

# Unrestricted Document Pack

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

30 June 2020

Dear Councillor

You are summoned to attend the meeting of the;

## **SOUTH EASTERN AREA PLANNING COMMITTEE**

on **WEDNESDAY 8 JULY 2020** at **1.00 pm**.

Please note that this will be a **remote meeting** – Member to access the meeting via Microsoft Teams. Members of the press and public may listen to the live stream on the Council's website.

<https://democracy.maldon.gov.uk/ieListDocuments.aspx?CId=151&MId=2150>

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

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

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**AGENDA**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**WEDNESDAY 8 JULY 2020**

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 14)

To confirm the Minutes of the meeting of the Committee held on 10 June 2020, (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. **20/00345/FUL - Land Adjacent Orchard House, Nipsells Chase, Mayland** (Pages 15 - 26)

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

6. **20/00360/FUL - The Bank House, 10 Station Road, Southminster** (Pages 27 - 44)

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

7. **20/00375/FUL - Land Rear of 148 Station Road, Burnham on Crouch** (Pages 45 - 78)

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

8. **20/00415/HOUSE - 17 Brook Road, Tillingham, Essex, CM0 7SG** (Pages 79 - 88)

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

9. **20/00502/HOUSE & 20/00503/LBC - The Wheat Barn, Keelings Road, Dengie** (Pages 89 - 98)

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

10. **20/00463/WTPO - Land North West of Riversleigh, Nipsells Chase, Mayland**  
(Pages 99 - 104)

To consider the report of the Director of Service Delivery (copy enclosed).

11. **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 is available 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 participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos. 5-9.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing the online form (link below) no later than noon on the working day before the Committee meeting [www.maldon.gov.uk/publicparticipation](http://www.maldon.gov.uk/publicparticipation).
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 and publishing on the Council's website any part of this meeting held in open session. At the start of the meeting an announcement will be made about the recording.

## **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  
10 JUNE 2020**

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**PRESENT**

Vice-Chairman                      Councillor M W Helm  
(in the chair)

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

**1. CHAIRMAN'S NOTICES**

The Chairman welcomed everyone to this, the first remote meeting of the South Eastern Area Planning Committee, held under new regulations which came into effect on 4 April 2020 in response to the COVID-19 situation. The Chairman went through some general housekeeping arrangements for the meeting.

A roll call of those Members present was taken.

**2. APOLOGIES FOR ABSENCE**

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

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 9 March 2020 be approved and confirmed.

**4. DISCLOSURE OF INTEREST**

At this point reference was made to an email circulated by the Lead Legal Specialist and Monitoring Officer in respect of Members declaring pecuniary interests in a remote meeting. At the request of the Chairman this email was read out to the Committee.

**5. ADJOURNMENT OF THE MEETING**

**RESOLVED** that the meeting be adjourned due to a technical issue with the live video streaming.

## **6. RESUMPTION OF BUSINESS IN OPEN SESSION**

**RESOLVED** that the meeting resume in open session.

On resuming the meeting a roll call of Members present was started, during this some concerns were raised regarding the streaming of the live meeting and the link to this on the Council's website.

## **7. ADJOURNMENT OF THE MEETING**

**RESOLVED** that the meeting be adjourned to allow Officers to address issues relating to the link on the Council's website to the live video stream of the meeting.

## **8. RESUMPTION OF BUSINESS IN OPEN SESSION**

**RESOLVED** that the meeting resume in open session and a roll call of those Members present was taken.

## **9. DISCLOSURE OF INTEREST**

Councillor Mrs P A Channer disclosed a non-pecuniary interest as a member of Essex County Council who were consulted on matters in terms of highways or anything within their remit that they had been consulted on. She also declared in respect of Agenda Item 6 - 20/00271/FUL 7 Riverside Road, Burnham-on-Crouch that she knew the applicant.

Councillor N J Skeens disclosed a non-pecuniary interest in both planning applications for consideration as a member of Burnham-on-Crouch Town Council.

Councillor Mrs W Stamp disclosed a non-pecuniary interest in respect of Agenda Item 6 - 20/00271/FUL 7 Riverside Road, Burnham-on-Crouch as she knew the applicant.

Councillor A S Fluker declared the following pecuniary interests:

- He owned property adjacent to that being considered under Agenda Item 5 – 20/00113/FUL 171 – 173 Station Road, Burnham-on-Crouch and would take no part in that item of business and leave the meeting.
- In respect of Agenda Item 6 - 20/00271/FUL 7 Riverside Road, Burnham-on-Crouch he knew and was associated with the applicant.

Councillor Fluker left the meeting at this point and did not return.

There was some discussion regarding the declaration made by Councillor Fluker and the Chairman advised that he had declared a pecuniary interest and it was up to each individual Member to make their own declaration as appropriate.



**10. 20/00113/FUL - 171-173 STATION ROAD, BURNHAM-ON-CROUCH. CM0 8JY**

<b>Application Number</b>	<b>20/00113/FUL</b>
<b>Location</b>	171 - 173 Station Road Burnham-On-Crouch
<b>Proposal</b>	Partial change of ground and first floor from shop (A1) to residential (C3), demolition of outbuilding to the south of the building, erection of single storey rear extension and installation of new fence and gates.
<b>Applicant</b>	Mr & Mrs C Dawson
<b>Agent</b>	Chris Cumbers - CBS Cumbers MCIAT
<b>Target Decision Date</b>	31.03.2020 EOT 22.05.2020
<b>Case Officer</b>	Hannah Bowles / Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member call in by Councillor Bell. Reason: MDC LDP policy S1 – sustainable development NPPF – principle of sustainable development

It was noted from the Members' Update that two letters of support had been received, along with supporting information from the Applicant and a correction to paragraph 3.1.6 of the Officers' report.

Following the Officers' presentation, the Chairman advised Members that under the Council's public participation scheme two submissions had been received, one from Mr Hutton-Penman, a supporter and another from the Applicant Mrs Dawson. In accordance with the scheme he had reviewed the submissions and proceeded to read them out.

The Chairman then moved the Officers' recommendation of refusal as set out in the report. This was not seconded.

Councillor V J Bell, a Ward Member, raised concern and commented on the evidence submitted to show the premise was never used for river related trade, how it was a heritage site, in a conservation and flood zone area and one of the biggest retail areas in Burnham-on-Crouch. She referred to the current and ongoing impact of the recent COVID-19 emergency on retail and retail space in the High Street. She felt that the reduction in retail space would make the development more sustainable, returning it to its original footprint. Councillor Bell noted that the Conservation Officers supported the application and that the Planning Listed Building and Conservation Area Act 1990 required that the Council paid special attention to the desirability of preserving and enhancing the character and appearance of the conservation area, which she felt this application did. Councillor Bell commented that she could not see any objection to the application and highlighted the benefits to the town of Burnham-on-Crouch. She then proposed that the application be supported, contrary to Officers' recommendation. This proposal was duly seconded.

In response, the Lead Specialist Place reminded Members that each application had to be determined on its own merit. He provided the following responses in relation to matters raised:

- in Officers consideration the level of evidence submitted did not, on balance, provide enough information to argue the site had not been used for employment-based activities in relation to maritime.

- it was relatively common not to have onsite car parking in a high street location / retail area, but this was covered within the Officers' report.
- the suggested reasons for refusal did not refer to the conservation area but this was covered in the Officers' report.
- the impact of COVID-19 was yet unknown and Members should not be giving a lot of weight to the current situation caused by COVID-19.

The other Burnham-on-Crouch Ward Members supported the views of Councillor Bell and provided the Committee with background information regarding the history of the site. Reference was made to a previous application for dwellings approved on this site and in response the Lead Specialist Place explained that this application had expired and had been considered prior to adoption of the Local Development Plan and Five Year Housing Land Supply.

In response to a question the Specialist: Development Management advised that the application did not propose to change the access to the quay from Priors Boatyard adjacent to the site.

The Chairman advised that he had earlier moved the Officers recommendation of refusal and this had not been seconded. He then reminded the Committee of the proposed approval of the application, contrary to Officers' recommendation, in the name of Councillor Bell, duly seconded and requested reasons for approval.

In accordance with Procedure Rule 13 (3) Councillor Stamp requested a recorded vote.

Members discussed reasons for approval and advice was provided by the Lead Specialist Place. It was agreed that the evidence provided had shown that loss of maritime employment was not an option and that the retail unit would be viable. The Lead Specialist Place confirmed that this would be an appropriate planning based reason for approval.

In response to a request for a condition to ensure the remaining retail space was kept as retail space, the Lead Specialist Place explained that if planning permission was approved a condition along these lines could be included, although the wording would be amended to ensure the condition met the six tests required by government guidance and case law. This was noted.

The Lead Specialist Place requested, should Members be mindful to approve the application that due to its complexity conditions be delegated to Officers in consultation with the Chairman.

In accordance with the earlier request for a recorded vote, the Chairman put to the vote the proposal in the name of Councillor Bell that the application be approved, contrary to Officers' recommendation, for the reasons detailed above and subject to conditions to be agreed by Officers in consultation with the Chairman of the Committee. The voting was as follows:

For the recommendation:

Councillor M G Bassenger, V J Bell, A L Hull, N J Skeens, and W Stamp.

Against the recommendation:

None.

Abstain:

Councillors Mrs P A Channer and M W Helm.

**RESOLVED** that this application be **APPROVED** for the reasons set out below and subject to conditions to be agreed by Officers in consultation with the Chairman of the Committee.

Reasons for approval:

The proposed development would secure the future of a building which positively contributes to the conservation area of Burnham-on-Crouch. Whilst the proposal would result in the loss part of the existing retail space, the site it would continue to provide a viable retail unit. In addition, it is not considered that the proposal would result in the loss of employment land. Therefore, the proposal is considered to comply with policies E1, E2, E5, D1 and D3 of the Maldon District Local Development Plan, the Burnham-on-Crouch Neighbourhood Plan and Government advice contained within the National Planning Policy Framework (2019).

**11. 20/00271/FUL - 7 RIVERSIDE ROAD, BURNHAM-ON-CROUCH**

<b>Application Number</b>	<b>20/00271/HOUSE</b>
<b>Location</b>	7 Riverside Road, Burnham on Crouch CM0 8JY
<b>Proposal</b>	Garage conversion with bow window and detached single cart lodge.
<b>Applicant</b>	Mrs A Owers
<b>Agent</b>	Mr Ashley Robinson - A R Property Designs
<b>Target Decision Date</b>	1.05.2020
<b>Case Officer</b>	Sophie Mardon
<b>Parish</b>	<b>BURNHAM SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor Wendy Stamp. Reason: Does not breach NDP or LDP. No loss of amenity or parking creates additional room in compliance with H4 of LDP.

Councillor Mrs P A Channer raised the earlier disclosure of a pecuniary interest in this application by Councillor A S Fluker and whether in light of this she should also declare a pecuniary interest. Following some discussion Councillor Mrs Channer confirmed that her earlier disclosure of a non-pecuniary interest in this application was correct but that she may not vote and would take the matter up with the Monitoring Officer for clarification outside of the meeting.

Councillor A L Hull disclosed a non-pecuniary interest in this application.

Following the Officers' presentation, the Chairman advised Members that under the Council's public participation scheme two submissions had been received, one from Parish Councillor R Pratt on behalf of Burnham-on-Crouch Town Council and the other from the Applicant Mrs Owers. In accordance with the scheme he had reviewed the submission and proceeded to read them out.

The Chairman then moved the Officers' recommendation of refusal as set out in the report. This was not seconded.

Councillor V J Bell, a Ward Member, referred to the location of the dwelling, advising the Committee how in her view the proposal made changes to enable the applicant to remain in her accommodation and overall she supported the application. Councillor Bell proposed that the application be approved, contrary to the Officers recommendation. This was duly seconded.

Councillor W Stamp, another Ward Members, commented how the application, if approved, would make improvements to the applicants living conditions, would not cause any detrimental harm, would not be detrimental to the character and was not contrary to policies. She agreed with and seconded the proposed approval of the application.

In response, the Lead Specialist Place highlighted the following points:

- each application had to be considered on its own merit and assumption should not be given to approving a householder application because it was not harmful in comparison to another scheme.
- In planning terms a cart lodge was a permanent structure and therefore required planning permission.
- he cautioned on giving too much weight to personal circumstances and that case law was clear it needed to very special circumstance and the weight should reflect this.

The Chairman advised that he had earlier moved the Officers recommendation of refusal and this had not been seconded. He then reminded the Committee of the proposed approval of the application, contrary to Officers' recommendation, in the name of Councillor Bell, duly seconded and requested reasons for approval of the application.

In response to a question regarding a consultation response from Essex County Council Highways, the Lead Specialist Place advised that no response had been received and explained the type of applications on which Highways would provide a consultation response.

Following some discussion regarding reasons for approval it was agreed that the reasons should relate to the application not being detrimental to policies, not causing any harm to the surrounding area or being detrimental to the conservation area. In addition it was felt that the proposal would not impact on-street parking.

The Chairman put the proposal of approval, contrary to the Officers recommendation, for the reasons outlined above to the Committee. The Lead Specialist Place outlined several conditions which should be applied to the application should Members be mindful to approve it. These were noted. Upon a vote being taken the application was approved.

**RESOLVED** that this application be **APPROVED** subject to conditions delegated to Officers.

- 1      The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2      The development hereby permitted shall be carried out and retained in accordance with the following approved plans and documents: Location Plan L1 and 01E.  
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 bow window/ garage conversion hereby approved shall be as set out within the application form/plans hereby approved.  
REASON: In the interest of the character and appearance of the area in accordance with policy D1 and D3 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 4      The materials used in the construction of the proposed cart lodge hereby approved shall be as set out within the application form/plans hereby approved.  
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.
- 5      The cart lodge shall not be used other than for the accommodation of private motor vehicles and shall not at any time be converted or used as habitable space / living accommodation or for storage.  
REASON: To ensure that the garage remains incidental to the occupancy of the dwelling and to retain off street parking provisions in accordance with policies S1, S8, H4 D1 and T2 of the Maldon District Local Development plan and the guidance in the National Planning Policy Framework.
- 6      No development shall commence on the cart lodge until a construction design and method statement has been submitted and approved by the Local Planning Authority. The statement should demonstrate that the roots of the protected Maple Tree and the soil conditions will not be adversely impacted upon during the construction of the approved carport and the base of the carport will have no long term effects on the health of the tree. The proposed development shall be carried out in accordance with the approved details and retained as such thereafter.  
REASON: To ensure the Maple Tree, which is protected by a Tree Preservation Order, is not negatively impacted due to the proposed development in order to protect the visual amenity of the site and surrounding conservation area, in accordance with the policy D1 and D3 of the LDP.

There being no further items of business the Chairman closed the meeting at 14:54.

