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

02 March 2021

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 10 MARCH 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 MARCH 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 10 February 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. **20/00638/FUL - The Essex Wildlife Trust Nature Reserve, Blue House Farm, Blue House Farm Chase, North Fambridge** (Pages 17 - 34)

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

6. **TPO 15/20 - Land to the West of Thistley Close, Goldhanger** (Pages 35 - 46)

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

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

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.
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
10 FEBRUARY 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	Councillors Mrs P A Channer, CC and C Morris

252. 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 and Councillors in attendance to introduce themselves.

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

253. APOLOGIES FOR ABSENCE

There were none.

254. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 13 January 2021 be received.

Minute No. 171 - 20/00994/FUL - Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex, CM9 6TL

Councillor R H Siddall questioned whether the Minutes accurately reflected the order of the discussions that had taken place, specifically referring to the fifth paragraph of this Minute "Councillor M F L Durham advised the Committee..." as he felt this had occurred at an earlier point in the debate. In response the Chairman advised that the recording of the meeting would be reviewed, and the Minutes amended accordingly.

Subsequent to the meeting the Committee recording was checked and it was established that the sequence of comments recorded in minute No. 171 was correct.

Councillor K W Jarvis advised that reference to the word “overweighed” in paragraph seven should be “outweighed”.

Minute No. 175 - 20/01154/FUL - Barns Adjacent To Mosklyns Farm, Chelmsford Road, Purleigh

Councillor Jarvis referred to poor sentencing in paragraph six where there should have been an omission of the word “and”.

The amendments were noted, and it was agreed that these be made to the Minutes.

RESOLVED

- (ii) that subject to the amendments raised by Councillor Jarvis being addressed the Minutes of the meeting of the Committee held on 13 January 2021 be confirmed.

255. DISCLOSURE OF INTEREST

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. He further declared a pecuniary interest on Agenda Item 5 – 20/00519/FUL – Warren Golf Club, Old London Road, Woodham Walter and advised the Committee he would leave the meeting for this item of business.

In accordance with his declaration, Councillor Durham left the meeting at this point.

256. 20/00519/FUL - THE WARREN, OLD LONDON ROAD, WOODHAM WALTER, CM9 6RW

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
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A Members' Update had been circulated prior to the meeting that detailed further correspondence from the Agent and Noise Consultant in response to Environmental Health's consultation response.

Following the Officer's presentation, the Woodham Walter Parish Council representative Councillor J Ruston and the Applicant, Mr John Moran, addressed the Committee.

Councillor C P Morley joined the meeting during the Officer's presentation.

The Chairman moved the Officers' recommendation that planning application 20/00519/FUL be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

A brief discussion ensued, noting the economic benefits the development would bring but concurring with the Officer's report regarding the impact on the rural character and appearance of the site.

The Chairman put the Officer's recommendation of refusal to the Committee and upon a vote being taken it was unanimously agreed.

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

- 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

Councillor M F L Durham returned to the meeting.

257. 20/01120/FUL - LAND ADJACENT TO IVYSTONE COTTAGE, BACK ROAD, TOLLESHUNT D'ARCY, ESSEX

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

Following the Officer's presentation and in response to questions, the Lead Specialist Place confirmed that the application was previously dismissed at appeal based on the absence of securing the necessary Recreational disturbance Avoidance and Mitigation Strategy (RAMS) contribution, that the full RAMS contribution had now been secured and that the height of the eastern lean to roof was to be increased.

The Chairman moved the Officer's recommendation that planning application 20/01120/FUL – Land Adjacent to Ivystone Cottage, Back Road, Tolleshunt D'Arcy Essex be approved subject to conditions as detailed in Section 8 of the report. This was seconded by Councillor J V Keyes.

The Chairman put the Officer's recommendation of approval to the Committee 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 shall be carried out in accordance with the following approved plans and documents: 2019-267-001 Rev B and 2019-267-002 Rev B.
- 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.
- 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.

- 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.
- 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.

- 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.
- 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.
- 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.

258. 20/01154/FUL - BARNS ADJACENT TO MOSKLYNS FARM, CHELMSFORD, PURLEIGH

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

Following the Officer's presentation, the Applicant, Mr Ben Strathern, addressed the Committee.

The Lead Specialist Place advised Members that following the Area Planning Committee on 13 January 2021 an appeal decision had been received that was similar in nature to this application. A formal decision notice had not been issued on 20/01154/FUL and therefore Officers were obligated to bring the application back to Committee to consider the new material consideration.

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

Officers expounded the reason for bringing the case back to Committee and that had the appeal decision occurred prior to the first Committee hearing it would have been included in the Officer's report. Members thanked Officers for bringing the application back and a discussion ensued reiterating the Committee's previous reasons for approval and highlighting the differences between the Althorne appeal and this application in Purleigh. In response to a question the Officer confirmed changes made to the fenestration design. 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.

Councillor Miss S White joined the meeting at this point.

Councillor K W Jarvis proposed that the application be approved, contrary to the Officer's recommendation, for the reason that since the determination of the last planning application the Council was no longer able to demonstrate a Five Year Housing Land Supply, this was considered to weigh in favour of the proposed development. Furthermore, the previous reason for refusal regarding private amenity space had been overcome. It was not considered that the new material consideration would alter this resolution and therefore, the scheme should be approved in accordance with the conditions as recommended. This was duly seconded.

