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

02 February 2021

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 10 FEBRUARY 2021 at 6.00 pm.**

Please note that this will be a **remote meeting** – Members to access the meeting via Microsoft Teams. Members of the press and public may listen to the live stream via the [Council's YouTube channel](#).

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP

CHAIRMAN

Councillor Mrs M E Thompson

VICE-CHAIRMAN

Councillor J V Keyes

COUNCILLORS

M F L Durham, CC
Mrs J L Fleming
K W Jarvis
C P Morley
R H Siddall
Miss S White

Please note: Electronic copies of this agenda and its related papers
are available via the Council's website www.maldon.gov.uk.

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AGENDA
NORTH WESTERN AREA PLANNING COMMITTEE
WEDNESDAY 10 FEBRUARY 2021

1. **Chairman's notices**
2. **Apologies for Absence**
3. **Minutes of the last meeting** (Pages 7 - 16)

To confirm the Minutes of the meeting of the Committee held on 13 January 2021, (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. **20/00519/FUL - The Warren, Old London Road, Woodham Walter, CM9 6RW**
(Pages 17 - 90)

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

6. **20/01120/FUL - Land Adjacent to Ivystone Cottage, Back Road, Tolleshunt D'arcy, Essex** (Pages 91 - 104)

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

7. **20/01154/FUL - Barns adjacent to Mosklyns Farm, Chelmsford, Purleigh** (Pages 105 - 156)

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

8. **20/01289/HOUSE - Willowbank, 4 Heathgate, Wickham Bishops, Essex, CM8 3NZ** (Pages 157 - 170)

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

9. **Any other items of business that the Chairman of the Committee decides are urgent**
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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 No. 5-8.
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. The first person to register in each category will be sent a Microsoft Teams invitation which will allow them to join the 'live' meeting to make their statement.
4. For further information please see the Council's website – www.maldon.gov.uk/committees

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

NOTICES

Sound Recording of Meeting

Please note that the Council will be recording 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
NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

PRESENT

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

167. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the remote meeting, held under new regulations which came into effect on 4 April 2020 in response to the COVID-19 pandemic. She took Members through some general housekeeping issues, together with the etiquette for the meeting and then asked Officers present to introduce themselves.

This was followed by a roll call of all Members present.

168. APOLOGIES FOR ABSENCE

There were none.

169. MINUTES OF THE LAST MEETING

RESOLVED by assent, that the Minutes of the meeting of the Committee held on 16 December 2020 be approved and confirmed.

170. DISCLOSURE OF INTEREST

Councillor C P Morley disclosed a pecuniary interest in Agenda Item 6 20/01013/FUL – Willows, Brick House Road, Tolleshunt Major, and 9 20/01154/FUL – Barns Adjacent to Moskluns Farm, Chelmsford Road, Purleigh. He advised the Committee he would leave the meeting for these items of business.

Councillor Mrs J L Fleming declared a non-pecuniary interest in Agenda Item 5 20/00994/FUL – Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex, CM9 6TL as she knew the family well. She declared that she would not take part in the debate or vote on this item. Councillor Mrs Fleming also declared that following confirmation from the Monitoring Officer about a historic financial relationship on

Agenda Item 9 20/01154/FUL – Barns Adjacent to Moskllys Farm, Chelmsford Road, Purleigh, she was able to take part.

Councillor M F L Durham, CC declared a non-pecuniary interest in all items on the agenda as a Member of Essex County Council who were statutory consultees on a variety of matters relating to the Planning process.

171. 20/00994/FUL - LITTLE GRANGE FARM, MARLPITS ROAD, WOODHAM MORTIMER, ESSEX, CM9 6TL

Application Number	20/00994/FUL
Location	Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex CM9 6TL
Proposal	Full planning application for the proposed change of use from Agricultural to Dwellinghouse (C3) and associated operational development of the Apple store and Essex barn at Little Grange Farm
Applicant	Mrs Sarah Chenevix-Trench
Agent	Miss Nicole Bushell - Arcady Architects
Target Decision Date	EOT 15.01.2021
Case Officer	Annie Keen
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Departure from Local Plan Member Call In – Councillor K W Jarvis Reason – Policies S1, S8 and D1

A Members' Update had been circulated prior to the meeting that detailed representations received from an internal consultee.

Following the Officer's presentation, the Chairman moved the Officers' recommendation that planning application 20/00994/FUL - Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex, CM9 6TL be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

A lengthy debate ensued around the improvements to the look of the area by the removal of the asbestos barn and conversion of the unused apple barn. It was noted that this application was substantially different to the previous application on this site.

In response to a number of comments the Lead Specialist Place confirmed that the application was for a new dwelling and not an annex to the main house. He referred Members to the Officer's report and advised that as the site was very remote it remained unsustainable and contrary to policy.

Councillor M F L Durham, CC advised the Committee that should the application be approved it would be contrary to the Local Development Plan (LDP), the National Planning Policy Framework (NPPF) and planning law within Local Planning Authorities (LPAs).

There being no further discussion the Chairman put the Officer's recommendation to refuse the application to the Committee and upon a vote being taken it was lost.

A number of reasons to approve the application were discussed along with advice provided by Officers. Having spoken earlier in favour of the application Councillor Miss S White proposed that the application be approved, contrary to the Officers recommendation, for the reason that the improvement in the visual impact outweighed the harm of the unsustainable location. This was duly seconded. Upon a vote being taken the Committee agreed the application be approved subject to conditions and a Section 106 legal agreement delegated to Officer's in consultation with the Chairman and Ward Members.

RESOLVED that the application be **APPROVED** subject to conditions and a Section 106 legal agreement delegated to Officers in consultation with the Chairman and Ward Members.

In accordance with his earlier declaration, Councillor C P Morley left the meeting at this point.

172. 20/01013/FUL - WILLOWS, BRICK HOUSE ROAD, TOLLESHUNT MAJOR

Application Number	20/01013/FUL
Location	Willows, Brick House Road, Tolleshunt Major
Proposal	Proposed alterations to existing kennels and replacement with two log cabins and the erection of replacement kennels
Applicant	Mr And Mrs P O Connor - Benbela Cockapoos
Agent	Mr Mark Jackson - Mark Jackson Planning
Target Decision Date	15.01.2021
Case Officer	Hayleigh Parker-Haines
Parish	TOLLESHUNT MAJOR
Reason for Referral to the Committee / Council	Member call in from Councillor Mrs M E Thompson Reason: D1 1(d), 2 and 4

A Members' Update had been circulated prior to the meeting that detailed representations from Tolleshunt Major Parish Council, internal and external consultees, and six letters of objection.

Following the Officer's presentation, an Objector Mr John Williams, the Tolleshunt Major Parish Council representative Mr Tony Payne and the Agent, Mr Mark Jackson, addressed the Committee.

Councillor M F L Durham, CC left the meeting at this point and did not return.

A discussion ensued where the overarching concern was the impact of noise and dog waste disposal on neighbouring properties. In response to Members concerns the Lead Specialist Place reassured Members that these matters could be dealt with through condition and that the proposed development may reduce the existing impact on neighbouring properties. Any future breach of these conditions could then be dealt with through Planning Enforcement.

The Chairman moved the Officers' recommendation that planning application 20/01013/FUL – Willows, Brick House Road, Tolleshunt Major be approved subject to conditions as detailed in Section 8 of the report and this was duly seconded.

Upon a vote being taken it was approved.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 297-001 Rev F Page 44 Agenda Item no. 6
3. The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.
4. Prior to the occupation of the development hereby permitted an Odour Management plan shall be submitted to and approved in writing by the Local Planning Authority. The use of the development hereby approved will be fully in accordance with the details as approved shall be fully implemented and retained as such thereof
5. A Noise Management plan shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be fully implemented prior to the first use of the development hereby permitted and retained as such thereafter.
6. Details in relation to the storage of refuse and waste shall be provided and approved in writing by the Local Planning Authority. The details as approved shall be fully implemented prior to the first use of the development hereby permitted and retained as such thereafter.
7. No more than 20 dogs/bitches shall be kept on site, for breeding purposes, at any one time.

Councillor Morley returned to the meeting.

173. 20/01021/FUL - LAND REAR OF HILL BARN, RECTORY LANE, WOODHAM MORTIMER

Application Number	20/01021/FUL
Location	Land Rear Of Hill Barn Rectory Lane Woodham Mortimer
Proposal	Proposed conversion of existing equestrian/storage buildings to form offices (Use Class E(g) formally B1) alongside access, parking, landscaping and other associated development.
Applicant	Mr Mervyn Clark
Agent	Mr Lindsay Trevillian - Phase 2 Planning Ltd
Target Decision Date	03.12.2020 EOT 18.12.2020
Case Officer	Hannah Bowles
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call In from Councillor M F L Durham - Reason: This is an employment opportunity which complies with elements of the LDP. Departure from Local Plan

Following the Officer's presentation an Objector Mr Steven Gough and the Agent Mr Matthew Wood addressed the Committee.

The Chairman moved the Officers' recommendation that planning application 20/01021/FUL - Land Rear of Hill Barn, Rectory Lane, Woodham Mortimer be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

A brief discussion ensued as to the urbanisation of the rural site and the general consensus was that the Officers had assessed the application correctly.

There being no further debate the Chairman put the Officer's recommendation of refusal to the Committee. Upon a vote being taken the application was refused.

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

1. The proposed development would result in a harmful visual impact due to the urbanisation of the site resulting from the proposed change of use and physical alterations to the existing building. The identified harm has not been adequately justified and would not be off-set by the benefits of the scheme. The proposal is therefore contrary to policies S1, S8, E4 and D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.
2. The site is located in a rural area where development should only be supported in specific circumstances. Insufficient information has been provided to demonstrate that there is either a justifiable and functionable need or that the proposal would support the viability of an existing agricultural businesses contrary to policies S1, S8 and E4 of the D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.

174. 20/01076/FUL -70 COLCHESTER ROAD, GREAT TOTHAM

Application Number	20/01076/FUL
Location	70 Colchester Road Great Totham
Proposal	New dwelling
Applicant	Mr Harry Cooper
Agent	Mr Neil Cooper - Signature Group TM LTD
Target Decision Date	16.12.2020 EOT requested
Case Officer	Hannah Bowles
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Departure from Local Plan.

A Members' Update had been circulated prior to the meeting that detailed representation received from Great Totham Parish Council.

Following the Officer's presentation Councillor R H Siddall proposed that planning application 20/01076/FUL - 70 Colchester Road, Great Totham be approved in accordance with the Officer's recommendation and this was duly seconded.

The consensus was that the application had overcome previous reasons for refusal and upon a vote being taken it was unanimously approved.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
3. Prior to their installation, written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted 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 and retained as such thereafter.
4. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
 - 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

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

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

5. No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
6. Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to the occupation of the dwelling hereby approved and these works shall be carried out as approved. These details shall include, for example:
 - i. Proposes finished levels contours;
 - ii. Means of enclosure;
 - iii. Car parking layouts;
 - iv. Other vehicle and pedestrian access and circulation areas;
 - v. Hard surfacing materials;
 - vi. Minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, signs, lighting);
 - vii. Proposed and existing functional services above and below ground (e.g drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);

- viii. Retained historic landscape features and proposals for restoration, where relevant.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of the dwelling 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.

7. Prior to the occupation of the dwelling hereby permitted, the vehicular access shall be constructed in accordance with the details shown on drawing number sk.2113.1 and retained as such thereafter.
8. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
9. All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway.

In accordance with his earlier declaration, Councillor C P Morley left the meeting for the following item of business.

175. 20/01154/FUL - BARNS ADJACENT TO MOSKLYNS FARM, CHELMSFORD ROAD, PURLEIGH

Application Number	20/01154/FUL
Location	Barns Adjacent to Mosklyns Farm, Chelmsford Road, Purleigh
Proposal	Retention of existing dwelling.
Applicant	Mr & Mrs Strathern
Target Decision Date	14.01.2021
Case Officer	Hayleigh Parker-Haines
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In by Councillor Mrs J L Fleming Reason: D1A, D1E, S1.12 and S8

A Members Update had been circulated prior to the meeting that detailed representations received from Purleigh Parish Council, an external consultee, and 30 letters of support.

Following the Officer's presentation, the Chairman moved the Officer's recommendation that planning application 20/01154/FUL - Barns adjacent to Mosklyns Farm, Chelmsford Road, Purleigh be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

Councillor Mrs J L Fleming, having called in the application opened the discussion and outlined a number of reasons why she was in support of this application. In particular, she noted that the character of the road had altered significantly in the last 5 to 10 years, that houses across the road had been granted at appeal and how the applicants had put in a permitted path providing access to local services.

Councillor Miss S White proposed that the application be approved, contrary to Officers' recommendation highlighting that the amenity space had improved and overcame a previous reason for refusal. The proposal was duly seconded. In response to this and other comments made, the Lead Specialist Place reminded Members that they needed to give significant weight to the previous Committee decision of refusal including site location and drew their attention to the detailed assessment in the Officers' report.

Following further discussion, the Chairman put the Officer's recommendation to refuse the application to the Committee and upon a vote being taken it declared was lost.

A number of reasons for approval were discussed and along with information provided by the Lead Specialist Place. Councillor Miss White proposed that the application be approved, contrary to the Officer's recommendation, for reasons relating to the lack of a Five-Year Housing Land Supply and that the applicants had addressed the amenity space not meeting the Council's requirements. This was duly seconded and upon a vote being taken was approved. It was agreed that conditions relating to the approval would be delegated to Officers in consultation with the Chairman of the Committee and Ward Members.

RESOLVED that the application be **APPROVED** subject to conditions delegated to the Lead Specialist Place in consultation with the Chairman and Ward Members.

Councillor Morley returned to the meeting.

176. TPO 10/20 - THE PINES, FRANKLIN ROAD, NORTH FAMBRIDGE

Application Number	TPO 10/20
Location	The Pines, Franklin Road, North Fambridge
Proposal	Confirmation of TPO 10/20
Owner	Samantha Jane Flaherty of The Pines, Franklin Road, North Fambridge, CM9 6NF
Confirmation by	23.01.2021
Case Officer	Sophie Mardon
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

Following the Officer's presentation and in response to a query the Lead Specialist Place confirmed that the score on part B of the Tree Evaluation Method for Preservation Orders was 2 and that it was common practice to serve Tree Preservation Orders (TPOs) on trees in peoples' gardens.

A brief discussion ensued around the shallowness of Leylandii roots, damage to nearby buildings and regular pruning of trees for power lines.

There being no further discussion the Chairman moved the Officer's recommendation to confirm TPO 10/20 - The Pines, Franklin Road, North Farnbridge and this was duly seconded. Upon a vote being taken the motion was declared lost.

Following a brief discussion with the Lead Specialist Place the Chairman proposed that TPO 10/20 not be confirmed. This was duly seconded and upon a vote being taken was agreed.

RESOLVED that TPO 10/20 **NOT BE CONFIRMED**.

There being no further items of business the Chairman closed the meeting at 8.27 pm.

MRS M E THOMPSON
CHAIRMAN

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 FEBRUARY 2021**

Application Number	20/00519/FUL
Location	Warren Golf Club, Old London Road, Woodham Walter
Proposal	Additional tourism and interrelated leisure development, comprising 70 holiday lodges with associated change of use of the land within two areas of the site, alterations to existing Bunsay clubhouse, extension of Bunsay car park and new golf academy.
Applicant	Mr John Moran - The Warren Golf and Country Club
Agent	Mr Clive Simpson - Clive Simpson Planning Limited
Target Decision Date	15.10.2020 (EOT until 12.02.2021)
Case Officer	Julia Sargeant
Parish	WOODHAM WALTER
Reason for Referral to the Committee / Council	Major Application Level of Public Participation Member Call In – Called in by Councillor K W Jarvis Local Development Plan (LDP) policies S1, S8, E5, D1, D2, D3 - impact on wildlife and outside of the LDP merits debate by members

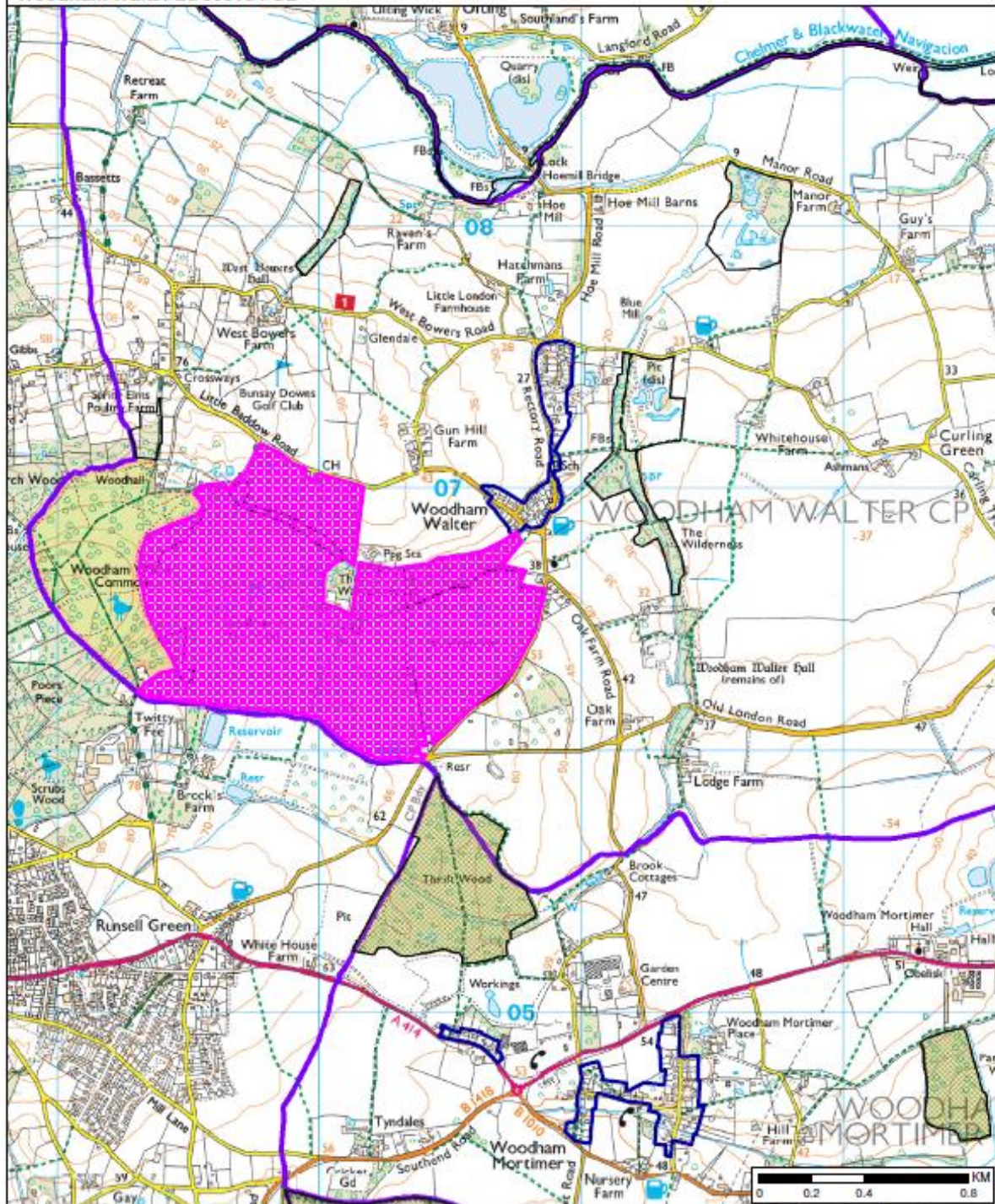
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Warren Golf Club - Old London Road Woodham Walter 20/00519/FUL



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	Organisation: Maldon District Council
	Department: Planning Services
	Comments: 20/00519/FUL
	Date: 11/01/2021
	MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The Warren Estate is located within the parish of Woodham Walter and within a rural location. To the west of the application site is Woodham Walter Common which is also designated as a Special Site of Scientific Interest (SSSI). Parts of the application site are also designated as a local wildlife site (reference Ma02 The Warren Golf Club Woods) and covered by a Tree Preservation Order (TPO). The south western section of the application site which is known as ‘The Warren Estate Lodges’ as well as ‘Herbage Park’ is a former quarry which now contains a number of holiday lodges and is designated as a local wildlife site in the Local Plan (Ma08 – Goldsands Road Pits and Lakes). A number of public footpaths run through and around the perimeter of the application site and beyond. The application site adjoins the District Boundary with Chelmsford City Council.
- 3.1.2 Planning permission is sought for a number of tourism and interrelated leisure developments including 70 holiday lodges with associated change of use of the land within two areas of the site, alterations to the existing Bunsay clubhouse, an extension of Bunsay car park and a new golf academy. It should be noted that a number of the studies submitted to support the application refer to an external multi-use games area. This does not form any part of the proposal and this has been confirmed by the agent.
- 3.1.3 It should be noted that the 70 holiday lodges would fall under the statutory definition of a caravan of the Caravan Sites and Control of Development Act 1960 as supplemented by Section 13 of the Caravan Site Act 1968.
- 3.1.4 The design and access statement submitted with the application states that it is the aim of the Warren Estate *‘to build a new and unique short break holiday and leisure destination for Maldon.’* The planning statement further elaborates on this stating *‘The applicants now wish to expand the range of facilities by providing activity based short breaks, similar to the Centre Parcs model. There is a shortage of this form of accommodation in the District and the wider Essex area. Visitors will be able to take part in a range of activities including golf, archery, horse riding, walking and cycling in and around the extensive Warren Estate.’*
- 3.1.5 The application site boundary extends over 113 hectares of land, with a further 19 hectares of land shown under the applicant’s ownership edged in blue. The application red line boundary has been drawn around the main part of The Warren Estate where the four main elements of the proposed development are sited.
- 3.1.6 An overview of each element of the proposal will now be given:
- 3.1.7 50 Holiday Lodges – ‘Warren Lodges North’
- 3.1.8 Planning permission is sought for change of use of the land for 50 holiday lodges on part of the existing Bunsay golf course. The Bunsay Golf Club is part of the larger Warren Estate and is located to the south of Little Baddow Road with access taken from Little Baddow Road.

- 3.1.9 The Bunsay Golf Club comprises two nine hole golf courses (Bunsay and Badgers par 3) as well as the clubhouse. The Badgers par 3 course is outside of the red line of the application site (shown in land edged blue) and to the north of Little Baddow Road. The majority of the Bunsay golf course is shown within the red line of the application site and 50 holiday lodges are proposed in the area to the south of the Bunsay clubhouse where currently 3 holes of the Bunsay golf course are located. The land is undulating and slopes from the north west to the south east, with areas of trees and soft landscaping present. Being part of the golf course, this section of the application site has a well maintained and soft landscaped appearance. There is a public footpath running along the eastern boundary of this section of the site. To the west of this section of the application site is Common Lane which is also a public footpath for the south western third of its length.
- 3.1.10 A site plan has been submitted showing the 50 lodges set off internal access roads within the site, alongside parking, pathways, a BBQ and seating area and additional soft landscaping. Each holiday lodge would have parking for 1 or 2 vehicles, as well as room for 3m deep decking to the rear of each unit. Distances between each lodge would be a minimum of 6m and all main access roads to be 5m wide and of a permeable construction using grass crete. Two detention basins are also shown to the south western section of this part of the site as part of the surface water drainage scheme.
- 3.1.11 The planning statement advises that the lodges will be finished in black timber weatherboarding to relate to the Bunsay Clubhouse building and have pre-formed steel tile systems for the roofs. Three different sized lodges will be provided 12.8m x 6m, 14m x 6m and 15.2m x 6m. Illustrative plans of the lodges have been submitted.
- 3.1.12 It is stated within the submitted planning statement that the 50 lodges proposed adjacent to the Bunsay clubhouse will be a family orientated short break holiday park and that the applicant's preferred partner in terms of marketing and booking for the 50 lodge family orientated park is Hoseason's Go Active brand which is available under licence only to short break holiday parks which can provide a wide range of indoor and outdoor activities for guests. The statement further adds that visitors will have the opportunity to undertake sporting activities such as golf, archery, fitness gym and swimming, and also walk or cycle through the extensive Warren Estate grounds, as well as visiting the other established tourist attractions in Maldon. Whilst the content of the statement is noted it is not proposed for the permission to be a personal permission and it is not considered such an approach would be appropriate either.
- 3.1.13 20 Holiday Lodges – 'Wayside Retreat'
- 3.1.14 Planning permission is also sought for a further 20 holiday lodges which would be positioned on land located more centrally within the Warren Estate to the east of the dwelling known as Wayside. The area where the 20 lodges would be positioned is roughly square in shape and comprises of rough grassland boarded to three sides by existing trees and hedgerows, being open to the south only, which is a tree lined internal access road within the Warren Estate. A public footpath runs along the internal access road to the south of this section of the application site.
- 3.1.15 A site plan has been submitted which shows the 20 lodges set around an almost circular internal access road, with four lodges to the centre of the site. A BBQ and

seating area is shown towards the centre of the site. Each holiday lodge would have parking for 1 vehicle and a 3m decking area. The supporting information also states that each lodge would have a 2-person hot tub. Distances between each lodge would be a minimum of 6m and all main access road to be 5m wide and of a permeable construction using grass crete. The existing access road within The Warren Estate that leads to this area of the site would also be upgraded.

3.1.16 It is stated within the submitted planning statement that the 20 lodges proposed adjacent to Wayside will provide luxury break accommodation for adults only; however, it is not considered that this could be controlled through a planning condition. The lodges proposed are stated to be of chalet type design, with barn like pitched roofs and natural timber cladding. Access to this area will be via the existing access road to The Warren Golf and Country Club. Two sizes of lodge will be available in this area; 10.9m x 6m and 12.2m x 6m with 1 and 2 bedroom units.

3.1.17 Bunsay Clubhouse

3.1.18 As part of this application alterations to the existing Bunsay Clubhouse are proposed. The proposed alterations would include a complete refurbishment of the existing clubhouse which would result in:

- A larger kitchen area;
- A new bar/grill 92-seater restaurant (previously a much smaller dining room area is shown);
- Creation of an indoor activities hall;
- Creation of an outside terrace area to the south of the restaurant and activities hall.

3.1.19 The clubhouse at present is made up of a number of different sections including a front two storey weatherboarded elevation with a single storey rear rendered projection to the northern part of the building (adjacent Little Baddow Road) and two barn style sections to the rear of the main section of the building. The two barn style sections are mainly finished in corrugated metal profile sheeting.

3.1.20 The proposed alterations would keep the same footprint of the building (with the exception of a new front canopy) and replace the barn style sections with the proposed restaurant and activities hall. The proposed alterations would have a brick plinth, with timber weatherboarding in black (to match the existing front elevation) with a tiled roof. The single storey rendered projection to the north would remain.

3.1.21 Whilst the main overall footprint of the building would remain unchanged, the height of the rear projections would be lowered. At present the rear barn style sections of the clubhouse have a maximum ridge height of 7 metres, with the main frontage having a ridge height of 7.6 metres. As part of the redevelopment the rear section of the building would have its ridge height lowered to a maximum of 5.6 metres with the existing front elevation unchanged in terms of its overall height, although a new front canopy is proposed to the main entrance which would have a width of 3.3 metres, a height of 3 metres and project 0.9 metres from the existing front elevation.

3.1.22 The footprint of the two main sections to be altered are 17.7 metres by 12 metres (to create new restaurant) and 14.8 metres by 19.8 metres (to create activities hall).

3.1.23 Extension to Bunsay Car Park

3.1.24 As part of the redevelopment of the Bunsay clubhouse and the 50 new lodges proposed in this area the existing Bunsay car park would be extended to the south to create an additional 67 spaces. Whilst the existing car park is gravelled and informal the application states that there is space for 54 vehicles at present.

3.1.25 Golf Academy

3.1.26 Planning permission is also sought for a new golf academy building which would be located to the east of the main Warren Clubhouse building to the rear of an existing belt of trees. This part of the application site has a fairly steep slope and the building would be part single storey, part two storey to accommodate this. The two storey element would be roughly rectangular with a further single storey projection to the south at first floor level. At ground floor level the building would contain a small kitchen, and two classrooms (including indoor putting class) as well as stairs leading to the first floor which would contain an office, toilet, small seating area and practice bays (including two range class bays).

3.1.27 Overall the proposed building would measure a maximum of 29 metres wide by 13.5 metres deep. The main two storey section would measure 15 metres wide by 9 metres deep at ground floor and 13.5 metres deep at first floor level. The single storey section at first floor level would measure a further 14 metres wide by 4.8 metres deep. The maximum ridge height of the building (when viewed from the west) would be 9.1 metres with an eaves height of 5.5 metres, when viewed from the east the building would have a ridge height of 6.4 metres and an eaves of 4 metres (to allow for the practice bays).

3.1.28 The building would be finished in steel and timber clad construction.

3.2 **Conclusion**

3.2.1 The purpose of the planning system is to contribute to the achievement of sustainable development. In determining whether a proposal would represent sustainable development there are three overarching objectives which must be considered;

- An economic objective,
- A social objective, and
- An environmental objective.

Paragraph 38 of the National Planning Policy Framework (NPPF) states that *‘Decision-makers at every level should seek to approve applications for sustainable development where possible.’*

3.2.2 The application site is located in a rural area outside of the settlement boundary and where policies of planning restraint apply. In assessing the information submitted as part of this application it is considered that no identified need for the new holiday lodges has been demonstrated as required by Local Development Plan (LDP) policy E5. Furthermore, the introduction of the proposed holiday lodges across the two sections of the application site would introduce an incongruous and visually harmful development which would have an urbanising impact upon the rural character and

appearance of the site. In this respect, the proposal would not accord with policies S1, S8, E5 and D1 of the LDP.

- 3.2.3 The application site has a number of adjacent residential dwellings and it is considered that the redevelopment of the Bunsay clubhouse and use of the land to the south of the Bunsay clubhouse for 50 holiday lodges would result in harm to the amenity of the area through noise and disturbance and would materially harm the amenity of the occupiers of the dwellings along Little Baddow Road, namely Apple Cottage and No's 1 and 2 Hawkins Farm Cottages contrary policies E5, D1 and D2 of the LDP.
- 3.2.4 The application site contains a number of heritage assets, including 'Wayside' which is a non-designated heritage asset for the purposes of paragraph 197 of the NPPF. It is considered that the proposal would cause some harm to the setting of this heritage asset, although it is acknowledged that this would be limited. However, given that the need for the additional holiday units is not accepted, and the harm to the landscape that the development would cause, it is considered that the public benefits of the proposal would not outweigh the limited harm that the 20 lodges would cause to the non-designated heritage asset Wayside. The proposal would therefore result in unacceptable harm to this non-designated heritage asset contrary to the NPPF and LDP Policies E5, D1 and D3.
- 3.2.5 Essex County Council (ECC) Highways have been consulted on this application and have raised no objection subject to conditions. One condition that they have recommended is the submission of a workplace travel plan and monitoring fee (£5000). As this relates to the payment of monies it is considered that this would be best dealt with through a S106 legal agreement. The agent has agreed to the principle of the condition, however in the absence of a completed S106 agreement the impact of the proposal cannot be fully mitigated. As the application site is located within a rural setting with little to no access to public transport the workplace travel plan is considered necessary to reduce the use of single occupancy vehicles as much as practicable in relation to staff working at The Warren Estate.
- 3.2.6 Overall whilst it is acknowledged that the proposal has the potential to generate employment and generate economic benefits through job creation and increased spending within the District and adjoining Districts this is not considered to outweigh the material harm that has been identified and overall it is considered that the proposal would not represent sustainable development and would be contrary to the NPPF and as well as the LDP.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications

- 54-57 Planning conditions and obligations
- 80-84 Building a strong, competitive economy
- 91-101 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
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Change
- E1 Employment
- E3 Community Services and Facilities
- E5 Tourism
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- N3 Open Space, Sport and Leisure
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Maldon District Vehicle Parking Standards SPD (VPS)
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG)
- Woodham Walter Village Design Statement 2017

4.4 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing:

- Submission of a workplace travel plan accompanied by a monitoring fee of £5,000.

5. MAIN CONSIDERATIONS

5.1 Environmental Impact Assessment (EIA)

- 5.1.1 The application represents Schedule 2 development under the EIA Regulations (under section 12 tourism and leisure 12c: Holiday villages and hotel complexes outside urban areas and associated developments; and 12f: Golf courses and associated developments). In accordance with the EIA Regulations the applicant sought a screening opinion from the Council prior to submission of this application to determine whether the proposal would be EIA development (reference 19/00988/SCR). The screening opinion given by the Council was that the proposal is not EIA development and, therefore, it is not necessary for an Environmental Statement to be submitted as part of this planning application.