M W HELM  
CHAIRMAN

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
8 JULY 2020**

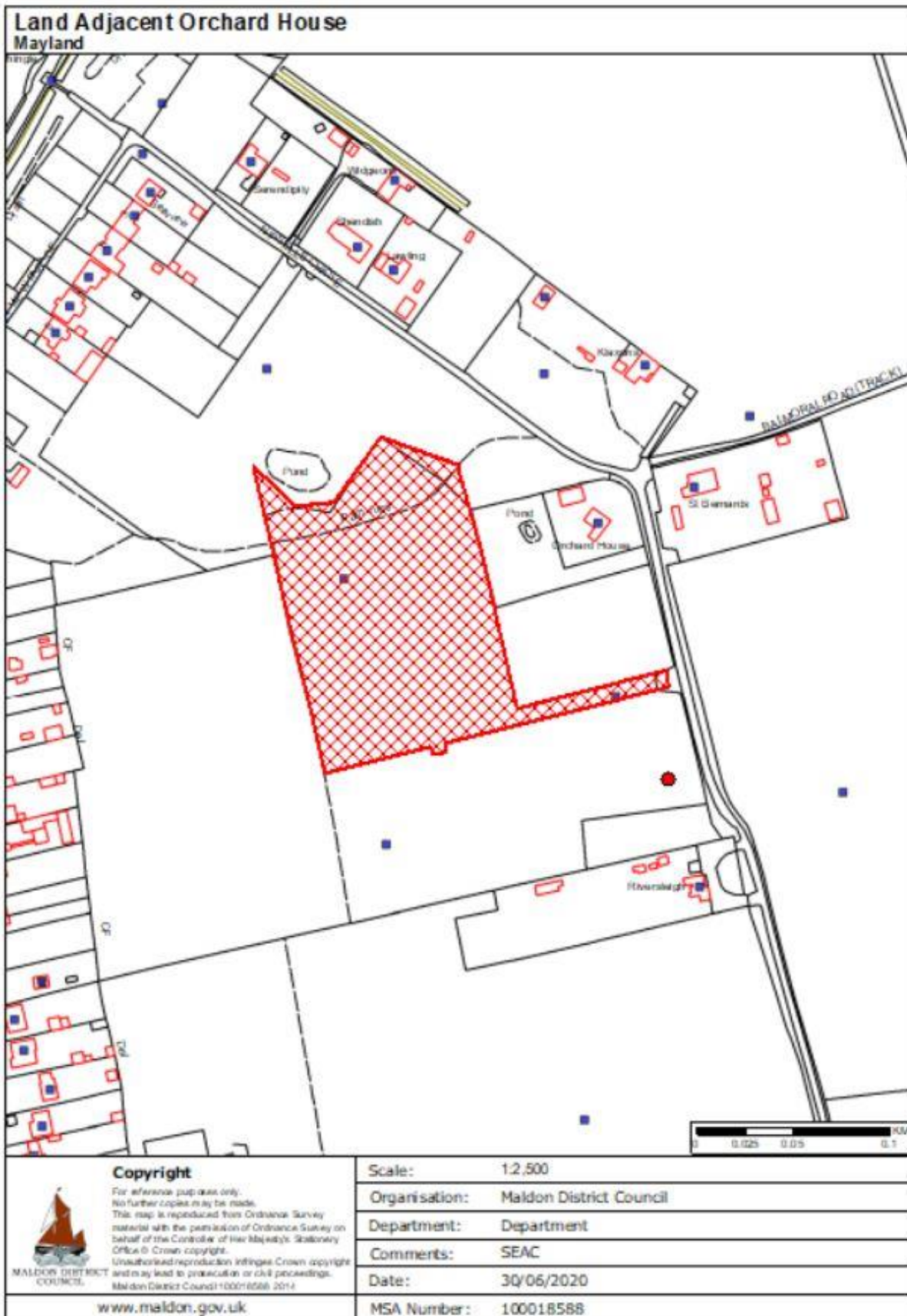
<b>Application Number</b>	<b>20/00345/FUL</b>
<b>Location</b>	Land Adjacent Orchard House, Nipsells Chase, Mayland
<b>Proposal</b>	Variation of condition 2 and 8 on approved planning permission 18/00839/FUL (Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses)
<b>Applicant</b>	Mr & Mrs Kenny Paton
<b>Agent</b>	N/A
<b>Target Decision Date</b>	20.07.2020
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor Miss Sue White is co-applicant. Major application

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.





### **3. SUMMARY**

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

##### *Site description*

- 3.1.1 The application site covers an area of approximately 1.69 hectares and is located on the western side of Nipsells Chase, within a rural area outside the defined settlement boundaries of the District and it is a designated local wildlife site. The site currently forms an open green land, with a number of mature trees. It is known that the site until 1970s was an established orchard. The land was cleared in the past of the majority of the trees and is now mostly grassed over with new trees planted along the main entrance to the site and along its eastern boundary.
- 3.1.2 It is noted that within the application site and also in the area under the applicant's ownership, that is adjacent to the application site, there are a total of 13 oak trees that have a Tree Preservation Order (TPO 4/18).
- 3.1.3 There are a number of young trees planted on the land to the south of the application site. The site forms a parcel of land on the southwest corner of a larger site owned by the applicant and measures approximately 0.61 hectares.
- 3.1.4 The surrounding area of the application site is largely undeveloped. There are some examples of dwellings to the north and south of the application site; however, the wider area appears to be used for agricultural purposes and is rural in nature. To the west the application site abuts a woodland site.

##### *Description of proposal*

- 3.1.5 Planning permission is sought to vary conditions 2 and 8 of planning permission 18/00839/FUL. Application 18/00839/FUL approved permission for the change of use of the land to an equestrian use and the erection of a single storey building to be used for storage of agricultural machinery, hay, straw and the stabling of six horses.
- 3.1.6 Condition 2 states: '*The development hereby permitted shall be carried out in complete accordance with approved drawings: 1142/01 RevA; 1142/02 RevA; 1142/03; 1142/04 and 1142/05.*'
- 3.1.7 The previously approved building measures 13.6 metres deep, 24.1 metres wide, 3.2 metres high to the eaves with a maximum height of 6.1 metres. It is proposed to enlarge the width of the proposed building by 2 metres and the depth by 0.5 metres. This will result in the building measuring 14.1 metres deep and 26.1 metres deep. The eaves and ridge height will remain unchanged. Internally, there will remain six stables as approved, which will measure 3.6 metres wide and 4.6 metres deep. Previously, the building included a feed/tack room and a groom bay. It is now proposed to have a feed room, a

tack room and two groom bays. The windows will also be reduced in size on the north and south elevations.

- 3.1.8 Condition 8 states: *‘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.’*
- 3.1.9 The applicant has confirmed that no package treatment plant is proposed, and no foul drainage is required as there will be no toilet facilities.

### **3.2 Conclusion**

- 3.2.1 The proposed amendments to the approved permission 18/00839/FUL are considered to be acceptable and would not result in harm to the character of the surrounding area, neighbouring residential sites, highway safety or ecology. The proposal is therefore considered to be in accordance with the policies set out within the Local Development Plan (LDP) and the guidance contained within the National Planning Policy Framework (NPPF).

## **4. MAIN RELEVANT POLICIES**

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 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
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- E4 Agricultural and Rural Diversification
- H4 Effective Use of Land
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 Planning application 18/00839/FUL has established the principle of the development on the site. This application seeks to vary conditions 2 and 8 of that permission. The current application has been submitted under the terms of Section 73 of the Town and Country Planning Act 1990 and therefore relates solely to the conditions attached to that permission. It is therefore only necessary to consider the impacts of the proposed amendments to the conditions, which relate to the size of the building and drainage.

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

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

- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
  - b) *Height, size, scale, form, massing and proportion;*
  - c) *Landscape setting, townscape setting and skylines;*
  - d) *Layout, orientation, and density;*
  - e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
  - f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
  - g) *Energy and resource efficiency.*
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.6 The application site is located outside the defined settlement boundaries within a rural and undeveloped context. There are a couple of examples of buildings to the north and south of the application site; however, these are a distance away from the application site.
- 5.2.7 The proposed building would be located approximately 108 metres from Nipsells Chase. The building would be highly visible from views north west along Nipsells Chase, however the building would be positioned almost horizontally in line with Orchard House and therefore it would be partially hidden from wider views behind the vegetated boundary of this property. Whilst the additional 2-metres in length and 0.5-metres in depth would increase the size of the building, it would not result in the building having a significantly different appearance from wider views within the public realm given its distance from Nipsells Chase.
- 5.2.8 Although the amendments would result in the building being relatively large in scale, on balance, as noted, the increase in length and depth would not cause significant harm to an extent that would justify the refusal of the application.

- 5.2.9 The amendment to the fenestration is considered to be minor and would not harm the character of the site or the surrounding area.
- 5.2.10 In light of the above, although large in scale, the development, on balance, would not have a significant detrimental impact upon the appearance and intrinsic character of the countryside beyond what has been approved previously.

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

- 5.3.1 The basis of Policy D1 of the LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section C07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.3.2 The proposed development would use an existing vehicular crossover onto Nipsells Chase and a new service road would need to be formed within the applicant's ownership land to give access to the building. Taking into account the nature of the use of the application site (equestrian) and proposed stable block, on balance, it is not considered that the proposed development would have a materially harmful impact on the residential amenity of the neighbours, in terms of noise and disturbance.
- 5.3.3 As noted above, the development would be located a significant distance away from any other neighbouring residential dwelling. The nearest dwelling to the development is Orchard House and it is located 64m away from the application site. Therefore, it is not considered that the development would have any detrimental impact on the residential amenity of the nearby neighbours, in terms of loss of light, domination or sense of enclosure.
- 5.3.4 The application site is surrounded by open fields and as such, there would be no greater impact on residential amenity.

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

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The proposed development would be used for purposes as equestrian including a stable building to stable a maximum of six horses use and therefore, there are no set

requirements for parking provision. The amendments to the scale of the stable building are not considered to have an impact on parking provision or highway safety.

## **5.5 Ecology**

- 5.5.1 The site is a designated Local Wildlife Site it would therefore be regarded as a ‘sensitive site’ where there are clear policy requirements that aim to conserve and protect nature conservation interests. These principles are reflected within policy N2 of the LDP which states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance”*.
- 5.5.2 The amendments to the size of the building are not considered to result in a materially different impact to the development approved under the previous application.

## **5.6 Foul Drainage**

- 5.6.1 The previous application 18/00839/FUL included a condition requiring foul drainage details to be submitted to the Council. This condition was suggested by Environmental Health in the instance that a system of foul drainage was to be provided, as the application form had stated that a package treatment plant would be used, even though no toilet or washing facilities had been shown on the plans. The applicant has now confirmed that there will be no toilet facilities or anything else that would require foul drainage within the building. It is considered that the foul drainage condition is not necessary and therefore would fail to meet the six tests for conditions. In this respect it is supported that this condition is removed.

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

- **17/00736/FUL** – Proposed construction of a new detached single storey dwelling -Application withdrawn.
- **17/01043/AGR** – Prior notification for permeable hardstanding, with edging stones – Refused.
- **17/01060/DD** – T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5 day D&D (5 Day Notice) – Approved.
- **18/00280/FUL** - Construction of an apple storage barn – Approved.
- **18/00839/FUL** - Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses – Approved.
- **20/05040/DET** - Compliance with conditions notification 18/00280/FUL (Construction of an apple storage barn) Condition 3 – Materials – Pending consideration.

## **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>
Mayland Parish Council	Object – The Parish Council agree that these conditions should remain in place as Maldon District Council put them on original planning permission for a reason.	Section 73 of the Town and Country Planning Act 1990 allows for these types of applications to be submitted, which propose to vary or remove conditions attached to a previous permission. The report has assessed the proposed amendments to the conditions and considers them to be acceptable.

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

7.2.1 No neighbour representation letters have been received.

## **8. PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original permission 18/00839/FUL, as approved on 20.06.2019.  
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: 1142/01 A - Location Plan, 1142/03 A - Proposed Floor Plan, 1142/02 B - Proposed Site Plan, 1142/04 A - Elevations Sheet 1 of 2, 1142/05 A - Elevations Sheet 2 of 2.  
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 use of the site and building 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. The stables hereby permitted shall be used solely for the private stabling of horses and no business or commercial use including for the purposes of livery or any riding school activity shall take place at the site.

REASON To protect residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.

6. The storage area hereby permitted shall be used solely in association with the equestrian use of the site or for agricultural purposes and for no other use falling within B8 (storage and distribution) use of the Town and Country Planning (Use Classes) Order 1987 (as amended).

REASON To protect residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.

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. Removed

9. There shall be no burning of animal or stable wastes anywhere on the site as shown edged in red (or blue) on the plans which are attached to and form part of this permission.

REASON To protect the character of the area and residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.

10. No floodlighting or other external form of illumination of the site shall be undertaken without the prior written approval of the local planning authority. Prior to the use of the development hereby permitted, details of any proposed floodlighting and all other external illumination of the site shall be submitted to and approved in writing by the local planning authority. All illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the local planning authority.

REASON To protect residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.

11. An arboricultural method statement and tree protection plan in accordance with BS5837:2012 shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall thereafter be implemented in accordance with the approved details.

REASON To secure the retention of appropriate landscaping and protection of the TPO trees 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.

12. The public's rights and ease of passage over restricted byway number 17 in Mayland shall be maintained free and unobstructed at all times.

REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with policies T1 and T2 of the Maldon District Local Development Plan.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
8 JULY 2020**

<b>Application Number</b>	<b>20/00360/FUL</b>
<b>Location</b>	The Bank House, 10 Station Road, Southminster
<b>Proposal</b>	Change of use from office use class B1a to residential class C3 to create 5 residential units, involving partial demolition of rear wing to create parking, cycle and refuse storage space and construct first floor extension.
<b>Applicant</b>	Mr Ellis Wiseman - Wiseman Properties Ltd
<b>Agent</b>	Mr David Taylor - AFT Design (Architects)
<b>Target Decision Date</b>	30.06.2020
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor A S Fluker Reason: S3 Place Shaping, D1 Design Quality Built Environment, D3 Heritage Assets, H4 Effective use of land

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

20/00360/FUL  
10 Station Road, Southminster



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Maldon District Council 100018588 2014



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

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SEAC

Date: 29/06/2020

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the northern side of Station Road, within the settlement boundary and the Conservation Area of Southminster. The application relates partially to a single storey building, previously used as a bank (use class A2) and part of the ground floor area of the two-storey building to the west, which appear to be used as a residential unit. The premises are currently vacant.
- 3.1.2 Number 10-12 Station Road is a detailed building finished in brickwork, with decorative surrounds and sliding sash windows. This property is considered making a positive and valuable contribution to the conservation area.
- 3.1.3 The area is mixed in character, comprising commercial, leisure, institutional and residential uses. Although buildings within the immediate area vary architecturally and in terms of finishing materials, there is a general character of the buildings being of low height and modest scale, not exceeding a maximum of two storeys. The main features include 19th century cottages sited in line with the public highway, creating a sense of enclosure when viewing the street on either direction. Hermistone, a Grade II listed building is sited to the east of the application site and it is used as a residential care home. The Church of Leonard, which is a Grade II\* listed building is located to the southwest of the site.
- 3.1.4 Planning permission is sought for the partial demolition of the single storey rear projection, the erection of a first-floor extension and the conversion of the existing unit to form five residential units. Other alterations to the external elevations of the existing building are also proposed. Five parking spaces are proposed to be formed to the rear of the proposed development and an amenity space of 42sqm for the three one-bedroom flats and the first floor western two-bedroom flat and a separate amenity area of 20sqm for the eastern two-bedroom flat. Access to the site would be gained off of an existing access onto Station Road. A turntable is proposed to be installed within the site to allow the entrance and egress of vehicles in forward gear.
- 3.1.5 The proposal would result in a pitched roof two storey element attached to the side of No.10 Station Road, having a ridge height matching this building taking design cues from the existing fenestration of No.10. To the rear, the development would result in a part single storey element with a flat roof and a part two storey extension with a barrel roof, which would sit lower than the roof of the front extension facing Station Road.
- 3.1.6 The first-floor extension to the side of No.10 would measure 8 metres wide, 8.7 metres deep, 5.8 metres high to the eaves, with a maximum height of 7.8 metres. The first-floor extension projecting to the rear of the side extension would measure 6.1 metres wide and 11.1 metres deep. It would have a roof with a maximum height of 5.6 metres. The two-storey wing to the rear of No.10 would be shortened, to measure 5 metres deep, 3.8 metres wide, 5.2 metres high to the eaves and 6.5 metres high overall.
- 3.1.7 Internally the extensions and conversion would result in five flats, of the following details:

- A one-bedroom flat at ground floor facing the highway, with open plan kitchen/dining/living area and bathroom.
- A one-bedroom flat at ground floor facing the highway, with open plan kitchen/dining/living area and bathroom.
- A two-bedroom flat extending at ground and first floor, with the bedrooms and bathroom being located at ground floor and the kitchen/dining/living area at first floor.
- A one-bedroom flat at first floor level facing the highway, with open plan kitchen/dining/living area and a bathroom.
- A two-bedroom flat at first floor level, which projects to the rear of the building, with a bathroom, kitchen and living area.