The Chairman put Councillor Jarvis' proposal to the Committee and upon a vote being taken it was approved.

RESOLVED that the application be **APPROVED** subject to the following conditions as recommended in the report:

- 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.
- 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.

- 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.
- 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.
- 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.

259. 20/01289/HOUSE - WILLOWBANK, 4 HEATHGATE, WICKHAM BISHOPS, ESSEX, CM8 3NZ

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).

Following the Officer's presentation, the Committee was advised that policy H1 as detailed in the conclusion (3.2.1) of the report should read Policy H4. The Chairman

invited three public participants to address the Committee; an Objector, Ms Karen Faith, the representative of Wickham Bishops Parish Council, Councillor Ian Wardrop, and the Agent, Mr Luca Arnaud.

The Chairman moved the Officer's recommendation that planning application 20/01289/HOUSE – Willowbank, 4 Heathgate, Wickham Bishops, Essex, CM8 3NZ be approved for the reasons as detailed in Section 8 of the report. This was duly seconded.

Councillor K W Jarvis having called the application in, opened the discussion informing the Committee that he had visited the property and the proposed dormer would be a storey higher than currently exists and therefore would be intrusive on neighbouring properties. A debate ensued around the presence of the Juliet balcony, glazed sliding doors, extension size, overlooking and timber cladding. Officers advised the Committee that much of the application could be carried out under permitted development.

The Chairman put the Officer's recommendation to approve the application to the Committee and upon a vote being taken it was lost.

Having spoken against the application Councillor Jarvis proposed that the application be refused, contrary to the Officer's recommendation. He highlighted that as result of its scale, bulk and design, including materials, the proposed development would be an incongruous, bulky and unsympathetic element within the streetscene. In addition, the proposed rear dormer, due to its height and position would result in a material increase in overlooking habitable rooms and rear amenity space of the neighbouring occupiers. This was duly seconded.

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

RESOLVED that the application be **REFUSED** for the reasons as detailed above.

There being no further items of business the Chairman closed the meeting at 8.18 pm.

MRS M E THOMPSON
CHAIRMAN

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

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

Application Number	20/00638/FUL
Location	The Essex Wildlife Trust Nature Reserve, Blue House Farm, Blue House Farm Chase, North Fambridge
Proposal	Construction of an earth bund measuring 2,140m around the perimeter of the site (0.5m high and 4m wide) and approximately 3000m of foot drains/ditches around the site and through the site (3m wide and 0.5m deep). Twelve shallow scrapes approximately 2,500m ² each with a maximum depth of 0.5m. Break-up agricultural land drains at the edge of the site. Construction of concrete, boarded sluice.
Applicant	Essex Wildlife Trust
Agent	N/A
Target Decision Date	15 March 2021
Case Officer	Kathryn Mathews
Parish	PURLEIGH AND NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	Major Application

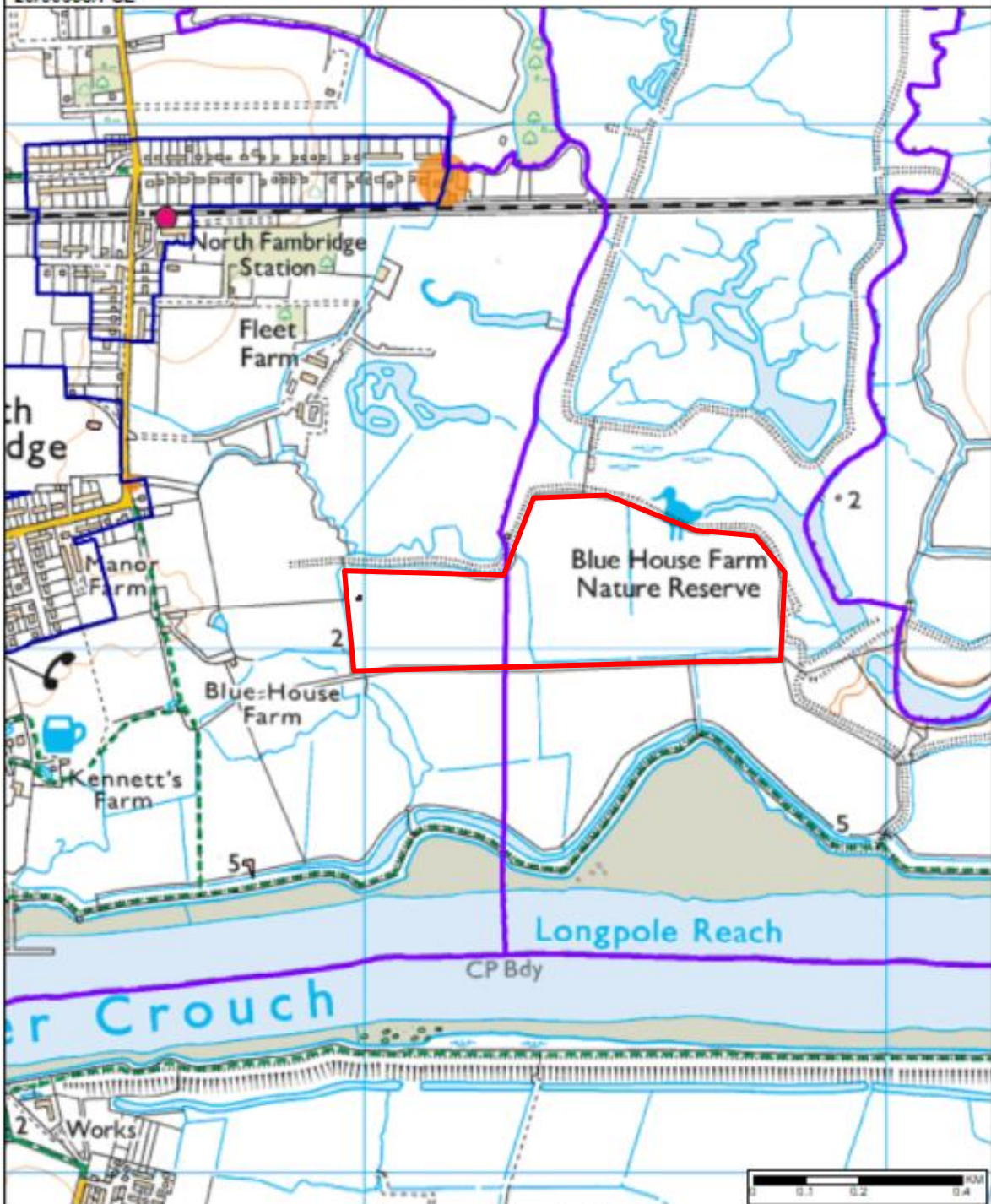
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Blue House Farm Nature Reserve, North Fambridge
20/00638/FUL



