaces, the Council has adopted the MDDG as a supplementary guidance to support its policies in assessing applications for residential schemes. Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable.
- 5.6.2 As noted in the 'Proposal' section, usable amenity space of approximately 180sqm would be provided for the occupiers of the proposed dwelling. The amenity space retained for the existing dwelling would be around 390sqm. As such, both dwellings (existing and proposed) would be served by sufficient amenity space that meets the outdoor requirements of the future existing and future occupiers.
- 5.6.3 The development 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 for the future occupiers and on that basis, 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 in consultation and it therefore, constitutes an emerging document for the Council. Given the current preliminary stage of the document and low amount of development proposed (one dwelling), in this instance, it is considered that it would be disproportionate and unreasonable to require the developer to mitigate the impact of one dwelling on the protected habitats and thus, it would be unreasonable to refuse the application on the grounds that the proposal has not mitigated the impacts of the development. Notwithstanding the guidance of Natural England, it is considered that the likely impact of one additional dwelling in this location would not be harmful in terms of additional residential activity to a degree that would justify the application being refused.

## **5.8 Other Material Considerations**

### *Trees*

- 5.8.1 Although the site is mainly grassed over, there are mature trees within the site and a hedgerow along the northern boundary, which currently positively contributes to the visual amenity of the site. The application is supported by a Root Protection Areas (RPA) plan which shows that the majority of the trees would be retained, as well as the existing hedge along the northern boundary. To ensure that the retained trees are protected, it is proposed that protecting fencing is installed around their RPA and no works would be carried out within those areas. It is also advised that personnel would

be briefed by an arborist regarding the methods of ensuring that the trees are protected during construction. On the basis of the submitted information and taking into account that the majority of the trees on site would be retained and protected during construction, subject to the imposition of an appropriate condition, no objection is raised in relation to the impact of the development on the health and visual amenity of the existing vegetation on site.

#### *Contamination*

- 5.8.2 Policy D2 of the Approved MDLDP states that where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source. The Council will expect development proposals to take into account environmental issues such as air quality, water consumption and quality, drainage, sewerage, energy, noise, light, waste, contamination, design and building materials.
- 5.8.3 A consultation response has been received from the Environmental Health Team suggesting that historical maps provide evidence of gravel pits in the Stoney Hills area. Recent development at Stoney Hills has revealed fill materials typical of landfill sites. Further analysis has shown concentrations of substances that have the potential to present a risk of harm. For those reasons, it has been recommended by the Environmental Health Team that there is a need for further investigation prior to development to make sure that the development would not result in land contamination. Subject to appropriate pre-commencement conditions, as discussed below, the development and receptors would be protected from any potential hazardous sources.

### **5.9 Pre-Commencement Conditions**

- 5.9.1 One pre-commencement condition is recommended and approval for the use of these conditions has been provided by the applicant's agent on 3<sup>rd</sup> July 2019.
- 5.9.2 A consultation response from the Environmental Health Team has been submitted requesting the imposition of pre-commencement conditions regarding the submission of an investigation and risk assessment and a remediation scheme thereafter if contamination is found on site. These conditions are necessary to be submitted prior to the commencement of the development and any ground works, given that they go to the heart of the permission and that their findings would affect the acceptability of the proposed development. Any investigation would effectively have to be carried out prior to the implementation 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 required to be addressed prior to the commencement of the development.

**6. ANY RELEVANT SITE HISTORY**

- **FUL/MAL/09/00774** – Loft conversion with alterations to roof. 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	The site is located outside the development area. Maldon District Council has a five year housing land supply. The development is not in accordance with the Neighbourhood Development Plan. The development would result in overdevelopment of the site.	All of the matters raised are 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	Due to the fact that Stoney Hills is classified as a private road, the Highway Authority has no objection to the proposal.	Comments noted and discussed within section 5.5 of the report.

**7.3 Internal Consultees**

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

**7.4 Representations received from Interested Parties**

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

## 8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in complete accordance with approved drawings GW08; GW01 A; GW02 A; GW05; GW03 and GW04 A.  
REASON To ensure the development is carried out in accordance with the details as approved.
3. Prior to their use in the development hereby approved, details or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.  
REASON To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
4. Prior to the occupation of the development hereby approved details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided prior to the occupation of the dwelling hereby approved in accordance with the approved details and be retained as such in perpetuity.  
REASON To ensure the external appearance of the development is appropriate to the locality and that the development would protect the amenities of the neighbouring occupiers in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
5. Prior to the occupation of the development details of both hard and soft landscape works to be carried out shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.  
REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD.