3.1.8 Application 19/00441/FUL refused permission for a similar development but for four residential units (one one-bed flat and three two-bed flats), for the following reasons:

- 1 *The proposed development, by reason of the insufficient turning area for three out of five proposed off-street parking spaces and lack of sufficient off-street parking provision would fail to meet the off-street parking requirements and could therefore result in a detrimental impact on the free flow of traffic and the highway network and safety contrary to policies D1, H4 and T2 of the Maldon District Local Development Plan (2017), guidance contained within the Vehicle Parking Standards (2018) and Government advice contained within the National Planning Policy Framework (2019).*
- 2 *The proposed development would result in under provision and poor quality of outdoor amenity space, contrary to the standards as set out in the Maldon District Design Guide. This would result in unacceptable environment and living conditions for the future occupiers of the proposed development, contrary to Policy D1 of the Maldon District Local Development Plan (2017) and guidance contained within the Maldon District Design Guide (2018) and Government advice contained within the National Planning Policy Framework (2019).*
- 3 *The applicant has failed to submit an Arboricultural Report demonstrating that the proposal would not adversely impact upon the health of the protected trees within the neighbouring site (Southminster Residential Home). Therefore, in the absence of such information, the development would fail to demonstrate that there would be no detrimental impact on the health of the trees, the visual amenity of the area and the setting of the heritage asset (Grade II listed building, known as Hermistone Southminster Residential Home), contrary to Policies D1 and D3 of the Maldon District Local Development Plan (2017) and guidance contained within the Maldon District Design Guide (2018) and Government advice contained within the National Planning Policy Framework (2019).*

3.1.9 The following amendments were made under application 19/00968/FUL, which was subsequently approved:

- Three one-bedroom flats and one two-bedroom flat, instead of three two-bedroom flats and one one-bedroom flat.

- The two-bedroom flat would have direct access to private amenity space, separated from the amenity space for the rest of the one-bedroom flats.
- The number of off-street parking spaces has been reduced to four, but they all now have a 6-metre turning area, opposed to the previous application, where the majority of the parking spaces had no available turning facilities.
- A turntable is also proposed to be installed within the application site to allow vehicles to enter and exit the site in forward gear.

3.1.10 Application 19/00968/FUL approved permission for four flats at the site, within the eastern part of the building, known as No.12 Station Road. Under this application, No.10 has been included in the site and it is proposed to convert this into an additional two-bedroom flat, meaning there will be five flats on the site. It is also proposed to reduce the scale of the rear projection and include an additional fifth parking space, as well as a refuse and bicycle storage area. The communal and private amenity space to the north of the site remains the same.

3.1.11 It is noted that the proposal states ‘change of use from office use class B1a to residential class C3’ however No.12 Station Road was previously used as a bank and previous applications have accepted this use as A2 and therefore the proposal will be assessed as such. No.10 Station Road has been shown to consist of bedrooms on the floor plans at first floor level however the Design and Access Statement states the last use was as a Solicitor’s Office, which is considered to fall under use class A2 and therefore the proposal will be assessed as such. The agent has confirmed that it appears No.10 was built as a house, due to the layout, however there are name plates on the doors which appear to show its last use was as an office. The building was built in 1903, according to the Council’s Specialist in Conservation and Heritage Assets, and therefore there is no original planning history for this part of the building to confirm its use. The only planning applications for the site relate to No.12 and its use as a bank. No.10 has been included within the red line boundaries for the applications in relation to the bank, which would indicate it has an A2 use.

## **3.2 Conclusion**

3.3 Overall, the proposed development would result in under provision of communal outdoor amenity space, which would be shared by three one-bedroom flats and one two-bedroom flat, contrary to the standards as set out in the Maldon District Design Guide. This would result in unacceptable living conditions for the future occupiers of the proposed development. In addition, the absence of a signed legal agreement to secure the appropriate contribution in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirement results in the proposal being unacceptable. The proposal is therefore unacceptable and contrary to the content of the Local Development Plan (LDP) and the National Planning Policy Framework (NPPF).

## **4. MAIN RELEVANT POLICIES**

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-57 Planning conditions and obligations
- 59-79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 184-202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

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

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

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



- 5.1.3 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that “The Council will support sustainable developments within the defined settlement boundaries”.
- 5.1.4 On the basis of the above, it is considered that the development of the site, which is sited within the settlement boundary, would not be objected to in principle.
- 5.1.5 Part of the development would involve the change of use of the building from a bank and Solicitor’s office (A2 use class) to residential units. Given that the Council’s policies are silent in relation to protection of A2 uses, no objection is raised to the loss of the existing use. Given that there is no policy requirement within the Council’s LDP for retention of A2 uses, it would have been unreasonable to insist on the retention of this use on site. Furthermore, it is noted that an extant permission exists at the site under the terms of 19/00968/FUL in relation to the conversion of No.12 into four flats and therefore it would be unreasonable to object to this element of the proposal.
- 5.1.6 The surrounding area is mixed in terms of uses, including a high percentage of residential accommodation. Therefore, and taking into account the above considerations, no objection is raised to the provision of residential uses in the area. Other material planning considerations are discussed below.

## **5.2 Housing Need and Supply**

- 5.2.1 The proposal would contribute towards the District’s housing supply, but this would only weigh slightly in favour of the proposal as the District can demonstrate a deliverable 5-year housing land supply. The NPPF, however, seeks to boost significantly the supply of housing, and it is acknowledged that the Council’s housing requirement is not a ceiling to development.
- 5.2.2 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which, when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units. The Council therefore, encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council’s updated SHMA, published in June 2014 identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% of housing to be for three-bedroom plus units. The proposed development would provide five small (one and two-bedroom) residential units and therefore, it would somewhat contribute towards the identified need for smaller dwellings.

## **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;

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

- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

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

- 5.3.7 The site is located within the Southminster Conservation Area, which consists of modest, maximum two-storey, buildings. In particular, the immediate area of the application site is formed of two storey cottages, with shallow pitched roofs and overall modest scale. Section C14 of the MDDG advises that the design of the buildings should relate to the form, height and proportions of buildings in the local area.
- 5.3.8 The proposed development constitutes a resubmission, following the approval of a similar application. The current proposal involves some amendments to the proposed first floor rear extension however the main appearance of the building, particularly from the streetscene would remain as approved under application 19/00968/FUL.
- 5.3.9 The proposal references the character of the property at 10 Station Road, continuing through most of the existing features, such as the fenestration, of this property. In terms of scale, the first-floor extension would feature a double gable roof to the side of a height that would be matching that of No.10 Station Road. Whilst the roof height would not be set lower than that of No.10 and it would not appear subservient as an extension, it would complement the design of the existing building, it would result in an in keeping roof design and in this instance, it is considered that it would appear as part of the original property, which according to the Southminster Conservation Area Review and Appraisal (2004) makes a positive and valuable contribution to the wider conservation area.
- 5.3.10 Whilst it is accepted that the extension would be a large addition to the site, this element has permission under application 19/00968/FUL and therefore it would be unreasonable to raise an objection to this element of the proposal. Furthermore, there would be sufficient fenestration, which would match the design of that of existing property at No.10 Station Road.
- 5.3.11 The extension to the rear of the property would result in a reduced size of the existing projection at ground floor and it would form a first-floor extension over that at ground floor, being of a lesser depth, having a barrel roof. The rest of the ground floor projection would have a flat roof. The extension to the rear would be set significantly lower than the ridge of the roof of the extension facing the highway, with the accommodation at first floor being predominantly contained within the barrel roof. It is therefore considered that the rear extension, taking also into account the reduced footprint of the existing projection at ground floor would be subordinate in form in comparison to the main property. Additionally, the two-storey wing to the rear of No.10 will be shortened by 2.9 metres and therefore this will minimise the impact on the streetscene.
- 5.3.12 With respect to the design of the extension, whilst it is considered that barrel roofs are not common, in design terms, in the conservation area, subject to good quality materials and finishes, it could provide a contemporary element to the traditional property that would have limited impact on its appearance from the streetscene. On balance, no objection is raised to the principle of a contemporary designed extension, particularly considering the position of the extension and its relationship with the main building.
- 5.3.13 To the northeast, the application site abuts a grade II listed building, known as Hermitstone which was built in late 18th century. Consideration has been given to

impact of the development on this property and for the reasons stated above, it is not considered that the development would have a detrimental impact on significance or the setting of the heritage asset.

5.3.14 The Council's Conservation Officer has been consulted and has no objections to the development subject to conditions.

5.3.15 In light of the above, it is considered that the development would be acceptable in design terms and it would preserve the character of the existing building and the wider conservation area.

#### **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.

5.4.2 The proposed development would result in a residential development and is mainly surrounded by accommodation of a residential nature (houses and a residential institution). The proposed development would result in increased levels of activity in different hours from those of a bank, which is the lawful use of the site, by reason of the erection and conversion of the building to four flats. However, taking into account the compatibility of the proposed development with the existing uses in the immediate area, 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, to an extent that would warrant refusal of the application.

5.4.3 Access to the car parking is provided off of Station Road between no's 10 and 8a. Given that the area is currently used for parking purposes, it is not considered that the impact from the vehicle movement would result in a materially greater impact on the amenity of the occupants of No. 8a Station Road, than that caused by the lawful use of the site.

5.4.4 The proposed development would be located a minimum distance of 3.7 metres from the western neighbouring dwelling of 8A Station Road. The existing first floor window will remain. Two ground floor windows and a door will remain, and the northern-most existing door will be changed to a window and therefore it is not considered the proposal will result in a loss of privacy. Furthermore, due to the separation distance, it is not considered that the extensions would result in an overbearing form of development to this neighbour.

5.4.5 A care home is located to the northeast of the application site and the proposed rear extension would be located a minimum distance of 10 metres away from this property. This is considered to be a sufficient distance of separation to mitigate against any adverse impacts on the amenity of the neighbouring occupiers, in terms of overshadowing, domination or undue sense of enclosure. On balance, this separation distance would be adequate to prevent from unacceptable levels of overlooking.

- 5.4.6 The application site would also abut No.3 North Street to the rear. The proposed extension would maintain a minimum of 14 metres separation distance to the shared boundary with this property. Therefore, it is not considered that the proposal would be materially harmful to the amenities of the occupiers of this property.
- 5.4.7 The proposed development would not have a greater impact on any other properties to the south, given that it would overlook the neighbouring front gardens and the highway, which would not be different from the existing properties facing the highway and it is generally considered acceptable.
- 5.4.8 In light of the above, it is considered that the development, on balance, would have an acceptable impact on the amenity of the neighbouring occupiers.

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

- 5.5.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas.
- 5.5.2 The proposed development would be accessed via an existing access onto Station Road and no alterations to the access are proposed.
- 5.5.3 The submitted plans show that five parking spaces would be provided to the rear of the application site. The parking bays are of dimensions that are compliant with the Vehicle Parking Standards (2.9 metres wide by 5.5 metres deep).
- 5.5.4 It is noted that parking space 2 would not be served by a sufficient 6 metre turning area. However, after reviewing the previous application, whilst the block plan showed a 6-metre turning area would be provided for all parking spaces, the red line boundary on the location plan was not amended and therefore the previously approved application approved permission for the development to be undertaken with a shortfall in the turning area and therefore it would be unreasonable to raise an objection under this application. The proposal also involves the installation of a turntable which would allow vehicles to turn within the site and exit in forward gear.
- 5.5.5 At present, the site to the rear is hard surfaced and used for parking purposes. Whilst the parking bays are not laid out, it appears that five parking spaces can be provided on site. This hard-surfaced area is larger than that which is proposed to be provided for the proposed development, given that part of it would be used as amenity space. The lawful use of the site would require approximately 13 off-street parking spaces (1 per 20sqm) and a maximum of five appear to be able to be provided on site. The proposed development would require 7 parking spaces (2 for each of the two-bed units and 1 for each one-bed unit) and therefore, the shortfall in comparison with the existing requirement would be significantly less (2 parking spaces less than required, compared to an existing shortfall of 8 spaces). For that reason, the development is considered acceptable in relation to parking provision, as it would result in a lesser impact on the provision of off-street parking. The shortfall of 2 parking spaces would

not be so harmful to an extent that would justify the refusal of the application on those grounds.

- 5.5.6 The development makes provision for five cycle parking spaces within the western rear part of the building. This is considered sufficient for five residential units and therefore there are no objections in this regard.

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

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> per unit for flats.
- 5.6.2 The proposed development would provide approximately 42sqm for the three one-bedroom flats and one two-bedroom flat, and a separate amenity area of 20sqm for the two-bedroom eastern-most rear flat. The proposed development should be served by 100sqm of communal amenity space for the three one-bedroom flats and one two-bedroom flat, and 25sqm for the two-bedroom flat.
- 5.6.3 Whilst the separate amenity area of 20sqm for the eastern two-bedroom flat falls slightly short of the requirements of the MDDG, this would be the same level of amenity space for this flat that has been approved under 19/00968/FUL and therefore it would be unreasonable to object to this. Furthermore, this level of amenity space would be suitable for providing space for a seating area and outdoor dryer and therefore this would be suitable for the occupiers of this flat.
- 5.6.4 The Design and Access Statement states that there will be 70 square metres of communal amenity space. It is likely this has been calculated including the area east of the shared cycle/refuse storage area on the plans which has been labelled 'garden and access' on the plans. However, this is not considered to be usable amenity space as it is predominantly the pathway leading to the flats. The small amount of landscaping in this area measures approximately 7 square metres and the kitchen windows of the two-bedroom flat and the bedroom window of one of the one-bedroom flats look out towards this area directly. The other areas of planting surrounding the parking spaces also cannot be considered usable amenity space due to their size and positioning. Therefore, it is considered that there would be 42sqm of communal amenity space to be shared between three one-bedroom flats and one two-bedroom flat, as shown labelled 'communal area' on the submitted block plan, which falls significantly short of the 100sqm required. It is therefore not considered that this level of amenity space would be suitable for all occupiers of four flats to share and therefore the development would be unable to provide adequate and good quality amenity space for the future occupiers of the proposed flats.
- 5.6.5 In terms of the quality of living accommodation, whilst some concerns exist in relation to the level of outlook and lighting to some of the habitable rooms of the proposed flats (predominantly those at ground floor facing west), on balance, the impact on the environment and living conditions of the future occupiers of these properties is not considered being so detrimental to justify the refusal of the application on those grounds.

- 5.6.6 In terms of landscaping, the development, by providing some amenity space to the rear and landscaping in between the two rearward projections would introduce some soft landscaping to the application site, that is currently not provided. This would soften the appearance of the development and thus, no objection is raised in that respect.

## **5.7 Impact on Designated Sites**

- 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 Maldon district 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), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.3 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 an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.7.4 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.

- 5.7.6 To accord with Natural England's requirements, an 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 five residential units

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 The Essex Coastal Recreational Avoidance and Mitigation Strategy document is under consultation. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure.
- 5.7.9 It is noted that four flats have been approved under the terms of 19/00968/FUL and a signed legal agreement was secured for £489.20 to mitigate the impact. As the impact of four flats can be mitigated and undertaken, it would not be reasonable to secure a further payment in relation to these flats. However, a financial contribution would be required in relation to the additional fifth residential unit and therefore a contribution of £122.30 should be paid. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated and thus, this would constitute a reason for refusal of the application.



## 5.8 Other Material Considerations

### Trees

- 5.8.1 It is noted that the application site shares a boundary with a listed building, which contains mature trees. However, the Tree Consultant has advised that he has no objections to this application. Therefore, the proposed development would not have an adverse impact on the surrounding trees.