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Maldon District Council 100018568 2016

MALDON DISTRICT COUNCIL

www.maldon.gov.uk

Scale: 1:10,000
Organisation: Maldon District Council
Department: Department
Comments: NW Area Committee
Date: 09/02/2021
MSA Number: 100018568

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site extends to around 20ha. and is located within Essex Wildlife Trust's nature reserve at Blue House Farm, east of North Fambridge. The entire reserve, which lies to the north of the River Crouch estuary, is 240ha. and the majority is within a Sites of Special Scientific Interest (SSSI) (Crouch and Roach Estuaries), Ramsar Site (Crouch and Roach Estuaries (Mid Essex Coast Phase 2)) and Special Protection Area (SPA) (Crouch and Roach Estuaries (Mid-Essex Coast Phase 3)), primarily based on the importance of the reserve's populations of wintering and breeding wildfowl and waders. The intertidal zones of the River Crouch estuary lie 150m south of the site which is subject to the following designations: Marine Conservation Zone (Blackwater, Crouch, Roach and Colne Estuaries), Special Area of Conservation (Essex Estuaries) and SPA (Outer Thames Estuary).
- 3.1.2 The site is within Flood Zone 3a (high probability) but is mostly protected by existing tidal defences.
- 3.1.3 The application site comprises improved grassland. The grass within the application site is kept short by grazing cattle and occasional mowing, predominately for the overwintering and breeding wildfowl and waders. There are two internal ditches running north to south. A third channel runs parallel to the southern boundary, in the east of the application area. A bund is located along the northern and eastern peripheries with a crest level of around 2.7m Above Ordnance Datum (AOD).
- 3.1.4 Access to the application site is via Blue House Farm Chase, located to the west of the application site which accommodates a public footpath linking Fambridge Road to the north with the sea wall footpath to the south. There is a permissive footpath into the reserve from Blue House Farm Chase.
- 3.1.5 Site levels within the site range between 0.45m AOD in the south east and 1.95m AOD along the north western periphery.
- 3.1.6 The nearest building to the application site is located around 220m west of the proposed bund but this is within the applicant's ownership. The closest third-party properties are residential dwellings 355m north west along Blue House Farm Chase.
- 3.1.7 The development proposed consists of the construction of an earth bund measuring 2,140m in length which would be located around the perimeter of the site. The bund would be 0.5m high and 4m wide with a maximum crest level of 2.45m AOD.
- 3.1.8 Approximately 3000m of foot drains/ditches are also proposed around and through the site. The drains would be 3m wide and 0.5m deep. As part of the works, twelve shallow scrapes would be carried-out each measuring approximately 2,500m² with a maximum depth of 0.5m. Agricultural land drains at the edge of the site would be broken-up. A concrete, boarded sluice would be constructed on the southern boundary of the site and a predator fence to keep foxes out would be required around the outside of the earth bund proposed.

- 3.1.9 The proposal would create wetland habitat for breeding and overwintering wildfowl and waders. The aim of the project is to create areas of shallow flooding and standing water that seasonally dry out, creating muddy, splashy, wet grassland habitat for a range of birds associated with these habitats.
- 3.1.10 The import of material would not be required to construct the bund as the earth removed to create the foot drains would be used. Works would be carried out during October/November to avoid the ground nesting bird breeding season.
- 3.1.11 The following documents have been submitted in support of the application:
- Planning Statement
 - Design and Access Statement
 - Flood Risk Assessment
 - Sustainable Drainage Systems (SuDS) Checklist
 - Brief for archaeological monitoring (December 2020)
 - Technical Note (December 2020) – Surface Water Review – Blue House Farm Nature Reserve
 - Preliminary Ecological Appraisal (December 2020)
 - Cross sections.