6. 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 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 Local Plan, and policies D1 and T2 of the submitted Local Development Plan.

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

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

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

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

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

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

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

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

9. The vehicle parking area and associated turning area shown on plan GW 04A shall be provided prior to the occupation retained in this form in perpetuity. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.  
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.
10. Details of the refuse and cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained for such purposes in perpetuity thereafter.  
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.
11. Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:
  - (i) a survey of extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - Human health,
    - Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - Adjoining land,
    - Groundwaters and surface waters,
    - Ecological systems
    - Archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.  
REASON To prevent the undue contamination of the site in accordance with Policy D2 of the Maldon District Local Development Plan.
12. No development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part

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

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

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

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

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

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

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

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

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

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or separate buildings (other

than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site.

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

16. The trees and hedges identified for retention on the approved plan drawing number GW 04 A and the details included in the Tree report which is attached to and forms part of this permission shall be protected during the course of the development. The trees and hedges shall be protected by measures which accord with British Standard 5837:2012 (Trees in Relation to Construction). The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless otherwise first agreed in writing by the local planning authority. If within five years from the completion of the development a tree or hedge shown to be retained is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shall be planted within the site of such species and size, and shall be planted at such time, as specified in writing by the local planning authority.

REASON To secure the retention of appropriate landscaping of the site in the interests of visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.

### **INFORMATIVES**

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





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

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

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

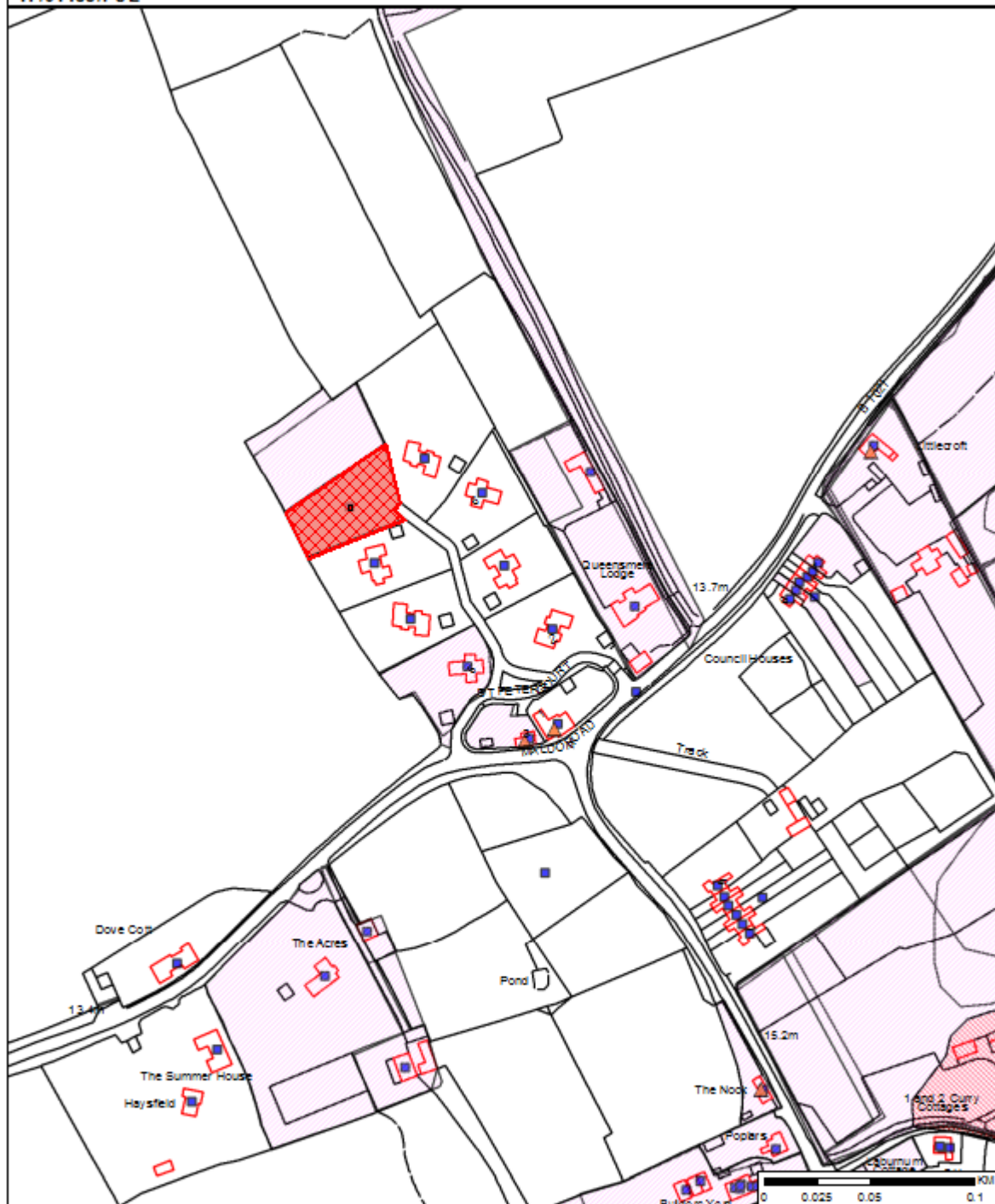
**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**Land Adjacent 9 St Peters Court**  
17/01483/FUL



