

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

18 May 2021

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 26 MAY 2021 at 7.30 pm**

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

Please Note that due to social distancing and space limitations, we require any members of the public or press who wish to attend physically and observe or speak under Public Participation rules at this meeting to complete [a request form](#) (to be submitted by 12noon on the working day before the Committee meeting). This will be reviewed and managed according to capacity of the meeting and whether any other persons have already registered.

The Committee meeting will still be live streamed via the [Council's YouTube channel](#) for ease of viewing.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

COUNCILLORS

M G Bassenger
B S Beale MBE
V J Bell
R G Boyce MBE
Mrs P A Channer
R P F Dewick
M W Helm
A L Hull
N J Skeens
W Stamp, CC





AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE
WEDNESDAY 26 MAY 2021

1. **Chairman's notices**

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the Committee held on 14 April 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. **20/01347/FUL - The Barn, Steeple Road, Mayland** (Pages 11 - 20)

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

6. **21/00102/FUL - Land North of Riversleigh, Nipsells Chase, Mayland** (Pages 21 - 36)

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

7. **21/00108/FUL - Rosemary, Mangapp Chase, Burnham-on-Crouch, Essex CM0 8QQ** (Pages 37 - 54)

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

8. **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 Nos. 5-7.
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](#) no later than noon on the working day before the Committee meeting.
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**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.

Fire

In the event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Televisions (CCTV)

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

BACKGROUND PAPERS

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

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

Development Plans

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

Legislation

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

Supplementary Planning Guidance and Other Advice

i) Government policy and guidance

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

Supplementary Planning Guidance and Other Advice (continued)

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.

This page is intentionally left blank



**MINUTES of
SOUTH EASTERN AREA PLANNING COMMITTEE
14 APRIL 2021**

PRESENT

Chairman	Councillor N J Skeens
Vice-Chairman	Councillor V J Bell
Councillors	M G Bassenger, Mrs P A Channer, M W Helm, A L Hull and W Stamp, CC
In attendance	Councillor C Morris

365. 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.

He then asked all present to join him in a minute silence to mark the recent passing of His Royal Highness The Prince Philip, Duke of Edinburgh.

The Chairman then took Members through the etiquette for the meeting and asked Officers and Councillors in attendance to introduce themselves.

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

366. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R G Boyce, MBE and R P F Dewick.

367. MINUTES OF THE LAST MEETING

RESOLVED by assent that the Minutes of the meeting of the Committee held on 17 March 2021 be approved and confirmed.

368. DISCLOSURE OF INTEREST

Councillor N Skeens declared a non-pecuniary interest in Agenda Item 5 - 21/00088/FUL - Burnham Yacht Harbour, Foundry lane, Burnham-on-Crouch, as someone connected to the applicants had recently provided assistance to a charity of which he was a trustee. He advised that to avoid any semblance of favouritism in decision-making he would not partake in the debate or vote and he would hand over to the Vice-Chairman of the Committee, Councillor V J Bell to deal with this item of business.

Councillor Mrs P A Channer, CC, disclosed a non-pecuniary interest in all items on the agenda as a member of Essex County Council, a consultee on highways, access, waste, education and all planning related matters.

Councillor M W Helm declared a pecuniary interest in Agenda Item - 6 21/00101/FUL - Land adjacent Hipseys Cottage, The Street, Steeple, as the applicant had undertaken repair works for him on several occasions. He advised he would leave the meeting for this item of business.

Councillor N J Skeens then vacated the chair and handed the business of the meeting over to Councillor V J Bell, the Vice-Chairman.

IN THE CHAIR: COUNCILLOR V J BELL

369. 21/00088/FUL - BURNHAM YACHT HARBOUR FOUNDRY LANE BURNHAM-ON-CROUCH

Application Number	21/00088/FUL
Location	Burnham Yacht Harbour, Foundry Lane, Burnham-on-Crouch
Proposal	Temporary permission for a single mobile home for security staff accommodation for a period of 18 months.
Applicant	Mr Richard Lingard – Burnham Yacht Harbour
Agent	Mr John James – John James Associates
Target Decision Date	16 April 2021
Case Officer	Hannah Dungate
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Member Call In by Councillor V J Bell citing Policies RI.3 and RI.4 of the Burnham Development Plan

A Members' Update had been circulated prior to the meeting that detailed further representations from interested parties. Following the Officer's presentation, the Applicant, Mr Lingard, addressed the Committee.