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

- **06/01133/ADV** – 1 ATM integrated lightbox with Barclays 'wordmarque' and 1 advertisement panel over ATM. – Approved
- **06/01131/FUL** – To install one new ATM at the above branch address as well as installation of associated signage – Approved
- **15/01093/FUL** – The stripping of the existing property and change of use to A5 development – Refused
- **16/00523/FUL** – Change of use from A2 Office to A3 Restaurant with the installation of kitchen extraction duct (Resubmission) – Refused
- **18/01485/FUL** – Demolish part of single storey rear projection, erect first floor extension and convert existing ground floor unit to form four residential units – Withdrawn
- **19/00441/FUL** – Demolish part of single storey rear projection, erect first floor extension and convert existing ground floor unit to form four residential units – Refused
- **19/00968/FUL** – Demolish part of single storey rear projection, erect first floor extension and convert existing ground floor unit to form four residential units – Approved

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

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	Support	Comments noted.

### 7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No comments	Noted.
Conservation Officer	No objection. The proposed side	Comments noted.

Name of Internal Consultee	Comment	Officer Response
	<p>extension draws upon and references the unique form and detailing of the 1903 range. If implemented to a high standard, using appropriate material and detailing, it is considered that this proposal will enhance the appearance of the property and the contribution it makes to the conservation area. The proposed redevelopment of the rear ranges is unobjectionable from a conservation perspective or the setting of the listed building.</p> <p>The demolition of part of the rear range for more parking would result in some minor harm but this would be justified if it meant bringing the building back into use.</p> <p>The development would comply with policy D3 of the Maldon LDP, chapter 16 of the NPPF and sections 66(1) and 72(1) of the <i>Planning (Listed Buildings and Conservation Areas) Act 1990</i>.</p> <p>A number of conditions are suggested.</p>	

### 7.3 Representations received from Interested Parties

7.3.1 No letters of representation have been received.

**8. REASONS FOR REFUSAL.**

- 1 The proposed development would result in an under provision of communal outdoor amenity space, which would be shared by three one-bedroom flats and one two-bedroom flat, contrary to the standards as set out in the Maldon District Design Guide. This would result in unacceptable living conditions for the future occupiers of the proposed development, contrary to policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained within the Maldon District Design Guide and the National Planning Policy Framework.
- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

to  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**8 JULY 2020**

<b>Application Number</b>	<b>20/00375/FUL</b>
<b>Location</b>	Land Rear of 148 Station Road, Burnham-on-Crouch
<b>Proposal</b>	Proposed change of use from Class B1 and B2 to Class C3, demolition of existing dilapidated industrial building and erection of 4 new residential dwelling houses, ancillary development and landscaping
<b>Applicant</b>	Mr Levy - Countryside Style Ltd
<b>Agent</b>	Chris Wragg - Arcady Architects Ltd
<b>Target Decision Date</b>	17.06.2020 EOT 22.07.2020
<b>Case Officer</b>	Julia Sargeant
<b>Parish</b>	<b>BURNHAM SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member call in by Councillor V J Bell. Reasons for call in: <ul style="list-style-type: none"> <li>• Maldon District Council (MDC) Local Development Plan (LDP) policies H2 and H4 (1,2,4,5 and 7)</li> <li>• Burnham Town Council (BTC) Neighbourhood Development Plan (NDP) policies HO1 and EN2</li> <li>• Strategic Housing Market Assessment (SHMA) – local need</li> <li>• MDC parking Supplementary Planning Document (SPD)</li> </ul>

**1. RECOMMENDATION**

**APPROVE** subject to a signed Unilateral Undertaking to confirm that the developer will contribute to Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and the conditions as detailed in Section 8.

**2. SITE MAP**

Please see overleaf.



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee

### **3. SUMMARY**

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

- 3.1.1 Planning permission is sought for the change of use of the site from Class B1 and B2 to Class C3 along with the demolition of the existing industrial building and the erection of 4 new residential dwelling houses with associated ancillary development and landscaping.
- 3.1.2 The existing vehicular and pedestrian access point to the application site would be used and four dwellings are proposed to be constructed centrally within the site facing south. Two detached dwellings are proposed as well as a pair of semi-detached dwellings. The dwellings would all be two storey and finished in a mixture of red facing brick, render and horizontal boarding with Clay Plain tiles to the roofs.
- 3.1.3 To the front of the dwellings the parking and access driveway is proposed, along with an area of soft landscaping as well as a bin store. Off road parking for two vehicles is proposed for each dwelling. Each dwelling would also have a private rear garden area containing cycle store.
- 3.1.4 The following housing mix is proposed:
- 2 x 2 bedroom dwellings
  - 2 x 3 bedroom dwellings
  - Total = 4 dwellings
- 3.1.5 Plots 1 and 2 comprise of two detached three-bedroom dwellings featuring hipped gable end front elevations with small porch canopies. Each would measure 5.7 metres wide by 9.8 metres deep with a pitched roof reaching a maximum height of 8.3 metres. Both dwellings would be finished in brickwork at the ground floor, with the dwelling on plot one having a rendered finish at first floor level and the dwelling on plot two having a weather boarded finish at first floor level.
- 3.1.6 Internally both dwellings on plots 1 and 2 would contain a kitchen/diner, living room and w.c. downstairs, with three bedrooms (one with an en-suite) and family bathroom at first floor level.
- 3.1.7 Plots 3 and 4 comprise a pair of semi-detached dwellings with plot 3 featuring a front hipped gable end elevation and plot 4 forming the corresponding cross section with a hipped gable side elevation. The dwelling on plot 3 would measure 5.7 metres wide by 9.8 metres deep and the dwelling on plot 4 would measure 5.1 metres wide by 8.8 metres deep. Both dwellings would feature pitched roofs with plot 3 reaching a maximum height of 8.3 metres and plot 4 having a maximum height of 7.7 metres. The dwelling on plot 3 would be finished in brickwork and the dwelling on plot 4 would be finished in a mixture of brickwork and weatherboarding.
- 3.1.8 Internally the dwelling on plot 3 would contain a kitchen/diner, living room and w.c. at ground floor level with two bedrooms, both with en-suites at first floor level. The dwelling on plot 4 would contain an open plan kitchen/diner/living room and a w.c. at ground floor with two bedrooms (one with en-suite) and a family bathroom at first floor level.

### 3.1.9 Site Description

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

### 3.1.17 Relevant Planning History

- 3.1.18 This application is a resubmission following the refusal of application 19/00841/FUL which sought consent for '*Proposed change of use from Class B1 and B2 to Class C3, demolition of existing industrial building and erection of 5 new residential dwelling houses, ancillary development and landscaping.*' This application was considered at the South Eastern Area Planning Committee on 7<sup>th</sup> October 2019 and was refused for the following reasons:

1. *'The proposed development by reason of its layout, mass, height, overall width, limited space between the built form and expanse of hardscaping would be detrimental to the character and appearance of the area. This is also indicative of the overdevelopment of the site and its unsuitability to accommodate the amount of development proposed. The development is therefore unacceptable and contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan (2017), Policy HO.1 of the Burnham-on-*



*Crouch Neighbourhood Development Plan, the guidance contained in the Maldon District Design SPD and Government advice contained within the National Planning Policy Framework (2019).*

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

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

3.1.20 This application has been submitted with the aim of addressing the previous reasons for refusal. The main changes to the application are as follows:

- Reduction in number of dwellings proposed from 5 to 4;
- Revision in the design of the proposed dwelling;
- Submission of information in relation to the provision of a Sustainable Urban Drainage System on the site.

## **3.2 Conclusion**

3.2.1 The proposed development is a re-submission of a previously refused scheme. The amendments made to this proposal, through a reduction in number of dwellings and to the design of the dwellings is considered to overcome the previous reasons for refusal in relation to the impact of the development upon the site and surrounding area. The application has also been supported by submission of information in relation to the provision of a Sustainable Urban Drainage System on the site which will ensure that the development does not increase the risk of flooding. Furthermore, there are no objections in relation to the principle of the development, impact on neighbouring occupiers, ecology, amenity space, or car parking provision. The development is therefore considered to represent sustainable development which would accord with 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
- 54-57 Planning Conditions and Obligations
- 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
- 117-123 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

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

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

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

- Maldon District Design Guide Supplementary Planning Document (SPD) (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

#### **4.4 Burnham-on-Crouch Neighbourhood Development Plan (2017):**

- Policy EN.2 – New Development and flood Risk
- Policy HO.1 – New Residential Development
- Policy HO.2 - Range and Type of New Residential Development
- Policy HO.8 – Housing Design Principles

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Council is required to determine planning applications in accordance with the 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 The NPPF is clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three interdependent objectives that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental objectives. This requirement is carried through to local policies via policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.3 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that "*The Council will support sustainable developments within the defined settlement boundaries*".
- 5.1.4 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 The site is located within Burnham-on-Crouch settlement boundary and in light of the above, it is considered that the provision of additional residential accommodation within a predominantly residential location, which lies within the defined settlement boundaries, is considered acceptable in principle.

#### **Employment**

- 5.1.6 As noted in the Design and Access Statement, the site was last in use as a rubber factory and therefore, whilst no longer in use, it still falls within employment land uses.
- 5.1.7 Policy E1 of the LDP states that "Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:

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

5.1.8 In order for a development to be compliant with policy E1 it should meet one of the above requirements. The site was last in use as a rubber factory and according to details submitted as part of the previous application (17/01480/FUL), the site has been vacant since 2013. It was advised, as part of the 2017 application that the site was marketed for almost three years until 2016 and before it was purchased by the current applicant no interest was raised to purchase the site and use it for B2 purposes. Whilst the information previously submitted in relation to the marketing period and the interest expressed (an online advert from an estate agent had been submitted, which includes information in relation to the marketing period and the asking price) was limited, it was accepted that the site was marketed for a reasonable price. It is also evident, following a site visit, that the site has not been in use for a very long period.

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

5.1.10 The Inspector that assessed the appeal relating to 17/01480/FUL did not raise and objection in relation to the use of the site for residential purposes. It is therefore considered that the previous assessment would still be relevant to the current proposal, which proposes the change of use of the site to residential (albeit of a different type). Hence, the proposal would still be policy compliant. Furthermore, no objection was raised in relation to the loss of the employment use in consideration of the most recent application (19/00841/FUL) and no material considerations have altered since the consideration of that application.

#### Effective use of land

5.1.11 Policy H4 of the LDP suggests that infill development will be permitted if all the following criteria are met:

- 1) *There is a significant under-use of land and development would make more effective use of it;*
- 2) *There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;*
- 3) *There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and*
- 4) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*

5.1.12 The proposed development would reuse an existing employment site for residential purposes. It is therefore considered that the proposed use would be equally an effective use of the land to provide housing with a settlement boundary. Whilst the amenities of the neighbouring occupiers are discussed in detail below, it is considered that in terms of noise and disturbance, the proposed use would be less harmful to the amenities of the nearby occupiers, as it would result in a development compatible with the existing surrounding uses. The site is not designated as a site of local social, economic, historic or environmental significance and it does not involve any important landscape, heritage or ecological features. It is therefore, considered that the development would be compliant with policy H4 of the LDP.

5.1.13 Paragraph 118 of the revised NPPF states that decisions should give weight to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. This is also supported by policy S1 of the LDP. It is therefore considered that taking into consideration that the development would comply with policy E1, in terms of the loss of the existing employment land, it is considered that the principle of development would be acceptable and in accordance with the guidance contained in the NPPF and the policies of the development plan.

5.1.14 Policy S2 and S6 of the LDP identifies that the infrastructure of Burnham-on-Crouch is limited and therefore development above the identified limit of 450 dwellings will not be supported. In this instance, taking into consideration that the site constitutes a brownfield site that complies with the development plan policies and also the limited number of the dwellings proposed, the development is not expected to impose an additional burden of existing infrastructure to an extent that would justify the refusal of the application.

5.1.15 Although the Council can demonstrate housing supply in excess of five years, taking into account that the development would be located within the settlement boundary for Burnham-on-Crouch and that it would result in a development compatible with the adjacent land uses, no objection is considered reasonable to be raised in relation to the principle of residential development in this location. However, the development has to be considered as a whole, with all material considerations taken into account before a view can be reached as to whether the development would accord with the development plan.

## 5.2 Housing Need and Supply and Mix

- 5.2.1 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.
- 5.2.2 On 19 February 2019 the Government published the results of the first Housing Delivery Test (HDT), which stated that the Maldon District had passed the HDT (101%) and as a result does not need either an Action Plan or 20% buffer. Consequently, the buffer in the 2018/19 Five Year Housing Land Supply Statement (5YHLS) has been amended to 5%. This change results in the Council being able to demonstrate 5.27 years' worth of housing supply against its identified housing target. As there is a sufficient supply of housing land in the District and the Council's housing provision policies are not out-of-date, NPPF paragraph 11d is not engaged in this case.
- 5.2.3 Whilst the Council can demonstrate 5.27 years' worth of housing supply this does not preclude the granting of further residential development as long as it is found to be sustainable development as per the NPPF and adopted LDP policies. It does however mean that the provision of additional housing does not weigh in favour of the development as much as if there was a housing supply shortage in the District and development that would otherwise be found unacceptable need not be approved due to housing supply shortages.
- 5.2.4 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"*.
- 5.2.5 LDP policy H2 on housing mix requires all development 'to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable section, particularly for the ageing population'. The Strategic Housing Market Assessment (SHMA) provides the evidence base to the policy. Paragraph 61 of the NPPF states that 'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies...'
- 5.2.6 The Council's updated SHMA, published in 2014, identifies that for all housing types one- and two-bedroom units are required to balance the District's housing stock, which currently provides an unbalanced number of large dwellings. The required

ratio is for 60% of new housing to be for one or two-bedroom units and 40% for three bedrooms plus units.

- 5.2.7 The clarification to policy H2 details that ‘An appropriate mix of housing in new developments will help to enable a better flow of the existing housing stock. The Council will require new development to incorporate a range of different housing types which contribute towards meeting the identified housing needs for different demographic groups in the District. As recommended by the latest SHMA update, the Council will encourage a greater proportion of one- and two-bedroom properties to be developed to meet the demand for owner occupied and intermediate housing in the District.’
- 5.2.8 The proposed development would result in 2 x 2 bedroom dwellings and 2 x 3 bedroom dwellings, which is a 50:50 split in terms of larger and smaller units. The housing mix proposed is considered to be, on balance, acceptable and given the small scale nature of the proposed development is broadly in line with policy H2 of the LDP. However, it is not considered that the limited number of dwellings or the 50:50 split weighs in favour of the application to a demonstrable amount. Therefore, no objection is raised to the proposed development in terms of housing mix.

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

- 5.3.1 Part of the environmental role of sustainable development as referred to in the NPPF, is that 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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.
- 5.3.2 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:
1. *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
  2. *Height, size, scale, form, massing and proportion;*
  3. *Landscape setting, townscape setting and skylines;*
  4. *Layout, orientation, and density;*
  5. *Historic environment particularly in relation to designated and non-designated heritage assets;*
  6. *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
  7. *Energy and resource efficiency.*
- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017). Policy HO.8 – Housing Design

Principles of the Burnham-on-Crouch Neighbourhood Development Plan (2017) also has to be considered.