3.2 Conclusion

- 3.2.1 The proposal is considered to be acceptable in principle and would not cause harm to the character or appearance of the area or the amenity of local residents, subject to the imposition of conditions. There are no objections raised in relation to the impact of the works on flood risk/drainage or highway safety/access/parking. The proposal would result in enhancements in relation to nature conservation.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-192 Conserving and enhancing the historic environment

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

- Policy S1 Sustainable Development
- Policy S8 Settlement Boundaries and the Countryside
- Policy D1 Design Quality and Built Environment
- Policy D2 Climate Change & Environmental Impact of New Development
- Policy D3 Conservation and Heritage Assets
- Policy D5 Flood Risk and Coastal Management
- Policy N1 Green Infrastructure Network
- Policy N2 Natural Environment, Geodiversity and Biodiversity
- Policy T1 Sustainable Transport
- Policy T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards (VPS)
- Maldon District Design Guide (MDDG)

5. MAIN CONSIDERATIONS

5.1 It is considered that the main issues which would require consideration as part of the determination of this planning application are the principle of the development, the impact on the character and appearance of the area, any impact on the amenity of local residents, highway issues, nature conservation and flood risk/drainage. Archaeology would also be a relevant material consideration.

5.2 Principle of Development

5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding unjustified development in flood risk areas, the historic environment, local infrastructure and services, the character and appearance of development, and minimising the need to travel.

5.2.2 The site is located in a rural, coastal location but the proposal relates to works which are anticipated to increase the nature conservation value of the site. Based on this and subject to the assessment of the proposal against all relevant material considerations, as set out below, it is not considered that the proposal is unacceptable in principle.

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.
- 5.3.3 The basis of policy D1 of the approved Local Development Plan (LDP) seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - b) Height, size, scale, form, massing and proportion;
 - c) Landscape setting, townscape setting and skylines;
 - d) Layout, orientation, and density;
 - e) Historic environment particularly in relation to designated and non-designated heritage assets;
 - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - g) Energy and resource efficiency.
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.6 The proposal would have an impact on the character and appearance of the estuarine environment which is sensitive to change. The Maldon District Landscape Character Assessment identifies this area as being within 'Fleet Estuarine Marsh/Mudflats' – some of the key characteristics of this area include a landscape pattern of small channels and creeks, diverse and important habitats for wildlife (particularly Brent Geese and other wildfowl) and uncommon flora as well as open long distant views. The area is identified as being highly sensitive to change.
- 5.3.7 It is considered that the proposal would have a neutral impact on the landscape as the construction works would be temporary, the proposal is of limited geographical extent in the context of the Estuary and the proposal would not fundamentally alter any characteristic of the landscape – the elements which involve changing ground levels will not be significant in height and would be no higher than existing embankments. Embankments are not untypical of the area and there would be no loss of existing vegetation.

- 5.3.8 However, it is considered necessary to impose conditions if planning permission is granted requiring further details of the sluice and predator fence referred to as part of the application, in the interests of the character and appearance of the area.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 requires that all development must 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 nearest building to the application site is located around 220m west of the proposed bund but this is within the applicant's ownership and is located on ground approximately 0.9m above the crest level of the proposed bund. The closest third-party properties are residential dwellings 355m north west along Blue House Farm Chase which are located on ground approximately 0.95m above the crest level of the proposed bund.
- 5.4.3 As a result of the location of the works proposed, their temporary duration and the limited access to the site by vehicles required, it is considered that the proposal would not cause material harm to the amenity of any existing residents, subject to the imposition of a condition requiring a construction management plan to be approved, as recommended by the Specialist – Environmental Health.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to 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 As part of the Design and Access Statement submitted, it is stated that the current vehicle access to the site off Fambridge Road via Blue House Farm Chase (a private unmade track) would be used. It is proposed that construction vehicles would access the work site through the hardstanding farmyard at Blue House Farm and then through a series of agricultural livestock gates across grazing land. The work will require access for 2-3 standard vehicles and one heavy plant transportation vehicle in addition to a delivery vehicle which will unload and load equipment in the hardstanding yard area. Annual visitor numbers to the nature reserve are approximately 5,000 to 6,000 people, the majority of which are local dog walkers using the public footpath to the sea wall. It is not predicted that the habitat improvement work will result in any significant increase in visitors to the site.
- 5.5.3 The proposal would only give rise to highway safety and parking issues during the construction works. Machinery and equipment required to carry-out the works would need to be delivered to the site but there would be no import/export of material to/from the site (which could be ensured through the imposition of a condition). Parking for workers' vehicles would be provided within an existing farmyard. Essex

County Council (ECC) Highways have raised no objection to the proposed works, subject to the imposition of conditions.

- 5.5.4 Based on the above, it is anticipated that the project would have a low number of vehicles accessing the site and no footpath or pedestrian access routes would be altered or impacted. Therefore, it is considered that there will be no impact on the local community that use the site or visitors from further afield and no objection is raised to the proposal on the basis of access, parking or highway safety, subject to the imposition of conditions as recommended below.