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	Organisation: Maldon District Council
	Department: Department
	Comments: SEAC
	Date: 21/05/2019
	MSA Number: 100018588

### **3. SUMMARY**

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

##### Application Site

- 3.1.1 The application site is located to the northwest of St Peters Court, Bradwell-On-Sea. The site is partially laid to grass and free from any built form or development. The site appears to be flat to the southeast but the site gradient gently raises to the north and north west. There is a low boundary fence on the eastern boundary of the site shared with No. 9 and a close boarded fence of approximately 1.8 metres in height to the southern boundary shared with No. 8.
- 3.1.2 The surrounding area is generally rural, with sporadic dwellings fronting the highway. The cul-de-sac which serves the application site is unusual in this sense and is accessed off of Maldon Road. The dwellings within St Peter's Court are sizeable with spacious plots and generous gardens.

##### Proposal

- 3.1.3 Planning permission is sought to erect two, four bedroom dwellings within the site. The proposed dwellings would be handed versions of each other and would be 'T' shapes, with gable projections to the front and rear. The main part of the dwellings would have an eaves height of 4.7m and a ridge height of 9.7m. They would have a width of 6m and a depth of 16m, inclusive of the chimney. The front gable projection would have a bay window at ground floor and would measure 4m in depth, 5.1m in width, 4.7m to the eaves and 8.4m to the ridge. The rear gable projection would measure 3.1m in depth and 5.1m in width, with a bay window at both ground and first floor.
- 3.1.4 The dwelling situated within the southwest of the site would be set 8m from the southern boundary, 19.4m from the western boundary and 18.3m from the site entrance. There would be a separation distance of 9.2m between the proposed dwellings and the dwelling to the northeast would be located 8.5m from the eastern boundary, 22.6m from the northern boundary and 25.5m from the site entrance.
- 3.1.5 The proposal also includes a driveway and an area of hardstanding to the side of each dwelling for the parking of vehicles. An area of soft landscaping is shown on the proposed block plan around the boundaries of the site, which would consist of 5m wide planting of native hedgerow.
- 3.1.6 The proposed dwellings would be constructed from brick and render.

##### Background

- 3.1.7 There is an extensive planning history at the site. In 2001 planning permission was granted for 7 dwellings at the site (FUL/MAL/00/00003 and S106 legal agreement) and then in 2002, an application to re-site 3 of the dwellings (Ref: FUL/MAL/02/00301) was refused by the Council but a subsequent appeal was upheld. In considering the appeal the Planning Inspector noted that the proposal for new housing on this site was contrary to the Council's countryside protection policies.