5.2 Principle of Development

- 5.2.1 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.
- 5.2.2 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.
- 5.2.3 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*". The policy goes on to state that "*development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for either intern alia....*"
- b) Employment generating proposals (in accordance with Policy E1)*
 - c) Community services and facilities to meet local need (in accordance with Policy E3);*
 - f) rural diversification, recreation and tourism proposals (in accordance with Policies E4 and E5), and*
 - j) Green infrastructure, open space and sports facilities (in accordance with policies N1, N2 and N3)."*
- 5.2.4 The application site is located outside the defined settlement boundary for Woodham Walter and therefore, the impact of the development on the intrinsic beauty of the countryside should be assessed along with exception policies E1, E3, E4 E5, N1, N2 and N3.
- 5.2.5 Paragraph 83 of the NPPF states that to support a prosperous rural economy, planning policies and decision should enable:

- “a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”*

Principle of development – Holiday Accommodation

- 5.2.6 The site is proposed to be used all year around. The lodges are to be used for holiday purposes only and not permanent residential accommodation. It is common practise for conditions to be imposed to restrict the use of a site for holiday purposes only and not as a person's sole or main place of residence. There are cases where full year round occupation was secured by the imposition of conditions requiring site owners to maintain an up to date register of the names of all owners/occupiers of individual caravans on the site, and of their main home which was considered to be sufficient to control permanent occupancy and would also be enforceable (Application Ref.: FUL/MAL/15/0057, Eastland Meadows Caravan Park and Appeal Ref.: APP/X1545/W/16/3146670). Furthermore, the agent has made it clear that the proposed holiday lodges are to be for short term holiday lets and has referenced a recent committee report presented to East Suffolk District Council for a development stated as ‘Redevelopment of golf course and vacant paddock land for the siting of 170 holiday lodges, 3 tree houses, new Facilities Building, Maintenance and Housekeeping Building, car parking and associated highway works’ where conditions were recommended which restricted the occupancy of the holiday lodges to no more than 56 days in total in any one calendar year by one person or persons. Given the nature of the proposal and the justification given for the development it is considered that should planning permission be recommended conditions could be attached to restrict the use and occupation of the lodges.
- 5.2.7 On that basis, any concerns regarding using the caravans as permanent residence, due to the year round operation of the site could be overcome, by the imposition of conditions as stated above.
- 5.2.8 Policy E5 states that *“The Council will support developments which contribute positively to the growth of local tourism in a sustainable manner and realise opportunities that arise from the District’s landscape, heritage and built environment.”*
- 5.2.9 The policy goes on stating that *“Development for new tourist attractions, facilities and accommodation will be supported across the District where it can be demonstrated that:*
- 1) There is an identified need for the provision proposed;*
 - 2) Where possible, there are good connections with other tourist destinations, the green infrastructure network and local services, preferably by walking, cycling or other sustainable modes of transport;*

- 3) *There will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people; and*
- 4) *Any adverse impact on the natural and historic environment should be avoided wherever possible. Where an adverse impact is unavoidable, the proposal should clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. Where a development is deemed relevant to internationally designated sites, the Council will need to be satisfied that a project level HRA has been undertaken and that no potential significant adverse impact has been identified.”*

5.2.10 Therefore, whilst it is noted that the Council will support the growth of local tourism, this is only where the criteria listed above from LDP policy E5 are met. It is therefore necessary to assess the proposed holiday lodges against these criteria. Looking at the following:

“1) There is an identified need for the provision proposed”

5.2.11 It is noted that the Parish Council as well as a number of letters of representation have made reference to a recent appeal decision relating to the site Meadows Barn, Bassets lane, Woodham Walter which is located approximately 700 metres to the north west of the application site. This application sought planning permission for 10 holiday lodges and was refused and subsequently dismissed at appeal with the inspector stating *‘Both parties have made reference to the Warren Estate, also in Woodham Walter, which the appellant states have 102 holiday lodges on site. The Council submits that this extensive local provision fulfils any tourism need within the area and any further accommodation would be surplus. In the absence of more than limited evidence from the appellant to suggest that there is a need for further tourist accommodation in the area, I share the Council’s view which I give significant weight.’* Whilst reference to this appeal decision is understood, each application for additional tourism development has to be assessed against the information submitted to demonstrate need. In the appeal reference the Inspector found that against the limited information submitted by the appellant they agreed with the Council’s view. In this case it is still necessary to assess the information submitted by the applicant to assess whether there is a need for the holiday accommodation submitted.

5.2.12 In relation to this criterion the application has been supported by a document titled ‘Tourism Development at The Warren Estate Report Findings’ by destination research. This report also includes a letter from the Strategic Tourism Manager of visitessex.com at Essex County Council (ECC) and a further letter of support from the Business Development Manager at Hoseasons. During the consultation period of this application a further letter in support of the proposal was submitted by the agent from the Business Development Director at Hoseasons.

5.2.13 In relation to the first requirement of policy E5, the submitted information states the following (summarised key points):

- A market supply analysis of existing holiday lodge and caravan villages within an approximate 10 mile radius of the Warren Estate has been undertaken. This finds that there is a limited supply of holiday village-type accommodation and this is mostly near coastal areas.

- There are currently 19 Hoseasons 'Go Active' sites set in rural and coastal locations across the UK, with the closest being in Norfolk. Therefore, report concludes that the new 'Go Active' lodges would be unique to the Maldon area and would significantly enhance the existing accommodation supply within the district.
- The market supply analysis shows that whilst some of the competing establishments identified in this study offer some of the services provided by the Warren Estate, the proposed new facilities will allow the developers to offer a range of accommodation and leisure activities that will be unique to the local area. This will increase the volume of overnight stays in Maldon and have a direct positive impact on the local economy and employment market.
- Need and Demand Analysis has also been undertaken which found that unit occupancy rates for the main holiday season in Essex (June to September) consistently above 70% and averages below 50% during the out of season months (31% at its lowest point in January). Report goes on to consider that the proposed new accommodation at The Warren Estate will perform better than the averages due to:
 1. According to Visit England's research, properties located in rural locations are more likely to perform well during low season months, due to the range of out-of-season leisure opportunities that are available, including walking, sailing, fishing and golf courses nearby.
 2. Furthermore, according to Mintel research, properties located within golf courses, as is the case with this proposal, are more likely to perform well during the low season months, mainly due to golf-related short breaks.
 3. Branded holiday resorts (Hoseasons 'GO ACTIVE', Center Parcs, etc.) often achieve very high occupancy rates (Center Parcs reports occupancy levels of between 94% to 97% for their parks).
- The report finds that Maldon is increasingly relying on the day visitor market which brings challenges to the district's visitor economy.
- Report states 97% of all trips to Maldon are tourism day visitors and 3% account for overnight stays. Essex attracts proportionally more overnight visitors (4%). This is important because overnight visitors bring significantly more economic benefit to the local economy compared to day visitors.
- In addition, overnight visitors to Maldon spend less during their visits (£148.40 per trip and £43.15 per night) compared to the county average (£176.12 per trip and £53.42 per night). The report considers that the proposed accommodation should be seen as a great opportunity to increase the proportion of overnight trips to the area as well as the average expenditure per trip as the accommodation proposed under the 'Go Active' brand should be seen as an opportunity to increase the average spend per trip.
- Overall the report concludes that the proposed development has the potential to significantly benefit the tourist economy within the Maldon District in a number of ways:
 - The increase in holiday stock (even assuming occupancy levels of between 42% and 60%) equates to an increase of 89,352 staying visitor nights annually, an increase for the district of 17% (based on 2018 figures).
 - The project represents a cost to build investment of over £7 million into Maldon holiday bedroom stock.

- This increase in staying visitor nights could add over £2.7 million in staying visitor spend to the visitor economy and £677,000 to the Maldon economy.
- Companies and suppliers will benefit from an estimated additional £1 million in annual spend (of which £700k would be local in Maldon district) on products and services by The Warren Estate.
- The proposed Hoseasons 'Go Active' brand is underrepresented in the south and east of England.
- A letter of support is appended from Lisa Bone (Strategic Tourism Manager at ECC) which advises that there is a lack of good quality accommodation throughout Essex which hinders the ambition to grow overnight stays and short breaks. The letter also advises that there is a gap in the market in Essex for a rural, experiential holiday village like this.
- Two letters of support from Hoseasons have also been submitted which make the following points:
 - The short break lodge sector is an area of the market which is extremely buoyant at present and has enjoyed sustained growth over the past ten years. The demand for high specification accommodation in superb locations has reached an all-time high.
 - The Go-Active brand will add a new face to the region as there is currently no Go-Active site from Norfolk to Sussex. Also, with the closest Centre Parcs being in Brandon there is little competition to stop customers coming to The Warren Estate and visiting Essex.
 - We continue to concentrate our efforts towards working closely with partners who have developments within a two hour drive time of major towns/cities. Would anticipate The Warren Estate to attract the London market as it will be an easy access for a short break holiday.
 - The traditional season of Easter to the end of October is becoming something of a thing of the past and there is an increase in short breaks.
 - Important to add relevant special all weather amenities and indoor activities of a suitable size and scale for the size of the resort.
 - East of England suffers from an underrepresentation of luxury lodges within the Hoseasons portfolio and see a case for higher demand than supply can keep up with.

5.2.14 In reviewing the evidence that has been submitted to demonstrate a need it must be noted that there is no guarantee that the 50 lodges will be accepted under the Hoseasons 'Go Active' brand, the application states that they are the applicant's preferred partner, but this is not something that can be dealt with under a planning application. It is the use and proposal itself that must be considered.

5.2.15 In assessing the market supply analysis, a search for holiday lodge and caravan parks has only been undertaken within a 10 mile radius of the application site. It is considered that this is limited search area given the scale of the proposal and it is considered that a more realistic assessment would consider a wider area. Furthermore, no detail is given of the holiday lodge or caravan parks found within the 10 mile radius such as their names with only a simple map of locations given.

5.2.16 Having looked within the Council's records and online it can be seen that there appears to be other holiday lodge/caravan parks within a relatively close distance to

the application site that do not appear to have been taken into consideration in this report. Examples of this include Steeple Bay Holiday Park, Chigborough Farm (Great Totham), and Eastland Meadows in Bradwell on Sea (which do not appear to be shown on the map) and also in some places only one icon for accommodation is shown where it is known that there are several holiday resorts (such as in Heybridge or St Lawrence). Furthermore, the report includes no analysis of these resorts or their facilities in terms of a comparison to the proposal and no details of size or occupancy of these resorts. The report states that they have identified a lack of reliable occupancy statistics at a local level, however occupancy statistics have not even been included for the existing holiday lodges within The Warren Estate (The Warren Estate Lodges also known as Herbage Park) and in fact no mention is made of these lodges within the report other than stating they are privately owned. Having viewed the Hoseasons website as well as The Warren website it appears that there are lodges available for short term holiday lets. Given that the report seeks to justify an additional 70 holiday lodges within the wider Warren Estate it is surprising that no further mention is made of the existing holiday lodges or their occupancy rates. It is appreciated that the proposal seeks a different model of holiday accommodation (all short term lets as opposed to a mixture of short term lets and private ownership), however details of the occupancy of the existing lodges which are available for short term holiday let would be a logical place to start justification for any expansion.

5.2.17 It is acknowledged that the proposal includes additional facilities such as the golf academy and the redevelopment of the Bunsay clubhouse to include an indoor activities hall and to this end the applicants state *‘Visitors will have the opportunity to undertake sporting activities such as golf, archery, fitness gym and swimming, and also walk or cycle through the extensive Warren Estate grounds as well as visiting the other established tourist attractions in Maldon.’* – Planning Statement paragraph 6.9. However, it has not been clearly demonstrated that existing holiday parks within the area do not offer similar facilities. For example, Steeple Bay Holiday Park appears to offer a heated pool, entertainment, play area, fishing and a bar. It is appreciated that this proposal would be offering further facilities and more indoor facilities however the information that has been submitted in support of this proposal is not sufficient to demonstrate that there is an identified need. Furthermore, the information submitted in relation to the additional facilities to be offered such as archery and horse riding is not specific in terms of how these additional facilities would be offered or arranged and they are not specifically included within the application. It is also noted that the existing gym and swimming pool (known as Warren Active and available to join under membership) are already present on the wider site (within The Warren Estate Lodges also known as Herbage Park section of the site) and are of a size commensurate with the existing development. The swimming pool particularly only measures 14 metres by 7 metres and it is questionable whether this would be able to provide adequate facilities as detailed in the application for all existing lodge users, members of Warren Active and the proposed lodges.

5.2.18 When viewing The Warren Estate’s website it can be seen that in relation to the existing lodges on site there are still lodges available to buy as a holiday home as well as lodges available to book for short breaks. Given that these existing lodges have access to the facilities already present within the wider site and have not been fully developed (at the time of looking it appeared that there are 9 plots for lodges available) it is felt that this raises questions over the need for additional holiday lodges without further justification. Online research has also found that within

approximately 13 miles of the application site (according to the Hoseasons website) is The Essex County Club which is set within the grounds of an 18-hole golf course and also offers holiday lodges with access to facilities such as bar, fishing, gym, spa etc. It is therefore considered that there is a large number of holiday caravan/lodge parks within the District of Maldon and close to the District. Whilst this shows a demand for such type of holiday accommodation in the area, on the flipside it shows the extent of the availability and therefore, the lack of need of an additional site (without justification).

- 5.2.19 It is noted that letters of support have been submitted from Hoseasons and the Strategic Tourism Manager from Visit Essex. The letters from Hoseasons provide mainly generic support for the proposal in relation to the boost in the short break lodge sector and cite the lack of any 'Go Active' brand resorts from Norfolk to Sussex. However, the generic boost in short break holidays does not necessarily translate to a need for the proposal in this location. Also, the lack of any 'Go Active' brand resorts does not mean there are not holiday resorts within the area, just that they are not branded 'Go Active' ones which is not something that can be controlled through planning – it is the use that must be considered and not the potential brand. The letter from the Strategic Tourism Manager at Visit Essex provides more specific support and adds weight to the argument for the proposal. However, whilst this adds weight to the application it does not outweigh the lack of information and evidence within the main assessment by destination research. Furthermore, it is also not clear from the letter whether this was written when the proposal included more elements much as the multi-use-games area.
- 5.2.20 In light of the above, it is considered that the submitted information does not sufficiently demonstrate a need for the proposed type of holiday accommodation in this area and thus, the first requirement of the policy is not considered to be met.
- 5.2.21 *“2) Where possible, there are good connections with other tourist destinations, the green infrastructure network and local services, preferably by walking, cycling or other sustainable modes of transport;”*
- 5.2.22 The application site is located within the rural countryside and is not well connected in terms of sustainable modes of public transport i.e. bus or rail. However, the application site is well served via the public footpath network with two public footpaths running through the site linking into the village of Woodham Walter. The application site is also well connected in relation to the green infrastructure network with areas within the site designated as green infrastructure and Woodham Walter Common being located to the west of the site. Woodham Walter itself has limited facilities for tourists with public houses (The Bell, The Queen Victoria and The Cats) but no shops or other facilities. Woodham Walter is also not served by any regular bus services, there are pre-bookable serves to local hospitals and Chelmsford run through a local taxi firm but no regular buses which could be used to gain access to or from the site for holiday makers.
- 5.2.23 The Warren Estate offers some facilities for any future users of the proposed lodges and on this basis, it is accepted that the proposed holiday accommodation would result in less vehicular movements than other holiday accommodation with no or very limited onsite facilities. It is however considered that any future users of the site

would travel away from the site to access facilities such as shops and other local attractions (and reference is made to this within the destination research report).

5.2.24 On balance it is considered that as the proposal is in connection with an existing facility and is well connected into the public footpath network the proposal would accord with criterion 2 of LDP policy E5.

5.2.25 “3) *There will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people; and 4) Any adverse impact on the natural and historic environment should be avoided wherever possible. Where an adverse impact is unavoidable, the proposal should clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. Where a development is deemed relevant to internationally designated sites, the Council will need to be satisfied that a project level HRA has been undertaken and that no potential significant adverse impact has been identified.*”

5.2.26 In relation to the last two criteria these will be fully considered and assessed under the relevant sections of this report below.

5.2.27 As 50 of the proposed holiday lodges would be sited on land currently used as part of a golf course, LDP policy N3 must also be considered in relation to the principle of the development. Policy N3 states that proposals for development on open space, sports and recreational buildings and land, will not be allowed unless:

- “1) *Through an assessment there is clear evidence that the open space, buildings or land are surplus to requirements to meet local needs; or*
- 2) *The resulting loss would be replaced by new open space, buildings or land of equivalent or better provision in terms of quantity and quality and in a suitable location accessible by the local community; or*
- 3) *The development is for alternative sports and recreational provision and the need for that provision clearly outweighs the loss of open space, buildings or land.*”

5.2.28 No assessment showing that the fairways to be lost to the proposed holiday lodges are surplus to requirements has been submitted and new fairways would not be provided in an alternative location. Instead to offset the loss of the fairways and golf provision a new golf academy building is proposed within the wider Warren Estate. The supporting information submitted with the application states the golf academy will result in ‘*The provision of a new state of the art golf training centre to include teaching and custom fit studios, practice bays, new short games areas, classroom and indoor putting studioAs well as providing mitigation for the loss of the four holes this will provide a valuable local resource to drive participation in golf and provide social and leisure experiences to individuals and community groups.*’ On this basis and considering that the new golf academy would be located within the wider Warren Estate and still accessible to the local community the loss of the fairways is considered to be acceptable (notwithstanding that the principle of further holiday accommodation has not been accepted as detailed above). The requirements of Policy N3 are therefore considered to be met.

- 5.2.29 Overall it is considered that the principle of the holiday accommodation is not accepted in this case in relation to LDP policy E5.

Principle of development – Redevelopment of Bunsay Clubhouse

- 5.2.30 The Bunsay Clubhouse is an existing building which is associated with the lawful use of the wider site as a golf course. There is no objection to the principle of refurbishing and redeveloping this existing clubhouse in connecting with its existing use in accordance with policies S7, E3 and E5 of the LDP.

Principle of development – Golf Academy

- 5.2.31 No objection is raised to the principle of the proposed golf academy building which would provide teaching and custom fit studios, practice bays, new short games areas, classroom and indoor putting studio. This use is associated with and ancillary to the main use of The Warren Estate as a golf course. The principle of this element of the proposal is therefore supported by policies S7, E3 and E5 of the LDP.

5.3 Employment and Economic Impact

- 5.3.1 The District's economy comprises employment in high quality manufacturing, construction, business and light and general industry, as well as employment in sectors such as education, health, retail and tourism. All these sectors have a positive contribution to the local, regional and national economy.
- 5.3.2 Employment generating proposals in accordance with Policy E1 (criterion b) is one of the exceptions to the focusing of new development within settlement boundaries (provided that the intrinsic character and beauty of the countryside is not adversely impacted upon).
- 5.3.3 Policy E1 states that the Council will encourage employment generating developments and investment in the District to support the long-term growth vision outlined in the Council's Economic Prosperity Strategy (EPS) and that a minimum of 2,000 net additional jobs will be created in the District by 2029. This is to be achieved through the regeneration, modernisation and expansion of existing employment sites, and through the provision for new employment sites at the strategic allocations and South Maldon Garden Suburbs and other high quality and sustainable locations, including town centres, education and health facilities and with regard to other policies in this Plan.
- 5.3.4 The planning statement and 'Tourism Development at The Warren Estate Report Findings' report submitted in support of this proposal state that the proposal is *'calculated to generate 97 full time equivalent jobs across three districts in Essex (Maldon, Chelmsford and Colchester) and a net impact of £3.9 million. The increase in staying visitor nights could add over £2.7 million in staying visitor spend to the visitor economy in Essex and £677,000 to the Maldon economy.'*
- 5.3.5 The agent for this application has cited LDP policy E1 in support of the proposal. It is clear from reading LDP policy E1 that it relates to employment land and the retention of provision of further employment land in accordance with this policy. Whilst it is

not disputed that this proposal would generate employment and result in a boost to the local economy Policy E1 is not considered to be directly relevant.

- 5.3.6 Whilst LDP Policy E1 is not considered to be directly relevant the LDP and NPPF is supportive of sustainable development, with the economic impact forming part of this consideration (alongside social and environmental impacts). The economic impacts of the proposed development, including the potential for new jobs, therefore has to be taken into consideration in the weighing up of the application and weighs in favour of the proposal.

5.4 Layout, Scale, Design and Impact on the Character of the Area

- 5.4.1 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.
- 5.4.2 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context. Furthermore, as the application site lies outside of the defined settlement boundary and according to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the garden Suburbs and the Strategic Allocations planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.4.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.4 The Woodham Walter Village Design Statement (VDS) was formally endorsed by Maldon District Council (MDC) as a material planning consideration on 13 June 2017. This VDS seeks to promote good design and to set out the character of the settlement of Woodham Walter.
- 5.4.5 The application site comprises the majority of The Warren Estate and overall has a rural and soft landscaped appearance. Sections of the application site comprise golf courses which are a mixture of fairways with well maintained grass and clusters of trees and shrubland. Other areas of the site include open areas of grassland, small wooded areas as well as The Warren Estate Lodges which are sited in a former quarry but restored via natural re-colonisation of species and is now referred to as 'Herbage Park'. The main Warren clubhouse is a Grade II listed building with a small garden area to the north and east of the main clubhouse. The Warren House (outside of the application site and in separate ownership) is also a grade II listed building which is located to the north of the main clubhouse, and a dwelling known as 'Wayside' which is located within the application site and to the north east of the main cluster of

buildings around the centre of the site is a non-designated heritage asset. The overall character of the application site is therefore rural with a tranquil setting.

5.4.6 Landscape Impact

- 5.4.7 The application site is identified in the Landscape Character Assessment within the MDDG as F - Wooded Farmland Landscape (F5 -Little Baddow and Danbury Wooded Farmland which is shared with Chelmsford City Council) where the landscape is predominantly elevated undulating hills or ridges and slopes. It includes a mixture of arable and pasture farmland, blocks of mature mixed and deciduous woodland (including areas of ancient and semi-natural woodland), copses, hedges and mature single trees, and mature field boundaries. The landscape provides framed views to adjacent character areas. The area comprises of a network of quiet and often tree-lined narrow lanes. There is a sense of enclosure and tranquillity and an intimate character within pockets of the area (away from the main A414 corridor).
- 5.4.8 The main sensitive key characteristics and landscape elements within this character area include large areas of dense deciduous and mixed woodland, an intricate mosaic of commons, pasture and heathland spread throughout the area and several mature field boundaries (containing several mature trees), all of which are sensitive to changes in land management. The network of quiet rural lanes is also sensitive to change or increased traffic associated with new development. There is a strong sense of historic integrity, resulting from patches of ancient woodland and a prominent Iron Age hill fort (which is a visible historic feature). There are also several important wildlife habitats within the area (including 20 sites of importance for nature conservation, comprising ancient woodland, grassland and commons), which are sensitive to changes in land management. Overall, this character area has a relatively high sensitivity to change. The Woodham Walter VDS gives a further overview of the area settlement characteristics.
- 5.4.9 The application has been supported by a Landscape and Visual Impact Assessment (LVIA). The submitted LVIA gives an overview of the surrounding landscape as well as the impact of the proposed development. It is noted that the plan shown within the noise impact assessment does not reference the final submitted layout of the 50 lodges (which should planning permission be granted would be controlled through a condition). The report concludes that the site and surrounding landscape is able to accommodate the proposed change. The report states that *‘The landscape effects of the proposed development on the wider character area are limited by the enclosed nature of the site’s boundaries, undulating, wooded topography of the landscape and intervening vegetation on field boundaries. These factors limit the effects of the proposals, helping to maintain the character of the area.’* And that *‘there would be a low magnitude of change to the receiving landscape character under a 500m radius from the site boundaries. This judgement is based on the change in land cover, and by the size and height of the holiday development even though it is contained within boundary vegetation that will be retained and enhanced. The introduction of discreet elements into the landscape will not alter the balance of the wider landscape character, the magnitude of change will be low. The result is therefore considered to be a slight/moderate to moderate/slight effect on the landscape character in the long- term.’*

5.4.10 In relation to the impact of the development at site scale the report concludes that this is limited to the specific areas in which the holiday lodges would be situated and concludes that the overall magnitude of change at site scale is considered to be low, and therefore to these landscape receptors the effect is considered to be slight/moderate. The report considers that visual receptors would be limited to the immediate area within and surrounding the proposed site with the following effects identified:

- Transport routes - Slight; one road (Little Baddow Road), reducing to effectively no change through mitigation planting within 7 years.
- Settlements, residential and commercial properties - Slight to moderate/slight to slight: four identified properties or groups however three of these properties are within The Warren Estate itself.
- Public Rights of Way (PRoW) and open public spaces - Slight to slight/moderate: Three PRoWs have glimpsed and non- continuous views of the site.

5.4.11 As part of mitigation for the visual impact of the proposal additional soft landscaping and planting is proposed as follows:

- Retention of boundary vegetation with an additional native species hedgerow stepped inside the western, northern and eastern boundaries of site for 50 lodges where possible;
- Within site for 20 lodges tree groups and hedgerow shrub planting;
- Any tree losses through subject to replacement planting.

5.4.12 The contents and views of the submitted LVIA are noted, however when the site was visited clear views into and across the application site where the 50 lodges are proposed, particularly from Little Baddow Road and Common Lane were possible as well as from the public footpath along the eastern boundary. Whilst the site boundaries are defined, in the most part, by hedgerows and trees, which provide a soft and rural boundary, these are in places sparse and allow for views across the site. It is appreciated that additional soft landscaping is proposed however the introduction of 50 holiday lodges with the associated use of the land would result in a significant change in the character and appearance of this section of the application site. Many of the trees and hedgerows surrounding the application site comprise deciduous species, and therefore the impact in the winter months when the trees lose their leaves will also be greater. The supporting LVIA and accompanying viewpoints are all from September 2018 when the trees and hedgerows were in full leaf and do not represent the impact of the proposal during the winter months. A site visit has been undertaken during the winter months and clear views across the site were possible from all three public vantage points, these were also not just glimpsed views but sustained views (particularly from Little Baddow Road and Common Lane). Furthermore, given the orientation of the site sloping from the north west to the south east the views afforded from Little Baddow Road and Common Lane allow for long views across this part of the site which is currently relatively open within (comprising fairways).

5.4.13 The area of land where the 50 lodges are proposed is land which currently forms a part of the Bunsay golf course. Within this part of the site, there are trees which have been sporadically planted in groups and between the fairways and sandy bunkers. To the south of the location for the 50 lodges is a woodland strip which is designated as a Local Wildlife Site (Ma02) and acts as a green corridor to wildlife across the site. It is considered that the introduction of 50 holiday lodges (with associated necessary

infrastructure) within this section of the site would introduce an incongruous and visually harmful development which would have an urbanising impact upon the rural character and appearance of this part of the site. It is also considered that at present this part of the application site is characteristic of the Landscape Character Assessment Wooded Farmland Landscape (F5 -Little Baddow and Danbury Wooded Farmland) and has a sense of tranquillity which would be eroded by the proposed development.

- 5.4.14 In relation to the 20 lodges proposed adjacent to 'Wayside' it is acknowledged that views would not be possible of this element of the proposal from outside of the application site. However, there is a public footpath which runs along the internal access road within the site to the south of this area of the proposal. This would afford clear views of the proposed development and the change in use of the land would result in a significant change in the character of this area of the site which would also harm the existing rural nature of this part of the application site as well as the sense of enclosure and tranquillity which this part of the site possesses.
- 5.4.15 It is acknowledged that additional soft landscaping is proposed as part of mitigation for the visual impact of the proposal, however this would take time to mature and provide sufficient cover and the purpose of soft landscaping is to assist in softening the impact of development and helping it to assimilate into its environment, not to screen and block development. Furthermore, whilst soft landscaping is an important part of any new development of this scale its retention in the longer term cannot be secured.
- 5.4.16 It should be noted that planning permission has previously been granted within the wider Warren Estate for a number of holiday lodges (102 over three permissions) however these are all sited within a former gravel pit and therefore within a different landscape setting to the current proposed holiday lodges.
- 5.4.17 No objection is raised to the landscape impact of the proposed golf academy or works to the Bunsay clubhouse. The proposed new golf academy would be viewed within the wider setting of the existing golf facilities being located close to the main complex of buildings on The Warren and be of a use ancillary to the existing golf course. Furthermore, the building has been designed to appear as a single storey structure from the east which would lessen its visual impact from the open grassland to the east. The Bunsay clubhouse alterations do not result in any increase in floor area or extend the clubhouse into the wider landscape.
- 5.4.18 Overall it is considered that the proposed holiday lodges would introduce an incongruous and visually harmful development which would have an urbanising impact upon the rural character and appearance of the site and erode much of the open nature of these parts of the application site. In this respect, the proposal would not accord with policies S1, S8, E5 and D1 of the LDP.
- 5.4.19 Layout, Scale and Design
- 5.4.20 Holiday Lodges
- 5.4.21 In relation to the proposed lodges these would fall under the statutory definition of a caravan of the Caravan Sites and Control of Development Act 1960 as supplemented

by Section 13 of the Caravan Site Act 1968. The agent has submitted details to state that the 50 lodges proposed on the Bunsay golf course would *'reflect the barn style clubhouse that fronts the highway in the materials used within the lodge construction. This will be achieved by mixing black weather board cladding with terracotta and black roofing, adding interest to the design through use of a mix of cream, olive and light grey windows. Externally all lodges will have a decked terrace with low height fencing.'* And that the 20 lodges adjacent to 'Wayside' would *'stay in keeping with the natural area context, achieved by retaining a barn like pitched roof and use of natural timber cladding. These also will have a decked terrace with low level fencing.'* The external appearance of the lodges could be controlled through condition. Plans showing the layout for both areas of land to be used for holiday lodges have been submitted. In relation to the 20 lodges the plan shows them situated set around an almost circular internal access road, with four lodges to the centre of the site. In relation to the 50 lodges the plan shows lodges set off internal access roads within the site and set along most of the southern boundary and predominantly within the eastern half of the site. The layout of the lodges could be controlled through an appropriately worded planning condition.

5.4.22 In terms of their layout, scale and design the lodges would appear as standard timber holiday lodges and there is nothing objectionable to their appearance in this regard. However as detailed above the introduction of these lodges onto the rural landscape would harm the rural character and appearance of the site contrary to policies S1, S8, E5 and D1 of the LDP.

5.4.23 Bunsay Clubhouse

5.4.24 The proposed alterations to the Bunsay Clubhouse would result in the replacement of the existing relatively dilapidated barn style sections with new black weather boarded projections of the same footprint but with lower ridge height. A modest covered porch is proposed to the front elevation which would be open sided and finished in materials to match the main building. It is considered that the alterations would be in keeping with the architectural style and finish of the existing clubhouse and would respect and enhance the character and appearance of the existing building.

5.4.25 The alterations include the creation of an external patio/seating area which would be used in connection with the new larger restaurant facility. This patio area would measure 246 metres squared and would be sited to the south of the building allowing for views south towards the lodges. Whilst the patio area is relatively large it would not extend much beyond the most southern point of the building itself (3 metres) and would be viewed in connection with the existing use of the clubhouse. On this basis there is no objection to the proposed patio area.

5.4.26 Extension to Bunsay car park

5.4.27 Part of the proposal includes an extension to the south of the existing Bunsay car park. The car park is currently finished in gravel with no formal parking spaces. The submitted documentation states that there are 54 spaces at present and the extension will create an additional 67 spaces, resulting in a car park of 121 spaces. It is not specified what finish the car park would have or how the spaces would be marked out, although this is a matter that could be controlled via a planning condition.

5.4.28 Currently the car park is visible from Little Baddow Road set behind a hedgerow which is sparse in places. As part of the proposal the car park entrance would be formalised with a new access road running around the perimeter set further back from the northern site boundary than the current car parking area. Additional soft landscaping is proposed to the north of the car park. The extension south of the car park would result in the loss of a row of large conifer trees.

5.4.29 In terms of the layout, scale and design of the car park it is considered that the extension to the car park would be likely to result in some harm to the rural character and appearance of the site. It would result in additional hardstanding and the loss of a row of evergreen conifer trees which are visible from Little Baddow Road, and also help to contain views of the car park from the existing fairways. However, this harm can be mitigated through the use of conditions requiring details of the surface finish as well as full details of the soft landscaping, and it would, on balance, be acceptable.

5.4.30 Golf Academy

5.4.31 The golf academy building would be located to the east of the main Warren Clubhouse building to the rear of an existing belt of trees. This part of the application site has a fairly steep slope and the building would be part single storey, part two storey to accommodate this. Overall the proposed building would measure a maximum of 29 metres wide by 13.5 metres deep. The main two storey section would measure 15 metres wide by 9 metres deep at ground floor and 13.5 metres deep at first floor level. The single storey section at first floor level would measure a further 14 metres wide by 4.8 metres deep. The maximum ridge height of the building (when viewed from the west) would be 9.1 metres with an eaves height of 5.5 metres, when viewed from the east the building would have a ridge height of 6.4 metres and an eaves of 4 metres (to allow for the practice bays).

5.4.32 The building would be finished in steel and timber clad construction and would reference materials (timber cladding) found on the Warren Clubhouse. The overall scale of the building is considered to be appropriate for its location and the building makes use of the sloping site to appear as single storey from the east. There is existing vegetation around the site of the proposed building which would help it to assimilate into its surroundings. Overall it is considered that the building is well designed to operate functionally as well as minimise its impact upon the landscape. It would utilise materials to ensure that it appears in keeping with its wider surroundings and would not result in any harm to the setting of heritage assets.

5.5 **Heritage Impact**

5.5.1 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the approved Maldon District Local Development Plan (MDLDP) states that development proposals that affect 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.