5.6 Flood Risk and Drainage

- 5.6.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.
- 5.6.2 The site is located within Flood Zone 3 (high risk) although the western part of the site is protected. Parts of the site are also susceptible to surface water flooding.
- 5.6.3 The Environment Agency (EA) has advised that they considered raising a holding objection, as the Flood Risk Assessment (FRA) does not assess the defended or residual risk to the site or determine whether they have safe access or propose an emergency flood plan. However, at the same time these proposals are water compatible development for nature conservation and designed to promote biodiversity. They advise that safe access / emergency flood plan is unlikely to be critically important for nature conservation and biodiversity, as the aim is to retain water on the site to improve habitat for birds. No objection is, therefore, raised.
- 5.6.4 The comments of the EA are noted and Officers agree that the proposal would be 'water compatible' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG) although the application has been accompanied by a FRA.
- 5.6.5 ECC Sustainable Drainage Systems (SuDS) Team have raised no objection to the proposal as they do not believe that the proposal will have a negative impact or an increased risk of surface water flooding.
- 5.6.6 As a result of the differences in ground levels, any increase in flood risk associated with the proposed bund would be negligible but the increase in on-site storage of flood water is likely to lead to a reduction in flood risk elsewhere.
- 5.6.7 Based on the above, no objections to the proposal are raised in relation to drainage and flood risk. However, it is considered that a flood warning and evacuation plan would be required during construction which could be required by condition if planning permission were to be granted.

5.7 Nature Conservation

- 5.7.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.7.2 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.
- 5.7.3 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).
- 5.7.4 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.7.5 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.7.6 The site is within an area designated nationally and internationally for nature conservation.
- 5.7.7 With respect to on site impacts, the application is accompanied by Preliminary Ecological Appraisal which includes the following conclusions:
- The site contains low quality terrestrial habitat for Great Crested Newts due to the grazing and cutting regime, but the two internal ditches provide potential breeding habitat. These would not be detrimentally impacted by the work. The raising and stabilisation of the water levels within the ditches as well as the introduction of a less intensive grazing regime is likely to improve the aquatic habitat for Great Crested Newts. Precautionary measures are recommended.
 - There are no buildings or trees with bat roost potential within the planning application boundary and therefore no bat roosts will be directly impacted.
 - The survey area is generally unsuitable for reptiles due to the low sward maintained by cutting and grazing as well as periodic flooding and damp ground. However, certain marginal areas within the work area contain some potentially suitable reptile habitat. All four Essex species of reptile have been recorded within the wider reserve. Management should keep all areas within the impact zone mown or grazed short in the build up to the works.
 - The project will result in a significant increase in habitat for wintering wildfowl and waders, but particularly in habitat for breeding waders such as Lapwing within the shallow scrapes and drains.

- The work is planned to commence in August 2021, after any breeding has been completed and no impacts on nesting birds are therefore anticipated. This should be confirmed by survey work in the week prior to the works by early morning breeding bird surveys.
- The reduction in open grassland favoured by Brent Geese will be compensated for by the extensive seeding of White Clover within areas of grassland to the south of the project site area. Careful water level management will retain large areas of open grassland for grazing geese and Brent Geese are also known to utilise shallow areas of standing water.
- The proposals are anticipated to have a significant net gain for species of wildfowl and wader throughout the course of the year.
- The site supports Brown Hare, a Species of Principal Importance in England (SPIE), which are not anticipated to be impacted by the proposals. Precautionary measures are provided.
- The area surveyed is not considered suitable for other protected species such as Dormice, Otters and Badger.

5.7.8 Natural England have advised that the application falls within the Crouch & Roach Estuaries Special Protection Area (SPA) and Ramsar site. From the information available, Natural England advises that this project could be considered to be directly connected with or necessary to the conservation management of the Crouch & Roach Estuaries SPA and Ramsar site, and therefore a Habitats Regulations Assessment (HRA) is not required.

5.7.9 The Royal Society for the Protection of Birds (RSPB) support the proposal as it would make a significant improvement to the biodiversity of this 20ha. of improved grassland area; it will encourage a range of waders and waterfowl onto the land which, together with predator fencing, will increase the potential for nesting birds such as lapwings.

5.7.10 ECC Ecology raise no objections but recommend that conditions are imposed to secure necessary mitigation and enhancement measures. These conditions are recommended below.

5.7.11 Based on the consultation replies received and the information submitted as part of the application, it is considered that the development would be directly connected with the conservation management of the Crouch and Roach Estuaries SPA and Ramsar site and the works would increase the value of the site and its estuarine surroundings for nature conservation, subject to the imposition of conditions as recommended below.

5.8 Other Matters

Archaeology

5.8.1 Policy D3 requires that, where development might affect geological deposits, archaeology or standing archaeology, an assessment from an appropriate specialist source should be carried out.

5.8.2 The application has been accompanied by a brief for archaeological monitoring.

- 5.8.3 ECC Archaeology have advised that the proposed development site is located in an area of potential for archaeological remains and recommends that a full archaeological condition for archaeological monitoring and recording is attached to the planning consent.
- 5.8.4 Based on this advice, subject to the imposition of a condition requiring a full archaeological investigation, it is considered that the proposal is acceptable from an archaeology perspective.

Environmental Health

- 5.8.5 The Specialist – EH has raised no objections to the proposal but has recommended that a condition is imposed requiring a construction management plan to be submitted and approved which could be imposed if planning permission were to be granted.