A brief debate ensued where Members acknowledged the need for onsite security particularly in this location. At this point Councillor W Stamp declared a pecuniary interest in this item of business and left the meeting.

Councillor M W Helm then proposed that the application be approved contrary to the Officer's recommendation. This was seconded by Councillor A L Hull.

The Lead Specialist Place said that as an Authority the Council was sympathetic to the needs of businesses however it needed to be conscious of planning policies and previous decisions taken. He advised that arguments for security were very common particularly in such a rural area and should be resisted unless there was evidence of a particular need. Other ways of delivering this service should be sought prior to considering a permanent residential property onsite. Furthermore, this caravan was to allow for night-time cover which was already being delivered by a private company.

A discussion ensued around the concerns the Marina residents and Harbour Masters had with the private security company due to COVID. Some Members felt that COVID should not be a factor as lockdown was easing whilst others felt there was a need for continued precautionary measures. The Lead Specialist Place advised that if Members felt there was a continued concern in this regard they could look to granting a reduced period of permission from eighteen months to twelve.

Councillor M W Helm then put forward a revised proposal to approve the application contrary to the Officer's recommendation but for a period of twelve months as opposed to eighteen as outlined in the report. This was seconded by Councillor A L Hull. The reason for approval was that taking into account the exceptional circumstances at the site, there was an additional risk which outweighed the conflict with the policy.

The Chairman then put the revised proposal to approve the application to the Committee. Upon a vote being taken it was approved with conditions delegated to Officers in consultation with the Chairman.

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

Councillor V J Bell then vacated the chair and Councillor N J Skeens resumed his role as Chairman of the Committee.

IN THE CHAIR: COUNCILLOR N J SKEENS

At this point Councillor W Stamp returned to the meeting and Councillor M W Helm left the meeting for Item 6 as previously advised.

370. 21/00101/FUL - LAND ADJACENT HIPSEYS COTTAGE THE STREET STEEPLE

Application Number	21/00101/FUL
Location	Land Adjacent Hipseys Cottage The Street Steeple
Proposal	Construction of a new dwellinghouse.
Applicant	Mr Taylor
Agent	Mr Paul Lonergan - Paul Lonergan Architects
Target Decision Date	16.04.2021
Case Officer	Hannah Dungate
Parish	STEEPLE
Reason for Referral to the Committee / Council	Member Call In by Cllr P A Channer citing Policies S1, S8, D1 – Sustainable development, settlement boundaries and the countryside, design quality and environment.

Following the Officers' presentation, the Agent, Paul Lonergan, addressed the Committee.

A debate ensued where a number of issues were raised including comments from Essex Highways Authority (Essex Highways) regarding the parking arrangements, the need to consider the lifetime of a development, the Conservation Officer's comments and sustainability. Whilst Members had sympathy with the applicant it was unanimously agreed that the objection from Essex Highways, which was rare, was very significant in this instance and could not be ignored due to the detrimental impact on highway safety.

There being no further discussion the Chairman moved the Officer's recommendation to refuse the application and this was seconded by Councillor Bell.

He then put the recommendation to the Committee and it was agreed by assent.

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

- 1 The proposed development would be disconnected and isolated from services and facilities by reason of its unsustainable location and would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal. The development would therefore be unacceptable and contrary to policies S1, S8, D1, H4 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
- 2 The proposed development, due to its design, layout and position, is considered to be a contrived form of development which would result in significant harm to the character and appearance of the streetscene and the neighbouring listed building, Hipseys Cottage. This harm would be exacerbated by the prominent location and visibility of the site from The Street, given the setback position of the neighbouring bungalows, which would visually compete with Hipseys Cottage. The proposal is therefore contrary to policies S1, D1, D3 and H4 of the Maldon District Local Development Plan and the guidance contained within the Maldon District Design Guide and the National Planning Policy Framework.
- 3 It is considered that, due to the lack of a turning area as a result of the contrived nature of the proposed development and tandem parking arrangement, this would lead to vehicles reversing with restricted visibility onto the busy carriageway of The Street which would lead to increased conflict and risk of collisions for both emerging and approaching vehicles, resulting in an unacceptable degree of hazard detrimental to the safety of all highway users. The proposal is therefore contrary to policies D1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
- 4 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European Designated Nature Conservation Sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