However, he noted that the Council had secured, by granting the 2001 permission, the removal of unsightly development at the southern end of the site, the revocation of various consents and resources directed to the repair and refurbishment of the Grade II listed building to the south of the site (former Queens Head Public House). At the time it was considered that these benefits outweighed the harm resulting from additional development in the countryside.

3.1.8 In allowing the appeal, the Planning Inspector approved a new layout plan (Munday and Cramer Plan No C989/01 dated: March 02). This showed the new position of plots 4, 5, and 6 together with their residential curtilages. In addition, a strip of land 30 metres wide across the northern end of the site was excluded from residential development. Furthermore, it was indicated as a landscaped area in the submitted landscaping scheme for the whole development. The development that has actually taken place does not conform to this plan. The dwellings are in the approved positions but the residential curtilage for Plot 4 has been substantially increased to include about half of the landscape area and the curtilage for Plot 3 reduced. It would appear that the landscaping scheme for the northern part of the site was not implemented.

3.1.9 Then in 2017 the Council refused an application (FUL/MAL/17/00409) for two dwellings at the site, which were refused for the following reason:

*'The application site is in a rural location outside of the defined settlement boundary for Bradwell-on-Sea 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 Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development, due to its internal road layout, scale, bulk and the elongated frontages coupled with the width of the detached garages would result in a cramped form of development, which would appear out of character with other residential properties in the vicinity which are set in expansive plots. Further, the application site is not considered to be in a sustainable location. This is due to the distance to local services / facilities means that there would not be a safe or convenient pedestrian access to local services / facilities and as such it is likely that there would be greater reliance on the use of private cars. The development proposal would therefore be contrary to policies S2, H1, BE1, CC6, T1, T2 of the adopted Maldon District Replacement Local Plan, S1, S8, D1, H4, T2 of the Maldon District Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.'*

3.1.10 A further application was then submitted for one dwelling, which was refused by the Council, but granted on appeal (APP/X1545/W/18/3204574) on the 8<sup>th</sup> January 2019. In allowing that appeal the Inspector concluded that the appeal site is a suitable location for residential development.

3.1.11 The proposal is similar to that proposed as part of application (FUL/MAL/17/00409), which was refused by the Council as outlined above. The proposed dwellings in terms of their scale, bulk and design are identical. Although the dwellings have been 'flipped' within the site and are positioned marginally further forward within the site.

The proposal subject of this application also omits the previously proposed garages and includes landscaping as outlined above.

### **3.2 Conclusion**

- 3.2.1 It is noted that the proposal is contrary to policy S8 of the Local Development Plan.(LDP) However, having taken all material planning considerations into account, including the extant planning permission (APP/X1545/W/18/3204574), it is found that the principle of erecting a dwellinghouse in this location has been established and therefore no objection should be raised to the principle of the proposed development for two dwellings. The impact of the development on the character of the area and the countryside has been assessed and having regard to the previous appeal decision, the proposal is not considered to result in material harm to the character and appearance of the area or the intrinsic character and beauty of the countryside. The development would not cause a detrimental impact on the amenity of the neighbouring occupiers and it would provide a suitable living environment for the future occupiers. Off-street parking could be provided in accordance with the Vehicle Parking Standards subject to a condition, and the local planning authority is satisfied that the development would not adversely impact on the public rights of way. Therefore, whilst the development would not wholly accord with the approved LDP and the guidance contained in the National Planning Policy Framework (NPPF) and the supplementary Maldon District Design Guide (MDDG), subject to conditions, it is considered that the proposed development cannot be deemed to be unsustainable and should not therefore be refused.

## **4. MAIN RELEVANT POLICIES**

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
- 77-79 Rural Housing
- 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
- D2 Climate Change and Environmental Impact of New Development
- H4 Effective Use of Land

- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards SPD

### **5. MAIN CONSIDERATIONS**

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

5.1.1 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.