- 5.5.2 The Warren Estate contains a number of heritage assets including Grade II listed buildings as well as the non-designated heritage asset 'Wayside'. The Council's Conservation Officer has been consulted on this application and advises that the proposal will affect the setting of Wayside, a cottage which may be regarded as a non-designated heritage asset for the purposes of paragraph 197 of the NPPF. The Conservation Officer acknowledges the other heritage assets (such as the main Warren clubhouse) but considers that Wayside is the only one which would be affected by the proposed development. Whilst the golf academy is proposed close to the main complex of buildings the conservation officer is of the view that it would broadly resemble a barn and would not seem out of keeping bearing in mind the agricultural history of the site.
- 5.5.3 In terms of the special interest of Wayside, it was designed c.1926 by the architectural firm Read & MacDonald. It is one of several early-20th-century Arts and Crafts style buildings commissioned by Henry Walter Thompson, who bought The Warren in 1904 and was responsible for laying out the current golf course. Stylistically, each of the early-20th-century buildings on The Warren Estate is influenced by the particular strain of Vernacular Revival architecture developed by the architect C F A Voysey (1857-1941). The presence of this particular group of buildings around The Warren estate and their association with the philanthropic figure of Henry Walter Thompson, imparts a particular local significance to the buildings.
- 5.5.4 The Conservation Officer advises that Wayside has been identified as a candidate for the Council's Parish Lists of Local Heritage Assets, although a list has not yet been adopted for Woodham Walter. Wayside satisfies the approved selection criteria insofar as it is a substantially complete early-20th-century house of very good local architectural and historic interest, deploying mostly good-quality materials, detailing and workmanship. The building's architectural quality has regrettably been diminished by recent refurbishment, including the replacement of the original lead-glazed windows with grey plastic windows. However, the building's overall form remains well-preserved and its significance is reinforced by its association with the other Arts-and-Crafts-style buildings on the Warren Estate and by its idyllic rural setting, fronting a leafy lane and public footpath, with a grass meadow immediately to the east of it.
- 5.5.5 The 20 holiday lodges are proposed to be sited on the meadow/area of grassland immediately to the east of Wayside, which is open to view from the public footpath and forms part of the bucolic rural setting to this Arts and Crafts style house. The Conservation Officer advises that lodges on the meadow to the east of Wayside would have a moderately adverse effect upon the setting and significance of the non-designated heritage asset, by eroding its idyllic rural surroundings and that the additional planting proposed to screen the development would take many years to become established. However, it is also noted that only peripheral views of Wayside – on the approach along the footpath from the east – would be impacted by the development; the main views of the house would remain largely unaffected.
- 5.5.6 To use the terminology of the NPPF and Policy D3 of the Maldon LDP, it is considered that this proposal will cause "*less than substantial harm*" to the significance of Wayside as a non-designated heritage asset. The degree of harm in this instance would be limited. Paragraph 197 of the NPPF advises that '*in weighing*

applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’. It is therefore necessary to weigh the limited harm to Wayside that has been identified against any public benefits of the scheme.

- 5.5.7 in relation to the 20 lodges proposed on the land to the east of Wayside, it has already been considered in section 5.2 that the principle of this element of the proposal is not accepted, furthermore in section 5.3 it is advised that the use of the land for holiday lodges would harm the existing rural character of this part of the application site as well as the sense of enclosure and tranquillity which this part of the site possesses. It is acknowledged in section 5.3 that the development would generate employment and bring some economic benefits to the locality which weighs in favour of the application. However, given that the need for the additional holiday units is questioned and not accepted, and the harm to the landscape that the development would cause, it is considered that the public benefits of the proposal would not outweigh the limited harm that the 20 lodges would cause to the non-designated heritage asset Wayside. The proposal would therefore result in unacceptable harm to this non-designated heritage asset contrary to the NPPF and LDP Policies E5, D1 and D3.

5.6 Archaeology

- 5.6.1 The Essex Historic Environment Record (EHER) shows that the proposed development site is sited within an area of historic environment potential. The heritage statement submitted in support of this application only deals with the Listed buildings, the Historic Environment Record has not been consulted nor has the surviving elements of the historic landscape been assessed, as is required by para. 189 of the NPPF.
- 5.6.2 The Historic Environment Characterisation assessment for Maldon District establishes that the site falls within Historic Environment Characterisation Zone 7.1, which has high/moderate significance for the Historic Environment. Archaeological features and deposits are both fragile and irreplaceable. It is therefore considered that if this proposal is approved a full archaeological condition should be attached to the planning consent. This is in line with advice given the NPPF. The condition would also have to cover the submission of an archaeological assessment which was not included with the heritage statement submitted with the proposal. Subject to the relevant condition the proposal would be acceptable in terms of its impact upon archaeological remains.

5.7 Impact on Residential Amenity

- 5.7.1 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.

- 5.7.2 There are several residential dwellings immediately adjoining the application site:
- To the north of the application site along Little Baddow Road are Apple Cottage, and No's 1 and 2 Hawkins Farm Cottages.
 - To the west of the application site along Common Lane are Grove Cottage and Warren Grove.
 - To the west of the site along Twitty Fee is Robins Wood.
 - To the south of the site at the main entrance to The Warren Estate is No's 1 and 2 Redgates.
 - To the east of the site along Herbage Park Road is Parkside, Grove Manor, The Grange, Woodhouse, Somerville, and No's. 7 - 12 Church Corner.
 - Within the centre of the site is The Warren House and stables which is under separate ownership to The Warren Estate.
- 5.7.3 There are also a number of other residential dwellings in close proximity to the site, although not immediately adjacent. In terms of the proposals the dwellings that are located closest to the developments, and therefore most likely to be impacted, are the ones to the north and west of the site as well as those in the centre of the site.
- 5.7.4 The development has the potential to impact upon neighbouring occupiers through noise, disturbance and light pollution. Given the types of development proposed and distances involved between proposals and neighbouring properties the development would not result in any loss of privacy or overbearing impact.
- 5.7.5 The application has been supported by two noise impact assessments, one relating to the 20 lodges adjacent wayside and one relating to the alterations to the Bunsay clubhouse and the 50 lodges.
- 5.7.6 In relation to the 20 holiday lodges the submitted noise impact assessment concludes that the noise sources associated with the development include noise from the hot tubs, conversations and vehicle movements. However, as the nearest property Wayside is under the same ownership as the application site and is used as a short term holiday let, the report considers that there are no noise sensitive receptors that would be impacted by this element of the proposal. In order to minimise any potential noise, recommendations that hot tubs be the 'silent type' and mounted to prevent vibration are put forward as well as a speed limit of 10mph to be imposed on access roads.
- 5.7.7 Environmental Health (EH) have been consulted on this application and advise that in relation to the 20 holiday lodges and noise they recommend conditions to ensure the recommendations contained within the noise impact assessment are applied.
- 5.7.8 In relation to the alterations to the Bunsay Clubhouse and 50 holiday lodges a separate noise impact assessment was submitted. This assessment states that the noise associated with this element of the proposal will be from the bar and grill outside seating area, play barn, 50 lodges each with parking and vehicle movement. Recommendations within the report are that ambient music in the outside seating area should be controlled by restricting the volume to background level only and angling speakers down and facing into the terraced area, and that a speed limit of 10mph is

imposed on access routes. It is noted that the plan shown within the noise impact assessment does not reference the final submitted layout of the lodges (which should planning permission be granted would be controlled through a condition). It also makes no reference to the existing children's outdoor play area which could reasonably be expected to have an increased usage should planning permission be granted.

- 5.7.9 EH have raised concerns over noise impact from these elements of the proposed development. The EH Officer states: 'Whilst no raw data has been included in the report ambient and background sound levels were measured at 35dB(A) and 24dB(A) respectively which is very low. Any new noise source in the area is likely to be very noticeable. It is noted that hours of opening are proposed as 07:00 - 23:30 Monday to Saturday and 08:00 - 22:30 on Sundays and Bank Holidays but the noise report is for the daytime only.' And 'Noise from the bar and grill outdoor seating area was calculated using modelling based on 25 people speaking at once with raised voicesAveraging out the noise source over any given period of time (Leq,T) will not capture the differing pitches and inflexions of a person's speech and another person's response to it.... it is entirely feasible that given the nature of the proposal - there will be much shouting and laughter from the outdoor seating area as the users will be on holiday and enjoying the facilities. A common noise complaint is indeed disturbance from outdoor areas of licensed premises particularly during the evening. The report suggests that music will be played at background level only. This is subjective and impossible to condition. It is not clear whether there is an intention to provide amplified entertainment inside the clubhouse, it has not been considered in the noise report. Whilst the report suggests that the proposed new building will effectively screen the receptor from the outside seating area and provide between 15 and 20dB reduction in the conversation level I am not confident in the results of the modelling and in any event it does not consider disturbance from people entering or leaving the clubhouse.'
- 5.7.10 In relation to the 50 lodges the EH Officer advises that background noise levels in the area are very low. The proposed use of the land for 50 holiday lodges and general activity associated with their use will impact on the amenity of the area. It is also noted that a family BBQ and seating area is proposed approximately 50m south of the boundary of the Noise Sensitive Receptor (NSR) (Apple Cottage) which will encourage people to congregate in that area, which may be a source of disturbance. EH therefore object to the application on noise grounds.
- 5.7.11 The agent responded to the objection from EH with a letter from their noise consultant who disputed some of the points made by the EH Officer. This response was sent to EH for further comment who have advised (in summary) that:
- BBQ Area - The applicant is prepared to remove this area from the application. (this could be controlled through a condition)
 - Play Barn - The applicant has not addressed noise from this facility. It may be that if it is only used as a play barn with suitable hours of operation then this can be controlled by condition.
 - Sound level - The applicant proposes to set a level for sound at the boundary. Setting a level for this type of noise is difficult, as it is difficult to quantify the sound level that is going to be produced. The software used by the consultant (Computer Aided Noise Abatement) is more suited to industrial, construction,

road and rail projects. In my experience it is not a simple matter to set a level which passes the 6 tests for a Planning Condition.

- Broadly our concerns remain the same that the introduction of an additional 50 lodges will impact on the nearest noise sensitive properties.

5.7.12 The EH Officer has confirmed that, as per the original comments that it is the cumulative effect of the 50 additional lodges and the alterations to the clubhouse and the external area that will have an adverse impact on the existing noise sensitive dwellings, which are Apple Cottage and 1 and 2 Hawkins Farm Cottages. It is therefore considered that on the basis of the information submitted the proposed development at the Bunsay clubhouse and the use of the land for the stationing of 50 holiday lodges would result in harm to the amenity of the area through noise and would materially harm the amenity of the occupiers of neighbouring dwellings along Little Baddow Road contrary to LDP policies D1 and D2.

5.7.13 It is noted that lighting would be required for all elements of the proposed development. Lighting also has the potential to impact upon the amenity of neighbouring occupiers as well as the environment. A lighting strategy has been submitted with the application detailing the external lighting which comprises low level bollard lighting to pathways and discrete wall lights for the buildings. No floodlighting is proposed as part of the proposal. On this basis, and subject to an appropriate condition, the proposed lighting would not result in any harm to neighbouring occupier's amenity.

5.7.14 A number of objections have been received in relation to traffic and implications for residents which are considered in the below section of this report.

5.8 Access, Parking and Highway Safety

5.8.1 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.

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

impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.8.3 The proposed development would utilise the existing two main access points into the site, one off Old London Road and the other from Little Baddow Road. The application has been supported by a Transport Assessment. As part of this assessment the proposal has been considered with respect to the likely level of trips that could be generated and the impact they would have on the local highway network. The assessment concludes that the total trip generation potential is as follows:

Use	Parameter	AM Peak Hour (08:00- 09:00)		PM Peak Hour (17:00-18:00)		Weekend (13:00 – 14:00)	
		Arrivals	Dep	Arrivals	Dep	Arrivals	Dep
Golf Course	3 Holes	-3	0	-1	-1	-1	-5
Golf Academy	8 Bays	1	0	0	2	0	2
Holiday Lodge	50 Units	2	8	14	4	5	10
Holiday Lodge	20 Units	1	4	6	2	2	4
Bar and Grill	400sqm	0	0	12	9	14	3
Total		13		47		34	

- 5.8.4 The report then goes on to assess the impact of the potential development upon nearby junctions, including the site access onto Little Baddow Road, and Herbage Park Road and Maldon Road junction. Both junction assessment showed that there would be capacity within the road network for the proposed development and the anticipated vehicle movements.
- 5.8.5 ECC Highways have been consulted on the application and advise that from a highway and transportation perspective, the impact of the proposals is acceptable to the Highway Authority subject to relevant conditions relating to:
- Construction Management Plan
 - Routing of construction vehicles
 - Visibility splay to Little Baddow Road
 - Width of access onto Little Baddow Road
 - Any gates at access onto Little Baddow Road to be set 6m from back edge of carriageway
 - Ease of passage over public footpaths to be maintained
 - Submission of workplace travel plan and monitoring fee (£5000)
- 5.8.6 All of the requirements listed above can be dealt with through conditions, except for the submission of a workplace travel plan and monitoring fee which should be dealt with through a S106 legal agreement as it relates to the payment of monies.
- 5.8.7 ECC Highways advise that most of the trips generated by the site are expected to be at off-peak periods and although the Highway Authority does not agree with some of the trip generation predictions contained within the Transport Assessment, it is satisfied that the difference would not have a severe impact on the performance of the local

highway network. The Highway Authority has also checked the data used in the highway assessments against historical data that it holds and remains assured that an appropriate study has been completed.

- 5.8.8 It is noted that a number of objections have been received in relation to this application, a significant amount of which raise concerns over traffic. It is acknowledged that the application site is located within a rural setting with little to no access to public transport. Therefore, for most journeys, the only practical option will be to use a private vehicle. However, ECC Highways have confirmed that there is capacity within the road network for the anticipated number of trips the development will generate, and this takes into consideration the existing road conditions. Furthermore, the securing of a workplace travel plan will reduce the use of single occupancy vehicles as much as practicable in relation to staff working at The Warren Estate. Whilst it is accepted that the proposal would increase the number of vehicular movements to and from the site this alone does not automatically mean that there is a demonstrable or real level of harm and in this instance, it is considered that there is capacity within the highway network to accommodate the increased number of vehicles.
- 5.8.9 In relation to parking provision the Maldon District adopted VPS SPD requires the following in respect of the proposed uses:
- E(b) (Previously A3 use) Food & drink Outside of town / district centre locations – restaurants, snack bars and cafes, for sale & consumption on the premises - 1 space per 5m²; 1 cycle parking space per 4 staff and 1 per 25m² for customers;
 - F2(c) Areas or places for outdoor sport or recreation (Previously D2 use) - A maximum of 1 space per 22m² of gross floor space or individual assessment/justification; 1 cycle parking space per 4 staff and 1 per 4 visitors or players or individual assessment/justification.
 - E(d) Indoor sport, recreation or fitness (previously D2 use) - A maximum of 1 space per 22m² of gross floor space or individual assessment/justification; 1 cycle parking space per 4 staff and 1 per 4 visitors or players or individual assessment/justification.
 - Sui generis - Caravan Park / camping site – 1 space per pitch, 1 space per residential staff and 1 space per 2 other staff. 1 cycle parking space per 4 staff and 1 cycle parking space per 10 pitches for guests.
- 5.8.10 In accordance with the above the proposed 70 holiday lodges would require 1 vehicle parking space per lodge along with relevant parking for staff. Each lodge has a minimum of 1 vehicle parking space and therefore this element of the requirement is met. The staff parking will be addressed later. In relation to the increased bar/grill within the Bunsay clubhouse this would have an increase in floor area of approximately 149m² when compared to the existing facility. This increase in floor area requires an additional 30 vehicle parking spaces which would be provided within the extended car park area. In relation to the activities hall, this would have a floor area of 272m² which would require a maximum of 13 vehicle parking spaces, these additional spaces would also be provided within the extended car park area, although it is appreciated that this would be provided in connection with the holiday lodges and therefore the likely requirement for spaces would be less. In relation to the golf academy building this would be provided in mitigation for the loss of the fairways on the Bunsay course and would also provide facilities for the existing golf academy

which already runs out of The Warren Estate. On this basis no additional parking provision would be required.

- 5.8.11 The proposed development would also result in an increase in need for staff parking. The E(b) use and E(d) use incorporates any requirement for staff parking within the overall parking requirements which the development would meet. The holiday lodges require 1 parking space per residential staff and 2 per other staff. No details of the staffing requirements per use have been submitted, however the planning application form states that as part of the development there would be an additional 20 full time staff and 49 part time staff, equating to the equivalent of 40 additional full time staff overall. The extended car park facility would provide an additional 67 spaces. Taking away the additional parking from the extended bar/grill and activities hall there would still be a increase of 24 spaces which is considered to be sufficient to meet any increased demand for staff parking, particularly as in relation to the activities hall and extended bar/grill area there is unlikely to be as much demand for parking as the standards set as they are to be constructed in connection with the holiday lodges which already meet their parking standard.
- 5.8.12 The adopted parking standards also require cycle parking, disabled parking bays, and electric vehicle charge points. None of these are shown on the submitted plans, however they could be dealt with through a condition.
- 5.8.13 Overall the proposed development would accord with the adopted VPS.

5.9 Flood Risk and Drainage

- 5.9.1 The application site is located within Flood Zone 1, however as the proposal represents major development the application has been supported by a Flood Risk Assessment (FRA).
- 5.9.2 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 (EA). 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.
- 5.9.3 The application site is located within Flood Zone 1 and there is therefore no objection to the principle of the development on flood risk grounds. It is noted that the north eastern boundary of the application site adjoins Flood Zone 3 where a tributary of the River Chelmer flows. However, no development is sought in or near this location and therefore the site is considered as Flood Zone 1.
- 5.9.4 In relation to surface water the submitted FRA identifies that the site is shown to be located in an area of very low (less than 1 in 1,000) risk of surface water flooding in a given year. There are narrow corridors at a higher risk of surface water flooding shown to be associated with the watercourses that flow through The Warren Estate. Whilst one of these watercourses runs along the southern boundary of the area identified for 50 lodges the existing ground levels of the proposed development parcels are elevated significantly above the watercourse corridors, such that they are not affected by surface water flooding.

- 5.9.5 Surface water discharge rates will be restricted to greenfield equivalent run-off rates to ensure that the rate of surface water run-off from the site does not increase as a result of the proposed development. The surface water drainage system is designed to accommodate storms up to the 1 in 100 year event plus an allowance of 30% for climate change. In relation to surface water drainage the submitted assessment states that due to the underlying geology of London Clay infiltration techniques are unlikely to be viable. Instead above ground Sustainable Drainage Systems (SuDS) features will be utilised through a combination of detention basins, tanked permeable paving and buried geo-cellular storage. The surface water will then drain to the existing watercourses with at least two stages of water quality treatment. All components of the surface water drainage infrastructure system will remain private and be maintained by the site owner / operator.
- 5.9.6 The Lead Local Flood Authority have been consulted on this application and advise that they have no objection to the granting of planning permission subject to conditions in relation to the submission of a detailed SuDS scheme and the long terms management and maintenance of the surface water drainage system.
- 5.9.7 Overall subject to conditions it is considered that the proposed development is acceptable in terms of flood risk and surface water drainage.
- 5.9.8 In relation to foul drainage the submitted FRA initially stated that it would be dealt with on site with no main drainage, although the application form stated connection would be to the mains sewer. The agent has since confirmed that connection will be sought to the mains sewer for foul drainage and consultation has been undertaken on that basis and in terms of drainage options connection to the public sewer is the preferred method of dealing with foul drainage.
- 5.9.9 Both Anglian Water and the EA have been consulted on this application. Anglian Water have advised that the foul drainage from this development is in the catchment of Woodham Walter Water Recycling Centre (WRC) which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission. On this basis they recommend a condition in relation to foul water. They have also advised that Woodham Walter WRC has some available capacity but would not remain compliant for the entire built development, however, the Anglian Water investment planning process is not something a developer can assist or be involved with. They state *‘The WRC comment in the planning application response triggers an internal discussion to ensure the application is followed throughout the planning process and appropriate investment is planned. With continued engagement with the applicant we can ensure infrastructure investment is delivered at the right time in the right place.’* On this basis they strongly recommend that no WRC condition linked to occupation is applied should planning permission be granted as this could hold up development as their investment planning and delivery can take years.
- 5.9.10 The EA have raised a holding objection to the development as no specifics in terms of a drainage strategy appear to have been submitted in support of this application. They have advised in their most recent consultation response that *‘Once the applicant*

requests connection to the sewer this should be enough for us to remove our objection and instead request a condition of no occupation of dwellings on this site until there is adequate capacity as this should allow the application to move forward.’ To this end the agent has contacted Anglian Water and received an email from Anglian Water stating that ‘The applicant cannot apply for a connection to our network until planning approval is given. The connection application is dealt with via the Water Industry Act Section 106, and as such this sits outside of planning conditions as it is dealt with under different legislation.’ And ‘The Water Industry Act makes it a legal duty for Anglian Water to allow a connection to the foul network regardless of capacity. Therefore, once permission is granted the applicant can submit a connection application to us (under section 106 of the Water Industry Act) and we will allow a connection to be made.’

- 5.9.11 This email has been sent to the EA for further comment and any received will be updated through a member update. The NPPG offers guidance in relation to development where there is inadequate wastewater infrastructure and states that: *“The timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to the public sewage system have been carried out.”*
- 5.9.12 The lack of capacity at the relevant WRC would not normally preclude the granting of planning permission, and it is the view of Officer’s that a condition restricting occupation of the holiday lodge units until the necessary improvements to the public sewage system have been carried out would accord with the guidance within the NPPG. Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability, however the condition would be worded in a negative form as a Grampian condition and it is designed to prevent occupation until there is confirmation of available permitted capacity in the network and at the treatment works (linked to the provision of supporting infrastructure which is one common use of a Grampian condition). If there was no such control over occupation (when wastewater would need to be dealt with) then there would be nothing to prevent the holiday units being occupied before any necessary upgrade works had taken place which would potentially result in damage to the water quality downstream. This is the approach that has been taken on other sites where there have been capacity issues at WRC.
- 5.9.13 Overall it is considered that subject to an appropriately worded condition there is no objection to the proposal in relation to foul drainage.

5.10 Private Amenity Space and Landscaping

- 5.10.1 There is no requirement for set amenity space for the proposed holiday lodges as they are holiday accommodation and not for permanent residential occupation. The lodges would fall within the statutory definition of a caravan as laid down on the Caravan Sites and Control of Development Act 1960 as supplemented by Section 13 of the Caravan Site Act 1968. As such there are no objections in terms of private amenity space in relation to the holiday lodges. Furthermore, the land would be classed as a caravan site and therefore conditions to ensure sufficient space between the caravans would be controlled through licensing.

- 5.10.2 In relation to landscaping the site is currently well landscaped and the landscape character of the site is described in detail in section 5.4 of this report. An initial arboricultural report submitted in support of the application was found to be incorrect and did not provide sufficient information in accordance with BS5837:2012. As part of this application an Arboricultural Impact Assessment carried out in accordance with BS5837:2012 has been submitted.
- 5.10.3 The submitted arboricultural Impact Assessment advises that the development will result in the removal of:
- Category U: 6 trees
 - Category A: 0 trees
 - Category B: 4 trees
 - Category C: 12 trees, 3 groups and parts of 2 groups.
- 5.10.4 None of the trees to be removed are the subject of the TPO served in April 2020 (TPO 06/20). The report concludes that the proposed tree removals will not result in the loss of landscape features important in the surrounding landscape. It is considered that there is no specific need for replacement tree planting in this instance. Nonetheless numerous new trees and hedges are proposed to be planted as part of the development. The report also identifies tree protection measures for the trees and hedgerows to be retained.
- 5.10.5 The Council's arboricultural consultant has been consulted on this application and advises that should the application be approved a condition requiring a more detailed tree protection method statement and supervision schedule should be included. The current report has a draft method statement, but more detail relating to specific methods and construction techniques to be utilised when working in the RPA, such as 'No Dig' surfaces etc is required. A robust landscape scheme is also recommended to be conditioned to include new tree and shrub planting to enhance the diversity of species and age within the site, as well as to address seasonal interest and benefit wildlife habitats.
- 5.10.6 Overall it is considered that the development is acceptable in terms of its impact upon the existing trees and hedgerows on site and conditions could be appended to any consent granted to ensure their retention and protection (other than those shown for removal).

5.11 Ecology

- 5.11.1 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.*'
- 5.11.2 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.
- 5.11.3 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.”

5.11.4 The application site is located adjacent Woodham Walter Common which is also designated as a Special Site of Scientific Interest (SSSI). Parts of the application site are also designated as a local wildlife site. The site has the potential to contain a number of protected and priority species as well as comprising green infrastructure.

5.11.5 The application has been supported by a number of ecological studies comprising:

- Preliminary Ecological Appraisal
- Addendum letter to Ecology Report
- Great Crested Newt Survey
- Bat Activity Survey
- Positive Conservation Management plan, and
- Construction and Environmental Management Plan

5.11.6 The Council’s consultant ecologist (Place Services) has been consulted on this application and advise that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

5.11.7 Conditions are recommended by the Council’s consultant ecologist to ensure that the mitigation measures identified in the submitted Conservation Management Plan (EECOS, November 2019) and Preliminary Ecological Appraisal (April 2019) are secured and implemented in full together with the ecological elements outlined in the Construction and Environment Management Plan (Clive Simpson Planning Ltd, May 2020). However, some further general good practice measures are recommended to be attached as an informative. The Lighting Strategy (The Warren Estate, undated) is supported by the consultant ecologist who recommends that it is secured by a condition of any consent. This is necessary to conserve protected and Priority Species.

5.11.8 The submitted reports also outline biodiversity enhancements through recommendations to protect and enhance those parts of the sites designated as Local Wildlife Sites as well providing further positive enhancements to the overall biodiversity of the site. This includes creating larger areas of tall grassland, enhancing habitats around the existing ponds and improving connectivity to the wider environment. In addition, the rotational cutting of scrub in the Warren Pits area and the restoration of one of the existing ponds within the Badger Par 3 area is recommended. Other recommended enhancements include the improvements to the existing public foot path that runs through Warren Bottom Woods, the addition of interpretation boards and the installation of bat and bird boxes.

5.11.9 The Council’s consultant ecologist supports the biodiversity enhancements outlined and advises that this will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Overall it is considered that impacts will be minimised such that the proposal is acceptable subject to conditions requiring all mitigation measures to be undertaken.

5.12 Other Material Considerations

- 5.12.1 A number of letters of representation received have queried the use of the existing holiday lodges at Herbage Park and allude to potential breaches in planning control. Any potential breaches of planning control and/or other legislation are not material considerations for this current application and would be a matter for the planning enforcement team where they relate to potential breaches of planning control.
- 5.12.2 It is noted that the Essex Fire Services have commented on the application and advised that in relation to the 50 lodges there does not appear to be any turning facilities for fire appliances. This is a matter that could be adequately dealt with through the use of a planning condition.

6. ANY RELEVANT SITE HISTORY

There is extensive planning history relating to the entire Warren Estate. Only planning history considered relevant to the current proposal is shown below.

- **01/00120/FUL** - Use of gravel pit for recreational purposes (mountainboarding) – Approved - 25.04.2001
- **02/00462/FUL** - Retention of planning permission ref: FUL/MAL/01/00120 (use of gravel pit for recreational purposes (mountain boarding) without compliance with condition No.1 to allow the use on a permanent basis) – Approved - 28.06.2002
- **05/00798/FUL** - Change of use of disused gravel pit to site for 48 holiday lodges with formation of associated access tracks, landscaping and construction of central administrative and facilities building. – Approved - 25.01.2006
- **11/00953/FUL** - Proposed addition of 26 new timber holiday lodges plus associated infrastructure within the existing Herbage Park Holiday Park – Approved subject to S106 - 13.09.2012
- **15/00590/FUL** - Variation of condition 3 on approved planning permission FUL/MAL/11/00953 (Proposed addition of 26 new timber holiday lodges plus associated infrastructure within the existing Herbage Park Holiday Park) Variation: holiday accommodation occupancy period. Variation of condition 2 on approved planning permission FUL/MAL/05/00798 (Change of use of disused gravel pit to site for 48 holiday lodges with formation of associated access tracks, landscaping and construction of central administrative and facilities building) Variation: holiday accommodation occupancy period. – Approved - 21.09.2015
- **16/01373/FUL** - 28 new holiday lodges with associated infrastructure and access – Approved - 08.03.2017
- **17/01112/FUL** - Extension of lodge park clubhouse - 05.12.2017
- **18/00956/FUL** - Extension to existing swimming pool and gym building. – Approved - 02.10.2018