N J SKEENS
CHAIRMAN



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
26 MAY 2021

Application Number	20/01347/FUL
Location	The Barn, Steeple Road, Mayland
Proposal	Within the curtilage of the dwelling house form a fenced enclosure (40m x 21.2m) to provide a drained all-weather surfaced area for exercising horses owned by the occupiers
Applicant	Mr F Wiffen
Agent	Chris Francis – West & Partners
Target Decision Date	28.05.2021 – EOT
Case Officer	Hayleigh Parker-Haines
Parish	STEEPLE
Reason for Referral to the Committee / Council	Member Call In – Councillor M W Helm – Policy Reasons D1 and S8

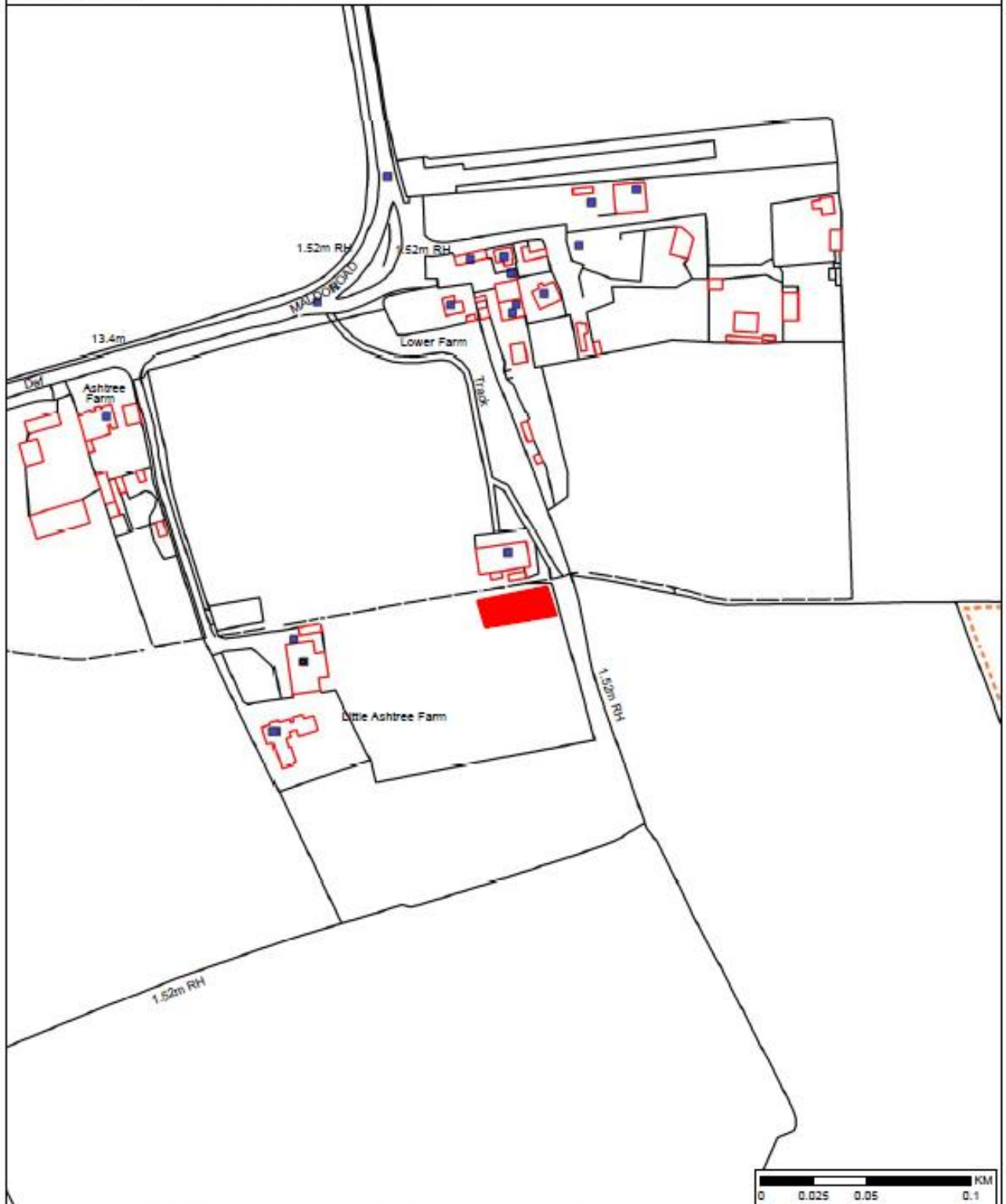
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