5.1.2 In relation to the above, the site is located in the countryside where policies of restraint apply. Policy S8 seeks to support sustainable development in settlement boundaries and to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy states 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 the development is for one of the development types listed within that policy. The proposed residential dwellings would not fall within any of the categories listed within policy S8. Therefore the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

5.1.3 As outlined in section 3.1 there is an extant permission at the site for the construction of one dwelling (APP/X1545/W/18/3204574). When determining that appeal the Inspector stated:

*'I accept that there would be some conflict with Policy S8 because the appeal site is outside of the defined development boundary. However, it would not compromise the general principle of preserving the intrinsic character and appearance of the countryside. Nor would it conflict with the overall key sustainable development principles set out in Policy S1, which reflect those in the Framework. As such, I consider the policy conflict would be minor, and the proposal would accord with the development plan as a whole. Thus, I conclude that the appeal site is a suitable location having regard to Policy S1 of the LDP and the Framework (2018).'*

5.1.4 On the basis of the Inspector's findings and that there is an extant permission for one dwelling at the site, it is reasonable to consider that the application site is a suitable

location for residential accommodation, as it is not considered that an additional dwelling would provide any considerations which would alter this stance. Therefore, although the principle of development is contrary to Policy S8 of the LDP, having regard to the previous decision, which is a material consideration, it is considered that the principle of the erection of two dwellinghouses in this locality would be acceptable.

- 5.1.5 Other material planning considerations, including the acceptability of an additional dwelling at the site are discussed below.

## **5.2 Housing Need**

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

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

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

5.3.6 The application site lies outside 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.

5.3.7 It is noted that the proposal refused under application FUL/MAL/17/00409 is similar to this application and it was deemed by the Council that the proposal would result in a cramped form of development, which would appear out of character with other residential properties in the vicinity, which are set within expansive plots. However, there are slight variations to the proposal as outlined in section 3.1 and since the determination of application FUL/MAL/17/00409 the appeal for one dwelling at the site has been decided. Given the changes to the scheme in comparison to FUL/MAL/17/00409 and that the appeal decision is the most recent planning history at the site and is therefore, considered of most relevance, it is considered that the appeal decision should be given greater weight than the decision relating to FUL/MAL/17/00409.

5.3.8 At paragraph 7 of the Inspectors decision he stated that *‘views of the proposed dwelling from the public domain would be restricted by mature hedgerows and other buildings. The most significant views would be from the southwest along Maldon Road. Whilst the proposed dwelling would be visible from this direction, it would be*



*viewed against the existing dwellings of St Peter's Court and, given the position of the proposed dwelling between Nos 9 and 8, the effect of the appeal dwelling on the character and appearance of the countryside would not be significantly greater than the existing dwellings.'*

- 5.3.9 Although the proposal would result in an additional dwelling at the site, it is considered that the Inspector's comments are still applicable. The dwellings would largely be seen as part of the backdrop of the other residential development within St Peter's Court. The only areas where this would not be applicable are to the northeast and the west/southwest. However, as noted by the Inspector views of the site would be restricted by hedgerows and the proposed landscaping would also help provide a soft edge to the site and the countryside beyond.
- 5.3.10 In terms of layout, it is noted that the proposed dwellings would not follow the radial pattern of the existing houses, as the proposed dwellings would be set further back than the neighbouring ones. Nevertheless, for the reasons outlined in the above paragraph it is not considered that this would result in material harm to the character and appearance of the area or the countryside.
- 5.3.11 It is also noted that the plot sizes of the proposed dwellings would be smaller than the dwelling to the east (No.8) (Table 1). However, as shown in the table below, plot 8 is uncharacteristically large and the proposed plot sizes would be proportionate to the other plots within St Peter's Court. Therefore, the proposed would not compromise the feeling of spaciousness, which was a characteristic that the previous Inspector considered important to the character and appearance of the area. Likewise, the distances to the site boundaries from the proposed dwellings would largely be greater than what has been achieved at the neighbouring properties. For instance, the proposed dwellings would be set between 8m and 8.5m from their closest side boundaries, whereas No.8 to the east is located approximately 5m from its western boundary and No.9 to the south is set 6.5m from the northern boundary. Having regard to this it is considered that the proposal is in keeping with the pattern of development within the area to a suitable degree and would not result in a cramped form of development.

Table 1: Plot sizes

House Number	Approximate Plot Size (m <sup>2</sup> )
No.9	1652
No. 8	3416
No.7	1665
No.6	1556
No.5	1476
No.4	1505
No.2	1765
Plot 1	1479
Plot 2	1934

- 5.3.12 In terms of design the dwellings would be a similar design to the existing dwellings within St Peters Court; particularly Nos. 5 and 6 which are also 'T' shaped properties, with bay windows and a chimney. The dwellings within St Peter's Court are also finished with brick and render and so the proposed materials would assimilate with the streetscene. Given that the proposed dwellings have been designed in a way

which references the existing architectural style of St Peter's Court it is considered that the design of the dwellings would be appropriate for the area.