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Walter Parish Council	<p><u>First Consultation Response</u></p> <p>Resolved to strongly object to this application.</p> <p>The Parish Council cannot concede that this is sustainable development and is therefore contrary to the NPPF and LDP policy S1 of the Maldon District Council and should therefore be refused. Other aspects indicate an apparent noncompliance with various LDP policies including S7, S8, D1, D2, D3, E5, N1 and N2.</p> <p><u>Background</u></p> <p>Raises concerns over the potential for the proposed holiday lodges to become permanent residences.</p> <p>Concern that such a large influx of visitors will have a significant impact on the rural aspects of the community especially with respect to farm husbandry.</p> <p><u>NPPF and Sustainability</u></p> <p>The design proposal necessitates the loss of a high value, landscaped recreational land to be replaced with an extensive built environment. Despite this there has been no engagement with the local community other than an initial outline concept presentation to the Parish Council some two years ago.</p> <p><u>Need</u></p> <p>There is no evidence presented to justify need or demand for such accommodation either economically or socially.</p> <p>Similarly there is no evidence presented relative to the demand and occupancy rate of the existing lodges the majority of which are believed to have been sold. This, it is</p>	<p>Noted. Please refer to conclusion at section 3.2 of report.</p> <p>The application is for holiday accommodation and must be assessed as such.</p> <p>Noted.</p> <p>Please refer to section 5.2 of the main report where need is considered in detail.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>understood, leaves just six units for short-term letting. Reference to the Hoseason's web site indicates that of the two units currently being offered there is a low occupancy rate i.e. availability is good as the demand is not there.</p> <p>In support of there being no justifiable need, reference to the 2019 appeal APP/X1545/W/18/3211540 (Bassetts Lane, Woodham Walter) confirms that <i>'existing, extensive local provision fulfils any tourism need within the area and any further accommodation would be surplus'</i>. Therefore, it is considered that neither LDP policy E4 nor the need condition of the NPPF are satisfied.</p> <p>It has not been demonstrated that tourist facilities are available on site as required by the 'Go Active' brand and such facilities are not included in the planning application. On-site facilities are a gymnasium, golf and swimming where the pool can be considered of a size unsuitable for the total accommodation level.</p> <p>The tourist venues listed by the applicant are in the main outside of the site and essentially more to cater for day-trippers and locals rather than a holiday destination.</p> <p>There is no social need cited in the application or supporting documents and there are no social benefits promoted in consequence. In fact it could be said that the diminution of the golf facility would be counter productive to the wellbeing of the golfing and local community.</p> <p><u>Place</u> The proposal is for sprawling development of 50 lodges sited closely together with a large, extended car park on one site and 20 similar units on a separate site. Both proposed developments extensively encroach on high value landscape and leisure use land and fail</p>	<p>Please refer to paragraph 5.2.12 of the main report.</p> <p>Noted – please refer to section 5.2 of the main report which covers this issue.</p> <p>Noted.</p> <p>Whilst no evidence has been submitted to demonstrate a fall in use of the Bunsay Golf Course the application does propose a new Golf Academy building.</p> <p>Noted. Please refer to section 5.4 of the main report which considers landscape</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>to respect the character of the rural community described on page 11 of the Woodham Walter Village Design Statement.</p> <p>The proposal for the Bunsay site will encroach on the countryside and change the rural character of the area and also the demography of the site and the village contrary to the NPPF aspiration.</p> <p>The boundary landscaping so described is mainly deciduous and therefore the large, extended car park and sprawling lodges will be clearly visible from Little Baddow Road, Gunhill and Common Lane from September to March.</p> <p>The lodges lack innovation in appearance, are considered to be of poor design quality and are closely spaced. The appearance, as demonstrated by the existing Warren Pit site, is inappropriate and unsympathetic to the rural landscape setting and character.</p> <p>The loss of four golf holes diminishes the leisure use and the suggested mitigation of a golf academy is hardly apposite. The academy, which is located on the Warren site, does not appear to be connected with the Bunsay site and it should not be used as mitigation.</p> <p>the design of the academy building does not appear to accord with the Warren Listed buildings heritage setting particularly with a flat roof over the southern extension. The planting of the three trees illustrated is not mitigation as the building and its heritage setting will be visible from the east, north and south.</p> <p>It is considered that the heritage setting of the Warren Barns and House together with Wayside will be materially affected by the development proposals and therefore in conflict with LDP policy D3.</p>	<p>impact.</p> <p>Noted and referenced in section 5.4 of the report.</p> <p>The lodges are of a standard design and their external appearance could be controlled through a condition. The Character of the site is considered to be materially different to the Warren Pit site.</p> <p>They are both shown within the same red line site ownership.</p> <p>Noted. The Conservation Officer has raised no objection in relation to the setting of the listed buildings.</p> <p>Please refer to section 5.5 of the report.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>The access routes and pathways serving the development are noted as being Grasscrete and form a network around both sites. If the number of vehicle movements is substantial, as indicated by the assumed occupancy levels and the need to travel to visit tourist attractions and leisure facilities, then the use of the suggested material may prove to be inadequate in performance and give rise to hard and inappropriate landscape alternatives. The proposals indicate narrow routes that will not be large enough for emergency services nor sufficient turning heads.</p> <p>No link between the Bunsay and Warren sites is indicated on the submitted drawings PD02 and PD03. This indicates that the Bunsay site is separated from the Warren site forming a separate entity and the use of the Warren facilities including the academy could be precluded. The existing link track would pass over a detention basin and therefore could be unusable. If a connection is proposed this would potentially require removal of trees. LDP policies N1 and N2.</p> <p><u>Infrastructure</u> The application fails to recognise the limitations of the existing infrastructure compared with the need to travel to the stated tourist destinations.</p> <p>The bus route mentioned has a low frequency of two buses a day in and out during the day and none at the weekend (potential changeover day). The nearest bus stop is stated as 675m along a national speed limit, dangerous stretch of road with no pavements and is further away than the recognised maximum walking distance of 500m. This will make public transport to and from the site impractical and dangerous necessitating reliance on personal transport as essential.</p> <p>The network of narrow, twisting country lanes cannot safely support the level of vehicle</p>	<p>Noted – please refer to section 5.4 of the report and 5.12.</p> <p>They are both shown within the same red line site ownership. If required a link could be conditioned as part of any planning permission.</p> <p>Noted – please refer to section 5.8</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>movements anticipated.</p> <p>The nearest supermarkets are situated at some distance (some 7 mile round trip minimum) so for a self-catering venue additional vehicle trips will be required defying the definition of sustainability.</p> <p>The traffic surveys taken along Herbage Park Road and the junction with the A414 at Runsell Green were carried out whilst the Hoe Mill bridge was closed and therefore the level of traffic passing through the village was negligible. For this reason queuing traffic at the A414 junction is likely to have been under assessed.</p> <p>There has been no attempt made in the transport report to include for the impact of new housing developments in Maldon either in the adverse effect on the egress from Herbage Park Road to the A414 or in terms of any general uplift in traffic on village roads.</p> <p>No provision for EV charging.</p> <p>The Planning Application will require the site to be open for 24/7 hours to allow visitor and delivery movements and this will impact of road usage.</p> <p>The employment projection indicates that there will be a substantial number of vehicles involved in travelling to and from work, some of which will be late at night after events or early morning for deliveries and others according to shift patterns. These, when added to vehicle movements associated with visitors will increase the stress on the village infrastructure network and danger to residents and those walking the lanes without footpaths.</p> <p>The effect of vehicle pollution on air quality and noise is not addressed but will be significantly more than exists at present.</p> <p>The impact of construction traffic on the</p>	<p>Please refer to section 5.2 of the report.</p> <p>Please refer to section 5.8 of the report. ECC Highways does not agree with some of the trip generation predictions contained within the Transport Assessment, but is satisfied that the difference would not have a severe impact on the performance of the local highway network.</p> <p>Provision of EV charging could be conditioned</p> <p>A construction management plan could be conditioned to</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>village as a whole and Little Baddow Road in particular will be severe.</p> <p>The flood assessment for zone 1 would appear to be correct although the report is incorrect in referring to a ford at Common Lane. However, the meeting point of surface water flows from Little Baddow Road, the Badgers course and the SSSI is at the culvert under the road bridge, which during periods of heavy rain gives rise to significant levels of surface water over the road. There is concern that the proposed development will exacerbate this and create a significant highway hazard.</p> <p>Concern is expressed at the level of surface water run off given the amount of hard surfaces with roofs, and access ways although the latter are described as tanked Grasscrete.</p> <p>The Little Baddow Road is not on the County Highways gritting schedule.</p> <p><u>Noise</u> No noise report has been provided that takes in to account retaining the existing outside games area, which is likely to have increased use. Noise is already at an unacceptable level especially during the evenings and this is likely to increase with potentially up to 300 visitors adding to the ambient level.</p> <p>Hot tub provision to lodges on the 20-unit site is of concern especially with noise pollution in the evenings and night time. The Village is already experiencing considerable noise pollution from the Warren and Herbage Park Road sites arising from outside activities such as BBQ's etc.</p> <p>Bunsay Downs Clubhouse with its elevated position has little or no screening from the road and the settlement areas. The noise pollution from potentially large number of visitors and event gatherings with amplified music or public address system will severely affect the village including the outlying areas</p>	<p>minimise impact.</p> <p>Please refer to section 5.9 of the report.</p> <p>Please refer to section 5.9 of the report.</p> <p>Noted.</p> <p>Noted – please refer to section 5.7 of the report.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>and specifically the adjacent properties, those in Common Lane, Gunhill and Little Baddow Road. This would be contrary to LDP policy D2.</p> <p><u>Lighting</u> The areas of proposed development are currently 'dark sky' and therefore any light intrusion will have a significant impact. The safety requirements associated with the lodge development will inevitably result in light spillage and pollution that will affect a large area but more particularly Common Lane and Gunhill.</p> <p>Light pollution of the extent anticipated will have a significant affect on the bio-diversity and wild life of the area, particularly bats.</p> <p>No reference is made to floodlighting of the academy driving range. It was included in the concept document and would be strongly resisted on light pollution and ecological grounds.</p> <p>Bunsay Downs at present has site opening hours restricted by light in the winter and the entrance gates are locked outside of golfing hours. The Planning Application will require the site to be open for 24/7 hours to allow visitor movements. Not only will this add to vehicle movement issues but will involve lighting throughout the period of darkness resulting in considerable light pollution and the loss of a 'dark sky' area.</p> <p><u>Tourism</u> The application suggests a need for increased tourism in the area and therefore accommodation and associated facilities are required. The submitted tourism report fails to confirm that there is a need for the proposed development and only suggests a lack of provision for non-coastal based holiday accommodation yet existing lodges are readily available currently.</p>	<p>Noted – please refer to section 5.7 and 5.11 of the report.</p> <p>Conditions could be attached to any permission granted to control this.</p> <p>Noted.</p> <p>Noted – please refer to section 5.2 of the report.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>It is noted that the list of visitor attractions is inaccurate and the distance to many of them requires vehicle transport.</p> <p>The area is rural with little to provide a family activity holiday either on site or in the wider district.</p> <p>Tourism in the wider Maldon district is essentially coastal based and the town of Maldon receives large numbers of day-trippers not rural as this site is. There will be an adverse effect on the natural and historic environment.</p> <p><u>Employment</u> The proposal site does not fall within an area reserved for employment use.</p> <p>Claims are made within the planning submission and in the press that employment potential will be specifically enhanced if the planning permission is granted. It is considered that this claim is largely unsubstantiated, predicated on maximum capacity usage and covers the impact District wide.</p> <p>It is the Parish Council's view that the quoted numbers, as stated at the public meeting may not bear any relation to the actual number employed on site and that there is unlikely to be any further employment benefit for the village.</p> <p>The employment numbers quoted are only statistical modelling based on estimated demand. The applicant has confirmed that the Warren employs 6 people from the Woodham Walter Village. Considering local knowledge, the Parish Council considers has little confidence in the employment levels quoted.</p> <p>The number of village residents employed is minimal compared with the numbers quoted in the report and therefore non-local employees will commute from other areas</p>	<p>Noted.</p> <p>Noted – please refer to section 5.3 of the report.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>adding to the transport issues.</p> <p><u>Second Consultation Response – following receipt of Arboricultural Report and Noise report update.</u></p> <p><u>Amended Arboriculture Impact Assessment</u> Nothing in this amended report that changes the opinion expressed in the Parish Council’s original consultation response and the strong recommendation that the application be refused remains extant.</p> <p>The latest Arboriculture Impact Statement quantifies the number of trees to be removed as 22 (a significant increase from the original 2).</p> <p>The report states that the removals represent a very small part of the Warren Estate that extends to 325 acres (131.5 ha.). However, the loss of such a large number of trees on this small section of the overall estate will be of significance and will impact on the intrinsic merit of this high value landscaped area to the detriment of the countryside and this part of the Village.</p> <p>Recognition of the adverse impact on bio-diversity that the removal of the significant number of trees will have does not appear to have been considered.</p> <p>There is no reference to the planting of 100 trees in mitigation mentioned in the Planning Consultant’s report and therefore it is assumed that there is no mitigation and therefore an adverse effect on the landscape and bio-diversity.</p> <p>This Council places reliance upon the confirmation of the outstanding Tree Preservation Notice as the trees subject of the TPO make a significant contribution to the character and appearance of the surrounding area due to the size, density and attractive nature of the trees and the prominent</p>	<p>Noted.</p> <p>Please refer to section 5.10 of the report.</p> <p>The Council’s consultant ecologist was re-consulted following the revised arboricultural report and has raised no objection.</p> <p>Soft landscaping is proposed and could be conditioned.</p> <p>No trees subject to the TPO are</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>locations. Removal any of these trees or carrying out any inappropriate works to them to compromise their integrity would harm the amenity value of the overall area.</p> <p>This Council has concern over the effect of the urbanisation with the construction of pathways, roadways and drainage will have on the existing tree roots and the damage that may be caused during and after the construction period.</p> <p><u>Amended Noise Impact Assessment</u> Nothing in this amended report that changes the opinion expressed in the Parish Council's original consultation response and the strong recommendation that the application be refused remains extant.</p> <p>It is believed that the external multi-use games area was omitted from the original application. The report however refers to an external multi-use games area being relocated from the north side of Little Baddow Road to an area to the west of the proposed development, nearer in real terms to the properties in Common Lane. These properties appear to have not been considered.</p> <p>There is nothing in the report that changes the recommendation of the Parish Council to refuse planning permission. It is the view of this Council that there is no mitigation that will relieve the noise pollution that will affect the surrounding areas and particularly the properties in Common Lane and Gunhill.</p>	<p>proposed to be removed.</p> <p>Noted. Should planning permission be granted a condition could be attached requiring tree protection – please see section 5.10 of the report.</p> <p>Noted.</p> <p>The multi-use games area does not form part of the application.</p> <p>Noted.</p>
Woodham Mortimer with Hazeleigh Parish Council	<p>Consider that the size and scale of the development would have a significant impact on traffic levels through this Council's adjacent villages and feel compelled to raise objections to the proposal and recommend refusal of planning permission.</p> <p>The application is considered significant</p>	

Name of Parish / Town Council	Comment	Officer Response
	<p>overdevelopment in a rural setting devoid of any practical sustainable infrastructure and would result in a negative impact on the surrounding countryside character.</p> <p>Given the massive residential developments under construction on the southern outskirts of Maldon with another recently approved 320 homes north and west of Wycke Hill, then a further 70 units only a few miles west of the aforementioned developments would pose an unacceptable increase in vehicle usage between Danbury and Woodham Mortimer along the already heavily laden A414 where insignificant mitigation measures have been addressed in any of the proposed and approved developments</p>	<p>Noted – please refer to section 5.4 of the report.</p> <p>Noted – please refer to section 5.8 of the report.</p>
Langford and Ulting Parish Council	<p>The Parish Council is concerned that the development of a further 70 “holiday” lodges will:</p> <ul style="list-style-type: none"> • Result in an increase in traffic along the unclassified roads in neighbouring villages as there are no shops, leisure facilities or tourist attractions within walking distance • Exacerbate the chaos experienced at Hoe Mill and Ulting church this year due to the width restriction on the bridge and wild swimming venue advertised in the National press • Increase pressure on wildlife and its habitats along the Chelmer & Blackwater Navigation • If planning permission should be granted a condition preventing residential use must be included. 	<p>Noted. Please refer to sections 5.2, 5.8 and 5.11 of the main report.</p>
Danbury Parish Council	<p>This proposal removes wonderful environmentally sensitive landscape. It will also generate large amounts of additional traffic along the A414 through the village with inevitable rat running, in addition to Maldon development and the potential Bradwell development it is a step too far. Where will the access road be located along these narrow roads? Bearing in mind the overall site already houses numerous residential lodges on the Warren development, the Parish Council is concerned</p>	<p>Noted – please refer to sections 5.4, 5.8 and 5.11 of the main report.</p>

Name of Parish / Town Council	Comment	Officer Response
	that this may lead to residential development and increased recreational pressure on the surrounding SSSI and RAMSAR sites.	
Little Baddow Parish Council	<p>Object to the proposal for the following reasons:</p> <ul style="list-style-type: none"> • This is an extremely rural part of the countryside which is used extensively by cyclists, horse riders and walkers seeking to avoid the congestion, vehicular traffic and urbanism in the surrounding vicinities of Hatfield Peverel, Chelmsford, Maldon and Danbury. This is a beautiful area of countryside whose character would be profoundly altered by the addition of such a large development. • The entire area of the proposed lodges is served by narrow country lanes that cannot support the inevitable increase in traffic that would arise if this proposal were granted. • Maldon District Council has previously stated formally, when considering a proposal to build only 10 lodges near to the application site, that the existing provision of 102 lodges at Warren Estate meets the entirety of the tourism need of the area. • The proposed lodges are holiday homes, and so would not contribute to any basic residential housing target in Maldon District's Local Plan. • The potential impact on Woodham Walter, a small settlement of 532 people would be profoundly changed with a seasonal arrival of 428 people in the proposed lodges. 	<p>Noted – please refer to section 5.4 of the report.</p> <p>Please refer to section 5.8 of the report.</p> <p>Please refer to paragraph 5.2.12 of main report.</p> <p>Noted.</p> <p>Noted.</p>

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Anglian Water	<p><u>First Response</u></p> <p><u>Assets Affected</u> Records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p><u>Wastewater Treatment</u> The foul drainage from this development is in the catchment of Woodham Walter Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.</p> <p><u>Used Water Network</u> Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development.</p> <p><u>Surface Water Disposal</u> From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets.</p>	Noted and covered in section 5.9 of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p><u>Suggested Planning Conditions</u> No objection to the proposal subject to a condition requiring details of foul drainage to be submitted.</p> <p><u>Second Response</u> Confirms that Woodham Walter WRC has some available capacity but we would not remain complaint for the entire built development, however, our investment planning process is not something a developer can assist or be involved with.</p> <p>The WRC comment in the planning application response triggers an internal discussion to ensure the application is followed throughout the planning process and appropriate investment is planned.</p> <p>With continued engagement with the applicant we can ensure infrastructure investment is delivered at the right time in the right place.</p> <p>We strongly recommend no WRC condition is applied if permission is granted as this could hold up development as our investment planning and delivery can take years.</p>	
Chelmsford City Council	<p>Objects to the proposal for the following reasons:</p> <p>The National planning Policy Framework (NPPF) states that development should recognise the intrinsic character and beauty of the countryside.</p> <p>The proposed holiday lodges would be of a significant spread size and scale and would erode much of the open nature of the site. The proposal would fail to support the intrinsic character</p>	Noted and covered in section 5.4 of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>and beauty of the rural area.</p> <p>As a result, this Council considers that the proposal would be harmful to the intrinsic character and beauty of the countryside and would be at odds with the aims of National planning policy.</p>	
Environment Agency	<p><u>First Response</u></p> <p>Raises a holding objection due to lack of information regarding the scheme for foul water disposal.</p> <p><u>Second Response</u></p> <p>Maintains holding objection due to lack of information regarding the scheme for foul water disposal.</p> <p>Consider that the foul drainage issues arising from this major application would be properly informed by the information provided by a foul water drainage strategy for the site.</p> <p>Require more details regarding how the foul water from this site will be treated effectively at Woodham Walter WRC, without being detrimental to the receiving water environment.</p> <p><u>Third Response</u></p> <p>Maintains holding objection.</p> <p>However, if the applicant is able to confirm the following the EA advise they will remove their objection in place of a condition.</p> <p>Once the applicant requests connection to the sewer this should be enough for the EA to remove their objection and instead request a condition of no occupation of lodges on this site until there is adequate capacity as this should allow the application to move forward.</p>	<p>Noted and covered in section 5.9 of the report.</p>

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Fire and Rescue Service	<p>Unable to determine adequate access for the FRS from the information provided on drawing number PD02, there does not appear to be any turning facilities for fire appliances. Plan PD03 shows sufficient routes for appliances to access and egress the site without turning.</p> <p>More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.</p>	Noted and addressed in section 5.12 of the report.
Essex County Council Highways	<p>Most of the trips generated by the site are expected to be at off-peak periods. And although the Highway Authority does not agree with some of the trip generation predictions contained within the Transport Assessment, it is satisfied that the difference would not have a severe impact on the performance of the local highway network. The Highway Authority has also checked the data used in the highway assessments against historical data that it holds and remains assured that an appropriate study has been completed.</p> <p>Consequently, from a highway and transportation perspective, the impact of the proposals is acceptable to the Highway Authority subject to conditions relating to:</p> <ul style="list-style-type: none"> • Construction Management Plan • Routing of construction vehicles • Visibility splay to Little Baddow Road • Width of access onto Little Baddow Road • Any gates at access onto Little Baddow Road to be set 6m from back edge of carriageway • Ease of passage over public footpaths to be maintained 	Noted and covered in section 5.8 of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<ul style="list-style-type: none"> • Submission of workplace travel plan and monitoring fee (£5000) 	
Essex County Council Suds (Lead Local Flood Authority).	<p>Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, does not object to the granting of planning permission subject to conditions relating to:</p> <ol style="list-style-type: none"> 1. Submission of a detailed surface water drainage scheme; 2. a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works; 3. submission of a maintenance plan for the surface water drainage scheme; and 4. maintaining years logs of the maintenance. 	Noted and covered in section 5.9 of the report.
Natural England	<p>This application has triggered one or more Impact Risk Zones. The designates sites which could be impacted by this proposal are:</p> <ul style="list-style-type: none"> • Woodham Water Common Site of Special Scientific Interest (SSSI) • Blake's Wood & Lingwood Common (SSSI) <p>Please note that Natural England has only provided comments in relation to impacts on statutory designated nature conservation sites.</p> <p>Refers to Standing advice on ancient woodland and veteran trees - Advice is given on determining impacts and how to avoid, reduce or compensate for the impacts.</p> <p>SSSI Impacts which may need to be addressed</p> <ol style="list-style-type: none"> (i) Air quality during construction (ii) Increase in access 	Noted – ecology is covered in section 5.11

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	(iii) Root compaction (iv) Tree surgery works (v) Surface water runoff (vi) Foul water disposal (vii) Groundwater changes (viii) Development Buffering	
Place Services - Archaeology	<p>The Essex Historic Environment Record (EHER) shows that the proposed development site is sited within an area of historic environment potential. The applicant has prepared a heritage statement for the site, however this only deals with the Listed buildings, the Historic Environment Record has not been consulted nor has the surviving elements of the historic landscape been assessed, as is required by para. 189 of the NPPF.</p> <p>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.</p>	Noted and covered in section 5.6
Place Services - Ecology	<p><u>First Response</u></p> <p>No objection subject to securing biodiversity mitigation and enhancement measures.</p> <p>Satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</p> <p>The mitigation measures identified in the submitted Conservation Management Plan (EECOS, November 2019) and Preliminary Ecological Appraisal (April 2019) should be</p>	Noted and covered in section 5.11 of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>secured and implemented in full together with the ecological elements outlined in the Construction and Environment Management Plan (Clive Simpson Planning Ltd, May 2020). However, some further general good practice measures are recommended to be attached as an informative. We support the Lighting Strategy (The Warren Estate, undated) devised for the site. This is necessary to conserve protected and Priority Species.</p> <p>Support the proposed reasonable biodiversity enhancements outlined in the Conservation Management Plan (EECOS, November 2019), which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. This includes the planting of native species of tree and shrub, extended boundary habitats, additional habitat creation through inclusion of bird and bat boxes (integral & external) and the provision of signage and pathways for site visitors. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.</p> <p><u>Second Response – upon receipt of revised Arboricultural report</u></p> <p>The new information specifies which trees will be removed as part of the scheme and the tree/hedgerow root protection to be installed. It would appear from the information that only one tree with low potential roosting features (PRFs) is to be felled, and the two other trees with PRFs are still to</p>	

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	be retained. Is also satisfied that the tree and hedgerow protection planned is satisfactory. Therefore, confirms previous response (above) is still relevant.	
Sport England	<p>The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case.</p> <p>Provides general guidance and advice in relation to the loss or provision of any new sports facility.</p>	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Arboricultural Consultatnt	<p><u>First Response</u> The arboricultural statement that has been provided does not provide sufficient information in accordance with BS5837:2012.</p> <p>Until such information is provided the potential impact on trees cannot be fully assessed.</p> <p><u>Second Response</u> Is satisfied that the arboricultural report this has been undertaken in accordance with BS5837:2012 and it has identified the constraints the trees present to the proposed development.</p> <p>Should the application be approved then recommends including a condition to have a more detailed tree protection method statement and supervision schedule provided. The current report has a draft method</p>	Noted and covered in section 5.10 of the report.

Name of Internal Consultee	Comment	Officer Response
	<p>statement, but more detail relating to specific methods and construction techniques to be utilised when working in the RPA, such as 'No Dig' surfaces etc.</p> <p>Also suggests a robust landscape scheme is also conditioned to include new tree and shrub planting to enhance the diversity of species and age within the site, as well as to address seasonal interest and benefit wildlife habitats.</p>	
Conservation Officer	<p><u>Heritage assets affected by this proposal:</u> This proposal will affect the setting of Wayside, a cottage which may be regarded as a non-designated heritage asset for the purposes of paragraph 197 of the NPPF. There are other heritage assets on The Warren Estate, both designated and non-designated, but Wayside is the only one which the Conservation Officer considers would be affected by the proposals contained in this application.</p> <p><u>The significance of the affected heritage asset:</u> Wayside was designed c.1926 by the architectural firm Read & MacDonald. It is one of several early-20th-century Arts and Crafts style buildings commissioned by Henry Walter Thompson, who bought The Warren in 1904 and was responsible for laying out the current golf course.</p> <p>Wayside has been identified as a candidate for the Council's Parish Lists of Local Heritage Assets, although a list has not yet been adopted for Woodham Walter. Wayside satisfies the approved selection criteria insofar as it is a substantially complete early-20th-century house of very good local architectural and historic interest, deploying mostly good-quality</p>	Noted and covered in section 5.5 of the report.

Name of Internal Consultee	Comment	Officer Response
	<p>materials, detailing and workmanship. The building's architectural quality has regrettably been diminished by recent refurbishment, including the replacement of the original lead-glazed windows with grey plastic windows. However, the building's overall form remains well-preserved and its significance is reinforced by its association with the other Arts-and-Crafts style buildings on the Warren Estate and by its idyllic rural setting, fronting a leafy lane and public footpath, with a grass meadow immediately to the east of it.</p> <p><u>Identification and assessment of the proposal's likely impact on the asset's significance, including settings:</u> The holiday lodges which have already been built at The Warren Estate are not particularly attractive structures, but those that exist are fairly well screened from public views – occupying the site of an old gravel pit – and do not affect the setting of any heritage assets. However, the meadow immediately to the east of Wayside is open to view from the public footpath and forms part of the bucolic rural setting to this Arts and Crafts style house.</p> <p>The erection of lodges on the meadow to the east of Wayside would have a moderately adverse effect upon the setting and significance of the non-designated heritage asset, by eroding its idyllic rural surroundings.</p> <p><u>Identification of the degree of harm to the significance of the heritage asset:</u> To use the terminology of the NPPF and Policy D3 of the Maldon LDP, I advise that this proposal will cause “less than substantial harm” to the significance of Wayside as a non-designated heritage asset. The degree of harm in this instance would be</p>	

Name of Internal Consultee	Comment	Officer Response
	<p>limited. Paragraph 197 of the NPPF advises that 'in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. It will be down to the determining officer or committee to make a balanced judgement weighing the limited harm I have identified to a non-designated heritage asset against any public benefits the scheme poses.</p>	
Environmental Health	<p><u>First Consultation Response</u></p> <p><u>20 Lodges at the Wayside Retreat</u> Should planning permission be given It is important that conditions are imposed to ensure that no residential occupation occurs, and they remain for holiday use. This also applies to the 50 lodges at Bunsay Downs Golf Course.</p> <p>A Noise Impact Assessment dated 27 November 2019, project ref: 10031-1 has been provided and understand that as part of this proposal the nearest noise sensitive receptor (Wayside) is to be re-assigned as a short-term holiday let. The converted stable block which now appears to be in residential use is approx 150m away and unlikely to be affected by the proposal. The assessment recommends that the hot tubs should be the 'silent-type' and mounted to prevent vibration. A speed limit of 10MPH is suggested on access roads.</p> <p>recommend relevant conditions to ensure the recommendations are applied should planning permission be granted.</p> <p>The existing lodges are served by a single foul drainage system. This</p>	<p>Noted and covered in section 5.7 of the report.</p>

Name of Internal Consultee	Comment	Officer Response
	<p>Service has received several complaints relating to the system over the last few months and I am aware an update to the pumps is due which it is hoped will address the problems, I would not wish to see any additional lodges being served by the current system. Agree that a condition attached to any permission given requiring the submission and approval of an appropriate foul drainage system is acceptable.</p> <p><u>Golf Academy</u> Recommends a condition regarding any external lighting scheme.</p> <p><u>Extension to the Clubhouse</u> Whilst no raw data has been included in the report ambient and background sound levels were measured at 35dB(A) and 24dB(A) respectively which is very low. Any new noise source in the area is likely to be very noticeable. It is noted that hours of opening are proposed as 07:00 - 23:30 Monday to Saturday and 08:00 - 22:30 on Sundays and Bank Holidays but the noise report is for the daytime only.</p> <p>A common noise complaint is indeed disturbance from outdoor areas of licensed premises particularly during the evening.</p> <p>The report suggests that music will be played at background level only. This is subjective and impossible to condition. It is not clear whether there is an intention to provide amplified entertainment inside the clubhouse, it has not been considered in the noise report.</p> <p>Whilst the report suggests that the proposed new building will effectively screen the receptor from the outside</p>	

Name of Internal Consultee	Comment	Officer Response
	<p>seating area and provide between 15 and 20dB reduction in the conversation level I am not confident in the results of the modelling and in any event it does not consider disturbance from people entering or leaving the clubhouse.</p> <p><u>50 Lodges at Bunsay Golf Course</u> Background noise levels in the area are very low. The erection of 50 lodges and general activity associated with their occupation will impact on the amenity of the area. A family BBQ and seating area is proposed approximately 50m south of the boundary of the NSP which will encourage people to congregate in that area, which may be a source of disturbance.</p> <p>Subject to suitable conditions no objection is raised to the erection of 20 lodges at Wayside Retreat or the Golf Academy. However, concerns are raised about the impact on the amenity of the area by the introduction of 50 lodges at Bunsay Downs and the extension to the clubhouse. Therefore, EH object to the application on noise grounds.</p> <p><u>Second Consultation Response</u> <u>BBQ Area</u> The applicant is prepared to remove this area from the application.</p> <p><u>Play Barn</u> The applicant has not addressed noise from this facility. It may be that if it is only used as a play barn with suitable hours of operation then this can be controlled by condition.</p> <p><u>Sound level</u> The applicant proposes to set a level for sound at the boundary. Setting a level for this type of noise is difficult, as it is difficult to quantify the sound</p>	

Name of Internal Consultee	Comment	Officer Response
	<p>level that is going to be produced.</p> <p>The software used by the consultant (Computer Aided Noise Abatement) is more suited to industrial , construction, road and rail projects.</p> <p>Consider it is not a simple matter to set a level which passes the 6 tests for a Planning Condition. Previously phrases such as “inaudible” have been used but it is generally accepted that this is not a suitable phrase to use in a condition.</p> <p>Concerns remain the same that the introduction of an additional 50 lodges will impact on the nearest noise sensitive properties.</p>	

7.4 Representations received from Interested Parties

- 7.4.1 **182** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Holiday Lodges are an unnecessary use of land.	Please refer to section 5.2 of the report.
The development would overwhelm the village.	Noted.
The proposal would not represent sustainable development under LDP policy S1.	Please refer to conclusion in section 3 of the report.
Raise concerns over the current use and occupation of the existing holiday lodges on the site.	Any potential breaches of planning control is not material consideration for this current application and would be a matter for the planning enforcement team.
The current lodges at The Warren are neither fully built or fully occupied, brings into question why permission for 70 more is necessary.	Noted- please refer to section 5.2 of the report.
There are currently 10 lodges for sale at the existing site, proving that there is not a demand for more.	Noted - please refer to section 5.2 of the report.
Adding 20 further lodges for sale when many stay vacant and are up for sale at	Noted - please refer to section 5.2 of the report.

Objection Comment	Officer Response
present questions the need and 50 lodges as part of a Hoseasons “Go Active” leisure complex would severely strain the narrow country lanes and local facilities.	
Much is also made of the lack of such facilities in Essex but there are already many such resorts, such as the Five Lakes resort close by and a vast number of golf courses.	Noted - please refer to section 5.2 of the report.
The existing holiday lodges at The Warren would appear to meet any tourism need for the area and a recent request to build further lodges was declined, in part, for this reason. At the same time, an attractive and popular golf course welcoming all levels of golfers and offering sport and exercise for local residents, would be lost or significantly diminished at a time when outdoor leisure and keeping fit is actively encouraged.	Noted - please refer to section 5.2 of the report.
Maldon Council turned down an application for 10 additional lodges last year, how can an application for 70 new lodges now, be even countenanced?	Please refer to section 5.2 of the report.
No identified need for the proposal. Economic impact is a material consideration, not a demonstration of need for a tourist facility. Economic justification does not override the requirements for development to be sustainable or to comply with planning policy.	Noted - please refer to section 5.2 of the report and the conclusion in section 3.
The (dubious) economic benefit is not outweighed by the detrimental impact on the countryside and area of outstanding natural beauty.	Noted. Please refer to conclusion section of report.
Development of a regional or national holiday park does not just require a planning application. Such development needs to be considered though the local plan process with supporting infrastructure in place for the development.	The Local Planning Authority is bound to accept and determine planning applications in accordance with the Development Plan.
The destination research need report includes fundamental errors and its reliability is questioned.	Noted. Please refer to section 5.2 of the report.
Economic benefit appears conjectural and based on a hypothetical model.	Noted. Please refer to section 5.2 of the report.
Do not see the village and surrounding area has enough to offer holiday makers	Noted.

Objection Comment	Officer Response
and the lodges will bring huge amounts of extra traffic and possibly double the amount of people to the village to those who already reside here.	
The existing tourist provision in the District is extensive including a new Travel Lodge at Maldon.	Noted. However the proposal is for holiday lodges which are a different form of accommodation from a hotel.
Concern that this application is only the start with further applications for additional facilities/attractions etc being required.	Noted concern, however the application has to be considered as submitted.
It has not been demonstrated that tourist facilities are available on site as required by the 'Go Active' brand and such facilities are not included in the planning application.	Noted – please refer to section 5.2 of the report.
The Warren estate has leisure facilities (gym, swimming pool) which are free to use for their residents, however residents of the surrounding villages pay a substantial fee for membership. Whilst the gym has been extended, the new changing rooms are still relatively small as is the swimming pool, the addition of seventy extra lodges would put a strain on this facility.	Noted – please refer to section 5.2 of the report.
Owning a second home is a luxury that should not be given preferential treatment.	The proposed development is for holiday lodges and not permanent residential dwellings and this could be controlled through a condition.
Would be a better use of land to create affordable housing.	The Council has a duty to consider and determine the application as submitted not alternative proposals that are not before it.
The proposal as a whole is too large and will have a damaging and detrimental effect on the stunning, tranquil and peacefulness of the village of Woodham Walter which consists of a population of approximately 500 with about 150 dwellings.	Noted – please refer to section 5.4 of the report.
The village boundary of Woodham Walter is clearly defined, and outside that new building is not permitted as it is farmland/green belt, some long pre-existing small groups of houses such as Gun Hill and West Bowers that cannot be expanded, and the golf courses which are open land.	Please refer to section 5.4 for consideration of landscape impact. There is no green belt land within the district.
In many ways the proposal contravenes	Noted.

Objection Comment	Officer Response
the Woodham Walter Village Design Statement in regard to a number of issues in the Built Environment, sustainable development and roads sections.	
The application would fail to respect the character of the rural community described on page 11 of the adopted Woodham Walter Village Design Statement.	Please refer to section 5.4 of the report.
Such a large proposed development is completely inappropriate and out of character with its surroundings.	Please refer to section 5.4 of the report.
The building of a large number of holiday lodges is out of keeping with the surrounding area of attractive and open countryside and would be to the detriment of the wide variety of wildlife currently on the site.	Please refer to sections 5.4 and 5.11 of the report.
The development is far too dense, too suburban in layout and outside the village envelope	Please refer to section 5.4 of the report.
This development will be alien in the countryside setting. Creating a dense population of lodges/caravans	Please refer to section 5.4 of the report.
However well designed, an overground holiday cottage is much less sustainable than a house built directly on foundations to latest Building Regulations.	Noted.
Woodham Walter is an area of natural beauty and home to much varied wildlife including rare birds of prey such as Red Kites that have recently made a return to the area.	Noted.
This course is a site of outstanding natural beauty and was recognised with an award for its special environmental credentials.	The landscape is not a designated area of outstanding natural beauty. Please refer to section 5.11 in respect of ecology and biodiversity.
There will be significant adverse impact on the ecology and wildlife of the area, particularly the badger habitats and the nesting sites for birds and raptors in the adjacent woodland.	Please refer to section 5.11 of the report.
The proposed development, no matter how sympathetically designed will destroy the natural environment, ecology and wildlife habitat.	Please refer to section 5.11 of the report.
Development will result in an adverse impact on sensitive ecology and wildlife such as Great crested newts, nesting buzzards, muntjac deer, and badgers.	Please refer to section 5.11 of the report.

Objection Comment	Officer Response
A development on this site which is very close to areas such as Woodham Walter Common, managed by Essex Wildlife Trust, and will completely change the environmental dynamic through sound and light pollution together with the traffic issue.	Noted. Please refer to sections 5.7, 5.8 and 5.11 of the report.
The LVIA and NIA have not been updated to show the revised placement of 13 lodges in the Design Adaptations dated March 2020. Thirteen lodges are now placed further to the west and are much closer to Common Lane.	Noted in main report. Please see sections 5.4 and 5.7.
The reports on Visual and Landscape and Noise levels are flawed in that they do not take into account seasonal variations. In the summer and autumn months the site is relatively well screened. However, in the winter and early spring months it is very different when there is no leaf cover on the trees.	Noted.
Attention should be paid to the flood risk downstream of the brook through Bunsay that caused evacuation in the village some years ago.	Please refer to section 5.9 of the report.
No EV charging is suggested or provided. This should be provided as a matter of course, especially with the increase in existing car parking.	Should planning permission be granted this could be addressed through a condition.
The Proposal would result in an increase in traffic and therefore emissions.	Noted.
The roads in the area are typical country roads and lanes unsuitable for access to a large leisure facility.	Noted – please refer to section 5.8 of the report.
Movement of the lodges themselves will also cause traffic problems. We have on many occasion been held up in Herbage Park Road by lodge transporters.	Noted. Should planning permission be granted a construction management plan could be conditioned to minimise impacts.
Spring Elms Lane which is a single carriageway country lane the majority of which is 60mph & which is the main route to Bunsay Downs other than from the Maldon area. A development of this size & nature for which access will mainly be along Spring Elms Lane will instantly at least double the volume of traffic on the lane given there are less than 50 houses along it.	Noted – please refer to section 5.8 of the report.
Spring Elms Lane is already dangerous with high speed cars as they are used as a	Noted – please refer to section 5.8 of the report.