- 5.3.4 The application site is located on the opposite side of Station Road to the Burnham-on-Crouch Conservation Area and long views of the proposed development would be possible from the conservation area. In accordance with policy D3 of the LDP, development proposals that affect a heritage asset (whether designated or non-designated) will be required to preserve or enhance its special character, appearance, setting - including its streetscape and landscape value - and any features and fabric of architectural or historic interest.
- 5.3.5 The proposed development is located in a backland location to the rear of properties along Station Road, Western Road and Brickwall Close. Access to the site would remain unaltered via a service road off of Station Road, as currently provided for the industrial building that was previously used as rubber factory. This is an existing access and thus, no objection is raised in terms of its impact on the character and appearance of the area.
- 5.3.6 The surrounding area is predominantly residential in character and is mixed in terms of the size, style and design of the properties; however as previously noted by the Inspector assessing the appeal on 17/01480/FUL, a degree of uniformity and openness is achieved; *‘The area is mainly residential in character and comprises dwellings that are arranged predominantly in a linear manner with gardens to the rear that are largely undeveloped. The area contains a variety in style and size of dwellings that display a degree of uniformity and openness which, coupled with a range of roofscapes and mature landscaping, creates a pleasant suburban environment.’*
- 5.3.7 The application site is currently occupied by a single storey part pitched, part flat roof building which is in poor condition and it appears that it has been left vacant for a number of years. The building is located in the northwest corner of the site, whereas the proposed development would mainly use the central part of the site.
- 5.3.8 The most recent application at this site sought planning permission for 5 dwellings on the application site. This application has reduced the number of units from 5 to 4 and revised the design of the dwellings making more use of half hipped gable ends to reduce the bulk of the dwellings and their visual impact. The development now proposes two detached dwellings and a pair of semi-detached dwellings to create wider spaces between the dwellings.
- 5.3.9 In determining the previous application (19/00841/FUL) it was noted that the development would ‘expand almost along the full width of the site, with minimal gaps (1.5m and 2m wide) being maintained between the proposed dwellings. This combination taken together with the two-storey height of the proposed dwellings is considered to result in an inappropriate layout and a discordant visual impact.’ And that ‘Furthermore, the previously raised concerns in relation to the large expanse of the hardstanding, is not considered to be overcome, given that the area to the south of the proposed dwellings would be car dominated, providing the almost same amount of parking spaces. It should also be noted that no direct access to Plots 2, 3 and 4 can be provided due to the position of the parking spaces blocking the access to these units.’ A poor relationship between plots 4 and 5 was also noted and the application was



refused for 3 reasons, two of which related to design and layout considerations in relation to the character of the area as detailed in paragraph 3.1.19 of this report.

- 5.3.10 The previous appeal decision in relation to the block of 10 flats proposed under 17/01480/FUL is also a material consideration, and in dismissing this appeal the Inspector considered that *“the layout of the proposal would create a discordant form of development that appears to be forced into the north-eastern corner of the site in order to accommodate a large expanse of hardstanding for parking and turning areas. Consequently, despite the level of communal garden area provided, the proposal would nonetheless cover the majority of the site with built development resulting in a proposal that would dominate the site, giving it a constrained and cramped appearance, which is further exacerbated by the large areas of hardstanding. The development would result in material harm to the area by eroding and failing to respond to the more open and spacious character of the area.”*
- 5.3.11 In this current application 4 dwellings are proposed which would be spaced across the centre of the application site facing south with gaps of 2.9 metres between the detached dwellings and the pair of semi-detached dwellings. This increase in the gaps between the dwellings has enabled parking for two of the proposed dwellings to be positioned to the side of the dwellings (plots 2 and 3) and reduced the amount of parking to the front. The parking for plots 1 and 4 is proposed is the eastern and western ends of the access drive.
- 5.3.12 It is considered that each dwelling is well designed and has architectural merit with detailing to give interest and the use of appropriate materials. The proposed dwellings all sit well together in terms of the development as a whole and no objection is therefore raised to the development in terms of the design of the dwellings. The surrounding area is characterised by a variety of size, style and design of dwellings. There are use of gable elevations within the wider area and the design of the dwellings is considered to be acceptable within the wider context of the site.
- 5.3.13 The reduction in built form, revised design of the dwellings and the increase in gaps between the proposed dwellings is considered to address the previous concerns relating to the development appearing cramped and contrived and being detrimental to the character and appearance of the area. The current proposed development allows for breaks in the built form and would not result in a long continuous front building form. Whilst the dwellings are still two storeys, their design has been revised so that the two detached dwellings front gable on to the development, reducing their bulk and mass. Furthermore, the previously raised concerns in relation to the large expanse of hardstanding and parking layout is considered to be addressed as less parking spaces are required due to the decrease in plot numbers, and through the increased separation distances which as enabled some car parking to be placed to the sides of dwellings. Whilst there would still be hardstanding to the front for the access drive, there would now only be 4 car parking spaces to the frontage, along with a size 5 turning head to enable vehicles to turn around and leave the site in a forward gear. Each dwelling would benefit from a small area of soft landscaping to the front and it is considered that the previous reason for refusal number 1 has been addressed.
- 5.3.14 The second reason for refusal to 19/000841/FUL related to plot 5 and its poor design, including the large expanse of blank walls and relationship with the other dwellings. This dwelling has been omitted for this current application, which has resulted in the

ability to space the remaining 4 dwelling out further within the site. This reason for refusal has therefore been addressed.

- 5.3.15 With regard to the impact of the development on the nearby conservation area, it is noted that although it is acknowledged that the development would be visible from within the conservation area, given its two-storey height behind a single-storey building (Tesco), on balance due to distance being maintained and the backland position of the development, it is not considered that an objection would be reasonable to be raised in that respect. It is noted that the Inspector previously considered that the impact of the block of ten flats would have a neutral impact on the conservation area. It is not considered that the current proposal would have a greater impact on the Burnham-on-Crouch conservation area.
- 5.3.16 In light of the above assessment, it is considered that the development has addressed previous reasons for refusal 1 and 2 and would result in a new development that is visually attractive and responsive to local character. The development is therefore considered to comply with policies S1, D1 and H4 of the Local Development Plan.

#### **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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures. Policy H4 also requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 The proposal is for change of use of previously commercial land and to erect four dwellings. Given the nature of the former use of the site, although the development would result in a level of activity from the future occupants of the dwellings, this would be likely to result in less activity and associated noise than the previous commercial use. Therefore, it would not result in a materially harmful impact on the residential amenity of the nearby neighbours, in terms of noise and disturbance and in some respect would represent an improvement.
- 5.4.3 To the east of the application site are No's 2 and 3 Brickwall Close which are detached dwellings. No. 2 Brickwall Close backs onto the existing access road which will not alter as part of the proposal and the development will not result in any materially harmful impacts towards the occupiers of this dwelling.
- 5.4.4 Plot 4 of the proposed development would be sited between 3.4 and 4.7 metres from the shared eastern boundary of the site, and between 10.5 and 16 metres away from No. 3 Brickwall Close. There is a greater degree of separation between No. 3 Brickwall Close and the proposed development than in the previous scheme where plot 5 would have been 8.5 metres away from this dwelling. Whilst it is accepted that the proposed development would have some impact on the amenity of the occupiers of No. 3 in terms of outlook, this is not considered to be materially harmful to warrant refusal of the development. The development, given its arrangement and its position

against the eastern boundary, would not result in an undue sense of enclosure to the occupiers of no. 3 Brickwall Close. With regards to overlooking, it is noted that the sole first floor window on the east elevation of the dwelling at Plot 4 would be a bathroom window, which will be glazed in obscure glass. Thus, the development would not result in loss of privacy or material increase in overlooking.

- 5.4.5 To the west of the application site are the dwellings fronting onto Station Road. With regard to these dwellings a minimum separation distance of 23m distance would be maintained. This separation distance is considered sufficient to mitigate against any unacceptable loss of light or obtrusive impact. With regard to loss of privacy and overlooking, it is noted that similar to Plot 4, the dwelling at Plot 1 would only have a first floor, bathroom window on the west elevation within the roofslope, which can be conditioned to be obscure glazed to protect the neighbour's privacy.
- 5.4.6 With regard to the properties to the north the current proposal would be set between 17 and 19 metres from the shared rear northern boundary and would have overall back to back distances of between 39 and 41 metres. On this basis no objection is raised in terms of overlooking, overshadowing or dominance towards occupiers of these dwellings.
- 5.4.7 A single storey building is located up to the northwest boundary of the application site. This building is against the existing boundaries and therefore, it is unlikely that windows are located to its south, east and north elevations. Whilst the use of this building is unclear, due to its position, it is not considered that the proposed development would result in any adverse impact on this building, in terms of overshadowing or overlooking.
- 5.4.8 To the south the site abuts the Tesco store and as such, no further impacts on residential amenity are expected to be caused by the proposed development.
- 5.4.9 In light of the above, it is considered that the development would not have a detrimental impact on the amenities of neighbouring residents subject to appropriate conditions in relation to obscure glazing. Furthermore, no objection was raised in relation to impact upon residential amenity in relation to the most recent refusal, and the Inspector found that subject to conditions the erection of a block of flats (17/01480/FUL) would not materially harm the living conditions of neighbouring occupiers (although the appeal was dismissed for other reasons).

## **5.5 Flood Risk**

- 5.5.1 The site where the four dwellings are proposed to be located lies within Flood Zone 1; however, the access to the site, is within Flood Zones 2 and 3.
- 5.5.2 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.
- 5.5.3 Paragraph 158 states that *"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk*

*assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding”.*

- 5.5.4 Policy D5 of the LDP states that the Council’s approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.
- 5.5.5 The proposed houses would be located in Flood Zone 1; however, consideration should be had to the ingress and egress point of the site, which sits in flood Zone 3. It is acknowledged that the residential development has been located in the part of the site that lies within the area of the lowest risk of flooding and for that reason, in this particular instance, it is considered unnecessary for the sequential test to be applied in a District wide level in terms of alternative sites in lower risk of flooding, given that the development (the dwellings) is located in such area.
- 5.5.6 Following the application of the Sequential Test, if not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. Whilst in this instance the development (the dwellings) would be located in Flood Zone 1, it is considered that all other considerations related to flood risk and the sustainability credentials and wider benefits of the proposal should be undertaken as part of the exception test.
- 5.5.7 In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
  - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.’*
- 5.5.8 The development would provide wider sustainability benefits to the community as it would result in the re-use of a brownfield site for housing and would contribute towards the District’s identified need for smaller type of accommodation, with two 2-bedroom units proposed, and result in a use that is compatible with its surroundings.
- 5.5.9 The footprint of the buildings, as currently proposed, would be less than the previously submitted application for 5 dwellings, as well as the block of flats proposed under 17/01480/FUL. A Flood Risk Assessment accompanies this application and the Environment Agency has raised no objection to the development subject to appropriate conditions in relation to contamination (which is discussed later in this report).
- 5.5.10 The Environment Agency had previously raised no objection to the erection of a block of ten flats, considering that the site is currently defended by Shoreline Management Plan (SMP). The site is currently protected by flood defences with an effective crest level of 4.7m AOD (Above Ordnance (Datum) which is above the

present-day 0.5% (1 in 200) annual probability flood level of 4.56m AOD. Therefore, the site is not at risk of flooding in the present-day. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change. The submitted Flood Risk Assessment (FRA) advises that the proposed dwelling would not be affected by floods up and including 1:1000 years plus climate change.

- 5.5.11 With regard to the access of the site, which lies within Flood Zone 3 the FRA recommends that future occupiers sign up to the Environment Agency flood warning service. In the event that escape is not possible, it is recommended that residents take refuge within the dwelling until such time that flood waters subside, and they are instructed to leave by emergency services. The Flood Emergency Planner had previously requested under earlier submissions that full details of the evacuation plan are submitted. This can be dealt with by condition.
- 5.5.12 The previous application at the site (19/00841/FUL) had a reason for refusal relating to insufficient information being submitted in relation to provision of adequate Sustainable Urban Drainage Systems (SUDS) on the site demonstrating that the development would not result in flood risk. In order to address this reason for refusal this application has been supported by a surface water drainage strategy including flow calculations. The Lead Local Flood Authority has been consulted on the application and advised that having reviewed the drainage strategy and the associated documents which accompanied the planning application for minor development, it does not object to the granting of planning permission.
- 5.5.13 The Lead Local Flood Authority further advise that the proposed development will only meet the requirements of the NPPF if the measures as detailed in the Drainage strategies and the documents submitted with this application are implemented. This can be controlled through an appropriate condition.
- 5.5.14 It is therefore considered that the previous reason for refusal in relation to insufficient information being submitted in relation to provision of adequate Sustainable Urban Drainage Systems on the site has been addressed as part of this submission.

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

- 5.6.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 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 objective of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.6.3 In terms of the access to the application site, the proposed development would utilise an existing access. The Highways Authority raised no objection to the previous proposed development for the block of flats or the five dwellings. In particular it is stated in the previous response to 19/00841/FUL that "*the Highway Authority is satisfied that the proposals will not represent an intensification in use of the site compared to its existing permitted use*". It is therefore considered that subject to conditions the proposed access to the site would be acceptable and it would not result in an adverse impact on highways safety. Whilst dual use, the access is considered wide enough (around 8.8m wide) to be able to provide a safe access to vehicles and allow sufficient space for pedestrians to enter and egress the site safely.
- 5.6.4 The proposed development would replace an existing rubber factory (B2 use class) with four residential properties. Taking into account the amount of development (a total of four residential units), it is considered that traffic movements would not significantly increase. Furthermore, if the site is developed as a B1/B2 use, it can potentially attract a very high volume of traffic movements in comparison to those generated by a residential development of ten dwellings. No objection is therefore raised in relation to the impact caused to the highway network from the potential vehicle movements. The Highways authority has previously raised no objection in that respect, and this current application is for a smaller development.
- 5.6.5 With regard to off-street parking, a total of eight parking spaces are proposed to be provided, two for each dwelling. The development is to provide two no. two-bedroom dwellings and two no. three-bedroom dwellings. A minimum of one parking space is required per new build dwelling in town centres and an additional visitor space for every four dwellings when communal car parking allocated to each dwelling is provided. The proposed development would provide two parking spaces per proposed dwelling and would therefore exceed the parking requirements for the development in terms of spaces for each dwelling. Given that the parking standards are exceeded for each dwelling it is considered that it would be unreasonable to insist upon a visitor parking space as well as each dwelling has an extra parking space above and beyond what is required within the adopted parking standards. The provision of appropriate electric vehicle charging points can be controlled through condition.
- 5.6.6 The proposal is also located in very close proximity to public transportation and local amenities. In particular it is noted that the closest bus stop is only 150m away from site and provides links with the surrounding towns and villages and the train station is only 0.4miles from the site. Many facilities are within walking distance of the site, including; school (950m), sports club (150m), supermarkets (10m), cinema (150m), library (150m), high street and river frontage with a variety of shops, pubs and

restaurants and Yacht Club is around 350m away. It is therefore considered that the parking provision would be more than adequate, and the development would not result in an increased demand in on-street parking.

- 5.6.7 Details of secure and covered cycle stores for each dwelling have been submitted and can be secured by condition.
- 5.6.8 Each dwelling will have an allocated-on plot storage for the discreet storage of waste and the details of the bin store have been submitted within the Design and Access Statement. Thus, no objection is raised in relation to the provision of refuse store. It is noted that a bin collection point has been shown to the front of the dwellings which was not shown on the previous submission. From assessing the application against the Planning and Waste Management Technical Document to MDDG it does not appear that this would meet the appropriate criteria. For a development such as this with a private access road the guide states that '*Where the proposed development incorporates a private road and / or gated access arrangement to one or more properties the collection point will be where the private road meets the public highway or on the outside of the gates.*' The guide advises that drop off or collection points can be set 10 metres from the rear of the collection vehicle where certain criteria are met. There would be space for the bin collection point to be located to the side of the access road and this detail could be controlled through a condition and this has been discussed with the agent.

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

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.7.2 The proposed dwellings would benefit from large enough rear gardens that meet the requirements as set out in Maldon Design Guide SPD. As such, no objection is raised in terms of the provision of sufficient outdoor amenity space to meet the needs of the future residents.
- 5.7.3 Adequate light, outlook and ventilation will be provided to all habitable rooms of the proposed dwellings and as such, no objection is raised in terms of the living environment provided for the future occupiers.
- 5.7.4 The site is located to the north of the Tesco store and thus, higher levels of noise and disturbance are expected due to the commercial nature of the neighbouring site and the associated vehicle movements of customers and deliveries and noise generated by the necessary external plant and equipment. For that reason a noise assessment has been submitted to address these issues during the process of the application. Comments from the Environmental Health Department have been received which echo those given in relation to the previous applications on the site that although there are some reservations about the approach taken with the noise survey it does still offer some reassurance over the conditions existing at the site. On that basis it is suggested that there are no grounds to recommend refusal of the application on the grounds of

likely noise impact. Officers are therefore satisfied that the neighbouring use would not materially harm the amenities of the future occupiers of the development.