- 5.3.13 It is noted that as part of application FUL/MAL/17/00409 that the Officer's report considered that the *'access point and internal U-shaped driveway and turning area into the site to serve the two dwellings would be out of character with the adjacent built form and prevailing pattern of development.'* The proposed driveway would result in an area of hardstanding 115m<sup>2</sup> greater than the area of hardstanding approved by the Inspector. However, given that it would serve two dwellings it is not considered that the level of hardstanding proposed is excessive. Furthermore, given that the design and layout of the proposal is considered acceptable in all other respects it would not be considered reasonable to refuse the application on the basis of the driveway layout alone. However, should the application be approved a condition should be imposed requiring the detailing of the materials proposed to be used.
- 5.3.14 Having regard to the above assessment and the previous Inspector's decision it is not considered that the proposal would result in material harm to the character and appearance of the site or the intrinsic character and beauty of the countryside to a degree which would warrant refusal of the application.

#### **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 proposed dwellings would be sited between Nos 8 and 9 St Peters Court. Plot 1 would be set at a distance of 17.9m from the northwestern elevation of No. 8 and Plot 2 would be set 15m from the northern elevation of No. 9. The two dwellings would be set 9.2m from each other.
- 5.4.3 There are no windows proposed in the first floor side elevations of the proposed dwellings. Furthermore, given the orientation of the front and rear elevations and the separation distances between the proposed dwellings and the neighbouring properties it is not considered that the proposal would result in undue harm as a result of overlooking or a loss of privacy. In addition, it should be noted that the Inspector previously considered that it was not necessary to impose a condition for first floor windows in the northern elevation due to the orientation of the dwellings and the separation distance. Therefore, it is not considered that an obscure glazing condition would be required in this instance.
- 5.4.4 In addition to the above, given the orientation of the proposed dwellings and neighbouring properties and the separation distances, it is not considered that there will be a harmful increase in overlooking to the private amenity space of either neighbouring properties or that the dwellings would have an overbearing impact on the neighbouring occupiers. Furthermore, given the separation distance between the proposal and the neighbouring properties it is not considered that the proposal will result in a significant loss of light or overshadowing to the neighbouring properties. In this respect, the proposal would accord with the requirements contained in Policy 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 It should be noted that since the determination of the previous application the Council has adopted the Maldon District Council Vehicle Parking Standards SPD which include minimum parking requirements opposed to maximum and have increased the required dimensions for garages and bay sizes. These standards now form a material consideration.
- 5.5.4 The recommended parking provision standard for a four bedroom dwelling is a minimum of three car parking spaces, which should each measure 2.9mx5.5m. Having regard to this each dwelling would be provided with two parking spaces, which falls below the requirement of three spaces. Nevertheless, it is noted there is sufficient space within the long driveways to accommodate a further parking space per dwelling. Therefore, it is not considered reasonable to refuse the application on car parking provision alone.
- 5.5.5 The Local Highway Authority has not yet commented on the application. Nevertheless, given that they raised no objection to the previous application due to it being a private road, it is not considered that they would reach a different conclusion in respect of this application.
- 5.5.6 Given that there is suitable turning facilities provided at three points along the proposed driveway, it is considered that the proposal would be acceptable in terms of highway safety.

- 5.5.7 An objection has been received in relation to the adoption of the private road and also the completion of the road serving the cul-de-sac. However, these are matters which are outside of the application site and outside of the Local Planning Authorities control.
- 5.5.8 Having regard to the above assessment there is no objection to the application, on car parking or highway safety grounds.

## **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 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 provide each dwelling with amenity areas which measure well in excess of the required standards. Therefore, there is no objection in relation to amenity space.
- 5.6.3 The proposed area of hedgerow planting is considered a suitable addition to the site and provides a suitable amount of greenery to help soften the appearance of the dwellings. A condition would however be imposed, ensuring that the landscaping is implemented and to ensure that species and stock sizes were appropriate.