Objection Comment	Officer Response
cut through. This development will make it worse.	
Access is also a major issue, the planning application makes much of the local bus stops but omits the fact that there are only 2 buses on only 2 days of the week and both buses are outside non peak hours so not suitable for occasional need.	Noted – please refer to sections 5.3 and 5.8 of the report.
Any staff would have to come from Maldon or Chelmsford by car as there is virtually no public transport. It was very noticeable how much traffic increased on Little Baddow Road when Bunsay Downs reopened after Lockdown, and that was without the clubhouse.	Noted – please refer to section 5.8 of the report.
The country roads are regularly used by cyclists, walkers, horse riders and farmers. The impact on rural business such as liveries and agriculture will be huge.	Noted – please refer to section 5.8 of the report.
Cars pull out of and into Bunsay Downs car park at an alarming speed which is dangerous to people walking and riding along the road.	Noted.
The proposal will increase car and heavy construction traffic leading to potential for a serious accident or possible deaths.	Noted. Should planning permission be granted a construction management plan could be conditioned to minimise impacts.
There are obvious increased risks to local wildlife from increased traffic in these lanes.	Noted.
Construction traffic would have to come through the village. Most roads are narrow, some being single lane. It would cause immeasurable disruption to our peaceful village.	Noted. Should planning permission be granted a construction management plan could be conditioned to minimise impacts.
Access to visitor attractions in Maldon and Chelmsford would put more pressure on the junction out of the village onto the A414.	Noted – please refer to section 5.8 of the report.
There seems to be no reason at all to double the parking space as each lodge has one or more spaces.	Parking is required for all elements of the proposal and not just the lodges.
The part of Common Lane that is a public Highway is unfenced to the proposed development site. This will constitute a significant risk to children staying in the family lodges wandering into Common Lane.	Noted. Should planning permission be granted soft and hard landscaping conditions could be attached, however any boundary treatment would need to be sensitively designed.
The unmade part of Common Lane is	Noted.

Objection Comment	Officer Response
clearly designated as a footpath. There is a danger that the placement of holiday lodges will encourage holiday makers to use the footpath as a cycle path into Woodham Walter Nature Reserve. We believe this will represent a safety risk to other pedestrian users of Common Lane.	
Proposed golf academy would not have any positive impact on the village.	Noted.
It is noted that that one area is for "Adults Only" which raises concerns about rowdy, noisy parties etc.	Noted – please refer to section 5.7 of the report in relation to noise.
Can often hear a lot of noise from wedding functions at the Warren and a we could hear every word of the music and peoples conversations when they held a party at Bunsay Downs one evening last year.	Noted - please refer to section 5.7 of the report in relation to noise.
There will be serious noise nuisance to adjacent dwellings.	Noted - please refer to section 5.7 of the report in relation to noise.
Detrimental Impact on Stivvy's Road/Gunhill area – the documents provided by the applicant fail to address the harmful impact on this residential location of 11 properties which are, all but one agricultural field, adjacent to the site.	Noted. please refer to section 5.7 of the report.
Currently the site has a moderate flow of traffic and visitors during the day, at night the site is closed and therefore quiet and dark. The proposed site as a holiday park would change the dynamics of the area dramatically with the increase in traffic during the day and night.	Noted.
There will be a huge increase in noise and light pollution which currently is extremely low and reflects the rural character of the village.	Noted.
Based on the current membership fees at The Warren, the Golf Academy would not be accessible to all in the village as a result of its high prices.	Noted.
The Pay and play course provides pleasure for people unable to afford golf fees.	Noted. The supporting information states that it is intended to retain the pay and play option.
The planned loss of 4 holes on the golf course must surely affect the attractiveness of the site, as golf is traditionally played across 9 or 18 holes.	Noted. The supporting information states that there will be 9, 12, or 18-hole options.
The proposal would destroy the valuable	Noted. Please refer to section 5.2 of the

Objection Comment	Officer Response
and unique golf course of Bunsay Downs which is a facility much used and loved by golfers from across the county.	report.
The village does not have a regular bus service, cycle lanes or, in many areas' pavements. The village does not have a shop. The village does have three pubs but could not manage with a huge increase in potential customers.	Noted. Please refer to section 5.2 of the report.
Local pubs would probably not gain from users of the lodges because there are onsite bar and restaurant facilities at both the Warren Golf Club and Bunsay Downs.	Noted. Whilst there would be on site facilities it is reasonable to assume that some visitors would use the local public houses and other facilities further afield as well.
The current number of lodges has not improved the current infrastructure in fact the village shop closed during the time the lodges were first built. This is proof that the lodges do not add to the Woodham Waltercommunity.	Noted.
There is no village shop or post office to benefit from the influx of visitors.	Noted.
The proposal would put a strain on the local services and infrastructure.	Noted.
The site is not connected to mains sewage so cesspit/ septic tanks/ specific treatment works or sewage pumped to the mains sewer in Herbage Park road all have to be considered and adding 70 more lodges to the existing 102 will be putting considerable extra demand on the system.	Noted. Please refer to section 5.9 of the report.
Local infrastructure is already challenged with pockets of poor internet and regular power outages.	Noted. UK Power Networks were consulted but made no comment.
This application proposes a holiday park style development without any of the associated investment in infrastructure or provision. This is an unsustainable development	Noted. Please refer to section 5.2 of the report.
Access to medical care is a major problem already and this proposal will worsen the problem.	Noted.
The increase of "holiday" traffic, is also likely to further burden Hoe Mill lock, by the Chelmer and Blackwater canal which has seen chaotic scenes during these summer months.	Noted.
We already have tourists visiting the nearby Paper Mill and Hoe Mill locks on the Chelmer on a regular basis and that	Noted.

Objection Comment	Officer Response
has created all kinds of problems for the local community especially with traffic parking on yellow lines and waste that's being left behind.	
The lodges would do nothing to either support or provide employment other than during their construction.	Please refer to section 5.3 of the report.
The considerable amount of housing being constructed in Maldon should fill the need for economic growth.	This application is for holiday lodges and associated development and not permanent residential dwellings.
Local landowners raise concerns over trespassing and destruction of crops and rise in crime with such a huge increase in population.	Noted.
Raises concerns over application being submitted and considered when there is a pandemic and all Council meetings are only held virtually.	As the pandemic has been an ongoing situation for some time not determining applications until the pandemic is over is not a viable option. New regulations have been published enabling planning committee meetings to be held virtually and the Council is following all proper procedures and protocol in this regard.
Consider that the incorrect planning fee has been paid as if the proposed accommodation is being used as a residential dwelling for at least 50 weeks of the year then these are residential properties.	The correct fee has been paid as the holiday lodges fall under the statutory definition of a caravan of the Caravan Sites and Control of Development Act 1960 as supplemented by Section 13 of the Caravan Site Act 1968.

7.4.2 **19** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
See this planning application as a way to bring more visitors to our lovely village and to increase income for all businesses. It's not just The Warren who is going to benefit, the surrounding pubs and businesses will also see an increase in their use.	Noted. Please refer to section 5.3 of the report.
This planning is for 'Go Active' holiday lodges, if I had the choice of where to holiday and get the most out of being outdoors Woodham Walter would be top of my list.	Noted.
This planning will bring in more jobs which at the minute are very scarce, this will help get the economy back up and running in the surrounding areas.	Noted. Please refer to section 5.3 of the report.
There will be less golfers if the planning	Please refer to section 5.8 of the report.

Supporting Comment	Officer Response
is successful so overall the traffic will not change significantly.	
The membership at the Warren and Bunsay is a reasonable price.	Noted.
This business is trying to do everything the government are thriving for, creating new jobs, investing and bringing well needed funds into our community.	Noted. Please refer to section 5.3 of the report.
This creation of jobs would not be just limited to The Warren but would drive an increase in job creation within its supply chain.	Noted. Please refer to section 5.3 of the report.
The development would positively impact tourism within Essex by allowing visitors to extend the period of time they visit the area.	Noted.
The propose plan would be highly attractive to families as there are a number of social benefits felt by the whole family. Not only are parents spending key quality time with their children, but it provides time to get active for all members of the family.	Noted.
The Warren provides first-hand experience in club operations and business planning on a daily basis and therefore are always improving and progressing the club and its facilities to facilitate the community's needs further.	Noted.
Own a holiday at the Warren Estate and love the resort. Woburn Sands residents objected in there 100s to Center Parks coming to there town, today the village is the most vibrant in the country and they would never go back.	Noted.
This is an amazing opportunity for Maldon to lead the way in the District and help generate loads of jobs and help local businesses survive.	Noted.
The proposed Golf Academy is going to be a great addition to the local area. This is going to help create more opportunity for increased golf participation for both local residents and guests staying at the Warren Estate.	Noted.
Golf courses do not make money as a stand alone entity. The investment up to now primarily been put towards the events side of the business and the	Noted.

Supporting Comment	Officer Response
changes made have been at a very high standard. I have no doubt that the works proposed will equally be completed to a similar standard.	
The par 3 badgers course just does not get the use or investment that justifies it being kept as a golf course.	Noted. However, no information in relation to current use levels of the golf courses have been submitted.
This proposal will create a number of jobs for local people and especially youngsters that are clearly going to struggle in these tough times.	Noted. Please refer to section 5.3 of the report.
The creation of jobs, the long awaited investment and the reassurance that The Warren Golf Club and Bunsay Downs Golf Club will continue to run as Golf Clubs is enough for me to fully support the application.	Noted.
With a lot of people now choosing to have their holidays in the UK rather than abroad, the demand for this type of development has never been higher.	Noted. Whilst it is understood that the current situation has resulted in a boost to holidays in the UK (pre-current lockdown) the application has to be assessed against the long term and on the basis of the supporting information submitted. Please refer to section 5.2 of the report.
House backs onto the driving range and I feel this would only enhance the area plus I wouldn't have wayward golf balls in my garden on a windy day and no risk of them hitting grandchildren playing in my garden!	Noted.

7.4.3 **1** letter was received **commenting** on the application and summarised as set out in the table below:

Comment	Officer Response
<p>No objection in principle providing the following requests are given due consideration:</p> <ul style="list-style-type: none"> • A shop on site to sell local produce from local producers along with essentials and newspapers; • Detailed study on the area to ensure that there are no endangered animals/reptiles and most important no endangered or Undiscovered insects that would be adversely affected by any such work or development; 	<p>The Local Planning Authority have a duty to consider the development before them, not an alternative proposal.</p> <p>Detailed ecology and protected species surveys, where necessary, have been submitted in support of the application. Please refer to section 5.1 of the report.</p> <p>Two accessibility lodges are included in the design with pathway access to all clubhouse facilities. Disabled access would be fully considered under building regulations.</p>

Comment	Officer Response
<ul style="list-style-type: none"> Plans should be scrutinised by a wheelchair user to ensure the law on disabled access is followed. 	

8. **REASONS FOR REFUSAL**

- 1 The application site is located within a rural countryside setting and both sections of the application site where the holiday lodges are proposed add to and are characteristic of the overall rural setting with a sense of tranquillity. The use of the land for holiday lodges (along with the associated necessary infrastructure) would introduce an incongruous and visually harmful development which would have an urbanising impact upon the rural character and appearance of the site and erode much of the open nature of the site. The proposal would therefore fail to protect the intrinsic character and beauty of the countryside contrary to guidance contained within the National Planning Policy Framework as well as policies S1, S8, E5 and D1 of the approved Maldon District Local Development Plan.
- 2 Insufficient information has been submitted to demonstrate there is an identified need for the 70 holiday lodges proposed. The development would therefore represent inappropriate development outside of the settlement boundary without justification contrary to policies S1, S8 and E5 of the Maldon District Local Development Plan as well as the National Planning Policy Framework.
- 3 The redevelopment of the Bunsay clubhouse and use of the land to the south of the Bunsay clubhouse for 50 holiday lodges would result in harm to the amenity of the area through noise and would materially harm the amenity of the occupiers of the dwellings along Little Baddow Road, namely Apple Cottage and No's 1 and 2 Hawkins Farm Cottages contrary to guidance contained within the National Planning Policy Framework as well as policies E5, D1 and D2 of the approved Maldon District Local Development Plan.
- 4 The stationing of 20 holiday lodges on land to the east of the non-designated heritage asset 'Wayside' would result in a moderately adverse effect upon the setting and significance of this non-designated heritage asset by eroding its idyllic rural surroundings. In this instance due to the lack of justification for the holiday lodges and the harm to the rural landscape setting of the site it is considered that the public benefits of the proposal would not outweigh the limited harm that the 20 lodges would cause to the non-designated heritage asset 'Wayside'. The proposal would therefore result in harm to this non-designated heritage asset contrary to the guidance within the National Planning Policy Framework as well as Policies S1, E5, D1 and D3 of the approved Maldon District Local Development Plan.
- 5 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary payment of a Travel Plan monitoring fee as requested by the Highway Authority, the impact of the development cannot be mitigated contrary to Policies S1 and T2 of the

Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 FEBRUARY 2021**

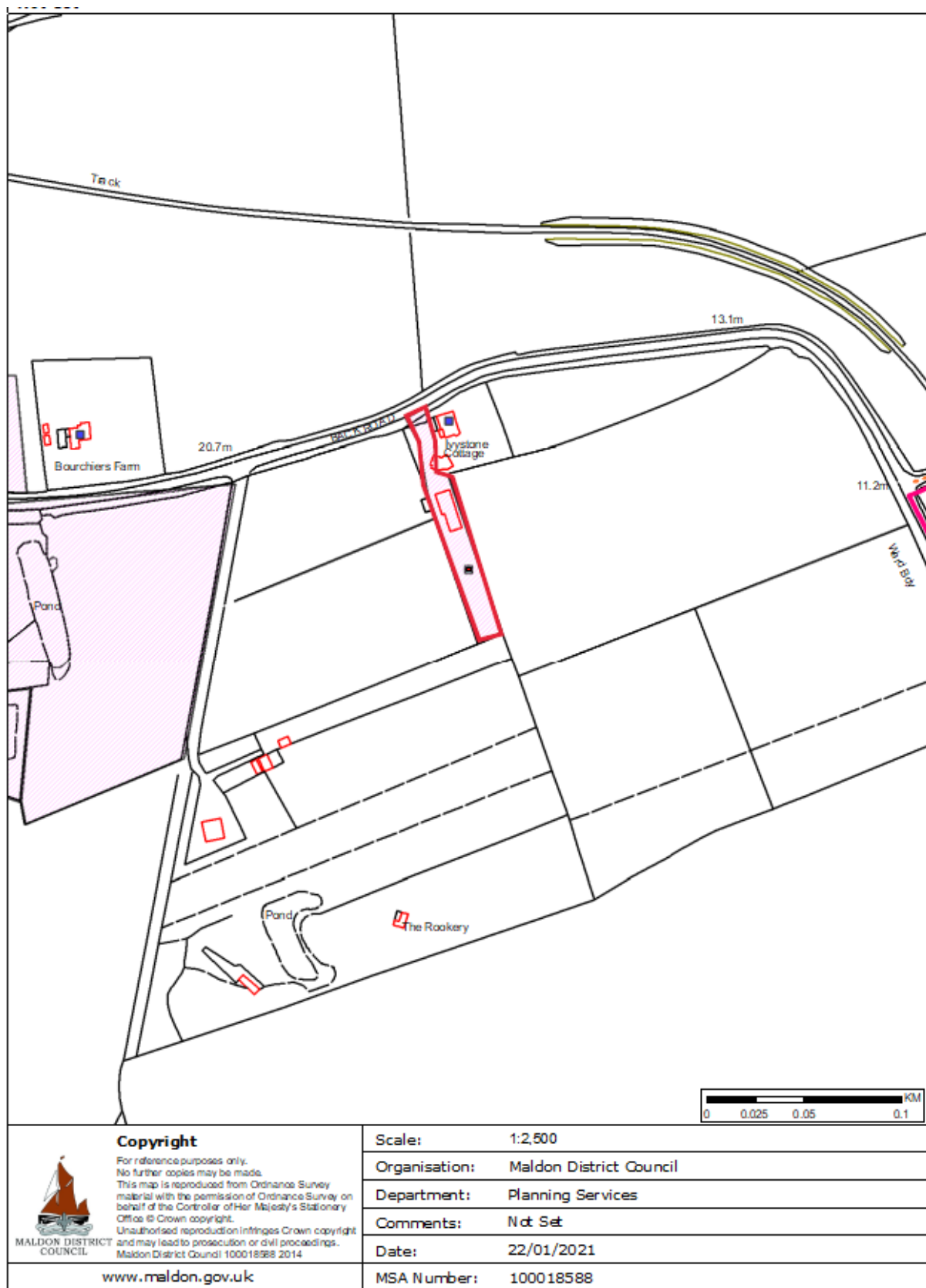
Application Number	20/01120/FUL
Location	Land Adjacent To Ivystone Cottage Back Road Tolleshunt D'Arcy
Proposal	Conversion of hay barn and stables to a dwelling
Applicant	Ms Helen Scott
Agent	Sue Bell - Sue Bell Planning Consultant
Target Decision Date	11.01.2021 EOT 12.02.2021
Case Officer	Hannah Bowles
Parish	TOLLESBURY
Reason for Referral to the Committee / Council	Departure from Local Plan

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site

- 3.1.1 The application site is located on the southern side of Back Road, outside of a defined settlement boundary. The application site is accessed by a small access track which provides access to Ivystone Cottage and the barn subject of this application. The site itself is occupied by a haybarn and stables building and is laid to lawn to the north.
- 3.1.2 The surrounding area is somewhat rural in nature. However, it is noted that there is sporadic residential and agricultural/commercial development along Back Road. In particular, to the east of the application site is Ivystone Cottage, the donor property for the barn.

Proposal

- 3.1.3 Planning permission is sought to convert the existing hay barn/stable building into a residential dwelling.
- 3.1.4 It is not proposed to alter the external dimensions of the existing building other than increasing the height of the lean to roof on the eastern elevation from 2.3m to 3m. Alterations are proposed to the materials and the fenestration. The external finish materials would consist of a slate roof and the existing timber boarding would be replaced with new timber boarding. The windows and doors would be timber.
- 3.1.5 Five roof lights are proposed on the eastern side of the roof and French doors with windows either side are proposed on the western elevation. The existing openings would be utilised and replaced with glazed timber doors or windows. The opening on the western elevation which will provide the entrance to the proposed dwelling would be widened to provide a doorway and two full length windows.
- 3.1.6 The proposed dwelling would provide four bedrooms, two bathrooms, an open plan kitchen, dining area and lounge, a utility room and W.C.
- 3.1.7 There is an existing access point from Back Road that would be utilised by the proposed dwelling.

Background information

- 3.1.8 The application is a re-submission of a previous application, 19/01277/FUL, which was refused by the Local Planning Authority (LPA) and subsequently dismissed at appeal based on the absence of securing the necessary Recreational disturbance Avoidance and Mitigation Strategy (RAMS) mitigation contribution. The Inspector for the appeal concluded *‘Overall, in the absence of a means of securing the necessary mitigation in relation to the potential effect on the integrity of the Sites, the negative aspects outweigh the positive factors that the scheme would bring.’* The findings of the Inspector for the appeal, which will be discussed in detail below, are a material consideration of significant weight in the determination of this application.

- 3.1.9 The proposed scheme is identical to that proposed under the terms of 19/01277/FUL. However, the full RAMS contribution amounting to £125.58 (plus £50 monitoring fee) has been secured.

3.2 Conclusion

- 3.2.1 Having taken all the relevant material considerations into account, including the findings of the Inspector for the appeal of application reference 19/01277/FUL, it is considered that the proposal would be acceptable.

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
- 91-101 Promoting healthy and safe communities
- 102-111 Promoting sustainable transport
- 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

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
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (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 Local Development Plan (LDP).
- 5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).
- 5.1.3 Where a LPA is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or

“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where

the development plan is 'absent, silent or relevant policies are out-of-date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'.

- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 reiterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF, the LPA are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme

- 5.1.8 Paragraph 78 of the NPPF states that:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'

- 5.1.9 As highlighted above a previous application, of a very similar nature, was dismissed at appeal. However, it is important to note that the Inspector raised no concerns in relation to the principle of the development. This decision is a material consideration of significant weight and it is not considered that there has been any policies or material considerations, since the determination of this appeal, that would outweigh the findings of the Inspector. Therefore, it is not considered that an objection on the principle of the development could be sustained at appeal.
- 5.1.10 It is also pertinent to note that at the time of the previous application and appeal the Council was able to demonstrate a 5YHLS. This matter is discussed in detail within section 5.8 (Planning Balance and Sustainability).

5.2 Housing Need and Supply

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new

dwelling in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need. The Council is encouraged in the policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. In this respect, the proposal would not meet this policy requirement as four bedrooms would be provided. Therefore, this does not weigh in favour of the proposal.

5.3 Design and Impact on the Character of the Area

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

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

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

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

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

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

- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.3.5 The visual impact of the proposed conversion of the existing agricultural building to a residential dwelling was considered as part of application 19/01227/FUL. The Inspector for the appeal found that the proposal *'would not harm the intrinsic character and beauty of the countryside'* and the impact on the character and appearance of the area by the development did not form part of the reasoning for the Inspector dismissing the appeal.
- 5.3.6 The proposal is identical to that assessed under the terms of 19/01277/FUL. There are no material changes to the site or surrounding area that would justify a change in the stance taken by the Planning Inspector. Therefore, it is considered that the proposed development complies with policies D1 and H4 of the LDP and chapter 12 and paragraph 79 of the NPPF which, amongst other criteria, seek high quality design and encourage development which would result in the re-use of disused buildings and enhance their immediate setting in the countryside.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The application site has one adjoining neighbouring property, Ivystone Cottage located to the north-east of the site. The northern elevation of the building subject of this application is set around 30m from the rear elevation of Ivystone Cottage.
- 5.4.3 Given the separation distance between the application building and Ivystone Cottage, the lack of first floor windows and that there is an outbuilding between the application building and neighbouring dwelling, it is not considered that the proposal would result in undue harm to the amenity of the occupiers of Ivystone Cottage in accordance with policies S1 and D1 of the LDP.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The proposed dwelling would have four bedrooms. Therefore, there is a requirement to provide a minimum of three parking spaces. The submitted block plan shows that two parking spaces would be provided. The lack of a functional third car parking space formed a reason for refusal of 19/01277/FUL however, the Inspector for the subsequent appeal concluded:

‘..there is space on the site for a third car to park, parallel to the end of the 2 proposed spaces. This would lead to a certain amount of double parking leading to the potential for slightly convoluted vehicle movements. However, because the spaces would all be serving one family dwelling it is not unreasonable to expect a certain degree of manoeuvring between cars in order to facilitate access and egress. The driveway and courtyard area in front of the barn would allow for such vehicle movements without affecting the highway. Back Road is a relatively narrow country lane and by its very nature would not allow for parking on the road or be likely to be used as such by future occupants.’

- 5.5.3 Given the above findings of the Inspector and that the proposed scheme is identical to the previously appealed scheme, it would be unjustifiable to reach a different conclusion. Therefore, no concerns in terms of parking provision are raised.
- 5.5.4 There is an existing access to the site, which would be utilized by the proposed dwelling and there is space to maneuver vehicles within the site. In addition, whilst the Essex County Council (ECC) Highway Authority has not provided comments for this application, no objection was previously raised under the terms of 19/01277/FUL. Therefore, there is no objection in relation to the access or highway safety.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide (MDG) SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.6.2 The proposed dwelling would benefit from private amenity space well in excess of 100m². Therefore, there is no objection in this regard.
- 5.6.3 There has been no information regarding proposed landscaping submitted as part of the application. Therefore, it is recommended that a condition is imposed to secure the landscaping details.

5.7 Ecology

- 5.7.1 The application has been supported by an Ecological Survey and Assessment dated November 2019 that concludes that there are no potential roosting places within the building and a lack of any presence of bats. Also, the barn is subject to regular disturbance and so is unsuitable for occupation by barn owls, with no evidence of the species being found. There was also no evidence of Great Crested Newts in the pond in the garden of Ivystone Cottage. Therefore, it is deemed that subject to the recommendations provided at section 10 of the Ecological Survey and Assessment, which could be secured via a condition, the proposal would not have an adverse impact on protected wildlife and the biodiversity of the site could be approved. As a result, there is no objection in terms of ecology and biodiversity.
- 5.7.2 In terms of off-site impacts, Natural England (NE) have advised that this development falls within the ‘Zone of Influence’ (ZoI) for one or more of the European designated

sites scoped into the emerging Essex Coast RAMS. It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered ‘in combination’ with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

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

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

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

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

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

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

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

Summary of Appropriate Assessment - as a competent authority, the LPA concludes that the project will, without mitigation, have a LSE on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution of £125.58 is necessary.

- 5.7.8 A financial contribution of £122.30 (and £50 monitoring fee) was paid to the LPA during the appeal process for 19/01277/FUL and the additional £3.28 required was paid during the course of this application. Therefore, the impact of the proposal on designated sites is considered to be mitigated.

5.8 Planning Balance and Sustainability

- 5.8.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.8.2 The key priority within the NPPF, stated at paragraph's 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.8.3 Notwithstanding the considerations as contained in those paragraph's, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.8.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the harm identified arising from the proposed development.
- 5.8.5 In addition to the above, the previous appeal decision at the site, for an identical scheme is a material consideration, which should be afforded significant weight.

- 5.8.6 With regard to the three tests of sustainability, in economic terms, the provision of a dwelling would provide temporary economic benefits from the construction works, and long-term benefits from the increased use of local services and facilities by the future occupants of the dwelling. These factors weigh in favour of the development, although the benefits are limited as only one dwelling is proposed.
- 5.8.7 In social terms new residential development should be located where it would support a strong, vibrant and healthy community, in an area where there is access to some local facilities without the unavoidable need for private cars. The site is not readily accessible to local services or facilities by foot or public transport, and the majority of the trips generated by the proposal would be by car. This weighs against the proposal.
- 5.8.8 In environmental terms the re-use of a disused building would make efficient use of land and the design of the proposal would enhance its setting and the intrinsic character and beauty of the countryside would not be harmed. These factors weigh in favour of the proposal.
- 5.8.9 The above assessment is in line with that undertaken by the Planning Inspectorate. The fundamental differences between the assessment of the previously refused scheme and current scheme is that the Council can no longer demonstrate a 5YHLS and that the required financial contribution to mitigate the impact on designated sites has been secured.
- 5.8.10 A further benefit can be drawn from the scheme given the lack of a 5YHLS, the proposal would contribute to meeting the Council's housing land supply. This weighs in favour of the proposal.
- 5.8.11 In respect of the RAMS contribution and as discussed in the prior sections of this report, the lack of securing the necessary contribution, at the time of the appeal, resulted in the planning balance tilting against the proposal and the appeal being dismissed. Considering that this issue has been addressed under the terms of this application and having regard to the fact that the lack of a 5YHLS provides a further benefit which was not considered at the time of the appeal, it is considered, in this instance that the benefits of the scheme outweigh the harm.

6. ANY RELEVANT SITE HISTORY

- **19/01277/FUL** - Conversion of hay barn and stables to a dwelling – Refused 17.02.2020 and Appeal Dismissed 18.08.2020.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Noted.

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The development shall be carried out in accordance with the following approved plans and documents: 2019-267-001 Rev B and 2019-267-002 Rev B.
REASON To ensure that the development is implemented as applied for and to meet the requirements of policy D1 of the Maldon District Local Development Plan.
- 3 No development works above ground level shall take place until samples of the facing material to be used, including glazing, have been submitted to and approved in writing by the local planning authority. The works must be carried out in accordance with the approved details and retained as such thereafter.
REASON To protect the amenity and character of the area and the countryside in accordance with policy D1 of the Local Development Plan
- 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, for example:
- i. Proposes finished levels contours;
 - ii. Means of enclosure;
 - iii. Car parking layouts;
 - iv. Hard surfacing materials;

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 To ensure that the details of the proposal are satisfactory in accordance with policies D1 and H4 of the Maldon District Local Development Plan.
- 5 Notwithstanding the provisions of Class A, B, C, D, E and F of Part 1 of Schedule 2 and Class A of Part 2 Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings shall be erected within the site without planning permission having been obtained from the local planning authority.
REASON To protect the rural character of the area in accordance with policies S8 and D1 of the Maldon District Local Development Plan
- 6 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

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

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 ensure that the details of the proposal are satisfactory and will not increase the risk of surface water flooding in accordance with policy D5 of the approved Maldon District Local Development Plan.

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

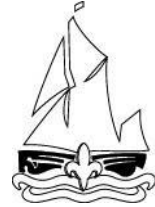
REASON To ensure that the details of the proposal are satisfactory and will not increase the risk of surface water flooding in accordance with policy D5 of the approved Maldon District Local Development Plan.

- 8 Full details of the access and parking arrangements shall be submitted to and approved in writing by the local planning authority. The development shall be completed wholly in accordance with the approved details, prior to the occupation of the development hereby approved, and thereafter permanently retained.

REASON To ensure that there is sufficient off-street vehicle parking provision in the interests of the free flow of traffic and highway safety, in accordance with Policies S1, T1 and T2 of the approved Maldon District Local Development Plan.

- 9 The development shall be undertaken in accordance with the terms and specifications contained within the Ecological Survey and Assessment for Ivystone Cottage Barn, Tolleshunt D'Arcy dated November 2019 which is attached to and forms part of this permission.

REASON In the interests of biodiversity and ecology in accordance with policies D1, D2 and N2 of the approved Local Development Plan.



REPORT of DIRECTOR OF SERVICE DELIVERY

to
NORTH WESTERN AREA PLANNING COMMITTEE
10 FEBRUARY 2021

Application Number	20/01154/FUL
Location	Barns Adjacent to Mosklyns Farm, Chelmsford Road, Purleigh
Proposal	Retention of existing dwelling.
Applicant	Mr & Mrs Strathern
Agent	-
Target Decision Date	14.01.2021
Case Officer	Hayleigh Parker-Haines
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In by Councillor Mrs J L Fleming Reason: D1A, D1E, S1.12 and S8 Resubmitted to the Committee following consultation with the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1 This report has been prepared with the purpose of providing Members with an update which, in Officers' view, is considered material to the determination of application 20/01154/FUL which members resolved to approve contrary to Officer's recommendation, subject to conditions to be approved in consultation with the Chairman and Ward Members, on the 13 January 2021. The committee report can be found at **APPENDIX 1** to this report. This report is presented having regard to provisions within the Town and Country Planning Act 1990 (as amended), sec 70(2).

2. APPLICATION HISTORY

- 2.1 The Area Planning Committee, in carrying out the functions of the Local Planning Authority (in this case, the determination of a planning application) are bound by the Town and Country Planning Act 1990 as amended, and any relevant subordinate legislation. Members of the Area Planning Committee:
- are required to make decisions having regard to the development plan for the area (the Maldon Local Development Plan 2017).
 - must have regard to the report of Officers' submitted to that Area Planning Committee in carrying out their duty in making a decision on the recommendation in that report, having regard to the policies and any other matters considered material to that proposal and as set out in the report (the material considerations).

- are, however, not bound to follow Officers' recommendations and can give different weight to different aspects as they understand the proposal, having regard to development plan policies and material considerations.
- 2.2 In this case, on the basis of the Officer's report, Members determined to approve the proposal contrary to Officers' recommendation on the basis of the policies within the report and the weight they gave to the material considerations set out therein and any other matters that they considered to be material to the proposal. The draft reason for approval states:
- 'Since the determination of the last planning application the Council is no longer able to demonstrate a 5 Year Housing Land Supply. This is considered to weigh in favour of the proposed development. Furthermore, the previous reason for refusal regarding private amenity space has now been overcome'*
- 2.3 The Committee had resolved to approve the application, but at this time a formal decision of the Council, in the form of a decision notice, has not been issued. The decision will not be made, by the Council, until the decision notice has been prepared, signed and issued following due process. In part that time, and due process, is accounted for by confirming the reason for approval and any conditions proposed with the Chairman of the Area Planning Committee and Ward Members. After the Area Planning Committee on 13 January 2021, an appeal decision (**APPENDIX 2**) was received that is similar in nature to this application.
- 2.4 It is accepted that Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires a planning authority, in dealing with an application, to have regard (among other things) to all 'material considerations'. It is incumbent therefore that, any new and relevant material consideration should be fully considered by the 'decision maker' prior to the determination of an application. This includes when additional information is made available in the period between an Area Planning Committee coming to a resolution and the decision notice being issued. This stance is supported in the case of *Kides V. South Cambridgeshire District Council* whereby the Judge provided clarity in regard to section 70(2) of the Town and Country Planning Act 1990, which required a planning authority, in "dealing with" an application, to "have regard to" (among other things) all "material consideration".
- 2.5 The judge determined that *"dealing with" includes anything done by or on behalf of the planning authority which bears in any way, and whether directly or indirectly, on the application in question. "dealing with" is not limited to the particular acts of the authority in granting or refusing permission. In temporal terms, the first act of a planning authority in "dealing with" an application will be its receipt of the application; and its final act will normally be the issue of the decision notice'.*
- 2.6 He opined that a consideration is "material", if it is relevant to the question whether the application should be granted or refused; that is to say if it is a factor which, when placed in the decision-maker's scales, would tip the balance to some extent, one way or the other. In other words, it must be a factor which has some weight in the decision-making process, although plainly it may not be determinative. The test must, of course, be an objective one in the sense that the choice of material considerations must be a rational one, and the considerations chosen must be rationally related to land use issues.

- 2.7 In developing his position, he further stated that ‘an authority’s duty to “have regard to” material considerations is not to be elevated into a formal requirement that in every case where a new material consideration arises after the passing of a resolution (in principle) to grant planning permission but before the issue of the decision notice there has to be a specific referral of the application back to committee.’
- 2.8 The above decision provides clear guidelines in relation to where new material considerations arise before the decision notice is issued. Stating *‘where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty’*.
- 2.9 Taking into account the above, on 14 January 2021 an appeal decision was issued by the Planning Inspectorate which is considered to be a material consideration of great weight in the determination of this application. This appeal decision can be found at **APPENDIX 2** to this report.