## **5.8 Landscaping and Trees**

- 5.8.1 The application has been supported by a tree report which identifies that there are 3 main trees on site. As part of the proposal one tree, T2 will be removed with the other two trees (T1 and T3) retained and protected during the course of the development. It is noted that in the consideration of the previous applications on the site only T3 was to be retained and no objection was raised on this basis. Protection measures for the retained trees are suggested within the report, including the installation of hard fencing and ground protection. It is therefore considered that subject to conditions to secure the protection of the trees to be retained, no objection is raised to the loss of the other tree to accommodate the proposed development.
- 5.8.2 To compensate the loss, replacement trees are proposed to be planted. Additional landscaping is also proposed including planting of hedges in the periphery of the amenity area and amenity grass over the part of the open areas at the south part of the application site and the outdoor amenity area. On balance, it is considered that the amount of soft landscaping would be sufficient to improve the visual amenity of the site. Nonetheless, further details and a plant management plan would be required to be submitted and agreed in writing by the Local Planning Authority (LPA).

## **5.9 Ecology**

- 5.9.1 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.’
- 5.9.2 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.
- 5.9.3 Policy N2 of the LDP which states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance”*.
- 5.9.4 A Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (dated February 2018) accompanies the application, which states that the development is not expected to have an adverse impact upon statutory or non-statutory designated locations. Although no evidence of bats has been identified, it is probable that bats from nearby roosts will forage across the site and in the gardens of adjacent properties. This behaviour would be expected to continue after any building work has been completed and therefore it is considered that the planning proposal for this site will not have a detrimental effect on the local bat population. It is not considered reasonably likely that great crested newt or reptile species would be adversely affected by the development proposals given absence of potentially suitable habitats within the site. Furthermore, no evidence of badger activity was identified. Although it is not expected that the development would result in any adverse impacts on



protected/priority species, it is considered that mitigation and enhancement should be adhered to.

- 5.9.5 It is noted that at the time of submission of this application the ecological appraisal was two years old, however the report states that “if more than a year were to elapse before the start of the building work, it is considered unlikely, due to the lack of potential roosting places, that bats would colonise the site during the intervening period.” It is therefore considered that the submitted ecological appraisal is sufficient.
- 5.9.6 A section including recommendations is included within the submitted Survey, including consultation of a pest control specialist prior to the commencement of the development, coverage of trenches overnight during construction, protection of nesting birds if identified during breeding season, provision of habitat boxes and relatively open boundaries in order to allow wildlife to radiate in the area. Subject to the development being implemented in accordance with these details, no objection is raised in relation to the impact of the development on protected or priority species or habitats.
- 5.9.7 It has been noted that the submitted ecological appraisal does not contain a botanical survey or a Phase 2 preconstruction survey for Japanese Knotweed. This has been raised with the agent who has confirmed acceptance of a pre-commencement condition to carry out a Phase 2 preconstruction survey for Japanese Knotweed to ensure that it is not present on the site. Should it be found present then the agreed condition requires full details of a scheme for its eradication and/or control to be submitted and agreed prior to any work commencing on site.

**5.10 Ecology regarding development within the Zone of Influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.10.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘zones of influence’ of these sites cover the whole of the Maldon District.
- 5.10.2 Natural England anticipate that, in the context of the local planning authority’s 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 Multiple 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.
- 5.10.3 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.

- 5.10.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a likely significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.10.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England 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.
- 5.10.6 To accord with Natural England's requirements, an 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 the erection of four dwellings

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

- 5.10.7 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.

5.10.8 The Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) SPD is now post consultation and constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure. However due to indexation this figure is now £125.58. A financial contribution of £502.38 should therefore be sought for this development through a unilateral undertaking. The agent has been sent the legal agreement to sign and submit to the Council, to secure the abovementioned contribution. Therefore, should this be forthcoming the impact of the development will be considered to be mitigated. An update in this respect will be provided on the Members Update.

## **5.11 Contamination**

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

## **5.12 Archaeology**

5.12.1 The application site is sited on the outskirts of the historic core of Burnham-on-Crouch. Prehistoric activity in the vicinity of the town is indicated by several Iron Age burials to the west, and cropmark enclosures (presumed to be prehistoric or Roman) to the north and east. Recent excavations in and around Burnham have demonstrated widespread settlement of the Burnham area in the Iron Age. The application site therefore has the potential to contain archaeological remains.

5.12.2 Archaeological features and deposits are both fragile and irreplaceable. It is therefore recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent. This is in line with advice given the NPPF and well as Policy D3 of the LDP.

## **5.13 Pre-Commencement Conditions**

5.13.1 Five prior to commencement conditions have been recommended (conditions 6, 7, 9, 10 and 11) and the agent has agreed to their imposition. Conditions 6 and 7 relate to contamination and as ground contamination is often disturbed by any ground works and can cause damage to the environment as well as pose a potential health risk it is therefore important to know if contamination is present prior to any work starting. Condition 9 relates to archaeology and is required as a pre-commencement condition as archaeological remains are often destroyed or lost through any commencement of works and therefore the archaeological assessment needs to be undertaken and agreed prior to any work commencing onsite. Condition 10 requires Phase 2 preconstruction survey for Japanese Knotweed. This is required as a pre-commencement condition as Japanese Knotweed is a highly invasive plant and disturbance can cause it to spread.

It is therefore important to confirm whether it is present on the site before any works start, and if it is to then have an agreed scheme for its eradication and/or control. Condition 11 relates to a Construction Method Statement and is to ensure that on-street parking of construction 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.

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

6.1 The relevant planning history is set out below:

- **17/01480/FUL** - Application for the change of use from Class B1 and B2 to Class C3, the demolition of the existing dilapidated industrial building and the erection of 10 new residential flats, ancillary development and landscaping on land to the rear of 148 Station Road, Burnham-on-Crouch. – Refused – 12/09/2018 - Dismissed on appeal.
- **19/00841/FUL** - Proposed change of use from Class B1 and B2 to Class C3, demolition of existing industrial building and erection of 5 new residential dwelling houses, ancillary development and landscaping – Refused – 10/10/2019

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

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-on-Crouch Town Council	<p>This application does not conform to MDC policies H2 and H4 (1,2,4,5 and 7), BTC policy HO1, SHMA – local need for 1/2 - bedroom properties, Flood zone 3 (BTC EN2), Contravenes MDC parking SPD. 1 visitor space per 4 dwellings required. No allocated visitor parking (4.4 residential parking standards).</p> <p>Overdevelopment and this is further windfall housing. Bin collection – access too narrow for bin lorry and no works possible to amend as developer does not own the land.</p>	Noted and addressed within sections 5.1, 5.2, 5.3, 5.5, and 5.6

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Archaeology	Archaeological features and deposits are both fragile and irreplaceable. It is therefore recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent. This is in line with advice given the National Planning Policy Framework,	Noted and addressed in section 5.12
Environment Agency	Consider that planning permission could be granted to the proposed development as submitted subject to conditions relating to groundwater and contaminated land.  Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.	Noted and addressed in section 5.11
ECC Sustainable Drainage Systems (SuDS)	Having reviewed the drainage strategy and the associated documents which accompanied the planning application for minor development, we do not object to the granting of planning permission reference 20/00375/FUL.	Noted and addressed in section 5.5

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	<p>This is a submission of a revised proposal for the site. The noise assessment and phase 1 contaminated land report remain the same and have been resubmitted. Echoes the comments my colleague made in respect of application FUL/MAL/19/00841 and recommend additional conditions required for further investigation in terms of land contamination.</p>	<p>Noted and addressed in sections 5.7 and 5.11</p>
Conservation Officer	<p>The application site falls outside the Burnham-on-Crouch Conservation Area, but within the setting of this heritage asset. The site is some distance from the boundary of the conservation area and is separated from it by intervening buildings and streets. Bearing in mind the separation distance, the new buildings would not harm the surroundings in which the heritage asset is experienced and as such, would have a neutral impact on the setting of the Conservation Area. This view reflects the assessment of the appeal decision for the previous scheme (ref. 17/01480). I therefore raise no objection to this application.</p>	<p>Noted.</p>

## 7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
The building of these houses will be a blight on the landscape and totally out of keeping with the surrounding area.	Addressed in section 5.3 of the report.
The reasons for refusal for the previous applications should still stand.	It is considered that the amendments made to the application have addressed the previous reasons for refusal.
Burnham has enough developments already.	Addressed in section 5.2 of the report.
This piece of land has lain dormant for many years and attracts many forms of wildlife.	Addressed in section 5.9 of the report.
Plot 3/4 is too close and dominant with regards to 3 Brickwall Close.	Addressed in section 5.4 of the report.
The long-established trees to the Eastern boundary should be retained.	Addressed in section 5.8 of the report.
The car parking area at the Southern end of the development will generate noise and be obtrusive.	Addressed in section 5.4 of the report.

## 8. **PROPOSED CONDITIONS AND SUBJECT TO A SIGNED UNILATERAL UNDERTAKING**

- 1 The development hereby permitted shall begin no later than three years from the date of this decision.  
**REASON** To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development shall be carried out and retained in accordance with the following approved plans and documents: 16/17/01, 16/17/02, 16/17/03, 16/17/10 Rev B, 16/17/17 Rev A, 16/17/18, Tree Protection Plan Rev 2, 49157-PP-001 Rev C  
**REASON** To ensure the development is carried out in accordance with the details as approved.
- 3 Prior to their inclusion in the development hereby approved, written details or samples of all external facing materials shall be submitted to and approved in writing by the local planning authority. The 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 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) boundary treatments;
  - ii) hard surfacing, including materials and finishes;
  - iii) soft landscaping, including planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation and maintenance.

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

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

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

- 5 The trees and/or hedges identified for retention on the approved plan drawing number 16/17/10 Rev B shall be protected during the course of the development. The trees and/or 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 ensure the appropriate protection for the trees to be retained on site 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 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 ensure any contamination found present on the land is remediated in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.

- 7 Where identified as necessary in accordance with the requirements of condition 6, no development shall commence, other than that required to carry out remediation, 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 must be given two weeks written notification of commencement of the remediation scheme work.

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 is subject to the approval in writing of the local planning authority.

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

REASON To ensure any contamination found present on the land is remediated in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.

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

REASON To ensure any contamination found present on the land is remediated in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.

- 9 (A) No demolition/development or groundworks shall commence until a Written Scheme of Investigation, in response to an archaeological brief, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions, and:
1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
- (B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

- (C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.  
REASON To safeguard any archaeological remains found present on the site in accordance with policy D3 of the Maldon District Local Development Plan, and the NPPF and PPG.
- 10 Notwithstanding the details submitted with this application, no development shall commence until a Phase 2 preconstruction survey for Japanese Knotweed has been submitted to and approved in writing by the local planning authority. The preconstruction survey for Japanese Knotweed shall include full details of a scheme for its eradication and/or control should Japanese Knotweed be found. The development shall be carried out in accordance with the approved survey.  
REASON To ensure that any Japanese Knotweed present on the site is managed in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.
- 11 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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:
- 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) wheel and under body washing facilities
- 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 policies D1 and T2 of the submitted Local Development Plan.
- 12 The development hereby permitted shall be carried out in accordance with the conclusions and recommendations contained within the Preliminary Ecological Appraisal dated February 2018.  
REASON To minimise the impact of the development upon the biodiversity and ecology interest of the site in accordance with Policies D1 and N2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 13 No dwelling hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details (Flood Risk Assessment March 2020 updated by 49157-PP-001 Rev C and Flow Calcs Rev C). The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.  
REASON To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to ensure the effective operation of SuDS features over the lifetime of the development in accordance with policy D5 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.

- 14 Notwithstanding the details submitted with this application prior to any works occurring above ground level at the application site full details of a bin collection point shall be submitted to and agreed in writing by the local planning authority. The bin collection point shall be provided as per the agreed details prior to occupation of the development.  
REASON To ensure that the bin collection point is appropriate in accordance with policies D1 and D2 of the approved Maldon District Local Development Plan as well as the Planning and Waste Management Technical Document to Maldon District Design Guide.
- 15 Prior to first occupation of the dwellings hereby permitted the glazing and trickle ventilation provided to the development shall meet the criteria contained within table 4 of the Environmental Noise Assessment produced by Robin Cross dated 14 November 2017.  
REASON To protect the amenities of occupiers of the development in accordance with policy D1 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 16 No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no 16/17/10 Rev B for 8 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available for such purposes in perpetuity.  
REASON To ensure the provision of appropriate parking and turning facilities for the development in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 17 The bicycle parking facilities as shown on the approved plans 16/17/17 Rev A and 16/17/10 Rev B shall be provided in accordance with the approved scheme prior to the first occupation of the development and retained for such purposes thereafter.  
REASON To ensure the provision of appropriate bicycle parking facilities for the development in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 18 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.  
REASON To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 19 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.  
REASON To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety in accordance with policies T1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 20 Prior to the first occupation of the dwellings on plot 1 and 4 hereby permitted, the first floor window(s) in the west facing elevation of plot 1 and the east facing elevation of plot 4 shall be glazed with opaque glass and of a non-

openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.

REASON To ensure that the development does not result in a loss of privacy or amenity for neighbouring occupiers in accordance with policy D1 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.

- 21 The applicant/occupier is required to have in place a flood action plan to respond to any flood warnings issued by the Environment Agency. Details of the flood plan shall previously have been submitted to and agreed in writing by the local planning authority, prior to first occupation of the development hereby permitted.

REASON To ensure that an appropriate flood action plan is in place as the site access is located within Flood Zone 3 in accordance with policy D5 of the Maldon Local Development Plan as well as the NPPF and PPG.

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

REASON To ensure that the development does not result in harm to the character and appearance of the area or result in a loss of privacy or amenity for neighbouring occupiers in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework

- 23 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no further openings or windows at first floor level or above shall be inserted in the flank elevations of the dwellings on plots 1 and 4 hereby permitted without planning permission having been obtained from the local planning authority.