## **5.7 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast 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 Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.5 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 would not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.7.6 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 specified development types? Yes – The proposal is for two dwellings

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

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

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

Summary of Appropriate Assessment

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

## Conclusion

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

## **5.8 Other Matters**

- 5.8.1 When considering the conditions proposed by the Council in relation to the previous appeal The Inspector concluded that:
- A condition relating to boundary treatments is not necessary as this would be covered by a landscaping condition
  - A condition removing the rights as permitted by Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, would not meet the test of necessity in the interests of the area, as such rights would already be controlled by the conditions set out within that schedule.
  - A condition requiring obscure glazing in the northeastern elevation would not be necessary due to the orientation and distance of the proposal from the neighbouring dwelling.
- 5.8.2 Having regard to the Inspector's findings, although the proposal is now for two dwellings, rather than one, it is not considered reasonable to reach a different stance on this matter, as the impacts of one extra dwelling would not result in the necessity for these conditions. Therefore, the abovementioned conditions have not been proposed and the suggested conditions have been sourced from the Inspector's decision. New conditions, which were not included previously, have been included in this instance as they relate directly to the development proposed and are now necessary where they were not for the provision of one dwelling.

## **5.9 Pre-Commencement Conditions**

- 5.9.8 A pre-commencement condition requiring a construction method statement is recommended. The applicant's agent has been contacted for agreement to this condition and any response will be updated by Members' update.
- 5.9.9 It is considered that the pre-commencement condition is necessary on the grounds that the logistics of carrying out the construction works must be agreed prior to their commencement.

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

- **FUL/MAL/17/01483** - Erection of a detached dwelling, **application refused, appeal allowed.**
- **FUL/MAL/17/00409** – Application for two dwellings **refused.**
- **FUL/MAL/02/00301** - Proposed re-siting of three dwellings, **application refused, appeal allowed.**
- **FUL/MAL/00/00003** - Proposed residential development of 7 no. detached houses and garages. **Approved.**

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

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

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No response received at the time of writing this report	Any future response will be communicated by Members update.
Natural England	A Habitats Regulation Assessment Should be undertaken	Noted and addressed at section 5.10

### 7.3 Internal Consultees

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environmental Health	No objection subject to conditions: <ul style="list-style-type: none"><li>- Surface water drainage</li><li>- Foul Drainage</li></ul>	It is considered that the conditions should be imposed to ensure that the increased built form doesn't create risks from surface water drainage, and to ensure that foul drainage is dealt with effectively.

### 7.4 Representations received from Interested Parties

- 7.4.1 3 letters were received **objecting** to the application, the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
There is no plan of how the houses will occupy the site. Turnaround space will need to be made for large goods lorries. They currently have to reverse out.	The Block Plan (NDCM07JE_BP1.1) submitted with the application shows the proposed layout. A turning area has been provided within the southeast of the site

Objection Comment	Officer Response
<p>There has been no reply from the Officer regarding the adoption of the half-moon road by the Council. This should be a stipulation that the road has not been adopted.</p> <p>The gravel road installed by the developer was not properly completed; this should be sought if permission is given.</p> <p>Thought needs to be given to the drainage capacity and sewage.</p>	<p>and a construction management plan could be obtained through a condition to ensure that the construction works do not cause obstruction.</p> <p>It is not the Local Planning Authority or the District Councils duty to adopt roads. This would need to be taken up with the Local Highway Authority at Essex County Council.</p> <p>The application can only be considered on what is proposed and that which relates to the application site.</p> <p>Environmental Health has been consulted and has requested surface water and foul drainage conditions which will sufficiently address drainage at the site.</p>
<p>Two dwellings would be out of keeping with the existing character of the cul-de-sac.</p> <p>This should not be considered as it was rejected previously.</p>	<p>Addressed at section 5.3 of the report.</p> <p>As outlined in sections 5.1 and 5.3 of the report, the previous Inspectors decision provides a new material consideration for assessing the application and the proposal is different in some ways. Through balancing the different material considerations it is not considered that the previous reason refusal alone would provide reasoning for refusing the application.</p>
<p>There is no need for more four bedroom houses.</p> <p>The surface of St Peter's Road is not disabled friendly and unusable for wheelchairs.</p> <p>The road is owned by the existing 7 houses and so there are no rights for the applicant/future occupiers to use the road.</p> <p>There should be a planted area to the</p>	<p>Housing mix is addressed at section 5.2.</p> <p>Given that the existing road already serves residential properties, that the road does not fall within the application site and that accessibility for disabled users is dealt with at the building regulations stage it is not considered this would amount to a reason for refusal.</p> <p>This is a civil matter that cannot be addressed through planning.</p> <p>As acknowledged by the Inspector as part</p>