3. KEY POINTS

- 3.1 As detailed within the original Officer report attached at **APPENDIX 1**, application 20/01154/FUL seeks planning permission to regularise the change of use of an agricultural barn to C3 residential. The change of use was allowed under the terms of a prior approval application 15/01096/COUPA. However, to date these works have yet to been carried out and therefore fail to comply with condition one attached to this prior approval consent. Furthermore, the conversion has not been carried out in accordance with the plans approved as part of the prior approval application and therefore, the previous prior approval consent does not provide a fall-back position for residential development on this site.
- 3.2 Appeal APP/X1545/W/18/3216373 (**APPENDIX 2**) relates to a Section 73A application (an application for works carried out not in accordance with an approved plan on a decision notice) for the change of use of barns to three dwellinghouses. This appeal decision relates to a development carried out not in accordance with the plans as approved by the prior approval application and therefore, the Inspector determined that the previously granted prior approval provided no fall-back position for residential development on the site. For clarity, an approval under permitted development by way of the Prior Approval process, is an approval under a Development Order (the General Permitted Development Order 2015 as amended (GPDO)), and not the Development Plan (in this case the Maldon Local Development Plan 2017). While an approval under a Development Order may be a material consideration, in this case (as is the case with the application the subject of this determination see paragraph 3.1 above), the development was not carried out in accordance with the Prior Approval (see also paragraph 3.5 below).

3.3 It should be noted that like the subject dwelling seeking planning permission, the three dwellings the subject of the decided appeal at **APPENDIX 2** are all occupied. During the Committee meeting Members resolved to approve the development due to the Council's inability to demonstrate a Five Year Housing Land Supply and therefore awarded significant weight to this consideration in favour of the subject development. It is considered pertinent to note that the following points of the attached appeal decision which directly relate to the reasons for approval:

- Point 26 of the appeal decision states; 'The prior approval scheme was not commenced and then carried out. The three year time limit for completion of the prior approval scheme has not and cannot be met. That being the case the prior approval is no longer extant'. Just like the dwelling the subject of this application, the development the subject of the appeal had not been carried out in accordance with the plans as approved by the prior approval. The Inspector concluded that the prior approval was no longer extant and, as such, did not form a basis for the **principle** of residential development in this location, as was the case with the current application before Members.
- Point 71 of the appeal decision states; A prior approval under the GPDO for a material change of use under Class Q is for a specific proposal that does not fall within any of the exceptions or limitations and which meets all the stated conditions. Unlike an outline planning permission, the prior approval did not establish the acceptability of a residential use on the appeal site and allow for details to be submitted at a later date.' This point provides further clarification in relation to the purpose of a prior approval application under Class Q. The principle of the development of the site and the sustainability of a site are not considerations (let alone material considerations) under a prior approval application and therefore any prior approval application does not result in the principle of a residential use of the site or the sustainability of the site being accepted. This is the distinct and fundamental difference between development under a Development Order to which policies and guidance do not apply, and development by virtue of a planning permission in accordance with the Development Plan (Local Plan) and the National Planning Policy Framework (NPPF 2019). Furthermore, as stated above, due to the prior approval application no longer being extant, there is no fall-back position for the use of the site as residential in the form which was approved. Again, and to be clear, no principle exists for the use of the site as residential under a prior approval application.
- Point 73 of the appeal decision states; 'The 2016 prior approval has no weight and is not a factor that weighs in favour of the built development.' 'There is no valid fallback position.' As previously stated, this is considered to be the same circumstances as the development the subject of the application before Members.
- Point 84 of the appeal decision states; 'The final element of Policy S1 in effect adopts the tilted balance expressed in the Framework. The most recent annual update of the District's five year housing land supply shows a slight shortfall at 4.90 years. This follows on from the years when a five year supply of deliverable housing sites has been demonstrated. A comparison of the

position in 2019/20 with 2018/2019 indicates that the change is part due to a reduction in anticipated supply from major sites of 10+ dwellings and strategic allocations. Small sites and windfalls are in a healthy position. The record on completions shows an upward trend. With these factors in mind I attach limited weight to the identified shortfall in this case.’ As stated above, members attached significant weight to the Councils inability to demonstrate a Five Year Housing Supply. However, the findings of the Inspectorate are wholly different to this whereby due to the limited shortfall, limited weight should be afforded to this. Members are also reminded that, as stated above, the appeal properties are currently occupied, and their circumstances and human rights were taken into consideration by the Inspector.

4. CONCLUSION

- 4.1 All resolutions for planning applications should be based on evidence. As case law has shown (Stringer) the remit for what can be a material consideration is extensive. However, (Tesco) it is also a basic point of planning law that the weight to be attributed to a material consideration is up to the decision maker as long as it is not Wednesbury Unreasonable. Case law also sets out the principle and considerations to be taken into account when new material is presented following a resolution to approve and before the issuing of a decision notice, and the requirement of what is incumbent on the Local Planning Authority to have regard to this information where it considers it is material to do so. The above-mentioned appeal decision provides a material consideration that should be afforded significant weight in the determination of this application. This appeal decision is considered to provide further justification for the refusal of this application in line with the Officers recommended reason for refusal as found below:

‘The proposed development, by reason of its location and design would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012)’.

- 4.2 Should Members be minded to Approve the application, the following conditions are recommended:

- 1 Unless within six months of the date of this decision, a scheme is provided detailing the siting, height, design and materials of the treatment of all boundaries including existing hedging, gates, fences, walls, railings and piers, including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority the occupation of the dwelling, shall cease until such time as a scheme is submitted and approved in writing by the local planning authority. The details approved shall be implemented as approved.

REASON In the interest of local amenity and in accordance with policy D1 of the Maldon District Local Development Plan

- 2 Unless within six months of the date of this decision details of both hard and soft landscape works, to be carried out shall have been submitted to and approved in writing by the Local Planning Authority the occupation of the dwelling, shall cease until such time as a scheme is submitted and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved and within a timeframe agreed as part of the submission. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) after the date of the details being agreed. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide Supplementary Planning Document (SPD).

- 3 Unless within nine months from the date of this decision, details of the vehicle parking area to be associated with the dwelling have been submitted and approved in writing by the Local Planning Authority and the approved scheme implemented the occupation of the dwelling shall cease until such time that a scheme has been submitted and approved in writing by the local planning authority. The approved scheme shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

REASON To ensure that suitable onsite parking provision is provided in the interests of highway safety and that appropriate parking is provided in accordance with policies D1 and T2 of the approved Local Development Plan.

- 4 Unless within six months of the date of this decision, the private footpath as shown on plan MOCM36QP-SP1.0 has been constructed in accordance with the details as approved, the occupation of the dwelling shall cease until such time that this footpath has been constructed.

REASON To ensure the site is accessible by sustainable, safe modes of transport, in accordance with policy T2 of the LDP

- 5 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions, alterations or openings to any elevations, separate buildings, or fencing shall be carried

out/erected within the site without planning permission having been obtained from the Local Planning Authority.

REASON To protect the character and appearance of the area in accordance with policies D1 and H4 of the Maldon District Local Development Plan.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

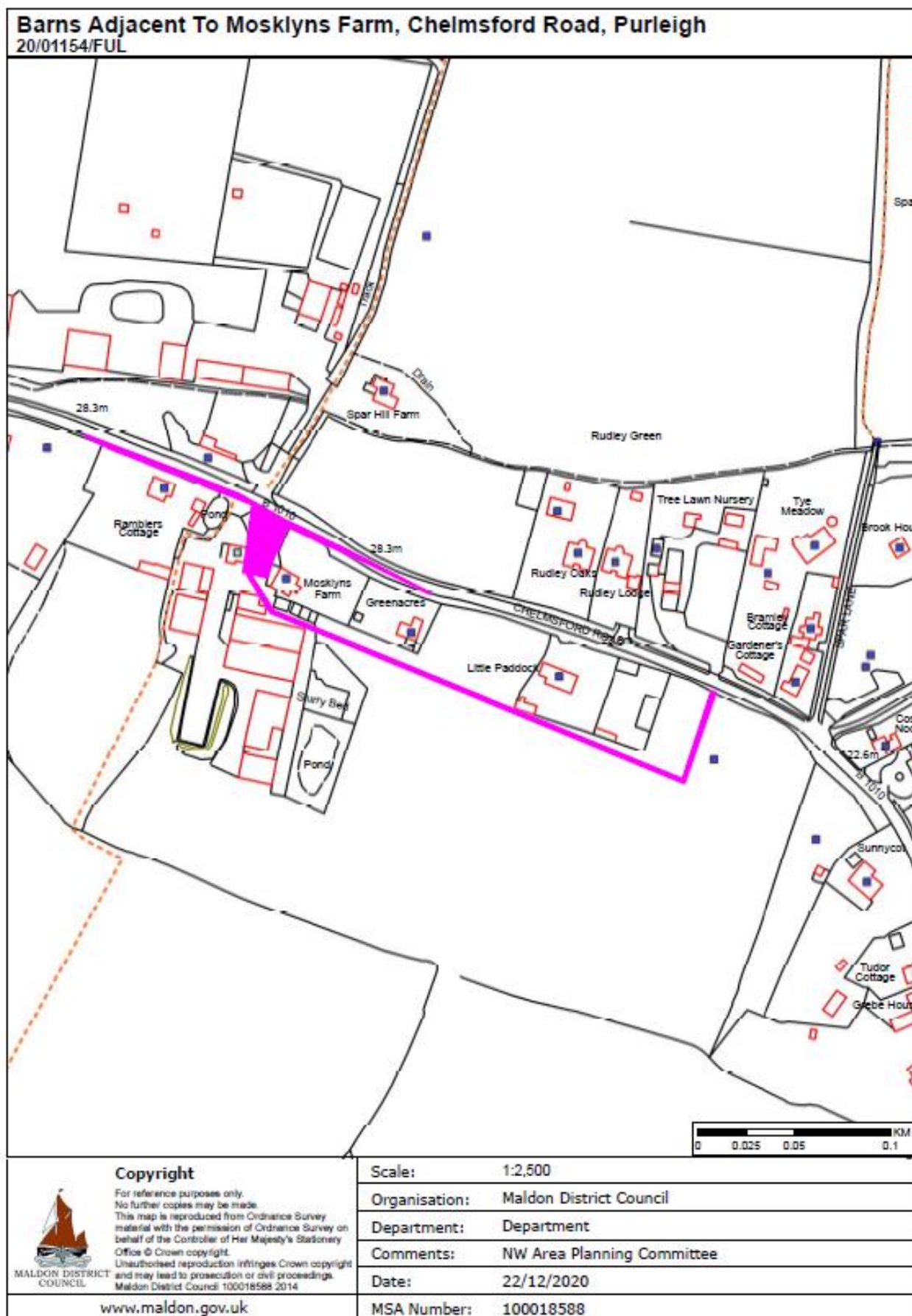
Application Number	20/01154/FUL
Location	Barns Adjacent to Mosklyns Farm, Chelmsford Road, Purleigh
Proposal	Retention of existing dwelling.
Applicant	Mr & Mrs Strathern
Target Decision Date	14.01.2021
Case Officer	Hayleigh Parker-Haines
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In by Councillor Mrs J L Fleming Reason: D1A, D1E, S1.12 and S8

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.



3. SUMMARY

3.1 The Site

- 3.1.1 The application site is located outside of any development boundary, in a rural setting, to the north of the village of Purleigh. Moskllyn Farm is located to the south-west side of Chelmsford Road and comprises of the farmhouse and a farmyard containing a number of large agricultural buildings. The barns to which this application relates are two timber boarded barns of combined footprint 159m² previously used for agricultural storage in association with the established farm, located to the north-west of the farm and accessed from an existing but not in use access to the north. Works have begun on site following the previously granted prior approval application 15/01096/COUPA, these have resulted in one dwelling being completed (bungalow), however, the second dwelling is not complete with the building lacking fenestration.

3.2 Proposal / brief overview, including any relevant background information

- 3.2.1 Planning permission is sought to convert a former agricultural building to a residential dwelling; prior approval was granted for similar works under application 15/01096/COUPA. It must be noted that Application 15/01096/COUPA permitted the change of use of two barns from agricultural to dwellinghouses. Condition one and condition two of application 15/01096/COUPA stated:

Condition one states:

‘The development hereby approved must be completed within a period of 3 years starting with the prior approval date.’

Condition two states:

‘The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.’

- 3.2.2 Whilst some development has been undertaken, the development as a whole (including the barn to the west), is yet to be completed, the works have not been carried out in accordance with the time restriction of condition one. Therefore, this application seeks to regularise the conversion of the barn the subject of this application as currently the dwelling is unlawful and does not benefit from formal consent. Furthermore, it is shown on the plans submitted as part of this application to include four rooflights to the south facing elevation alongside minor alterations to the fenestration on this elevation (replacement of door with window and the door to the eastern end moved more central).
- 3.2.3 It is proposed that the private amenity space will be located to the south of the dwellinghouse with the ‘front’ amenity space to the north. To the front amenity space, the existing 1.2 metre post and rail fence to the northern boundary is to remain and it is proposed to construct a new 1.2 metre fence to match the existing to the eastern boundary to divide the driveway and garden. The existing 1.5 metre high timber fence to the south of the site to the southern and western boundaries is to remain as is the 1.9 metre high wall to the eastern boundary.

- 3.2.4 It is proposed to construct a cycle storage area, this will be located in the south eastern corner of the application site and would have a maximum height of 2.5 metres, a width of 2.4 metres and a depth of 1.8 metres.
- 3.2.5 It is also proposed to create a formalized footpath for private use to the south of the site, this would run in an easterly direction through the fields associated with the Farm to join the existing public footpath on Chelmsford Road. The proposed pathway will be finished in a permeable subbase.
- 3.2.6 This application is a resubmission of the previously refused application 20/00758/FUL which was refused for the following reasons:

'The application site lies within a rural location outside of the defined settlement boundary of Purleigh where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the open character and intrinsic beauty of the countryside and would detract from the agricultural character and appearance of the site as a result of the domestication of the site and the inclusion of associated residential paraphernalia. If developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018).'

- 3.2.7 The following amendments have been made:

- The private amenity space is to the north of the dwelling rather than the south
- Additional information has been provided to evidence that the pathway proposed to the rear of the dwelling and through the fields to adjoin Chelmsford Road would be user friendly.
- Additional information has been provided on the block plan to advise that a socket will be provided for a rechargeable handheld torch with an umbrella stand to encourage footpath use during inclement weather.
- Additional information has been provided in relation to the public transport options available from the site.

3.3 Conclusion

- 3.3.1 It is not considered that the provision of a dwelling would be acceptable on this site; due to the location and design of the proposed dwelling and the detrimental impact this would have on the character and appearance of the surrounding countryside. The development would result in the inherent domestication of the site which would not make an overly positive contribution in terms of social or economic sustainability. The proposal is therefore unacceptable and contrary to the content of national and local planning policies.

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

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
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)), and through Government policy, at paragraph 47 of the NPPF.

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed’ or

“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

‘Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37)
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.

5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The Local Development Plan (LDP) through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF' the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

5.1.8 Paragraph 78 of the NPPF states that:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'

5.1.9 The application site is located approximately 712 metres beyond the defined settlement boundary for Purleigh, within the countryside. Purleigh is classed as a smaller village; containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. It is therefore considered that the occupiers of the dwelling would be required to travel outside of Purleigh for day to day services and facilities. It is noted that within the supporting information provided as part of this application there are bus stops located at Spar Lane and the Post Office in Purleigh; whilst it is noted that the bus route map shows the route as stopping at Spar Lane, there is no evidence of this on the bus timetable. The D1 and D2 service offers a fairly regular service to Maldon and Southminster via the D1 and D2 routes, but the closest bus stop to the site as per the timetable is the Purleigh Post Office which sits approximately 1450 metres from the application site. This would include occupiers walking 220 metres along an unlit country path to the formalized footpath to the east of the site. Whilst, it is noted that the Applicants are willing to create a footpath through the fields to allow safer access to the formalized path, and have sought to overcome concerns by providing a handheld torch and umbrella, this is still not considered to promote safe pedestrian accessibility to the site and service, this also adds a further 80 metres on to the journey.

5.1.10 The current proposal for the retention of the existing dwelling is necessary to regularise the works that have been implemented, this is due to the fact that the second conversion has not been completed in accordance with condition 1 of the approved prior approval application 15/01096/COUPA. The weight attributed to a material consideration is up to the decision maker, but it is a point of planning law that the ability to comply with the requirements of a permission, or in this case lack of ability to, substantially affects the weight that should be attributed to it.

5.1.11 An application for prior approval is an assessment against set criteria contained within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to whether or not a

development could gain deemed consent. Given that the whole of the development is not completed and the differences between the prior approval application and this application, as outlined in paragraph 3.2.3, an application for full planning permission is required for the works and has been submitted. Therefore, as this application is not for prior approval it is necessary for the Council to assess the proposal against the policies contained within the Maldon District Local Development Plan (MDLDP) and guidance contained within the NPPF and MDDG. Furthermore, the previous prior approval application does not mean that the principle of the development has been accepted. The starting point for consideration of a prior approval application is not the development plan. Conflicts with the Plan and Government Guidance are not material to the determination of such an application. Therefore, this assessment is materially different to the assessment of a planning application whereby the starting point is the Development Plan.

- 5.1.12 As highlighted above, a prior approval application (15/01096/COUPA) was previously granted on 2 December 2015 for the conversion of the barns to residential accommodation. This was subject to conditions, including condition 1 which stated that the development approved must be completed within a period of 3 years starting with the prior approval date. To date, the development is incomplete, awaiting the installation of windows and doors. It should be noted that a further prior approval application was submitted on 6 November 2019 (19/01162/COUPA) which sought to extend the time limit condition. However, this application was refused; *“planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made”* (PPG). Whilst the condition imposed under 15/01096/COUPA does not restrict the time limit for when the development can be started per se, there is no such condition within the prior approval process, it does restrict the timeframe for the undertaking of the development. This is similar in nature to the time limit condition required through the granting of a planning application and the principle of such a restriction on the variation of the S73 conditions should be considered in a similar vein. Therefore, given that the development is incomplete, the prior approval permission has fallen away. Therefore, there is no fall-back position and planning permission is required.
- 5.1.13 Furthermore, condition 2 stated that the development shall be carried out in complete accordance with the approved drawings, when the agricultural buildings were altered and converted for residential accommodation the development was not carried out in accordance with the approved plans and therefore contrary to condition 2. The discrepancies between the approved plans and the development as implemented are outlined above. It is an accepted point of case law that approval is required prior to the works being undertaken. Therefore, given that the development did not comply with the approved scheme and that the majority of the work has been undertaken, the prior approval permission has fallen away. Therefore, there is no fall-back position and planning permission is required.
- 5.1.14 APP/X1545/W/18/3194812 is considered relevant. The appeal was for the conversion of a barn to a residential dwelling and associated alterations which were not considered as part of a previously granted prior approval application. It is important to note that this application was not retrospective in nature. At paragraph 11 of the appeal decision the Inspector outlines that where there are minor differences between the proposed development and the approved scheme then there is a realistic prospect

of the approved scheme being implemented in the event that the appeal fails. Furthermore, there was no evidence that the fall-back position could not be implemented and that a very similar development could be carried out within the site. In this instance and for these reasons the fall-back position provided a material consideration which carried significant weight in determining the full application. Whilst the fenestration pattern has altered as part of this application and the construction of the development; these alterations are considered to be minor and would not be so significant that the proposed development would no longer benefit from prior approval and that this alone would not constitute unlawful development. The breach of planning control relates predominately to the fact that the development remains incomplete. Therefore, given that the previous prior approval has not been fully implemented, there is no fall back position to apply weight to as part of this appeal.

5.1.15 As outlined above, it is considered that the site is poorly connected by means of sustainable transport and facilities. Furthermore, the previous prior approval decision is no longer extant, and the development remains incomplete. Therefore, the previous decision does not provide a fall-back position and the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

5.1.16 It should also be noted that a planning application to regularise the development subject of this planning application and to allow the conversion of the adjoining agricultural building to a dwelling was refused planning permission by the NW Planning Committee on 3 June 2020

5.2 Housing Need

5.2.1 In respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

5.2.2 Policy H2 of the LDP and its preamble (paragraph 5.2.2), which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA), shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units, and around 71% of all owner-occupied properties having three or more bedrooms. The Council is therefore encouraged in the approved policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands.

5.2.3 Whilst the LDP carries limited weight at present, the NPPF is clear that housing should be provided to meet an identified need. Therefore, it is still considered that weight should be afforded to the evidence base from the SHMA.

5.2.4 The Council is therefore encouraged in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal

would provide a two three bedroom property. Taking into account, the Council's current position, the proposal would make a contribution to improving the Council's housing stock. However, the benefits of the scheme in regard to this are negligible as there would be a net gain of one dwelling, of a size needed by the Council, and, this is therefore, given minimal weight.

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 in creating better places to live and its importance is reflected in the NPPF. The NPPF states that:

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

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

5.3.3 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;

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

5.3.5 The application site is visible within the public realm and is therefore considered to impact on the character and appearance of the site and surrounding area. Prior to the conversion that has taken place, the buildings within the site were of a typical agricultural character and appearance. It is considered that the alterations involved in the conversion of the buildings to residential have been carried out in a sympathetic manner, of which the overall character of the buildings has not changed; the external materials remain similar to the original barn, with the form and design of the buildings remaining unaltered besides the addition of fenestration. Therefore, it is not considered that the design of the dwellings would result in a significant detrimental impact on the character and appearance of the site or the surrounding area.

- 5.3.6 The current application proposes additional alterations to the external appearance of the barns, to those approved under the prior approval process, which would give the resulting dwelling a more domestic appearance. Furthermore, due to the level of hardstanding proposed to the front of the dwelling and the associated residential paraphernalia, it is considered that the visual impact of the domestic paraphernalia associated with the dwelling, car parking arrangements and the hardstanding proposed would result in an unacceptable level of domestication within the countryside. Whilst it is noted that the private amenity space has been relocated to the rear as part of this application and this would represent an improvement to the scheme, it is not considered that this would overcome the above-mentioned harm. Therefore, it is considered the proposal would result in an urbanising effect and detract from the rural character of the area and would not represent a visual improvement of the site and surrounding countryside. It is worth noting at this point, and as highlighted in detail above, the previous prior approval application is a material consideration of a demonstrable weight in the determination of this application.
- 5.3.7 Having regard to the above, it is considered that the proposal would result in an intensified level of domestication at the application site, within the countryside, that would result in material harm to the character and appearance of the surrounding countryside contrary to Policies, S1, S8, H4 and D1 of the LDP.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 The application site is bordered by two neighbouring properties. To the east is Mosklyns Farm and to the west is Ramblers Cottage.
- 5.4.3 The proposed development would sit 4.7 metres from the neighbouring property Mosklyns Farm. This neighbouring property has three ground floor windows on its western side elevation facing the development. There would be two ground floor windows facing this neighbouring property, which would serve a bedroom, however, due to the location of the development in relation to this neighbouring property (rear elevation in line with front elevation of neighbouring property) it is not considered that these windows would offer any views into the neighbouring property. Furthermore, due to the single storey nature of the development and the degree of separation it is not considered that the proposed development would have an overbearing impact on this neighbouring property. Therefore, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.
- 5.4.4 The proposed development would sit 20 metres from the shared boundary with Ramblers Cottage and 42 metres from the neighbouring property. It is noted that there is one first floor window proposed to the western side elevation facing this neighbouring property. However, due to this substantial degree of separation, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.

- 5.4.5 For the reasons discussed, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts. Therefore, the proposal is in accordance with policy D1.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The proposed development would result in a two bedroom dwellinghouse. The minimum parking provision required is two spaces. It is shown on the block plan provided that there are to be two 5.5 metre by 2.9 metre vehicle parking spaces to the north of the dwellinghouse. Which are in line with the minimum required sizes within the SPD. Therefore, there are no concerns in relation to parking. Furthermore, it is proposed to include a storage area for bicycles.
- 5.5.3 It is noted that there is proposed to be a private footpath constructed to allow access to the formal public footpath on Chelmsford Road. However, it is assumed this would be unlit and therefore, it has not clearly demonstrated that this would result in the provision of high quality and safe pedestrian access that would discourage the use of the private motor vehicle particularly at times of inclement weather. Whilst it is acknowledged that the Applicant has sought to overcome this by providing a handheld torch and umbrella, this is not considered to be sufficient to allow the footpath to be considered 'safe; and well lit and would therefore, remain an unattractive option for the future occupiers of the dwelling. Therefore, it is still considered that the occupiers of the dwelling would be likely to rely on the provision of a private motor vehicle to meet their day to day needs for facilities, services, work etc.
- 5.5.4 Access to the dwelling would be from the existing access to the north of the dwelling from Chelmsford Road. The Highway Authority have no objections to the access and have not recommended any conditions. Therefore, it is not considered that the development would be detrimental to highway safety in terms of the access.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100 square metres of private amenity space for dwellings with three or more bedrooms, 50 square metres for smaller dwellings and 25 square metres for flats.
- 5.6.2 The block plan provided as part of this application shows that the amenity space would be located to the south of the site and would be in excess of the standards required for a two bedroom dwelling (99m²), and therefore, there are no concerns in

relation to this.

5.7 Planning Balance and Sustainability

- 5.7.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of ‘sustainable development’ providing for an economic, social and environmental objective as set out in the NPPF.
- 5.7.2 Notwithstanding, and as noted at 5.1.7 above, the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making and case law (noted in preceding paragraphs), confirms that other policies in the plan are still relevant for decision making purposes where they are applicable to the proposal under consideration.
- 5.7.3 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.7.4 With regard to the 3 tests of sustainability, in economic terms, given that the development is largely complete and only involved limited construction works, the benefits would be extremely limited given the scale of the development. Equally, there is no guarantee that the limited construction works required to complete the development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minimal. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area. Any economic benefits would therefore be considered negligible.
- 5.7.5 In social terms the development should assist in supporting a strong, vibrant and healthy community. Residents are required to travel further afield for day to day facilities and amenities. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and Policies S1, S8 and T1 of the local development plan. Furthermore, due to the limited number of dwellings proposed the social benefits are considered to be of a minimum.
- 5.7.6 In environmental terms, it is considered that the development of the site would result in the inevitable domestication of the site, which is not supported within the Countryside unless other material considerations weigh heavily in favour of the proposed development. The in-accessible location of the site further weighs against the proposal in environmental terms. Furthermore, as stated within section 5.3 of this report, it is considered that the provision of a dwelling in this location would have a detrimental impact on the character and appearance of the surrounding area. Therefore, it is considered that this would weigh against the proposed development.
- 5.7.7 Having regard to the poor sustainability credentials of the site and the fact that there are limited public benefits to the scheme, i.e. The proposal is for market housing and

not affordable, it cannot be determined whether the dwelling would make a positive contribution in terms of housing mix and the proposal is contrary to Policies S1, S8, D1 and H4 of the LDP, it is not considered that there are benefits that outweigh the harm on the character and appearance of the area.

5.8 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS.

- 5.8.1 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.’*
- 5.8.2 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.
- 5.8.3 In terms of off-site impacts, Natural England have advised that this development falls within the ‘Zone of Influence’ (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered ‘in combination’ with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. Natural England advise that Maldon District Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.4 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘zones of influence’ of these sites cover the whole of the Maldon District.
- 5.8.5 Natural England anticipate that, in the context of the local planning authority’s duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites 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.

- 5.8.6 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.7 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £122.30 per dwelling.
- 5.8.8 To accord with Natural England’s requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the previously listed sites? Yes (Blackwater Estuary SPA and Dengie SPA)

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

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

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

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

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England’s advice, it is considered that mitigation, in the form of a financial contribution of £244.60 is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.

- 5.8.9 It is noted that the Applicant has made this payment, and therefore, the impact of the proposal could be mitigated and therefore this aspect would not form part of the refusal.

6. ANY RELEVANT SITE HISTORY

- **15/01096/COUPA** – Change of use of two existing barns from agricultural to dwelling houses (2.12.2015)

- **19/01162/COUPA** - Variation on condition 1 & 2 approved planning permission COUPA/MAL/15/01096 Change of use of two existing barns from agricultural to dwelling houses (27.01.2020)

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The Parish Council believes that the proposed development is sustainable, complies with planning legislation and does not conflict with policies contained within the LDP and guidance contained within the NPPF	Comments noted

7.2 External Consultees

Name of External Consultee	Comment	Officer Response
Essex Country Council Highways Authority	No response at the time of writing this report	N/A

7.3 Representations received from Interested Parties

7.3.1 Representations supporting the application:

23 Letters of support have been received.

Supporting Comment	Officer Response
Supports the proposal	Comments noted
The barn has tidied up the farm and lifted the look in the area/Improvement	Comments noted
The conversion is an asset to the local area	Comments noted
There are no negatives and it would be beneficial to the livestock on the farm, the business and Purleigh village in general	Comments noted
The conversion is not out of place and is in a location that other development has taken place.	Comments noted
The conversion ensures the Applicant remains part of the local community, offering sustainability to the shop, public house, village hall and potentially for the nursery and primary school	Comments noted

8. **REASON FOR REFUSAL**

1. The proposed development, by reason of its location and design would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012)

Members' Update:

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The Parish Council believes that the proposed development is sustainable, complies with planning legislation and does not conflict with policies contained within the LDP and guidance contained within the NPPF.	Comments noted.

7.2 **External Consultees** (*summarised*)

Name of Parish / Town Council	Comment	Officer Response
Essex Country Council highways	No objections.	Comments noted.

7.3 **Representations received from Interested Parties** (*summarised*)

7.3.1 **Representations supporting the application:**

30 Letters of support have been received.

Supporting Comment	Officer Response
Supports the proposal	Comments noted
The barn has tidied up the farm and lifted the look in the area/Improvement	Comments noted
The conversion is an asset to the local	Comments noted

Supporting Comment	Officer Response
area	
There are no negatives and it would be beneficial to the livestock on the farm, the business and Purleigh village in general	Comments noted
The conversion is not out of place and is in a location that other development has taken place.	Comments noted
The conversion ensures the Applicant remains part of the local community, offering sustainability to the shop, public house, village hall and potentially for the nursery and primary school	Comments noted

Extract from Minutes of North Western Area Planning Committee (13 January 2021)

175. 20/01154/FUL - BARNS ADJACENT TO MOSKLYNS FARM, CHELMSFORD ROAD, PURLEIGH

A Members Update had been circulated prior to the meeting that detailed representations received from Purleigh Parish Council, an external consultee, and 30 letters of support.

Following the Officer's presentation, the Chairman moved the Officer's recommendation that planning application 20/01154/FUL - Barns adjacent to Mosklyns Farm, Chelmsford Road, Purleigh be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

Councillor Mrs J L Fleming, having called in the application opened the discussion and outlined a number of reasons why she was in support of this application. In particular, she noted that the character of the road had altered significantly in the last 5 to 10 years, that houses across the road had been granted at appeal and how the applicants had put in a permitted path providing access to local services.

Councillor Miss S White proposed that the application be approved, contrary to Officers' recommendation highlighting that the amenity space had improved and overcame a previous reason for refusal. The proposal was duly seconded. In response to this and other comments made, the Lead Specialist Place reminded Members that they needed to give significant weight to the previous Committee decision of refusal including site location and drew their attention to the detailed assessment in the Officers' report.

Following further discussion, the Chairman put the Officer's recommendation to refuse the application to the Committee and upon a vote being taken it declared was lost.

A number of reasons for approval were discussed and along with information provided by the Lead Specialist Place. Councillor Miss White proposed that the application be approved, contrary to the Officer's recommendation, for reasons

APPENDIX 1

relating to the lack of a Five-Year Housing Land Supply and that the applicants had addressed the amenity space not meeting the Council's requirements. This was duly seconded and upon a vote being taken was approved. It was agreed that conditions relating to the approval would be delegated to Officers in consultation with the Chairman of the Committee and Ward Members.

RESOLVED that the application be **APPROVED** subject to conditions delegated to the Lead Specialist Place in consultation with the Chairman and Ward Members.

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Appeal Decisions

Hearing Held on 8 December 2020

Site visit made on 9 December 2020

by Diane Lewis BA(Hons) MCD MA LL M RTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/X1545/C/18/3215521

Land at Maythorne, The Endway, Althorne, Essex CM3 6DU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the enforcement appeal).
- The appeal is made by Mr A Powl against an enforcement notice issued by Maldon District Council.
- The enforcement notice, numbered ENF/18/00151/01, was issued on 17 October 2018.
- The breach of planning control as alleged in the notice is: The material change of use of the Land to residential (use class C3) with associated operational development that has resulted in the creation of three dwellinghouses.
- The requirements of the notice are:
 - a. Cease the unauthorised use of the Land for residential purposes.
 - b. Demolish the buildings associated with the unauthorised use and remove from the Land any resulting materials, debris or detritus.
 - c. Remove from the Land any paraphernalia, materials, items or detritus associated with the unauthorised use.
- The period for compliance with the requirements is Five (5) calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.

Appeal Ref: APP/X1545/W/18/3216373

Land at Maythorne, The Endway, Althorne, Essex CM3 6DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission (the s78 Appeal).
- The appeal is made by Mr A Powl against the decision of Maldon District Council.
- The application Ref FUL/MAL/18/00684, dated 4 June 2018, was refused by notice dated 10 October 2018.
- The development proposed is: Section 73A application for the change of use of the barns to three dwellinghouses, including new link to boiler room, garden extensions and shed conversion to garages.

Summary of Decision: The appeal is dismissed.

REASONS

Introduction

1. The planning merits of the ground (a)/ deemed planning application and the s78 Appeal are informed by confirming the background to and the scope of the

developments at issue, with particular reference to the site's planning history. The appellant did not submit appeals on grounds (b) or (c), nor did he question directly the description of the alleged breach of planning control. However, in view of comments within the appellant's appeal statements the scope and description of the alleged breach of planning control and related matters were discussed in some detail at the hearing.