6. ANY RELEVANT SITE HISTORY

- **99/00580/FUL** – Proposed construction of car park for 20 cars and two bird hides – approved 23.08.1999
- **07/00788/FUL** – Erection of wind pump to improve habitat on nature reserve - approved 13.09.2007
- **08/00818/FUL** – Erection of bird hide on nature reserve – approved 11.09.2008
- **15/00544/FUL** – Proposal to carry out environmental improvement works under a 'High Level Scheme' agreement with Natural England. The works would include re-creating wet coastal grazing marsh in two areas of the nature reserve and excavating a new ditch to drain on existing permissive footpath and to provide wildlife habitat - approved 17.09.2015
- **16/00414/AGR** – Prior notification of agricultural or forestry development - excavation/waste material: Restoration of coastal grazing marsh by retaining water – refused 12.05.2016
- **16/00567/FUL** – To carry out environmental improvement works as part of a 'Higher level Scheme' agreement with Natural England. This work includes re-creating wet coastal grazing marsh to provide habitat for internationally important species - approved 10.08.2016

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	Recommends approval - the proposed development is sustainable and does not conflict with Policy N2 of the Maldon District Local Development Plan 2014 -	Noted

Name of Parish / Town Council	Comment	Officer Response
	2029.	
North Fambridge	Support	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council SuDS Team	No objection as they do not believe that the proposal will have a negative impact or an increased risk of surface water flooding.	Noted – refer to section 5.6 of report
Natural England	Considers that this project is directly connected with or necessary to the conservation management of the Crouch & Roach Estuaries SPA and Ramsar site, and therefore it does not require further Habitats Regulations assessment.	Noted – refer to section 5.7 of report.
Environment Agency	The FRA does not assess the defended or residual risk to the site or determine whether they have safe access or propose an emergency flood plan. However, the proposals are water compatible development for nature conservation and designed to promote biodiversity. Safe access / emergency flood plan is unlikely to be critically important for nature conservation and biodiversity, as the aim is to retain water on the site to improve habitat for birds.	Noted – refer to section 5.6 of report.
ECC Highways	No objection, subject to a condition requiring all loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including	Noted – refer to section 5.5 of report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	construction traffic being undertaken within the application site, clear of the public highway.	
ECC Archaeology	Blue House Farm is of significance as an example of surviving historic grazing marsh, complete with historic landscape features such as Roman Red Hills and medieval sea-walls. The proposed development has the potential to impact on archaeological remains. The applicant has submitted a copy of an archaeological brief. They now need to appoint an archaeological contractor and submit a Written Scheme of Investigations in response to the brief. It is recommended that if the development is approved that a full archaeological condition is attached to the planning consent. This is in line with advice given in National Planning Policy Framework.	Noted – refer to section 5.8 of report.
ECC Minerals and Waste	No material is proposed to go in or out of the application site and therefore only materials taken out to create the ditches would be used to create the bund. Assuming that this is the case, no further comments to make but recommend that a condition is imposed to prevent the importation/exportation of material.	Noted – refer to section 5.5 of report. The condition suggested is recommended below.
RSPB	Supports the proposal – but seeks clarification of the legend on the block plans.	Noted – the applicant has confirmed that the dimensions queried are the diameter of the scrapes

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
		proposed.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
ECC Ecology consultant	No objection subject to securing biodiversity mitigation and enhancements including detailed mitigation for species including Water Vole, Great Crested Newts and reptiles, as well as birds, within a Construction Environmental Management Plan for Biodiversity. The Plan should include details to demonstrate that the two ditches onsite will be untouched by the development and any Water Voles will not be affected. The area is a relatively small proportion of the available grassland within Blue House Farm for Brent Geese, and areas of grassland to the south of the work area will be enhanced by seeding with White Clover (across approximately 30 hectares). It is noted that the aim of this development is to enhance the site for wetland bird species that frequent the Stour and Orwell Estuary SPA and Ramsar, to provide greater breeding habitat onsite for waders such as Lapwing and Redshank.	Noted – refer to section 5.7 of report.
Specialist – Environmental Health	No objections subject to the imposition of a	Noted – refer to section 5.8 of report.

Name of Internal Consultee	Comment	Officer Response
	condition requiring a construction management plan.	
Tree Consultant	No response.	

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

7.5 Pre-commencement conditions

7.5.1 The applicant confirmed (12 February 2021) they have no objection to the imposition of pre-commencement conditions relating to archaeology, requiring a construction management plan and a flood warning and evacuation plan.

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with the approved drawings:
 - Location Plan.
 - Water Retention Plan Map1 – West Section; Map 2 – Central Section and Map 3 – East Section.
 - Cross sectionsREASON: To ensure that the development is carried out in accordance with the details as approved.
- 3 The sluice shall not be constructed until details of its design have been submitted to and approved in writing by the local planning authority. The sluice shall be constructed in accordance with the approved details and retained as such in perpetuity.
REASON In the interests of the character and appearance of the area, in accordance with Policies S8 and D1 of the approved Maldon District Local Development Plan and the NPPF.
- 4 No fencing or other means of enclosure (including a predator fence) shall be erected unless details of the location, height and design of the means of enclosure has been submitted to and approved in writing by the local planning authority. The means of enclosure shall be erected in accordance with the approved details and retained as such in perpetuity.
REASON In the interests of the character and appearance of the area, in accordance with Policies S8 and D1 of the approved Maldon District Local Development Plan and the NPPF.
- 5 There shall be no exportation from the site of any material excavated from the site and no importation of material to the site to raise existing ground levels.
REASON In the interests of the amenity of local residents and highway safety, in accordance with Policies D1 and T2 of the approved Maldon District Local Development Plan and the NPPF.