REASON To ensure that the development does not result in a loss of privacy or amenity for neighbouring occupiers in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
8 JULY 2020**

<b>Application Number</b>	<b>20/00415/HOUSE</b>
<b>Location</b>	17 Brook Road, Tillingham, Essex CM0 7SG
<b>Proposal</b>	First floor extension over existing extension.
<b>Applicant</b>	Mr & Mrs Chris Collin
<b>Agent</b>	Mr Mike Otter - GPO Designs Ltd
<b>Target Decision Date</b>	26.06.2020
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>TILLINGHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In: Councillors A S Fluker and R P F Dewick Reason: Policy D1 - Design Quality and Built Environment) and H4 – Effective Use of Land (Alterations, Extensions and additions)

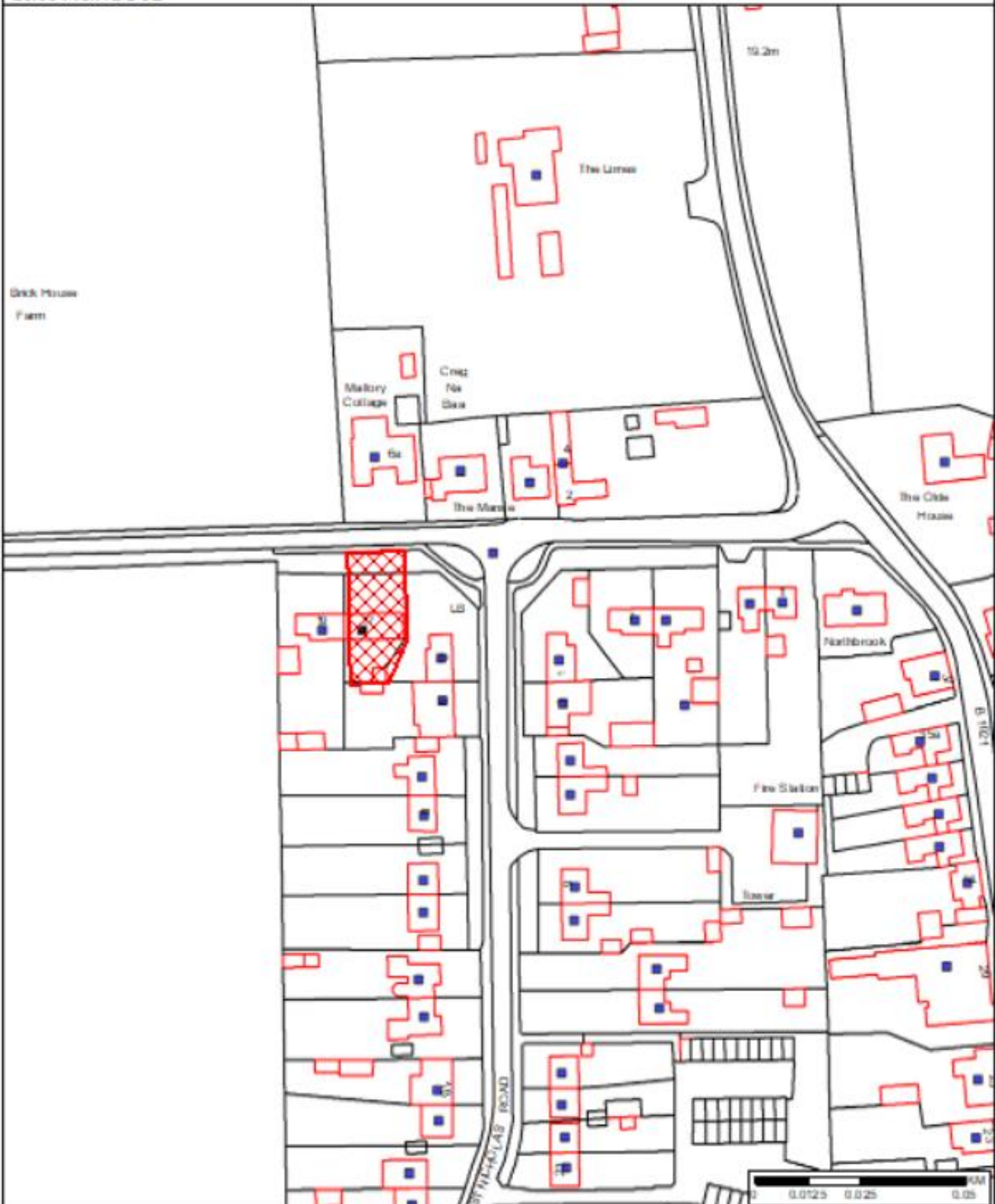
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

17 Brook Road, Tillingham  
20/04 15/HOUSE



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: South East Area Committee

Date: 03/06/2020

MSA Number: 100018588



### **3. SUMMARY**

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

3.1.1 The application site is located on the southern side of Brook Road within the settlement boundary of Tillingham and abuts the Tillingham Conservation Area to the north. The building on site is a two storey semi-detached dwelling finished in red brick with brown windows and a single storey side projection and a porch to the front elevation. The surrounding area is residential in nature with dwellings to the east and south being of similar design to the application site.

3.1.2 Planning permission is sought for the construction of a first floor side extension over the existing side projection, creating two additional bedrooms - one at first floor level with an en-suite and one bedroom at second floor level. The plans show alterations would also be made to the existing driveway.

3.1.3 The proposed extension would measure 5.7 metres in depth and 6.8 metres in width with an eaves height of 5.6 metres and a ridge height of 8.1 metres to the top of the gable style roof. The proposed ridge would therefore be 0.2 metres lower than the ridge of the existing dwelling.

3.1.4 The proposed finished materials would be red brick with interlocking concrete roof tiles and brown Irish Oak coloured uPVC windows and guttering.

3.1.5 This application is a resubmission of previously refused applications 19/00256/HOUSE which was refused due to the scale, bulk and design of the development and a shortfall in car parking provision. The reasons for refusal were:

1. *The proposed development as a result of its scale, bulk, siting and design would result in a visually obtrusive and contrived form of development which would cause material harm to the character and appearance of both the dwelling and the surrounding area. The harm would be further intensified by the proposed use of weatherboard which, when combined with the scale, bulk and design of the resultant dwelling would create the appearance of a separate dwellinghouse. Therefore, the development is contrary to policies S1, D1 and H4 Maldon District Local Development Plan, guidance within section C14 of the Maldon District Design Guide and Government guidance contained within the National Planning Policy Framework.*
2. *The proposed development would fail to provide adequate on-site parking provision. The proposal would therefore be likely to cause additional on-street parking to the detriment of the freeflow of traffic and highway safety. The proposal is therefore contrary to policies S1, D1 and T2 of the Maldon District Local Development Plan.*

3.1.6 A subsequent application 19/00705/HOUSE showed the extension had been reduced minimally in height and adequate car parking provision was provided, however these amendments did not address all of the previous concerns raised and therefore the development was refused due to the following reason:

1. *The proposed development by reason of its scale, design and bulk would result in a dominant, large and bulky addition creating in an incongruous form of development which would be out of keeping within the locality. The proposed side extension would unbalance the pair of semi-detached properties which would further exacerbate the harm. The development would therefore result in demonstrable harm to the character and appearance of the existing dwelling and the locality, contrary to policies D1 and H4 of the LDP and the Maldon Design Guide.*

3.1.7 No alterations have been proposed to reduce the scale of the currently proposed development, however the previously proposed weatherboard cladding has been removed. Whilst it was noted in the previous report the proposed weatherboarding was not in keeping with the existing dwelling it would be in keeping with the surrounding area and therefore did not form part of the reason for refusal. No further significant alterations to the scheme have been proposed.

### **3.2 Conclusion**

3.2.1 It is considered that the proposal, by reason of its design, scale and bulk, is an unacceptable addition which would result in a large, dominant and incongruous form of development that would unbalance the pair of semi-detached properties, detrimentally harming the visual amenity of the site and surrounding area. It is therefore considered; the proposal is contrary to policies D1 and H4 of the Maldon District Local Development Plan (MDLDP) and the guidance contained within the Maldon District Design Guide (MDDG) and the National Planning Policy Framework (NPPF).

## **4. MAIN RELEVANT POLICIES**

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 57 Planning conditions and obligations
- 102 – 111 Promoting sustainable transport
- 117 – 123 Making effective use of land
- 124 – 132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment

- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

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

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

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

5.1.2 The principle of extending and altering an existing dwellinghouse and of providing facilities in association with residential accommodation is considered acceptable in line with policies S1 and H4 of the approved LDP.

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

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

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

*“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.*

*“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”.*

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

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;
  - d) Layout, orientation, and density;
  - e) Historic environment particularly in relation to designated and non-designated heritage assets;
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.2.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.6 The proposed development would consist of a first floor side extension with habitable space in the loft, spanning the width of the existing single storey side extension and resulting in alterations to the internal layout to create two further bedrooms and an ensuite. This application is a resubmission of 19/00705/HOUSE which was refused due to its scale, bulk and design as it was considered the extension would be dominant within the site and due to its width, would unbalance the pair of semi-detached dwellings.
- 5.2.7 No alterations have been made to the scale of the development which would result in a large, dominant side extension that would create the appearance of a terrace of dwellings. Whilst the ridge height of the development was reduced between applications 19/00256/HOUSE and 19/00705/HOUSE, this has not been reduced further and therefore the development remains marginally subservient, being 0.2 metres lower than the ridge of the main dwelling. The surrounding area to the east and south is characterised by dwellings of a similar style, with small single storey side projections. The proposed development would be a bulky, dominant and incongruous addition to the streetscene, the site and the pair of semi-detached dwellings when viewed as a whole. Furthermore, the development would be highly visible from Brook Road, St Nicholas Road and North Street and would therefore detrimentally impact upon the character of the host dwelling, the site and the streetscene.
- 5.2.8 Whilst it was stated in application 19/00705/HOUSE the proposed use of weatherboarding would exacerbate the appearance of the development being a separate dwelling, this did not form part of the reason for refusal as weatherboarding features within the existing streetscene. However, the proposed red brick finish would be in keeping with the host dwelling and therefore no objections are raised to the proposed materials.

- 5.2.9 The proposed widening of the existing driveway and increase in hardstanding is considered acceptable and would not detrimentally impact upon the character and appearance of the streetscene.
- 5.2.10 Due to the site abutting the Tillingham Conservation Area the Council's Specialist in Heritage and Conservation was consulted. No objections were raised to the development as it was considered the development would not result in harm to the setting or significance of the Conservation Area.
- 5.2.11 It is therefore considered this resubmission has not adequately addressed all the concerns raised by applications 19/00256/HOUSE or 19/00705/HOUSE.

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

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The development would be situated 8.2 metres from the boundary shared with the neighbour to the west, No.19 Brook Road and the same distance to the neighbouring dwelling. Due to the position of the development the proposed extension would not impact upon the neighbouring occupiers by way of overlooking, overshadowing or being unduly overbearing.
- 5.3.3 The development would be situated 16.3 metres from the boundary shared with the neighbouring dwelling to the north, Mallory Cottage and approximately 20.9 metres from that same dwelling. Due to the position of the development the proposed extension would not impact upon the neighbouring occupiers by way of overlooking, overshadowing or being unduly overbearing.
- 5.3.4 The proposed development would be situated 1 metre from the shared boundary with the neighbouring dwelling to the south east, No.2 St Nicholas Road and 5.6 metres from that same dwelling. Due to the orientation of the dwelling and position of the development, the first floor windows would have some views of the neighbouring occupiers private amenity space, however the main seating area appears to be west of No.2 St Nicholas Road, adjacent to the boundary and the existing eastern projection of No.19 Brook Road and therefore views of this area would be minimal. However, this was not raised as a reason for refusal in the previous two applications and the main views from the proposed windows would be of the rear garden to host dwelling and the south western corner of the neighbouring amenity space, due to this it is considered it would not be reasonable to refuse the application on this basis. Due to the position of the proposed development being to the west of the neighbouring dwelling the extension would not result in overshadowing or overbearing.
- 5.3.5 The neighbouring dwelling to the south of the development site, No.4 St Nicholas Road, would be situated 11.2 metres from the proposed development. The proposed

rear window of the development would potentially result in overlooking of the neighbouring private amenity space, however this would not result in any further harm than the existing rear windows. Additionally, due to the separation distance the proposed development would not result in overshadowing of the neighbouring dwelling, No.4 St Nicholas Road.

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

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The proposed extension would increase the number of bedrooms from three to five, therefore increasing the required number of parking spaces on-site from two to three. The proposed plans show the area to the front of the dwelling is capable of providing parking for three vehicles and therefore adequate parking is available on-site. Due to this it is considered the proposal is in accordance with policy D1 and T2 of the LDP.

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

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

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

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
<b>01/00758/FUL</b>	Proposed single storey side extension	Approved
<b>19/00256/HOUSE</b>	First floor extension over existing extension. Cladding of existing and proposed extension with fibre cement cladding	Refused
<b>19/00705/HOUSE</b>	First floor extension over existing extension.	Refused

## **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>
Tillingham Village Council	Object to this application. Policy D1 - the scale, design and bulk would result in a dominate, large and bulky addition creating an incongruous form of development which would be out of keeping within the locality.	Comments noted

### **7.2 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Specialist – Heritage and Conservation	The application is just outside the Conservation Area and would cause no harm to the setting or significance of the Conservation Area, therefore no objections are raised to the application.	Comments noted

### **7.3 Representations received from Interested Parties**

7.3.1 There were no letters were received commenting on the application.

## **8. REASON FOR REFUSAL**

- 1 The proposed development by reason of its scale, design and bulk would result in a dominant, large and bulky addition creating in an incongruous form of development which would be out of keeping within the locality. The proposed side extension would unbalance the pair of semi-detached properties which would further exacerbate the harm. The development would therefore result in demonstrable harm to the character and appearance of the existing dwelling and the locality, contrary to policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained within the Maldon District Design Guide and the National Planning Policy Framework.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
8 JULY 2020**

<b>Application Number</b>	<b>20/00502/HOUSE &amp; 20/00503/LBC</b>
<b>Location</b>	The Wheat Barn, Keelings Road, Dengie, Essex CM0 7US
<b>Proposal</b>	Proposed construction of a lean-to storage building to store logs, household and garden equipment
<b>Applicant</b>	Mr and Mrs Adrian Fluker
<b>Agent</b>	TMA Chartered Surveyors
<b>Target Decision Date</b>	23.07.2020
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>DENGIE</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor / Member of Staff

**1. RECOMMENDATION**

**20/00502/HOUSE:**

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

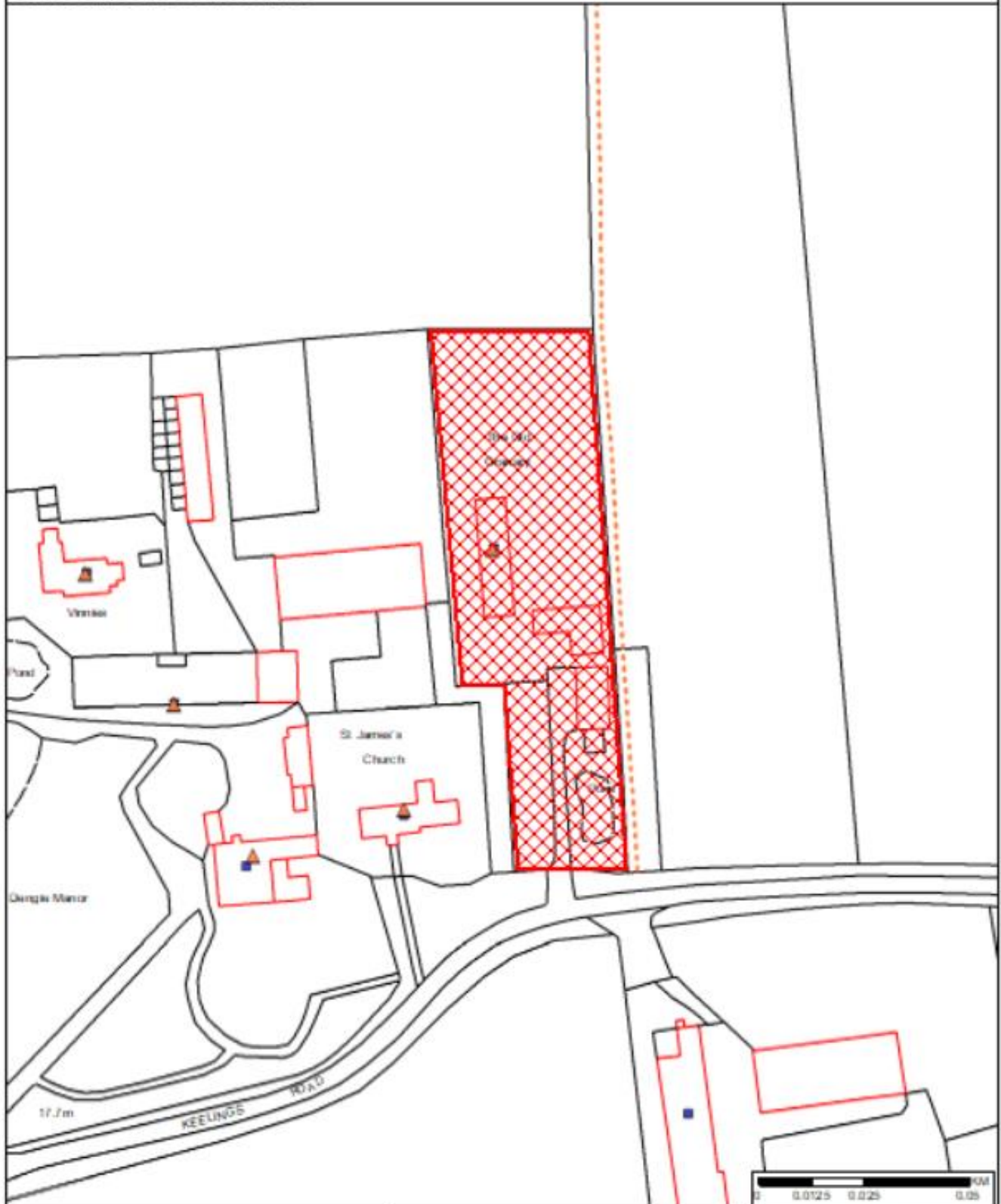
**20/00503/LBC:**

**GRANT LISTED BUILDING CONSENT** subject to the conditions as detailed in Section 8 of this report.

**2. SITE MAP**

Please see overleaf.