The Barn, Steeple Road, Mayland 20/01347/FUL



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 Stationery 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: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: SE Area Planning Committee

Date: 14/04/2021

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located within the wider site which is situated to the south of Steeple Road and is accessed via a private lane of which the dwelling is located to the east and does not fall within any defined settlement boundary. Planning permission to convert the barn to a dwelling was allowed on appeal (application reference 17/00860/FUL, appeal reference: APP/X1545/W/18/3194812)
- 3.1.2 Planning permission is sought for the construction of a fenced enclosure. This would be located to the north-eastern corner of the site. The proposed enclosure would have a width of 21.2 metres and a depth of 40 metres and would be bordered by a timber post and rail fence measuring a height of 1.3 metres. It should be noted that works commenced on site on 1 September 2020. A Lawful Development Certificate to confirm the works carried out was submitted and refused (see history section 6 below). An appeal against the Council's decision is currently at appeal.

3.2 Conclusion

- 3.2.1 The proposed development by reason of its scale, bulk and siting would not cause harm to the intrinsic character and beauty of the countryside. Furthermore, subject to conditions it is not considered that the proposal would result in material harm to the amenity of the neighbouring occupiers and would not result in an increased highway safety risk. Therefore, the proposed is in accordance with policies, S1, S8 and D1 of the approved Maldon District Local Development Plan (MDLDP).

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
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

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

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG) (2017)
- 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 approved 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 Policy S8 resists development outside of the settlement boundaries. However, whilst the development is located outside of a defined development boundary, within the rural countryside, it is considered reasonable to support the provision of structures that are ancillary to outdoor recreational facilities such as the keeping of horses, in rural locations within the district. Therefore, the proposed enclosure is considered to be acceptable in principle. Other material considerations, such as the impact of the proposal on the residential amenity and on the character and appearance of the area, are discussed in the following sections of the report.

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 local design standards, 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;
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 The proposed menage would be set over 100 metres from the boundary with the main Maldon Road and the access road to the site and would therefore not be highly visible within public vantage points. The existing site's boundary are already denoted

by post and rail fencing, similar to that of the proposed ménage, and therefore, it is not considered that this would be an overly incongruous feature within the streetscene. Furthermore, due to the nature of the development and the limited built form it is not considered to be an overly dominant form of development. Whilst the proposed ménage is of a considerable size, which is common for this form of development, the site is of a significant size which can accommodate development of this scale. Furthermore, developments of this type are not out of keeping with the rural character of the area and given that the proposed ménage is of a typical style and design for this type of development, it is not considered that the proposal would appear out of place or materially harm the intrinsic character and beauty of the countryside.

- 5.2.6 The proposed ménage would be bordered by a timber post and rail fence. These proposed materials are not unusual for this type of development.
- 5.2.7 Therefore, it is considered that the development, by reasons of its scale, design and appearance would not result in demonstrable harm to the character and appearance of the countryside in accordance with policies S1, S8 and D1 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 one neighbouring property, to the south and west, known as Little Ashtree Farm. The proposed development would sit over 70 metres from this neighbouring property (Little Ashtree is located to the south west of the ménage). Due to this significant degree of separation it is not considered that the proposed development would represent an unneighbourly form of development.
- 5.3.3 However, this is based on a reasonable use expected from the development being used ancillary to the single dwelling it is associated. Therefore, a condition restricting the use of the site for commercial use i.e. livery or riding school is necessary to prevent an inappropriate level of vehicle access and movement to ensure that the use of the site does not result in unacceptable impacts on the amenity of the occupiers of neighbouring properties.
- 5.3.4 A condition is recommended to ensure that no external lighting is provided to the stables, without permission being first obtained from the Local Planning Authority (LPA), to prevent unacceptable light spillage and resultant impact on amenity and enjoyment of private gardens.
- 5.3.5 Therefore, it is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of D1 of the LDP.