- 6 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the Blue House Farm nature reserve, clear of the public highway.
REASON To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with Policy T2 of the approved Maldon District Local Development Plan.
- 7 No development including any site clearance or groundworks of any kind shall take place within the site until an archaeological assessment by an accredited archaeological consultant has been submitted to and approved in writing by the local planning authority to establish the archaeological significance of the site.
REASON The site lies in an area of archaeological potential, in accordance with Policy D3 of the approved Maldon District Local Development Plan and the NPPF.
- 8 No development including any site clearance or groundworks of any kind shall take place within the site until a programme of archaeological work by an accredited archaeological contractor has been carried-out in accordance with a written scheme of investigation, informed by the archaeological assessment required by condition 7 above, which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.
REASON The site lies in an area of archaeological potential, in accordance with Policy D3 of the approved Maldon District Local Development Plan and the NPPF.
- 9 No development shall take place unless and until a construction management plan has been submitted to and approved in writing by the local planning authority. The construction management plan shall include the following:
- i) the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:
 - a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) control measures for mud and dust from site operations and ensuring no dust emissions leave the boundary of the site;
 - c) lighting arrangement for the site during construction;
 - d) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - e) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.
 - ii) prevent the pollution of ground and surface waters. This will include the location of any hazardous materials including fuel from vehicles and equipment.
 - iii) where any soils that are known to be contaminated are being excavated or exposed a site waste plan shall be prepared in order to store, treat and dispose of the materials in accordance with the waste duty of care.

- REASON In order to minimise nuisances and disruption to local residents and pollution, in accordance with Policies D1 and D2 of the approved Maldon District Local Development Plan and the NPPG.
- 10 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (December 2020), hereby approved.
- REASON To conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies S8, D1, N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.
- 11 A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of “biodiversity protection zones”.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECOW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.
- REASON To conserve protected and Priority species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies S8, D1, N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.
- 12 No development shall take place unless and until a flood warning and evacuation plan for the construction period has been submitted to and approved in writing by the local planning authority. The development shall be carried-out in accordance with the approved details.
- REASON As the site is located in an area at high risk of flooding, in accordance with Policy D5 of the approved Maldon District Local Development Plan and the NPPF.
- 13 No floodlighting or other external form of illumination of the site shall be provided during construction.
- REASON In order to minimise light spillage in the interests of the character and appearance of the rural area within which the site is located and to protect wildlife habitats, in accordance with the NPPF and Policies D1, N1 and N2 of the Maldon District Approved Local Development Plan.
- 14 Construction works shall be carried out only during the months of October and/or November.

REASON In order to protect wildlife habitats, in accordance with the NPPF and Policies D1, N1 and N2 of the Maldon District Approved Local Development Plan and the NPPF.

INFORMATIVES

- 1 Where there is requirement for dewatering the site, the relevant consent must be sought from the Environment Agency
- 2 Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

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

Application Number	TPO 15/20
Location	Land to the West of Thistley Close, Goldhanger
Proposal	Confirmation of TPO 15/20
Owner	Mr & Mrs Peirce, Three Thistles, Thistley Close, Goldhanger, CM9 8AU
Confirmation by	17.03.2021
Case Officer	Sophie Mardon
Parish	TOLLESHUNT D'ARCY PARISH COUNCIL
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation


1. RECOMMENDATION

CONFIRM Tree Preservation Order (TPO) 15/20 with the following modifications.

1. Amendment to the Schedule to remove T2 (Pine tree) from the order at **APPENDIX 1.**
2. Amendment to the location plan to remove T2 (Pine tree) from the order, at **APPENDIX 2.**

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details
Land to the West of Thistley Close, Goldhanger TPO 15/20		T1 - OAK T2 - PINE
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	www.maldon.gov.uk	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 In September 2020, the Council received an enquiry from a Parish Clerk who had received information from a member of public that a tree located between 3-4 Thistley Close was going to be felled imminently and wanted to confirm if any of the trees were subject to a Tree Preservation Order (TPO). The Council's Tree Consultant identified two trees on the site (T1 Oak and T2 Pine). Due to the prominent location and the size of the trees, it was considered by the Council that the removal of either of these trees would materially impact on the amenity of the area. Therefore, a Tree Evaluation Method for Preservation Orders (TEMPO) assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO assessment scored the trees 14 out of 25 and concluded that both the Oak tree and Pine tree were worthy of a TPO. Therefore, a TPO was served on 17 September 2020. The Order was served as an emergency TPO due to the perceived threat to the trees, which provides the Council with a period of assessment to be undertaken, including confirming the accuracy of the plans, the species of the trees and a wider consideration of the amenity of the trees from the public vista. Following consultation from the Tree Consultant, the Council considered that on the basis of the above, only the Oak tree (T1) is worthy of protection and therefore has decided to modify the TPO to remove T2 (Pine) from the Order.

3.1.2 One letter of objection has been received from the owner relating to the serving of TPO 15/20 at Land to the West of Thistley Close, Goldhanger.

3.1.3 The objection to the Oak Tree (T1) remains unresolved; therefore, the question of whether or not to confirm the TPO has been brought before members to determine.

3.2 The Site

3.2.1 The T1 Oak and T2 Pine are located to the west of a cul-de-sac known as Thistley Close. Due to their size and location, it is considered that the trees play a significant role within the streetscene.

3.3 Ownership

3.3.1 The trees are located to the west of Thistley Close within the land ownership of Mr & Mrs Peirce of Three Thistles, Thistley Close, Goldhanger.