**The Wheat Barn, Keelings Road, Dengie**  
20/00502/HOUSE & 20/00503/LBC



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Maldon District Council 100018588 2018



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: South East Area Committee

Date: 17/06/2020

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the northern side of Keelings Road, adjacent to St James's Church to the east. The site is located outside of the settlement boundary but within the parish of Dengie and within a rural setting. The largest building on the site, 'The Wheat Barn' is an 18<sup>th</sup> century Grade II listed two storey building constructed of red brick. The building is an early example of an Essex brick barn dating back to the Victorian period. To the south east of the site is an annex, a cartlodge and the remnants of an old forge with a timber shelter.
- 3.1.2 Permission is sought for the construction of a lean-to outbuilding with windows to the eastern elevation of the existing cartlodge and the reinstatement of a door to the eastern elevation of the cartlodge which would lead into the lean-to building. It is proposed the lean-to would be used for storage.
- 3.1.3 The proposed development would measure 14 metres in width and 2.9 metres in depth with an eaves height of 2.1metres and a maximum height of 2.4 metres.
- 3.1.4 The proposed materials would be a red brick plinth with black shiplap weatherboarding and black onduline bitumas concrete sheeting. The proposed windows would have black timber frames.

#### **3.2 Conclusion**

- 3.2.1 It is considered that the development, by reason of its scale and design does not harm the appearance or character of the area or the listed building, and due to there being no neighbouring residential properties, the development would not result in any unacceptable harm by way of overlooking, overshadowing or through being unduly overbearing. Additionally, the development does not detrimentally impact on the provision of car parking or private amenity space. Therefore, it is considered that the development is in accordance with policies D1 and D3 of the Local Development Plan (LDP), sections 16(2) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* and the guidance contained within the National Planning Policy Framework (NPPF).

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

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

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

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10 - 12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54 - 57 Planning conditions and obligations

- 117 - 123 Making effective use of land
- 124 - 132 Achieving well-designed places
- 184 - 202 Conserving and enhancing the historic environment

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

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

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

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

### **5. MAIN CONSIDERATIONS**

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

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

5.1.2 The principle of extending an existing dwellinghouse and of providing facilities in association with residential accommodation is considered acceptable in line with policies S1 and H4 of the approved LDP.

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

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

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

*“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of*

*sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

*“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”.*

- 5.2.3 This principle has been reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;
  - d) Layout, orientation, and density;
  - e) Historic environment particularly in relation to designated and non-designated heritage assets
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.2.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.6 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, policy D3 of the approved Maldon District Local Development Plan (MDLDP) states that development proposals that affect a heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.2.7 The proposed development consists of a lean-to building with opaque glazed windows to the rear of the existing cartlodge. It is proposed the building would be used for storage purposes.
- 5.2.8 The proposed lean-to would be a large addition which would span the width of the existing cartlodge, however due to its design and single storey nature the lean-to would not appear dominant within the site and would not detrimentally impact upon

the character and appearance of the listed building or the existing cartlodge. Whilst the lean-to would be visible from the streetscene due to its design it is considered the development would not detrimentally impact up the character or appearance of the streetscene or wider locality.

- 5.2.9 A Consultation response from the Councils Specialist in Heritage and Conservation has raised no objections to the proposed development commenting the development would be ‘a modest and sympathetic addition’ which would result in ‘no harm to the setting or significance of the Grade II listed barn or to the limited significance of the shed’. The development would therefore be in accordance with policy D3 of the Maldon LDP, chapter 16 of the NPPF, or the duties set out in sections 16(2) or 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*.
- 5.2.10 The proposed weatherboard finish would be typical of an outbuilding and therefore no objections are raised in regard to the proposed materials.

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

- 5.3.1 The basis of policy D1 in the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 Whilst it is noted windows are proposed to the eastern elevation, the plans show these windows would be of opaque glass. Furthermore, the site is not bordered on any side by other residential dwellings and therefore the proposed development would not detrimentally impact on any neighbouring residential amenity.

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

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council’s adopted parking standards. The Council’s adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council’s adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 Due to the position of the proposed lean-to it would not detrimentally impact upon the existing on-site car parking provision and therefore the proposed development would be in accordance with policy D1 of the LDP.

## 5.5 Private Amenity Space and Landscaping

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

## 6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
MAL/1014/89	Change of use of granary to office	Conditional
MAL/936/91	Change of use of granary to a dwelling	Conditional
LB/MAL/963/91	Change of use of granary to a dwelling	Conditional
LBC/MAL/91/0963/A	Change of use of granary to a dwelling	Conditional
FUL/MAL/94/0705	Pond	Approved
MAL/95/0076	Septic tank	Approved
FUL/MAL/02/00851	Stables and garden store	Conditional
LBC/MAL/02/00852	Stables and garden store	Conditional
09/01037/FUL	Stables and garden store	Approved
12/00138/FUL	Detached annex	Withdrawn
12/00700/FUL	Detached annex	Approved

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Asheldham and Dengie Parish Council	The proposed lean-to is in keeping with existing buildings	Comments noted

## 7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Heritage and Conservation	The significance of the grade II listed barn derives from its age, the fact that it is a relatively early example of an Essex brick barn, the quality of its materials and detailing, and its tranquil rural setting. The brick shelter shed is a positive feature within the setting of the barn but, as a very common Victorian building type, the shed possesses little significance in its own right. The eastern wall of the lean-to would be clad in black timber weatherboarding and roofed in black onduline corrugated roofing sheets. A doorway would be opened on the east wall of the shed, leading into the lean-to. In my view this would be a modest and sympathetic addition, resulting in no harm to the setting or significance of the grade II listed barn or to the limited significance of the shed.	Comments noted

## 7.3 Representations received from Interested Parties

- 7.3.1 **One** letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<p>Work has started at the site through the laying of foundations and the creation of a doorway.</p> <p>A new access road has been created.</p> <p>Hedges and trees were removed prior to the application.</p> <p>The work is visible from the road and a nearby PRow.</p> <p>The materials would be out of keeping and detrimental to the listed building.</p> <p>Due to the size of the building it would not remain within the curtilage and encroaches on agricultural land.</p>	<p>Comments noted. The application can only be determined based on the details submitted as part of the application. The Council's Specialist in Heritage and Conservation has raised no objections to the proposed materials.</p>



## 8. **PROPOSED CONDITIONS**

### **20/00502/HOUSE:**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON** To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out and retained in accordance with the following approved plans and documents: Location Plan, TMA/861/1 rev3, TMA/861/2 Rev A  
**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 should be as set out in the application form and approved drawings.  
**REASON** In the interest of the character and appearance of the area in accordance with policy D1 and D3 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

### **20/00503/LBC:**

- 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 16(2) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*.
- 2 The development hereby permitted shall be carried out and retained in accordance with the following approved plans and documents: Location Plan, TMA/861/1 rev3, TMA/861/2 Rev A  
**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 should be as set out in the application form and approved drawings.  
**REASON** In the interest of the character and appearance of the area in accordance with policy D1 and D3 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
8 JULY 2020**

<b>Application Number</b>	<b>20/00463/WTPO</b>
<b>Location</b>	Land North West Of Riversleigh, Nipsells Chase, Mayland, Essex
<b>Proposal</b>	G1 Prunus Spinosa - Remove strip 1m wide by approx. 3.5m long
<b>Applicant</b>	Mr & Mrs K Paton
<b>Agent</b>	N/A
<b>Target Decision Date</b>	EOT 10.07.2020
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor / Member of Staff

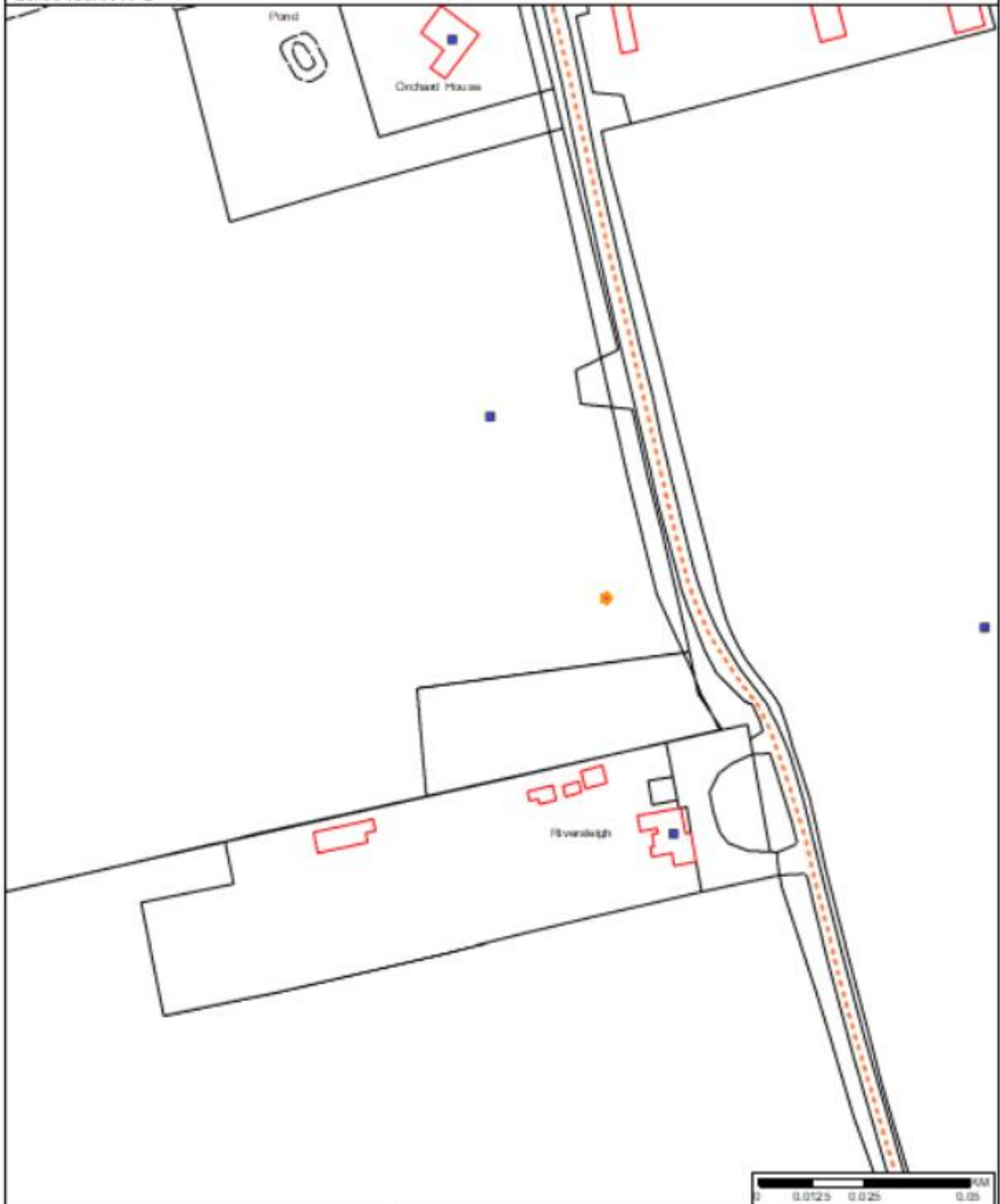
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**Land North West of Riversleigh, Mayland**  
20/00463/WTPO



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Maldon District Council 100018588 2014*



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

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: South East Area Committee

Date: 23/06/2020

MSA Number: 100018588



Agenda Item no. 10

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the western side of Nipsells Chase, to the north of Imperial Avenue and to the east of North Drive. The site is located outside the settlement boundary of Mayland. The group of Prunus Spinosa, subject of this application, is located along the boundary of the area of woodland owned by the applicant.
- 3.1.2 The woodland is protected under application 4/18 with the area subject of this application being identified as W1. The trees included in area W1 are Hawthorn with Wild Cherry, Oak, Apple, Pear and Sloe, however a woodland protection order covers the entire area of woodland and the trees within it.
- 3.1.3 An application has been submitted to remove a 1 metre wide strip 3.5 metres in length of the G1 Prunus Spinosa.
- 3.1.4 The application form states the works are justified as the Prunus Spinosa are in poor condition and the removal of this part of the thicket would allow for a path to be created to safely access the site.

#### **3.2 Conclusion**

- 3.2.1 It is considered that the proposed removal of a section of G1 Prunus Spinosa measuring 1 metre in width and 3.5 metres in length, would not have an impact on the amenity value of the woodland or the character and appearance of the surrounding area. The proposed works are therefore found to be acceptable.

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

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

- Planning Policy Guidance (PPG)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Impact on the Character and Appearance of the Area**

- 5.1.1 Trees can be vital to the general character of an area and can be at the heart of a particular historic or architectural interest in a site.
- 5.1.2 The G1 Prunus Spinosa are located to the east of the site along the boundary of the woodland owned by the applicant. The area of woodland contributes positively to the streetscene of Nipsells Chase and the wider locality. It is proposed the works would require the removal of a section of G1 Prunus Spinosa measuring 1 metre in width and 3.5 metres in length.

- 5.1.3 Due to the position and small-scale nature of the works, it is considered the removal of this section of the G1 would not be highly visible from the streetscene of Nipsell's Chase or from the wider area and therefore would not detrimentally impact upon the amenity value of the woodland. Furthermore, it is considered the proposed works would not be materially harmful to the character and appearance of the wider area.
- 5.1.4 The Council's Tree Consultant has no objection to the works as they relate to a short section of the woodland. The supporting document mentions two further trees beyond the area subject to this application which may require removal, however it should be noted, that this has not been included within the description of the development and any further works would require a separate permission.

## **5.2 Health of the Trees**

- 5.2.1 The Council's Tree Consultant has not reported any damage or decay to the area of G1 Prunus Spinosa and whilst sections of dead trees have been reported in the supporting documents, these are not uncommon within woodland areas. This is not considered to justify the proposed works.

## **5.3 Justification of the Proposed Works**

- 5.3.1 The justification provided for the works are due to the poor condition of the trees with some being reported dead and others having little or no canopy. The removal of the trees would allow for safe access to the site. Whilst the justification of the works is not considered to be robust or support the application to an acceptable degree due to the minimal impact on the amenity value of the overall woodland it is not considered that this undermines the overall application.

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

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
<b>17/00736/FUL</b>	Proposed construction of a new detached single storey dwelling	Withdrawn
<b>18/00280/FUL</b>	Construction of an apple storage barn	Approved
<b>20/00574/FUL</b>	Variation of condition 2 on approved planning permission 18/00280/FUL (Construction of an apple storage barn)	Pending Consideration

## **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>
Mayland Parish Council	No comment	Noted

## 7.2 External Consultees

Name of External Consultee	Comment	Officer Response
Tree Consultant	<p>No objection to the works being proposed. As it is understood it only relates to this short section of 3.5m and 1m in width, and further works would need an application.</p> <p>I suggest that when they undertake the works, if it is done in the nesting bird season, that due diligence is undertaken to ensure no wildlife legislation is being contravened.</p>	Comments noted

## 7.3 Representations received from Interested Parties

7.3.1 There have been no letters of representation received.

## 8. PROPOSED CONDITIONS

1. The works hereby permitted shall be carried out in accordance with the British Standard Recommendations for Tree Works (BS3998:2010).  
REASON In order to safeguard the health and appearance of the tree.
2. The works hereby permitted shall be carried out within 2 years from the date of this permission.  
REASON To ensure that the works are carried out whilst they are still relevant to the condition of the tree.

### INFORMATIVE

1. If the works are to be undertaken during nesting bird season diligence should be given to ensure no wildlife legislation is being contravened.

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