The site

2. The Land identified in the enforcement notice encompasses a short terrace of 3 single storey dwellings and gardens, a detached outbuilding to the south (known as the boiler house), a detached outbuilding to the north (a former packing shed) and the access connecting the residential development to The Endway. The 0.2 hectare site in the s78 Appeal is essentially the same area of land.
3. The land was part of an agricultural business. The dwellings occupy the site of three linked sheds that were used in mushroom farming. These operations ceased around 1990. The two outer units were originally built as chicken sheds but subsequently were altered to facilitate the mushroom farming. The outer walls were faced in brick, with a small number of window openings, apart from the southern wall which was partially of blockwork with openings above. The larger middle unit, which was built at a later date, had walls of blockwork. Each unit had a shallow pitched roof of corrugated sheeting, with a low eaves' height. Barn doors in the front elevations were of timber. The blockwork boiler house had a smaller footprint, a higher eaves height, a steeply pitched roof, a timber door and high level windows. The packing shed was of brick with a shallow monopitch roof. The buildings had the appearance of functional agricultural buildings.

The developments

4. Works started on site in June/July 2017 and were completed by the end of January 2018. The final certificate under the Building Regulations 2010 was dated 12 February 2018.
5. The enforcement notice is against this development on the site of the old mushroom sheds, involving the creation of 3 dwellinghouses with the change of use of the land and the adjoining land to residential use, including the laying out of gardens. The Council considered that in order to form the residential units the walls of the agricultural buildings were mostly demolished and re-built, together with underpinning of the structures and the laying of new foundations.
6. The retrospective element of the development in the s78 Appeal is the 3 completed dwellings. The term retrospective is used in the sense of seeking planning permission for development already carried out, as provided for under section 73A of the 1990 Act. The planning application stated the finished development incorporated minor deviations from a scheme granted prior approval in October 2016. In addition, the scheme includes:
 - the proposed conversion of the boiler house to create a third bedroom for plot 3¹, together with the erection of a link to the main building;

¹ The plots/dwellings are numbered consecutively. Plot 1 is the first plot at the northern end of the development and plot 2 is the central plot. Plot 3 is the southernmost plot.

- the proposed conversion and partial reconstruction of the packing shed to create a triple bay garage to provide one enclosed parking space per dwelling;
 - formalised gardens for the three plots and the southern extension of the garden to plot 3 to wrap behind the boiler house.
7. In summary, the development against which enforcement action has been taken is not significantly different to the retrospective element in the s78 Appeal. The Council confirmed that when the notice was issued the gardens were present, including the extension. The boiler house had been upgraded externally, although the extra bedroom and the link had not been undertaken. That was the position when I carried out the site visit. No work had been carried out to convert the packing shed.

The prior approval

8. An application was made for prior approval for a proposed change of use of agricultural building to three dwelling houses (C3) and for associated operational development (ref. COUPA/MAL/16/00991).
9. By a decision dated 19 October 2016 the Council as a local planning authority confirmed that prior approval is required and granted in accordance with the details submitted with the application and as set out by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015².
10. Four conditions were attached to the prior approval by the Council. Condition 2 required the development to be carried out in complete accordance with the approved drawings specifically referenced on the decision notice. Condition 3, requiring details of foul drainage, was discharged subject to satisfactory implementation of the approved scheme, by an approval dated 24 July 2017. In addition, Part 3 W.(12)(a) of the GPDO states that the development must be carried out, when prior approval is required, in accordance with the details approved by the local planning authority, unless the local planning authority and the developer agree otherwise in writing. A condition set out in Q.2.(3) states that the development must be completed within a period of 3 years starting with the prior approval date.
11. The decision notice did not list the relevant drawing reference numbers. No point was taken on this and at the hearing the approved details of the application, including the drawings, were confirmed. I am satisfied that it was clear from the application and decision notice what details and plans received approval.
12. The Planning Support Statement submitted with the prior notification application said that the proposed development principally involved the conversion of the three conjoined sheds into a terrace of three dwellings. The sheds were described as solidly built structures with strip foundations and concrete floors. There was 'no doubt' that they were structurally sound and weatherproof. Existing elements of timber on the façade would be removed and replaced by window glazing. The roofs appeared to be in generally good condition, although the likely presence of asbestos was noted. No immediate works were proposed to replace the roofs. Some rooflights would be inserted to

² Subsequently referred to as the GPDO in the Decisions

maximise daylight within the plane of the existing roof. Doors to the front of the sheds would be rationalised. The predominant form and character of the sheds would remain intact. No demolition was proposed³.

13. The plans reflected the description of the works, indicating the retention of the structures and basic alterations to allow for essential doors and windows. No new materials were detailed. One dwelling would occupy each shed, retaining the internal divisions between the units. The two outer units would be two bedroom dwellings and the central unit a three bedroom dwelling. The site plan provided gardens 6 metres deep to the rear of each unit, with additional green space to the sides. A total of three parking spaces would be sited off the access road.
14. The appellant stated that the three dwellings were completed in accordance with the scheme granted prior approval, deviations were minor, or as described at the hearing, 'de minimis'.

Comparison of approved and as-built developments

15. The appellant's statement of case for the enforcement appeal maintained that the development was clearly a conversion. All existing foundations, walls, and supports were retained as their original form. The buildings did not change in terms of height, footprint, volume or scale and the buildings were not extended, raised or otherwise expanded beyond the original planes/elevations/roof heights. Original 'as built' materials continued to give the building their structural integrity. Cladding was only atop the existing structure. At no point were the buildings rebuilt, part demolished or otherwise reconstructed. The internal layouts of each unit were altered to place the lounges on the western side, adjusting windows and amending door positions⁴.
16. No detailed written schedule was provided of the actual works carried out. The appellant confirmed at the hearing that the prior approval application was based on 'generic' plans that had not been informed by a detailed survey(s) of the building. When the construction drawings were being prepared, based on survey information, the central shed was found to be higher than originally described. The adjacent two sheds were also higher than shown on the prior approval plans⁵. In carrying out the works the ridge heights of units 1 and 3 were raised to match the ridge height of the central unit, in part because of the low ceiling heights in the former sheds. A completely new timber roof structure was constructed and alterations made to the box guttering. Initially walls and foundations were said to have remained, with additional work to add waterproofing, plasterboard, external insulation and render. However, it was also explained that because the structures were very light for mushroom farming, works had to be done to ensure all complied with building regulations. A new structural frame was erected to support the new roof. Changes were made to address the inadequate foundations and a storage tank slab. Walls were taken down where structurally unstable and where there were cracks in the walls.
17. Photographic evidence shows that a substantial amount of demolition took place, including the removal of the entire roof structure and the demolition of

³ Planning Support Statement paragraphs 2.7, 5.11 and 5.24-5.28 (document submitted after the hearing)

⁴ Appellant's statement of case paragraphs 2.3, 2.4, 3.9

⁵ The architect stated the central unit was 150 mm higher, unit 1 was 464 mm higher and unit 3 was 364 mm higher.

three external walls of unit 3, the front and rear walls of unit 2 and the rear wall of unit 1. The rear part of the internal dividing wall between plot 1 and plot 2 was also demolished. As part of the new build, the laying of new foundations and underpinning took place. New blockwork walls were built and the retained walls were increased in height. The photographs also show the new timber roof structure and the supporting steel frame and beams. A new concrete floor appears to have been laid in unit 2. In the schedule of works dated June 2017 provision was made for a new floor between plots 1 and 2 in order to keep floors a consistent level.

18. The draft statement of common ground (prepared by the appellant) acknowledged that the insertion of new steels and foundations were necessary to ensure compliance with building regulations and that it was also necessary to replace external walls and the roof.
19. A comparison of the elevation plans for the prior approval and as-built developments highlights the substantial change in the appearance of the new dwellings. Extensive areas of glazing have been introduced on the newly built rear (west) elevations of the units, additional and larger window openings have been formed on the front and side elevations. On unit 3 the position of the front door has been altered and a new door is inserted on the side elevation. Storm porches have been erected to the front doors of all units. The external materials include extensive use of dark grey weather boarding in addition to white render for the walls. The roofs are covered in slate and white painted fascias, soffits and barge boards are used.
20. The roof plans show that the pattern of rooflights has changed. Instead of 4 rooflights over the central unit in the original scheme, 3 rooflights are shown on the as-built plans, together with 1 rooflight for unit 3. The ridge lines are emphasised through the introduction of ridge tiles.
21. The proposed elevation plan for the prior approval specifies dimensions. The height of the eaves to all units is 2.1 m. The ridge height for the central unit 2 is 3.7 m and 3.6 m for the outer two units (front and rear elevations). Heights for these elements are not specified on the as-built elevation plans but the Council drew attention to the heights on the section plans. The stated dimensions confirm that the walls of the outer units were raised to increase the eaves height and as a consequence the ridge height. The internal ceiling height of the central unit (3.824 m) is slightly above the former ridge height and the pitch of the roof appears to be shallower than on the adjoining units. The sections also illustrate the changes to the guttering for the central unit, resulting in a slightly lower eaves and indicate the thickness of insulation, the use of plasterboard for internal walls and the enclosure of any retained walls within the new structure.
22. The internal layout in the prior approval scheme provided for a 3 bedroom dwelling having an internal floor area of 151 m² (plot 2) and 2 x 2 bedroom dwellings, each with an internal floor area of 83 m² (plots 1 and 3). The built development has 2 x 3 bedroom dwellings on plots 1 and 2, with floor spaces of 107 m² and 128 m² respectively. Plot 3 is a 2 bedroom dwelling with 81 m² of floorspace⁶. The increase in the size of unit 1 has been achieved by taking in space from plot 2 at the back half of the dwelling, so that the internal wall no longer follows the line of the original partition. The layout of accommodation in

⁶ The appellant confirmed the floor spaces by email dated 10 December 2020.

- all units also has been revised whereby the kitchens and living rooms are at the back of the dwellings with access into the gardens and the bedrooms are now placed to the front of the dwellings. Works were carried out to the boiler house so that its appearance was in a consistent design and materials to the dwellings.
23. Notwithstanding the submissions by the appellant to support the prior approval application the evidence clearly demonstrates that the original agricultural sheds suffered from very serious structural defects. A very substantial amount of building work was undertaken to replace the mushroom sheds with three dwellings. These works included extensive demolition and rebuilding of walls, a new roof and insertion of a steel support frame, new foundations and underpinning, increasing the height of the buildings, the introduction of extensive areas of glazing and additional fenestration, additional design details such as storm porches, use of a range of new external materials and a rearrangement of the internal layout, with consequent changes to the size of the units.
24. The similarities between the prior approval and the as-built scheme are confined to the dwellings being sited on the same overall footprint as the mushroom sheds and the maintenance of a range of three single storey units with pitched roofs. Contrary to the statement by the appellant, the development of the dwellings has resulted in the external dimensions of the overall building being extended significantly beyond the external dimensions of the original building. To maintain as the appellant did that the changes were 'de minimis' when compared to the prior approval scheme is not supported by the evidence at all. The countryside location of the site adds to the significance of the changes.
25. Significantly, the appellant confirmed at the hearing that the purpose of the prior approval was to establish a concept and that subsequently changes were made to respond to what was on the ground. There appeared to be no recognition that the conditions attached to the prior approval required compliance with the approved details and plans.
26. In conclusion, the scheme submitted for prior approval was not based on any significant investigation or survey of the agricultural buildings. The later survey and preparation of construction drawings would have demonstrated from the outset and before the start of building work that the prior approval scheme could not realistically be implemented if the necessary building regulations were to be complied with and safe homes were to be provided. The prior approval scheme was not commenced and then carried out. The three year time limit for completion of the prior approval scheme has not and cannot be met. That being the case the prior approval is no longer extant, which was agreed by the main parties at the hearing.
27. The enforcement notice correctly states that the breach of planning control is within paragraph (a) of section 171A(1) of the 1990 Act, the carrying out of development without planning permission, as opposed to paragraph (b), failing to comply with any condition or limitation subject to which planning permission has been granted. Elements of the original fabric of the building remain but the very limited original fabric was fully integrated into the new structure. A substantial amount of operational development took place to create the three new dwellings. My conclusion is that as a matter of fact and degree the works

to the mushroom sheds did not amount to alterations or conversion but were so extensive as to amount to demolition and the construction of new buildings for use as dwellings. The old buildings did not survive and new buildings were erected.

28. In coming to this conclusion I have taken into account the appellant's reference to an appeal decision in Epping Forest District that considered demolition but the facts and circumstances of every case will be different. Case law is very relevant, notably the *Hibbitt* judgement referred to by the Council which was referred to extensively in the later *Oates* judgement⁷. The appellant's reliance on the works 'being reasonably required' are within the context of an application for a prior approval and as such has little weight.
29. In view of my conclusions on the extent and type of building work undertaken the description of the alleged breach of planning control correctly identifies that operational development has resulted in the creation of three dwellinghouses. The more usual descriptive phrase is the erection of three dwellinghouses and I intend to make this minor correction. There also has been a change in the use of the land to residential. Having regard to the meaning of "use" in section 336(1) of the 1990 Act, the extent of the Land and the shared use of part of the Land, the wording appropriately includes development constituting a material change of use. The notice fairly tells the person(s) on whom it has been served what has been done wrong and what must be done to remedy it. The appellant did not seek to argue otherwise or to dispute in any way the validity of the notice. The appellant, whilst not agreeing with the Council's approach and assessment, understood that the deemed planning application is for a new build development involving the construction of three dwellinghouses, not a conversion limited to a change of use.
30. In the Reasons, the four year time limit for taking enforcement action against operational development is cited. The ten year time limit for taking action against a material change of use also should be stated. There was no dispute that the development was carried out within the last four years.
31. I am satisfied that the notice is able to be corrected as indicated above without injustice to either the appellant or the local planning authority.

Ground (a)/deemed planning application and s78 Appeal

Planning policy

32. The development plan includes the Maldon District Approved Local Development Plan 2014-2029, adopted July 2017 (the LDP). The most important policies for determining the deemed planning application and the s78 Appeal are those cited in the reasons for issuing the enforcement notice and the reasons for refusal. These are:
 - Policy S1, concerning sustainable development, Policy S2 on strategic growth and Policy S8 settlement boundaries and the countryside,
 - Policy D1 design quality,
 - Policy T2 on accessibility, and

⁷ *Hibbitt v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin); *Oates v Secretary of State for Communities and Local Government and Canterbury City Council* [2018] EWCA Civ 2229

- Policy H4 on the effective use of land.
33. The Council pointed out that the reference in the reasons to Policy D2 (climate change and the environmental impact of development) was in error and that instead the correct policy reference is Policy D1.
34. The Maldon District Design Guide Supplementary Planning Guidance (SPD) November 2017 and the Council's Vehicle Parking Standards SPD November 2018 are material considerations.
35. The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how they should be applied. Decisions should apply a presumption in favour of sustainable development. The suite of national Planning Practice Guidance and the National Design Guide also will be taken into account where relevant.
36. The Council was able to demonstrate a five year supply of deliverable housing sites in October 2018. The Council updated this position through its annual monitoring report. The statement dated November 2020 concludes that the Council can demonstrate 4.90 years' worth of housing land supply against its identified housing target. The appellant did not dispute the extent of the shortfall and there is no evidence to cast doubt on that position. Therefore for the purposes of the Framework the tilted balance applies. Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
37. The appellant drew attention to the prominence of the ability to demonstrate a five year land supply in the reasons for issuing the enforcement notice and the reasons for refusal of planning permission. The Council confirmed that the change in circumstances regarding the five year housing land supply did not alter its negative assessment of the development.
38. The description of the development for determination in the ground (a) appeal is derived directly from the alleged breach of planning control as corrected: The material change of use of the Land to residential (use class C3) with associated operational development that has resulted in the erection of three dwellinghouses. The deemed planning application is not an application for prior approval under Class Q and therefore the tests are not the same. As explained in the section above, the development against which enforcement action has been taken is not significantly different to the retrospective element in the s78 Appeal.

Main issues

39. The main issues for both developments are:
- Whether the development of the dwellings on a site outside a defined settlement promotes a sustainable pattern of development;
 - Whether the development is of a high quality design taking particular account of its effect on local character and context, the provision of private amenity space and on-site parking;
 - Whether the prior approval and/or permitted development rights under Class Q of the GPDO represent realistic fallbacks;

- Whether any identified harm may be resolved by planning condition(s).
40. In view of the common issues and the similarities between the developments I will cover the ground (a)/deemed planning application and the s78 Appeal together, distinguishing the additional proposals in the s78 Appeal and the additional matters associated with the ground (a) appeal where necessary.
41. I am very conscious that the development is let and occupied under tenancies as three dwellings and that if the appeals are unsuccessful the current occupiers would probably lose their homes and have to find alternative accommodation. Therefore rights under the Human Rights Act 1998⁸ are engaged and specifically the right of a person to respect for private and family life and their home. Also, I must have due regard to the public sector equality duty set out in the Equality Act 2010.

Location of development

42. In order to secure a sustainable pattern of development the strategy in the LDP expressed in Policy S2 is to concentrate the majority of growth within and adjacent to the main settlements. A small proportion of growth is allocated to the District's rural villages, where growth is related to the settlement hierarchy and reflects the size, function and physical capacity of the settlements.
43. The hierarchy is set out in Policy S8. Althorne is a smaller village, a category described as containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities. The settlement boundary of the village is defined in the Policies Map and encompasses a block of development centred around the junction of the B1010 and Summerhill/Burnham Road.
44. The appeal site is located outside of and some 710 m or so⁹ to the east of the settlement boundary in the countryside. Policy S8 protects the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy allows for development that (a) would not adversely impact upon the intrinsic character and beauty, and (b) falls within one of the categories of development identified in points (a) to (m).
45. The Council was of the view that the development does not fall within any of the criteria, whereas the appellant initially considered that criterion (e) applied: "The re-use of a redundant or disused building that would lead to an enhancement to the immediate setting (in accordance with Policies E4 and D3)." Both parties agreed at the hearing that compliance with the policy criterion had to take into account Policies E4 and D3. Policy D3 applies to development proposals that affect a heritage asset and is not relevant to the appeal developments. Policy E4 concerns agricultural and rural diversification. The appellant accepted that the developments are not associated with agriculture or other land-based rural businesses, nor do they involve the change of use of existing rural buildings to other employment generation uses. The developments do not fall within one of the categories in points (a) to (m).
46. I conclude the residential development is not acceptable for a countryside location under Policy S8. There is conflict with Policy S8, even if the

⁸ The Human Rights Act 1998 incorporates into UK law most of the fundamental rights and freedoms in the European Convention on Human Rights.

⁹ This figure is based on the figure in the Council's statement paragraph 6.7

development is found to have no adverse impact upon the intrinsic character and beauty of the countryside.

47. An aim of the settlement and growth strategies is to direct development towards the most accessible locations in the District, thereby minimising the need to travel, allow use of sustainable modes of transport and improve access for all the community. The Council reported at the hearing that the village no longer has a shop. Access to a range of services, health provision, community facilities, employment and education would be dependent on travelling to the higher order settlements, the nearest town being Burnham on Crouch. The walk into the village or to the station from the site involves stretches of unlit roads without a footway, which I confirmed on my site visit. Use of a bicycle would not be encouraged because of the relatively narrow and busy B1010. The bus service no longer stops on The Endway and the frequency of the service is very limited. The probability is that residents of the dwellings would be very heavily reliant on the use of the car, even to access facilities within Althorne village. Access would not be available to all.
48. With reference to criterion 2 of Policy T2, a small scale development of 3 dwellings would not reasonably be expected to provide safe and direct walking routes to nearby services facilities and public transport to overcome any existing constraints. Therefore selecting an appropriate location for such development is important. Maythorne is not in a location well placed to reduce the need to travel, encourage residents to use alternatives to the private car or to enable access by all members of the community.
49. In summary, there is conflict with Policies S2 and S8 and an objective of Policy T2 of the LDP.

Design

Character and appearance

50. The site is within landscape type Coastal Farmed Landscape¹⁰ (E2 Tillingham and Latchingdon Coastal Farmland), which is substantially flat and artificially drained to create agricultural land with a distinctive ancient rectilinear field pattern. There is an absence of woodland and a sparse settlement pattern. The network of rural lanes is small in scale and sensitive to change.
51. Althorne is an agricultural settlement¹¹, where buildings are loosely clustered to define space in key locations, such as around nodes and main streets. At the village edge the overall pattern of development is open, with buildings set back from the street. The SPD advises that outside the village boundary the main consideration is the sensitive rural edge where new development relates to landscape character.
52. The Endway is in the countryside, well to the east of the core of the village. It is a narrow rural lane where the clusters of buildings are separated by fields resulting in a rural and open aspect. Plot sizes vary. Typically dwellings are sited near to the highway, whilst agricultural buildings are set further back. The character of the surroundings here is distinct from the more compactly developed area within the defined settlement boundary.

¹⁰ Maldon Design Guide B 03 page 12, taken from Maldon Landscape Character Assessment

¹¹ Maldon Design Guide B 04_02 page 17

53. The agricultural sheds and adjacent farmland at Maythorne were consistent with this very loose and rural pattern of development. The neighbouring dwellings to either side contribute to the interrupted ribbon of residential development along the highway, with the old farm buildings to the rear of St Helier sited opposite the former mushroom sheds on the appeal site. Trees define the boundary to the adjacent field owned by the appellant and are a landscape feature.
54. The residential development is small scale in view of the number of dwellings and the single storey built form. The size and form of the dwellings has some reference back to the former agricultural sheds and the external materials of timber cladding, slate and the use of render reflect materials seen in the surrounding area. However, the introduction of three new dwellings and the change in the use of the land to a residential use have brought about a very significant and atypical change to the appearance and character of the site and its surroundings.
55. The three dwellings are accessed by a track off The Endway and are sited behind the frontage residential development. The design makes a strong statement, particularly on the rear elevations with the incorporation of large expanses of glazing within bold frames and also the white painted barge boards along the slightly projecting roof gables. The dwellings are prominent in short distance views from The Endway, especially as a result of the formation of a new access and break in the frontage hedgerow to the west of the site's main access. The development is not in character with and fails to reinforce the dominant settlement pattern and rural, open setting. The failure to respect and enhance the character and local context conflicts with a requirement of Policy D1. The intrinsic character of the countryside is not protected, resulting in conflict with Policy S8.
56. The additional proposed works to the packing shed, together with the link and the change of use of boiler house would continue the design theme of the residential development. They would consolidate the residential use but would not be a determining factor in the acceptability of the scheme in the s78 Appeal.

Amenity space

57. On plan the boundary to the residential site has been closely defined around the dwellings, which limits the extent of encroachment of the domestic use and gardens into the open, agricultural surroundings but also limits the scope to create a soft landscaped edge. The rear boundary to the small gardens is marked by post and rail fencing. The higher close boarded fencing between the plots is the more visually dominant.
58. The Design Guide indicates a minimum of 100 m² of private amenity space per 3+ bedroom dwelling and 50 m² for a 1 to 2 bedroom unit. There was agreement between the main parties that plot 1 (3 bed) has 48 m², plot 2 (3 bed) 49 m² and plot 3 (2 bed) has 67 m² of private garden space. The extension of the garden to plot 3 to wrap behind the boiler house as proposed in the s78 Appeal has been carried out, is included in the 67 m² and therefore does not represent an increase in amenity space for this unit. The proposal in the s78 Appeal is to increase the number of bedrooms to three on plot 3, which in turn increases the guideline figure to a minimum of 100 m² for this unit.

59. Private gardens generally provide for a number of functions such as hanging out washing, sitting out, having a kick around, offering habitats for wildlife and allowing water to drain naturally. At Maythorne the internal arrangement of living accommodation relates well to the garden in that kitchen/living space has direct access to the patio area. The gardens, being on the west side of the buildings, would benefit from the afternoon sun, as well as being sited away from the comings and goings at the front of the dwellings. Small patios have been provided. However, the downside is the significant shortfall in the amount of space for all of the units, especially as they probably would be occupied as family homes.
60. In the discussion at the hearing the appellant suggested, going forward, making the gardens larger by an extension of the residential curtilages in accordance with Policy H4. However, there are no specific proposals to assess as part of these appeals and Policy H4 states that extensions to domestic gardens within the countryside will not normally be permitted. The allowance for small unobtrusive extensions of residential curtilages into the countryside applies to dwellings within the settlement boundary. I noted on the site visit that domestic activities appeared to be spilling out informally on to the adjacent lands, facilitated by the gates in the rear boundary fences. Formal recreation spaces within the village or countryside footpaths would not fulfil the same functions as private gardens.
61. I conclude that an inadequate amount of amenity space has been provided for each dwelling. That being so the schemes fail to comply with criterion 2) of Policy D1 and guidance in the Maldon District Design Guide SPD. Policy H4 does not provide support for the development.

Parking

62. To comply with the SPD two car parking spaces per unit are required. Visitor parking is not required in small residential schemes. The Council understood that there are three on-site parking spaces, two to the north of unit 1 and one to the south of unit 3. With reference to the s78 Appeal the Council considered that one space per dwelling would be provided in the proposed garage.
63. The appellant's information about the parking provision is not consistent or necessarily corresponds with what has actually taken place. The s73A application form stated that there were five car parking spaces on site, which with the three proposed additional spaces in the converted packing shed would give a total of eight spaces. However, the proposed site plan (ref 1826/GA05) shows only the three spaces in the converted building.
64. During the appeal process the appellant submitted additional information¹². In terms of the current situation three spaces per dwelling are shown. The parking plan identifies four spaces sited in the area between the plot 1 dwelling and the packing shed, one space to the front and one space to the rear of the packing shed, one space to the front of the boiler house and two spaces on land to the south, outside the site. The updated proposed situation, on the basis that the s78 Appeal is allowed, shows four spaces in the proposed garage building¹³. Additional spaces for the plots would be adjacent to the garage, alongside the

¹² Appellant's response to Inspector's Note

¹³ One space for plot 1 and for plot 3 and two spaces for plot 2

accessway and in front of the boiler house. In summary, three spaces are shown for each dwelling, with two 'spare' parking bays.

65. When I visited the site cars were parked on the hard surfaced area on the northern side of the plot 1 dwelling and also on the land to the south of the site.
66. Overall the details indicate that there is inadequate on-site car parking for the as-built scheme, with the use of land outside the site in order to provide the required level of parking. Turning to the s78 Appeal, the proposed conversion of the packing shed to a garage would provide a use for the building and be acceptable parking provision, providing one space per plot. However, the location of the additional three spaces has not been satisfactorily shown on a parking plan. In summary, an acceptable parking layout has not been submitted for the existing development or the s78 Appeal.
67. Overspill on-street parking would be unlikely to occur along The Endway or cause detriment to pedestrian and highway safety and the free flow of traffic on this highway. The greater probability is that car parking would spill onto the shared access track or adjacent land, increasing the harmful visual impact and negating any gain from the proposed conversion of the packing shed and causing loss of amenity to neighbouring occupiers. Criterion 5) of Policy D1 and criterion 5) of Policy T2 are not met.

Other considerations

68. The submitted evidence demonstrates that safety and building regulation requirements have been met in the construction of the dwellings but there is little to show that the development has minimised its effect on the environment to ensure compliance with Policy D2.

Conclusions

69. The countryside location of the residential site and development are not supported by Policies S1, S2, S8 and T2. The introduction of a residential use and the bold design for the dwellings do not maintain the rural open character and local identity in this countryside location. The site is not of sufficient size to enable private amenity space standards to be met, thereby reducing the quality of the development. An acceptable parking plan for on site car parking provision remains to be resolved. As a result there is conflict with requirements of Policies S1, S8, D1 and T2. Policy H4 offers no support, bearing in mind the location and type of development.

Prior approval, permitted development rights and a fallback

70. I have concluded that the development as built is not in accordance with and is substantially different from the scheme granted prior approval on 19 October 2016. This prior approval is no longer extant and consequently it does not represent a realistic fallback. Even if the time period for completing the development had not expired the appellant's own evidence has demonstrated that the approved scheme would not be compliant with the Building Regulations and in practice could not be carried out in accordance with the approved plans. Furthermore, a scheme for the residential use and conversion of the former buildings would have necessitated increasing the external dimensions of the building envelope in order to achieve required standards. Under the provisions of Q.1 such development is not permitted.

71. A prior approval under the GPDO for a material change of use under Class Q is for a specific proposal that does not fall within any of the exceptions or limitations and which meets all the stated conditions. Unlike an outline planning permission, the prior approval did not establish the acceptability of a residential use on the appeal site and allow for details to be submitted at a later date.
72. The operational development has resulted in the erection of new non-agricultural buildings, Class C3 dwelling houses. Permitted development rights under Class Q or any other Class in Part 3 of Schedule 2 do not apply. Moreover, the permission granted by Schedule 2 does not apply if the existing building or the existing use is unlawful (article 3(5) of the GPDO). The rights to convert the old agricultural sheds were lost when the buildings were demolished.
73. The 2016 prior approval has no weight and is not a factor that weighs in favour of the built development or the proposed development in the s78 Appeal. There is no valid fallback position.

Planning conditions

74. The Framework makes clear that planning conditions should be kept to a minimum, and only be used where they satisfy the six tests – necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning Practice Guidance advises that planning conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.
75. The condition put forward by the local planning authority and agreed by the appellant for the as-built development would remove permitted development rights to erect garages, extensions or separate buildings (other than incidental outbuildings less than 10 cubic metres in volume). The reason refers to ensuring the dwellings retain private amenity space and to restricting the amount of built form in the rural location. This type of condition would have the potential to prevent any further harm but would not overcome the identified harms to the character and appearance of the area already caused by the development or the existing shortfall in private amenity space.
76. Furthermore, permitted development rights in Part 1 of the GPDO apply to a residential curtilage not a residential site. That being so the wording would need to be amended. The extent of the curtilages to the 3 plots would not necessarily include all the land within the site, in particular the packing shed and land immediately adjacent to that building.
77. A condition could be imposed requiring the submission of a parking plan to provide two car parking spaces per unit but to date it has not been shown there is sufficient space within the site to provide convenient and useable provision, without the need for tandem parking.
78. Two conditions were put forward by the local planning authority and agreed by the appellant for the development in the s78 Appeal. The first seeks to ensure the garages are used solely for the parking of a motor car in connection with the residential dwellings. Whilst it would protect the garage spaces for parking it would not address the lack of clarity over parking provision as a whole. This could only be done through the submission of a detailed parking scheme.

79. The second condition to restrict additional built development on the site is similarly worded to the condition for the as-built scheme. I have the same concerns to those set out in the paragraphs above.
80. The appellant proposed a planning condition to secure electric vehicle charging facilities. In general terms such provision is supported by the Vehicle Parking Standards SPD. However, it would not overcome the fundamental concerns over the location and deficiencies in accessibility of the site that I have identified. Nor would it address the lack of clarity over parking provision as a whole. On matters of detail, the wording of the proposed condition lacks precision and would not be an enforceable condition. The suggested amendment by the local planning authority would have to be incorporated to address enforceability.
81. In conclusion, planning conditions could address certain details of the scheme but are not able to satisfactorily mitigate or overcome the fundamental harms arising from the location of the site in the countryside, the siting of the dwellings and the scheme design. The shortfall and lack of clarity on parking provision may be capable of being resolved. That being so, the matter of on-site parking provision is not a determining factor weighing strongly against the developments. Nevertheless, the wider objective in Policy T2 of securing an accessible environment remains.

Conclusion on the development plan

82. Policy S1 advocates a positive approach, that reflects the presumption in favour of sustainable development, when considering development proposals. Key principles are identified, including the delivery of a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations.
83. On the positive side, development makes a small contribution to housing growth, bearing in mind that windfall sites are a reliable component of the District's five year housing supply. As neutral factors, the site is not in a high risk flood area and no constraints have been highlighted in local infrastructure. On the negative side of the balance the site is not in a sustainable location where housing development is promoted. The key principle of minimising the need to travel and to prioritise sustainable modes of transport is not met. Rural character and identity are not maintained. Aspects of the scheme detract from its quality, particularly the very significant shortfall in amenity space. My conclusion is that the balance is against the development when tested against the key principles of Policy S1.
84. The final element of Policy S1 in effect adopts the tilted balance expressed in the Framework. The most recent annual update of the District's five year housing land supply shows a slight shortfall at 4.90 years. This follows on from the years when a five year supply of deliverable housing sites has been demonstrated. A comparison of the position in 2019/20 with 2018/2019 indicates that the change is part due to a reduction in anticipated supply from major sites of 10+ dwellings and strategic allocations. Small sites and windfalls are in a healthy position. The record on completions shows an upward trend. With these factors in mind I attach limited weight to the identified shortfall in this case.

85. The built development in the deemed planning application and the scheme in the s78 Appeal is not supported by Policy S1. There also is a failure to comply with Policies S2, S8, D1 and T2 and a lack of support from Policy H4. The developments are not in accordance with the development plan when considered as a whole.

Other considerations

The Framework

86. In respect of rural housing, the Framework emphasises the importance of supporting developments that meet local needs and locating housing where it will enhance or maintain the vitality of village communities. The dwellings at Maythorne have been rented out and occupied since completion but there is very little specific evidence to show a positive contribution towards the stated objectives. The site is not in an isolated location and therefore the homes do not have to be justified by one or more of the circumstances in paragraph 79 of the Framework. In terms of making effective use of land, the Framework attaches substantial weight to use of suitable brownfield land for homes within settlements, not the countryside. The appellant relies on paragraphs 83 and 84 but these policies are directed to supporting businesses and a prosperous rural economy. The agricultural site and buildings did not fall within the meaning of previously developed land because land that is or was last occupied by agricultural or forestry buildings is specifically excluded from the definition¹⁴.
87. The Framework promotes sustainable transport and expects patterns of growth to be actively managed in support of such objectives. I recognise that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The LDP has taken this factor into account when identifying locations for sustainable growth. Althorne is a smaller village, lower down in the settlement hierarchy and the site is well outside the settlement boundary. The shortfall in adequate, clearly defined and useable on-site parking provision is very relevant when the factors identified in paragraph 105 of the Framework are taken into account. The use of a planning condition has the potential to address this matter. Safe and suitable access to the site is not able to be achieved for all users in view of the inadequacies in pedestrian provision along the local highway network.
88. The role of SPDs in achieving good design is recognised by the Framework. The strong concern over private amenity space and to a lesser extent the concern on parking provision indicate that the development would not function to the required standards. The external appearance is not sufficiently sympathetic to local character to merit full support. The site is not within a designated area that has the highest status of protection in conserving the natural environment. Nevertheless, recognising the intrinsic character of the countryside is a policy objective. The harm the residential use and associated operational development causes to the rural, open character is a further factor weighing against the new homes.
89. Even allowing for the slight shortfall in the District's five year housing land supply and the objective of delivering a sufficient supply of homes I conclude that the adverse impacts of approving the development, whether the built scheme in the deemed planning application or with the additional proposals in

¹⁴ The Framework Annex 2 Glossary

the s78 Appeal, significantly outweigh the benefits when assessed against the Framework. Accordingly there is a failure to comply with the Framework and the grant of planning permission is not supported by national planning policy.