4 Main Relevant Policies

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

4.1 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)

4.2 Government Guidelines:

- 4.2.1 Government guidelines advise that: the Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 4.2.2 If Members decide to Confirm TPO 15/20, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:
 - 1. that the TPO is not within the powers of the Act, or
 - 2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 4.2.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

5 MAIN CONSIDERATIONS

- 5.1 The T1 Oak and T2 Pine are located to the west of a cul-de-sac known as Thistley Close. The T1 Oak tree, due to its size and location, is highly visible within its setting and along the wider streetscene and it is considered to hold significant amenity value, adding to the character and appearance of the surrounding area. Following a secondary site visit from the Council's Tree Consultant, the Officer has confirmed that the T2 Pine tree has not been annotated correctly on the location plan, as it sits further to the west behind a large Leylandii tree. The Pine tree is not visible within the immediate street scene and is a young tree which holds minimal amenity. Therefore, it would not be expedient to serve a TPO on the Pine tree, and the proposed Order has been modified to reflect this.
- 5.2 Planning Practice Guidance (PPG) states (Paragraph 10 reference ID: 36-010-21040306) *'It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'* An enquiry regarding the felling of either the Oak or Pine tree has been brought to the Council's attention. The trees are not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, either tree could have been removed without the permission of Maldon District Council (MDC), which would damage the amenity value that the trees offer within the surrounding landscape.
- 5.3 In the interest of protecting this prominent landscape feature and the amenity value of these trees within the locality, the Oak tree and Pine tree were assessed using the TEMPO which is designed as a guide to decision making and stands as a record that a

systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the Oak tree scored satisfactory for the suitability of a TPO for its amenity due to its prominent size and location which is clearly visible within the public realm. The expediency assessment reflected the immediate threat to the tree as mentioned in section 5.2. The Oak tree scored an overall total 14 out of 25 which means that tree would definitely merit a TPO. As noted in section 5.1 of the report, a secondary site visit by the Council's Tree consultant has confirmed that the Pine Tree (T2) offers minimal amenity due to its size and location. Therefore, it would not be expedient to serve a TPO on the Pine tree, and the proposed Order has been modified to reflect this.

5.4 It is worth noting that the guidance provided to sit alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only). However, as the enquiry was to fell one of the trees, it is considered by the Council that this goes beyond a precautionary threat, as the threat to one of the trees was immediate.

5.5 It should be noted that the TPO would not prevent works to the tree from being carried out, however it would control any works to ensure that they were suitable, justified and did not harm the health of the tree or the amenity value the Oak tree offers to the surrounding area. It would also allow for the Council to seek an appropriate replacement if it was agreed that it was appropriate to fell the trees.

6 ANY RELEVANT SITE HISTORY

6.1 No relevant site history.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

7.1.1 **One** letter was received **objecting** to the serving of the TPO 15/20 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
A neighbour was under the misapprehension that the trees were going to be taken down. There was no intention to ever fell the tree. The only intention is to manage the trees in a careful and considerate manner.	Comments noted. Whilst the intent may have been misconceived originally, the Oak tree scored satisfactorily for its worthiness of a TPO due to its amenity value (Score of 14 in amenity assessment) and is still worthy of protection.

8 CONCLUSION

8.1 The Oak tree, the subject of the TPO, provides significant amenity value to the character and appearance of the surrounding area due to its size and location. Given that the Oak tree has a TEMPO score of 14, it is considered that the TPO should be

confirmed to prevent inappropriate works being carried out which could harm the amenity value and overall health of the tree.

Site Photos

Views of trees looking west into Thistley Drive cul de sac



Copy of modified Order

Town and Country Planning Act 1990
The Maldon District Council Tree Preservation Order 14/20

Title: Land to the West of ~~Thistley~~ Close, Goldhanger

The Maldon District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as the Maldon district Council TPO 15/20.

Interpretation

- 2.— (1) In this Order “the authority” means the Maldon District Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- 3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this seventeenth day of September 2020

Signed on behalf of Maldon District Council:



Richard Holmes
Director of Service Delivery
Authorised by the Council to sign in that behalf.

[CONFIRMATION OF ORDER

[This Order was confirmed by Maldon District Council without modification on the **** day of
***** 201*

OR

[This Order was confirmed by the Maldon District Council subject to the modifications
indicated by *[state how indicated]*, on the **** day of ***** 201*

Signed on behalf of Maldon District Council:

Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by Maldon District Council on the **** day of
***** 201*

Signed on behalf of Maldon District Council:

Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the Maldon District Council on the **** day of *****201* by a
variation order under reference number *[insert reference number to the variation order]* a
copy of which is attached]

Signed on behalf of Maldon District Council:

Authorised by the Council to sign in that behalf]

[REVOCATION OF ORDER

This Order was revoked by the Maldon District Council on the **** of *****201*

[Signed on behalf of Maldon District Council:

.....

Authorised by the Council to sign in that behalf]

SCHEDULE
Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	Land to the West of Thistley close, Goldhanger

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	NONE	

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>


Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	NONE	

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Copy of modified location plan

Tree Preservation Order		Details
Land to the West of <u>Thistley Close</u>, Goldhanger TPO 15/20		T1 - Oak
Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014  www.maldon.gov.uk		Scale: 1:1,250 Organisation: Maldon District Council Department: Department Comments: TPO 15/20 Date: 17/09/2020 MSA Number: 100018588

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