<b>Objection Comment</b>	<b>Officer Response</b>
northern end of St Peter's Court which is protected by planning restrictions.	of the previous decision that the green buffer was not implemented and the area was incorporated into the garden of No.8.
The plot needs to be checked for size as it seems bigger on the plans.	The plans are all provided to the required scales.
No planning notice has been put up	A site notice was placed at the site on 7 <sup>th</sup> May 2019. Evidence of which can be found on the Council's website.

- 7.4.2 **1** letter of representation **commenting** on the application has been received, the comments have been summarised in the table below

<b>Comment</b>	
Would prefer to see one dwelling rather than two squeezed onto the plot.	The impacts of two dwellings are addressed at section 5.3
Proposal would obscure the view of the Blackwater Estuary which is disappointing.	This is not a planning consideration.
Condition should be included that the private road is maintained by residents should be made good by the developer.	The application can only be considered on what is proposed and that which relates to the application site.
Existing drainage may not be able to sustain two further properties.	Environmental Health has been consulted and has requested surface water and foul drainage conditions which will sufficiently address drainage at the site.
Contractors should not be allowed to park on St Peters Court.	Contractor parking can be dealt with through the construction management plan condition.

## 8. **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall begin no later than 3 years from the date of this decision.  
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: NDCM07JE\_BP1.1, NDCM07JE\_SP1.0, NDCM07JE\_PSP1.0, 03, 04, 05, 06  
REASON To ensure that the development is carried out in accordance with the details as approved
- 3 No works shall be carried out above ground level until written details or samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in

writing by the local planning authority. Development shall be carried out in accordance with the approved details.

REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: ATS/537/03, Illustrative Site Plan – LD, Illustrative Site Plan- WD, Proposed Reception/Spa Building Floor Plans & Elevations.

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

- 5 Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:

- i) Finished levels;
- ii) Means of enclosure, including gates;
- iii) Car parking layouts;
- iv) Vehicle and pedestrian access and circulation areas;
- v) Hard surfacing materials;
- vi) Indications of all existing trees and hedgerows on the land and identification of those to be retained; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.

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

REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

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

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

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON To ensure that there is a sufficient surface water drainage scheme to protect future occupiers from flood risk in accordance with policy D5 of the LDP

- 7 Prior to any works above ground level details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON To ensure that adequate provision is made for foul water drainage in accordance with policies D1 and D5 of the Maldon District Local Development Plan

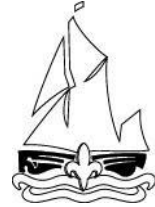
- 8 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) delivery, demolition and construction working hours.

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

REASON In the interests of protecting the amenity of adjacent occupiers during construction in accordance with policy D1 of the LDP.

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

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


**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	03/06/2019
www.maldon.gov.uk	MSA Number:	100018588

### **3. SUMMARY**

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

##### *Site description*

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

##### *Description of proposal*

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

#### **3.2 Conclusion**

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

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

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

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

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

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

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

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

- Policy HO.1 – New Residential Development.

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

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

### **5. MAIN CONSIDERATIONS**

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

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



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

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

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

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

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

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

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

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

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

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

## **5.2 Housing Need and Supply**

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

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

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.
- “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the*

*way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **5.7 Pre-Commencement Conditions**

- 5.7.1 No pre-commencement conditions are proposed.

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

- No relevant planning history.

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

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

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

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

## 7.2 Statutory Consultees and Other Organisations

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

## 7.3 Internal Consultees

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



## 7.4 Representations received from Interested Parties

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

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

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

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

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

## **8. PROPOSED CONDITIONS**

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

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

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

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

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

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

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

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

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