Appeal decisions

90. I find it very significant that no planning permission has been granted for any new dwellings outside of the settlement boundaries of Althorne since 2013 and no appeals have been allowed, even at the time when the Council was unable to demonstrate a five year supply of housing land.
91. The Fiddlers Rest appeal decision¹⁵ is very relevant because of the location of that appeal site on The Endway. The Inspector, like myself, found that the clusters of development set within generous plots gave The Endway a rural feel, distinct from the character of the core settlement where the pattern of development is closer knit with smaller plots. Similarly, the Inspector considered the spaciousness and open rural character to be important to the intrinsic character of the countryside. In addition, the real difficulties of accessing services, even within Althorne and the use of public transport were described, with particular reference to the poor pedestrian provision.
92. Several other housing proposals around Althorne village were likewise dismissed on appeal. In the River View Terrace appeal decision¹⁶ the Inspector concluded the provision of two houses would make a modest contribution to the economy and the supply of market housing, but the harm caused by extending and intensifying built development in an unsustainable location would significantly and demonstrably outweigh the benefits of providing a modest amount of additional housing.
93. In the Clifford's Farm appeal decision¹⁷ the Inspector concluded that residents of the proposed four dwellings would be heavily reliant on private transport for most of their needs and services including education and medical services. The site, which was outside but adjacent to the settlement boundary, was not in a sustainable location. The contribution to local housing supply did not justify the development outside an adopted settlement boundary. The Burnham Road appeal decision¹⁸ related to a site just to the east outside the settlement boundary. Nevertheless, the Inspector concluded the occupiers of the new dwelling would not have acceptable access to shops and services. Finally in an appeal for a 48 dwelling development on a larger site further to the east on Burnham Road (Mansion House Farm)¹⁹ the Inspector found the site not to be in a particularly sustainable location and the development contrary to core aims of the Framework in this regard.
94. The common theme in these appeal decisions for sites outside the settlement boundary is that the harm to the character and appearance and the unsustainable location weighed decisively against the proposed residential developments, whether or not a five year housing land supply can be demonstrated.

¹⁵ Appeal ref APP/X1545/A/12/2179165 dated 15 February 2013

¹⁶ Appeal ref APP/X1545/A/14/2222319 dated 26 February 2015

¹⁷ Appeal ref APP/X1545/A/14/2225889 dated 29 December 2014

¹⁸ Appeal ref APP/X1545/W/17/3169919 dated 31 May 2017

¹⁹ Appeal ref APP/X1545/W/16/3152730 dated 8 May 2017

95. The appeal decision at Little Ashtree Farm²⁰ is able to be distinguished. The proposal was for a barn conversion to residential on land outside the settlement boundary of Mayland, not Althorne. The Inspector concluded that there was a realistic prospect of the barn conversion authorised under a prior approval being implemented in the event the appeal failed. There was no evidence the prior approval scheme, which was for a very similar residential development, could not be carried out successfully. The Inspector concluded that despite the conflict with policies in the development plan and paragraphs in the Framework the prior approval was an important material consideration that indicated the proposal would be acceptable. In contrast at Maythorne I have concluded that the prior approval has no weight for the reasons set out earlier in this decision and therefore it does not have the same decisive role as a fallback in the planning balance.
96. Appeal decisions are not a consideration weighing in favour of the developments. Bearing in mind the importance of consistency in decision-making, they weigh significantly against.

Other matters specific to the ground (a) appeal

97. In respect of the ground (a) appeal/deemed planning application I have power to grant permission for the whole or any part of the development described in the breach of planning control or in relation to the whole or any part of the Land to which the notice relates (s177(1)(a)). In view of the integrated form of the development and the harm identified it would not be appropriate to exercise this option in this case.
98. The prior approval scheme does not offer an obvious alternative because it is a different development that relied on retaining a very substantial amount of the original buildings. In view of the low height of the end units and the structural condition of the former mushroom sheds the approved scheme could not be implemented to provide habitable accommodation.

Human rights

99. If upheld without variation, compliance with the enforcement notice would result in the loss of the three homes. The homes are occupied and consequently article 8 is engaged. Article 8 is a qualified right that requires a balance between the rights of the individual and the needs and interests of the wider community. The enforcement notice has a legitimate aim of protecting the environment by resisting unsustainable development.
100. The enforcement notice was served on the occupiers of the three dwellings, enabling the residents to appeal if they so wished. There has also been the opportunity to make representations on the appeals. In March 2020 the appellant reported that three families with young children (one child with disabilities) were living in each of the units. The appellant confirmed at the hearing the current position as to occupancy. The dwellings are occupied under 12 month assured shorthold tenancy agreements. The tenancy for Plot 1, dating to May 2019, is now periodic. The tenancy for plot 2 began on 3 January 2020 and so expires on 3 January 2021. The tenancy for plot 3 has 1 year to run from 4 June 2020.

²⁰ Appeal ref APP/X1545/W/18/3194812 dated 6 September 2018

101. Significantly the dwellings were offered to let and all occupiers entered into their tenancy agreements after the enforcement notice was issued on 17 October 2018. At the hearing the appellant confirmed that the occupiers entered into their tenancies in full awareness of the enforcement action and the risk involved. No evidence was produced to indicate that the occupiers have a need to live near Althorne or that they would have any difficulty in finding alternative living accommodation.
102. In view of the above considerations the position of the current occupiers is not strong and the degree of interference with their rights would be low. The development causes harm to local character, is not of the quality required and is not in an appropriate location to promote sustainable development. Refusal of planning permission is necessary and proportionate in the public interest. There are no grounds to justify a temporary permission. The reasonableness of the period of compliance will be considered under the ground (g) appeal.
103. Through Article 1 of Protocol 1 a person has the right to the peaceful enjoyment of their possessions. It is a qualified right and so a balance is required against the public interest. The fact the appellant carried out the development without the necessary authorisation weakens his position and reduces the seriousness of the interference with his rights. In view of the serious harms identified as a result of the development refusal of planning permission is necessary and proportionate in the public interest.

Conclusions

104. The development that is the subject of the deemed planning application is contrary to the development plan when read as a whole. Material considerations also weigh strongly against the development. I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed planning application.
105. For the reasons given above the planning balance weighs heavily against the development and the s78 Appeal should be dismissed.
106. Refusal of planning permission and dismissal of the s78 Appeal would not violate the human rights of either the appellant or the occupiers of the dwellings.

Ground (f)

107. The issue is whether the requirements of the enforcement notice are excessive.
108. At the hearing the Council confirmed that the purpose of the notice is to remedy the breach of planning control, which is reflected in the policy reasons for issuing the notice. The requirements should follow from this purpose.
109. Step (a), cease the residential use, would do no more than remedy the unauthorised use of the land. I have concluded that new buildings were erected. Step (b), demolish the buildings, would remove the unauthorised operational development. I note that the appellant accepted that the demolition requirement could only be justified in planning terms if the development is considered to be a new building rather than the conversion of an existing

- structure²¹. Step (c), removal of paraphernalia and materials from the Land, would ensure full completion of step (a). On this analysis the requirements are confined to remedying the breach and are not excessive.
110. Nevertheless, I have to consider whether there is any obvious alternatives to the stated requirements that would remedy the breach. To require alteration of the development to secure compliance with the prior approval scheme does not provide an appropriate alternative for several reasons. The prior approval is no longer extant. A ground (f) appeal is not able to be used to gain planning permission for a development different to that enforced against. The evidence also has demonstrated that the prior approval scheme was not a realistic alternative and would not provide a safe, habitable development. It would be excessive to require the implementation of such a scheme.
111. Initially the appellant argued that the buildings should be required to be restored to their original condition, based on the additional works identified in the schedule dated June 2017. The works carried out were described in the appellant's statement as 'easily reversible'. However, that is not the case and the schedule does not clearly specify the works that were actually carried out. For example, works to the foundations were not informed by the findings of the appointed structural engineer and the schedule incorporates phrases such as roofs 'are likely to be removed', 'repairs and alterations as necessary to external walls'. The original buildings have been shown to be in very poor condition. It would be excessive and unrealistic to require not only demolition of the new build but also fabric to be restored that is unsound.
112. Following the hearing the appellant put forward alternative wording for step (b): "Strip out the buildings associated with the unauthorised use and remove from the land any resulting materials, debris or detritus". An additional step was proposed "Land and retained buildings only to be used for purposes ancillary to the lawful use of the site".
113. These steps appear to be aimed at retaining the buildings for agricultural use. However, proposed step (b) would have the effect of achieving planning permission for the buildings through the operation of section 173(11). The Council did not decide to under-enforce and this outcome would be contrary to the purpose of the notice. Furthermore, the buildings have been designed for residential use and there is nothing to suggest that they would be functional for agricultural use. The additional step would also be excessive because it would impose a positive requirement. It would be unnecessary because the land would revert to its lawful agricultural use (s57(4) of the 1990 Act). The stated requirements in the notice do not deprive the appellant of his lawful use rights. The appellant's proposed variation to step (b) is not appropriate or acceptable.
114. The appeal on ground (f) does not succeed.

Appeal on ground (g)

115. The issue is whether the compliance period of five calendar months is reasonable. This involves consideration of what the recipient of the enforcement notice will have to do in practice to carry out the remedial steps and consequently how much time should be allowed for that purpose. There is also a need to ensure the period is proportionate taking full account of the

²¹ Statement of case for enforcement appeal paragraph 3.8

- human rights and any equality considerations. A balance needs to be struck between the public interest in ensuring the notice is complied with expeditiously and the private interests of the appellant and the occupiers.
116. The ground of appeal put forward a period of twelve months as being reasonable. The appellant requested at the hearing that the compliance period be extended to eighteen months through to June 2022, largely due to the length of tenancies currently in place.
117. On the appellant's evidence the works to create the dwellings took around six months to carry out. Therefore the demolition of the buildings is unlikely to take longer and probably would be completed over a shorter period.
118. The appellant confirmed that the dwellings are occupied under 12 month assured shorthold tenancy agreements. The information from the appellant has shown that the dwellings were offered to let and all current occupiers entered into their tenancy agreements after the enforcement notice was issued on 17 October 2018. That being so the appellant and the occupiers should have been aware of the risks involved and the potential loss of the dwellings. No evidence was produced to indicate that the occupiers would have any difficulty in finding alternative living accommodation. However, they would have hoped for successful outcomes on the appeals and probably have not progressed towards or secured alternative living arrangements.
119. In general, a compliance period should not exceed one year unless there are exceptional circumstances. The Framework and Planning Practice Guidance confirm the importance of effective enforcement to maintain public confidence in the planning system and to tackle breaches of planning control which otherwise have an unacceptable impact on the amenity of the area.
120. Balancing the competing considerations and taking into account the current situation with the pandemic, I conclude that the compliance period should be extended. A period of nine months is reasonable in order to allow for the occupiers to secure new accommodation and then for the works to be carried out, whilst ensuring the harms do not continue for longer than necessary. The appeal on ground (g) succeeds to this limited extent.

Conclusions

121. For the reasons given above, the enforcement appeal should not succeed, the enforcement notice should be upheld as corrected and varied and I shall refuse to grant planning permission on the deemed planning application. The s78 Appeal should be dismissed.

DECISIONS

Appeal ref: APP/X1545/C/18/3215521

122. It is directed that the enforcement notice be:
- corrected in section 3 by the deletion of the word "creation" and the substitution of the word "erection" in the description of the matters that appear to constitute the breach of planning control;
 - corrected in section 4 by the addition of the following words at the end of the first sentence: "in respect of the operational development and within the last ten years in respect of the material change of use."

- varied in section 6 by the substitution of nine (9) months as the time for compliance.

123. Subject to these corrections and variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal ref: APP/X1545/W/18/3216373

124. The appeal is dismissed.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Kieron Lilley MTCP AInstLM MRTPI	Associate Director, Smart Planning
Martyn Pattie	MP Architects LLP
Andy Powl	The appellant

FOR THE LOCAL PLANNING AUTHORITY:

Julia Sargeant	Senior Planning Officer, Maldon District Council
Matthew Leigh	Lead Specialist Place, Maldon District Council
Hayley Parker Haines	Maldon District Council

INTERESTED PERSONS:

Ruth Edge	Recipient of enforcement notice
Karen Coombe	Recipient of enforcement notice
Peter Grimes	Local resident
Stephen Powl	Local resident
Susan Powl	Local resident

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REPORT of DIRECTOR OF SERVICE DELIVERY

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 FEBRUARY 2021**

Application Number	20/01289/HOUSE
Location	Willowbank, 4 Heathgate, Wickham Bishops, CM8 3NZ
Proposal	Alterations to front elevation including new fenestration/glazing, alterations to existing front dormer and new roof light to front roof slope, together with the redesign of steps to the front door. Flat roof dormer to rear elevation with a Juliet balcony. Changes to fenestration and replacement of existing windows to rear. Renovation of the driveway and new decking and paving to rear garden. Extension to the existing garage.
Applicant	Mrs Peter Moore and Karen Routledge
Agent	Mr Luca Arnaud – LAA
Target Decision Date	12.02.2020
Case Officer	Sophie Mardon
Parish	WICKHAM BISHOPS
Reason for Referral to the Committee / Council	Member Call In – Councillor K W Jarvis. Reason: Development appears bulky and of an overbearing design causing loss of privacy to other neighbouring properties contrary to policy D1 of Local Development Plan (LDP).

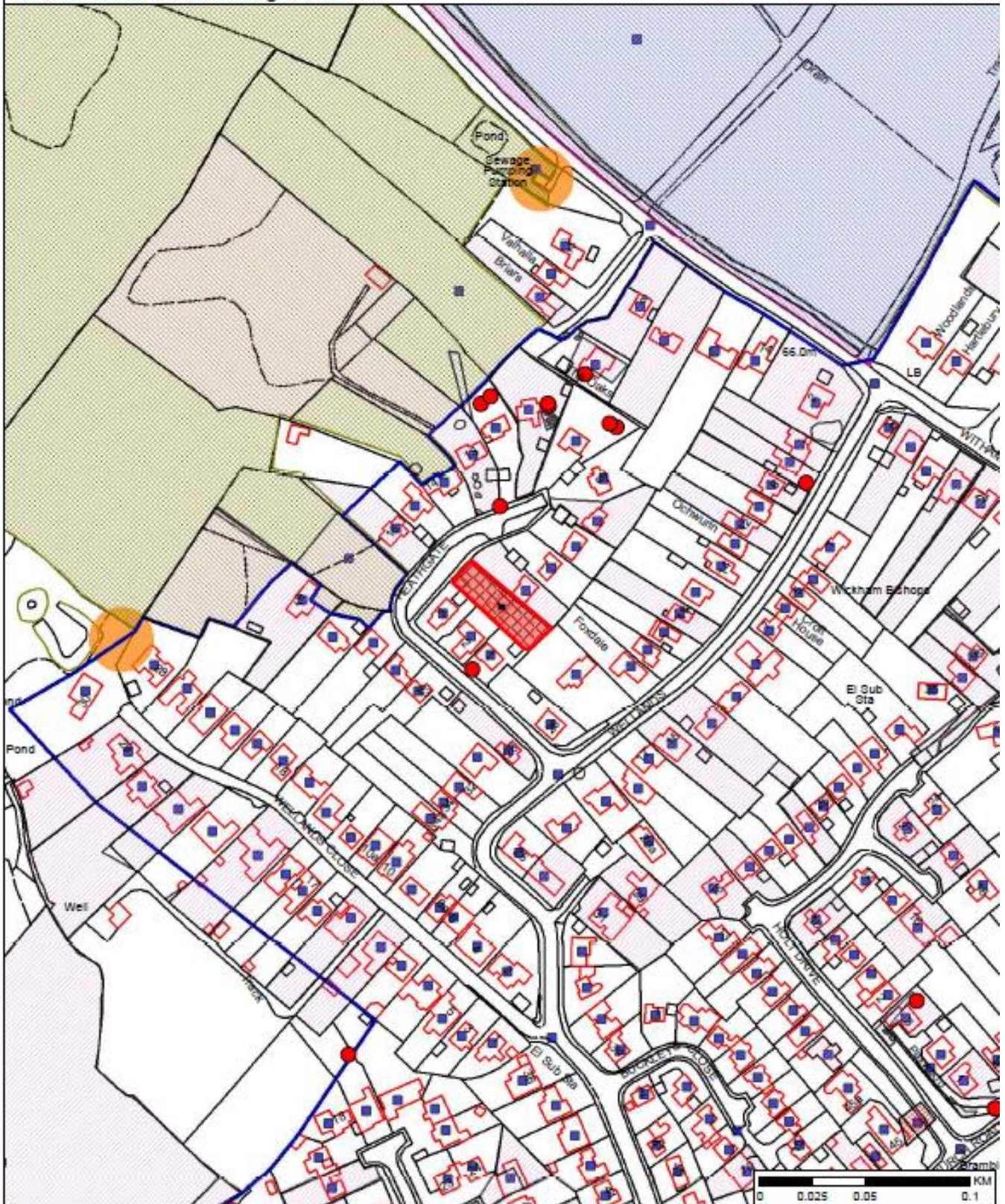
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Willowbank, 4 Heathgate, Wickham Bishops
North Western Area Planning Committee



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the south east of Heathgate which is in a cul-de-sac and within the settlement boundary of Wickham Bishops. The site is occupied by a two storey detached dwellinghouse with a canopy projection to the front and a pitched roof dormer which is situated within an elongated roof slope on the principal elevation. A detached garage is situated to the front of the application site. A site visit has been undertaken and the surrounding area is residential in nature with dwellings of similar scale but varying design and appearance, some of which also benefit from canopies to the front and pitched roof dormers in elongated roof slopes of the principal elevations. The use of contrasting materials including cladding is also present within the immediate locality.
- 3.1.2 Planning permission is sought for alterations to the principal elevation of the dwelling and include the removal of the mid-section of an existing ground floor canopy over the door way to facilitate a glazed window element from ground floor level to eaves level with a new door and steps. There would also be a roof light to the front roof slope, the roof of an existing dormer on the principal elevation would change from a pitched roof to a lean-to roof, there would be replacement windows throughout and permeable paving and brick planters would be added to the front of the application site. In terms of materials, the new dormer window would be clad in timber, the new door would be wooden, and all replacement windows would be double glazed with timber frames.
- 3.1.3 Planning permission is also sought for a flat roof dormer in the rear roof slope of the host dwelling which would have a total volume of 35 cubic metres. The dormer would project from the rear roof slope by 2.7 metres, with a width of 7.8 metres and would be 3 metres in height. The dormer would be constructed of cladding and includes a Juliet balcony with glazed sliding doors, glazed balustrade and two additional windows.
- 3.1.4 The proposed development includes changes to the fenestration at the rear of the dwelling. The rear elevation will be partially clad in timber which would protrude 0.25 metres from the rear elevation. The windows on the first floor will be replaced. There will be two sets of glazed sliding doors at ground floor level with a new window. The windows and doors on the south western elevation will also be replaced and new decking and paving is proposed to the rear garden. In terms of materials, all windows and doors would be double glazed with timber frames.
- 3.1.5 Planning permission is also sought for a hipped roof extension to the detached garage within the front of the application site. The garage extension would be 2.9 metres wide with a depth of 5.2 metres, a height of 4.5 metres to the top of the hip and an eaves height of 2.1 metres. In terms of materials the garage would be constructed of brick work to match the existing garage. The drawings submitted suggests that the roof covering would also match the existing building.
- 3.1.6 The development, which is the subject of this application is similar in nature to a previously refused application 20/00665/HOUSE. The previous application was refused for the following reason;

‘As a result of the design of the additions and alterations to the principal elevation and the scale, bulk and design of the rear extension, the development would be an incongruous and unsympathetic element within the streetscene to the detriment of the character and appearance of the host dwelling and the local area, contrary to policies D1 and H4 of the LDP and the guidance contained within the NPPF.’

3.1.7 Following the above refusal, the applicant sought pre-application advice from the Local Planning Authority (LPA) and has made the follow revisions, as advised within the pre-application meeting.

- The rooflight situated on the principal elevation of the host dwelling has been reduced in scale
- The format of the glazed window element to the principal elevation has been altered.
- The roof form of the garage extension has been altered from a gabled roof to a hipped roof.
- The two storey extension has been removed and replaced with a more traditional flat roof dormer with French sliding doors. A protruding external frame has been added to the French doors.
- The extent of cladding on the rear elevation has been reduced.

3.2 Conclusion

3.2.1 It is considered that the development, by reason of its scale and design, on balance, would not harm the appearance or character of the host dwelling and the locality. In addition, the development does not detrimentally impact on the amenities of adjoining and nearby residences, the provision of amenity space or car parking provision in accordance with policies D1, H1 and T2 of the Local Development Plan (LDP).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-57 Planning conditions and obligations
- 117-23 Making effective use of land
- 124-132 Achieving well-designed places

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

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

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

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon Design Guide (MDG) Supplementary Planning Document (SPD)
- Maldon District Vehicle Parking Standards (VPS) SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) 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 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, 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 Maldon District Design Guide (MDDG) (2017).

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 development comprises alterations and additions to the principal elevation which includes an alteration to the roof of the front dormer from a double pitched to a lean-to roof with timber cladding added to the dormer, a roof light to the front roof slope, replacement of all existing windows, the removal of a section of existing canopy to facilitate a glazed element which would extend to eaves level and a new front door. Following pre-application advice, the agent has reduced the scale of the roof light and glazed windows. The alteration of the flat roof dormer and the addition of timber cladding is considered to be relatively minor works. Although timber cladding is not a material present on the host dwelling, the extent of the cladding is limited to the cheeks of the front dormer, the front planter, and elements to the rear of the property on the elevation and the dormer. Furthermore, timber cladding can be found within the immediate streetscene on other properties within the locality. On balance, the extent of changes, particularly to the rear, with the removal of the two storey timber extension, together with the modifications to the front elevations, the proposals are not considered to have a detrimental impact on the character and appearance of the host dwelling or locality and as such, the development is considered acceptable. Furthermore, it must be noted that it is likely that this aspect of the proposal would be within the tolerance allowed through the permitted development legislation; this fallback position is a material consideration in the determination of this application.

5.2.7 The development also includes a garage extension, the addition of permeable paving and brick planters to the front of the application site and the relocation of the front steps. Although the garage extension would be visible within the streetscene, it would be located to the rear of the existing garage and adjacent to a neighbouring garage building. Therefore, there would only be fleeting views of the garage extension when travelling from the north. Furthermore, due to its modest scale, bulk and design, it is

considered that the garage extension would be a subservient addition to the site and, with materials to match the existing garage, would be in keeping with the host dwelling and locality. The permeable paving, brick planters and relocation of the steps are considered to be minor works that would not have a detrimental impact on the character and appearance of the host dwelling or the locality.

- 5.2.8 The development includes a flat roof dormer to rear of the dwelling which would include a master bedroom with a Juliet balcony (with glazed sliding doors and balustrade) an en-suite and two additional windows. The dormer is relatively large, taking up approximately two thirds of the rear roof space, and is of limited architectural merit however, it would be set within the roof slope, and down from the main ridge. As the development would be to the rear of the host dwelling, whilst visible to neighbouring occupiers, would only provide fleeting views on approaches from the east along Wellands. It should also be noted that the dormer window is of a size that could be built under permitted development rights, with the exception of the materials. It is therefore considered, on balance, that this element of the proposal would not have a detrimental impact on the character and appearance of the host dwelling or locality.
- 5.2.9 The development includes changes to the fenestration to the rear of the dwelling. The rear elevation will be partially clad and would project 0.25 metres from the host dwelling in order to cover sanitary pipes and create opportunities for foliage on the rear elevation. The cladding will not be visible from the streetscene and is limited in its use on the rear elevation. Furthermore, there are examples of cladding within the immediate area and therefore, on balance, due to its location, would not cause a detrimental harm to the character and appearance of the host dwelling or locality. An existing bay window on the ground floor of the rear elevation would be removed and replaced with double sliding doors. Another set of existing windows on the ground floor will also be replaced with double sliding doors. All existing windows on the rear elevation would be replaced. These works are considered to be minor in nature and due to their position to the rear of the dwelling, would not have a detrimental impact on the character and appearance of the host dwelling or locality.
- 5.2.10 The proposed decking and paving proposed to the rear garden area would not be visible from the public realm, are minor in nature and would not have a detrimental impact on the character and appearance of the locality. Therefore, no objections are raised to this element of the proposal.
- 5.2.11 Based on the above, on balance, it is not considered that the development by reason of its scale, design, position and appearance would result in demonstrable harm to the character and appearance of the host dwelling or locality in accordance with policies D1 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

- 5.3.2 The application site is bordered by five neighbouring properties; to the west are Nos. 3 and 2, Heathgate. To the south is No. 1 Heathgate. To the south east is Wagers, No. 24 Wellands and to the east is No 5 Heathgate.
- 5.3.3 The proposed alteration to the dormer window on the front elevation, the addition of a roof light, fenestration alterations to the principal elevation, garage extension and alterations to the driveway are considered to be minor in nature and will not have an impact on the amenity of any neighbouring occupiers. It is noted that the garage conversion will sit on the boundary and 7.1 metres from No. 3 Heathgate. However, the proposed extension would be situated behind this neighbour's garage and would be single storey in nature. Therefore, the bulk of this extension would be shielded from view and so would not be over-dominating, give rise to overlooking or overshadowing or represent an unneighbourly form of development.
- 5.3.4 The proposed rear flat roof dormer would sit 22 metres from the neighbouring property to the west No.3 Heathgate. The host dwelling would shield this neighbouring property from any views of the proposed development and therefore it is not considered that this element of the proposal would give rise to any overlooking, overshadowing or dominance of this neighbouring occupier. Additionally, the fenestration alterations to the rear and side elevations are considered to be minor in nature and will not have an impact on the amenity of this neighbouring occupier. Therefore, these elements of the proposal would not represent an unneighbourly form of development.
- 5.3.5 The proposed rear flat roof dormer extension would sit 4.9 metres from the boundary and 13.5 metres from the neighbouring property to the west No. 2 Heathgate. The host dwelling would shield this neighbouring property from the bulk of the proposed development. Furthermore, none of the windows proposed would be visible from this neighbouring property and therefore it is not considered that this element of the proposal would give rise to any overlooking, overshadowing or dominance of this neighbouring occupier. Additionally, the fenestration alterations to the rear and side elevations are considered to be minor in nature and will not have an impact on the amenity of this neighbouring occupier. Therefore, these elements of the proposal would not represent an unneighbourly form of development.
- 5.3.6 The proposed rear flat roof dormer extension would sit 5.7 metres from the boundary and 14.8 metres from the neighbouring property to the south No. 1 Heathgate. As previously mentioned in section 5.2 of the report, the flat roof dormer, including the Juliet window, falls within the remit of permitted development whereby the applicant could undertake similar works without the need for planning permission. When assessing if an application falls within permitted development, the outlook of neighbouring occupiers is not a consideration for this type of development except for any windows that may be proposed to the flank of the dormer. Notwithstanding this, although there will be additional windows to the second floor that would have views of this neighbouring occupier, it is not considered that the proposed development would cause any overlooking that is materially greater than what currently exists as there are existing first floor windows with a similar outlook. The applicant has also included an extruding external frame to the proposed windows within the dormer to help to mitigate views of the neighbouring properties. Furthermore, due to the separation distance, it is not considered that the proposed development would cause overshadowing or have an overbearing impact on these neighbouring occupiers and

therefore, on balance, would not represent an unneighbourly form of development. In addition, the fenestration alterations to the rear and side elevations are considered to be minor in nature and will not have an impact on the amenity of this neighbouring occupier. Therefore, these elements of the proposal would not represent an unneighbourly form of development.

- 5.3.7 The proposed rear flat roof dormer would sit 21 metres from the boundary and 40 metres from the neighbouring property to the south east No. 24 Wellands. As previously mentioned in section 5.2 of the report, the flat roof dormer falls within the remit of permitted development whereby the applicant could undertake similar works without the need for planning permission. When assessing if an application falls within permitted development, the outlook of neighbouring occupiers is not considered for this type of development. Notwithstanding the above, due to this significant degree of separation, it is not considered that the proposed development would cause any overshadowing or overdominance of this neighbouring occupier. Although there will be additional windows to the second floor, it is not considered that the proposed development would cause any overlooking that is materially greater than what currently exists as there are existing first floor windows with a similar outlook. Objections have been raised that due to the ill health of the existing hedgerow to the rear garden which borders this neighbouring property and a deciduous tree within the garden of this neighbouring property, the development would result in overlooking of their property. However, as concluded above, it is considered that, due to the separation distances, there would be no materially greater overlooking of this neighbouring property than already exists regardless of boundary treatments and existing vegetation.
- 5.3.8 The proposed rear flat roof dormer would sit 2.1 metres from the boundary and 2.7 metres from the neighbouring property to the east, No. 5 Heathgate. The rear of the host dwelling is set forward of this neighbouring occupier by 4 metres and therefore views of the dormer would be restricted by the neighbouring dwelling. Although there will be some views of this neighbouring occupiers' rear garden, it is not considered that the degree of overlooking would be materially greater than what currently exists as there are existing first floor windows with a similar outlook. In addition, the fenestration alterations to the rear and side elevations are considered to be minor in nature and will not have an impact on the amenity of this neighbouring occupier. As the majority of additional built form would be to the roof of the host dwelling, it is not considered that the proposal would give rise to any overshadowing or overdominance of this neighbouring dwelling and, on balance, would not represent an unneighbourly form of development.
- 5.3.9 Based on the above, on balance, it is considered that the development would not give rise to a material increase in overlooking, overshadowing or dominance of neighbouring properties and therefore the development is in accordance with policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted VPS SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 Part of the development would affect the layout of the site's frontage but sufficient space to park at least three cars within the site would be retained which would comply with the adopted parking standards. The proposal includes a master bedroom to the second floor but the internal layout of the existing dwelling would be changed and therefore no additional bedrooms are proposed.
- 5.4.4 The proposal includes a garage extension but, the internal space provided would only measure 2.3 metres wide and 5.2 metres deep which is less than the minimum dimensions required in the adopted VPS (3 metres wide by 7 metres deep). Therefore, the garage is not considered to be a usable parking space. Notwithstanding this, there is ample hard standing on the site for the provision of at least 3 vehicles therefore, no objections are raised with respect to parking provisions taking into account the Maldon District VPS SPD and 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 MDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.5.2 The footprint of the host dwelling remains largely unaltered, furthermore, the private amenity space would remain in excess of 300m² therefore, the proposal is in compliance with Policy D1 of the LDP.

6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
92/00114/FULF	Proposed increase in size of existing garage	Approved
94/00290/FUL	Installation of 1.2m satellite dish to rear facing wall of property	Refused
95/00014/FUL	Installation of satellite dish to rear elevation	Approved
20/00665/HOUSE	Alterations to front elevation including new fenestration/glazing, alterations to existing front dormer and new roof light to front roof slope, together with redesign of steps to front door. Two storey timber clad extension to rear elevation with a Juliet balcony and new fenestration, and replacement of existing windows. Renovation of driveway and new decking and paving to rear garden. Extension to existing garage.	Refused

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops Parish Council	Refuse – impact on privacy of neighbouring properties. Development does not conform to policies of LDP	Noted

7.2 Representations received from Interested Parties

7.2.1 3 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Will impact on privacy of property and garden of No. 1 Heathgate. Juliet balcony will have views of habitable rooms.	Comments noted, addressed in section 5.4 of the report.
The photographs submitted by the applicant do not reflect the true extent of overlooking.	Comments noted.
Proposed timber cladding out of keeping with existing property and streetscene contrary to local policy.	Comments noted, addressed in section 5.2 of the report.
Rear extension is dominating and of an	Comments noted, addressed in section

Objection Comment	Officer Response
inappropriate scale, adding mass and bulk to the rear of the property.	5.2 of the report.
Concerns regarding increasing amount of development in the area.	Comments noted.
Overlooking of neighbouring properties, loss of privacy to garden area and habitable rooms	Comments noted, addressed in section 5.4 of the report.
An existing hedge to the rear of the property is in ill health and if the hedge deteriorates current privacy issues with the proposed development will be further exacerbated.	Comments noted, addressed in section 5.4 of the report.
If the development were allowed, it would set a precedent for patio doors on rooftops.	Comments noted, the application is for a Juliet balcony to the rear of the dwelling which is not an uncommon form of development.

- 7.2.2 **1** letter was received **supporting** the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
Applicants discussed their plans with neighbours which resulted in design modifications to meet their concerns	Comments noted.
Most of the proposal qualifies as permitted development	Comments noted, addressed in section 5.2 of the report.
There is nothing in the plans of reasonable substance to object to the application.	Comments noted.

8. **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Location Plan, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010 and 011.
REASON To ensure that the development is carried out in accordance with the details as approved.
- 3 The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.
REASON In the interest of 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 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 window or other form of addition or opening shall be constructed in the side elevations of the dormer hereby permitted without planning permission having been obtained from the local planning authority.

REASON To protect the amenity of the neighbouring occupiers and also the future occupiers of the approved dwellings, in accordance with policies D1 and H4 of the Maldon District Local Development Plan.

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