5.4 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 It is stated within the supporting planning statement that the existing entrance to the wider site as shown outlined in blue is to be utilised as part of the application. On this basis, the proposal is not considered to result in any demonstrable harm by way of highway safety. Furthermore, due to its ancillary relationship with the adjoining dwelling it is not considered that there is a need for specific onsite car parking provision.

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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.5.2 The proposed enclosure would be located outside of what is considered to be the private amenity space afforded to the dwelling and therefore, there are no concerns in relation to the loss of amenity space.

6. ANY RELEVANT SITE HISTORY

- **15/00976/FUL** – Conversion of existing barn to dwelling with associated alterations – Refused
- **16/00308/COUPA** - Conversion of an agricultural building to one new residential dwelling. – Prior Approval Granted
- **17/00419/FUL** - Variation of condition 2 on approved application COUPA/MAL/16/00308 (Conversion of an agricultural building to one new residential dwelling.) – Refused
- **17/00860/FUL** - Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding. – Refused – Appeal Allowed
- **18/01073/LDP** - Claim for lawful development certificate for the siting of a caravan to be occupied and used as a store during building works for the conversion of the barn. – Approved
- **18/05152/DET** - Compliance of conditions notification of approved application FUL/MAL/17/00860 allowed on appeal APP/X1545/W/18/3194812 Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding. Condition 4. Hedgerow Condition 5. Surface water and foul drainage scheme – Conditions Cleared
- **19/05100/DET** - Compliance with conditions notification of approved application FUL/MAL/17/00860 (Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding.) Condition 6 - Hard and soft landscaping works. Condition 7 - Parking. – Conditions Cleared
- **19/01180/LDP** - Claim for lawful development certificate for the erection of two outbuildings (coach house and loose boxes) – Approved

- **20/00983/LDP** - Claim for lawful development certificate for a proposed fenced enclosure to provide a drained all-weather surfaced area for exercising horses incidental to the of the occupation of the premises as a residential house. – Refused – Appeal in Progress

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Steeple Parish Council	No response	N/A

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections, subject to the inclusion of one condition in relation to floodlighting, should the application be approved	Comments noted

7.3 External Consultees

Name of External Consultee	Comment	Officer Response
Essex County Council Highways Authority (ECC)	No objection - The proposed will not alter or intensify the use of the existing access with the public highway.	Comments noted

7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
The applicant details listed upon the application include a company name. However Mr Wiffen is not a listed Director. However the nature of the business is buying and selling of own real estate. This is of concern as to why the menage is required unless the future intention is to use the area of land for an additional or alternative purpose	Comments noted. However, the planning application can only be assessed based on the information provided. Any future use of the site is likely to require another permission.
Concerns in relation to the nature and intended use of the development. The development is not incidental. The size and positioning of the development is not aligned to the dwelling, it is instead of a more commercial nature.	Comments noted – however, the use of the proposed enclosure to remain ancillary to the dwelling can be secured via an appropriately worded condition

Objection Comment	Officer Response
Degree of separation from the host dwelling which results in the development having a limited impact on the applicant's property but maximum impact upon the neighbouring landowners	The impact on neighbouring amenity is discussed in section 5.3 of the report
There is only a Shetland pony and an elderly horse (30+ years) owned by the Applicant – the proposed menage is excessive if it is proposed to be used to exercise these horses	Comments noted
Concerns that the Applicant is gradually and continually extending the request of the LPA as to what should be sited on the address. What was a single residential property has already matured into a house, loose boxes and now a menage. This in turn might seek to permit further development or the incurrence of a large stable/commercial riding school or the extension of the menage into an additional area for residential development	The planning application must be determined on the basis of the information provided. Any subsequent changes of use on site would be subject to another planning permission
As part of the approval for the dwelling conditions were imposed to secure the appearance was appropriate to the locality. These conditions, which have originally been met, should not now be disregarded by the allowance to construct an alternative external surface	Comments noted and the impact of the proposal on the character and appearance of the site and surrounding area is discussed in section 5.2 of this report.
Condition 8 of the original planning permission restricted permitted development rights for the construction of outbuildings and extensions. The applicant has already been granted certificates which contravene such planning conditions	Having looked at the site history there is not an approved application with an 8 th condition. The dwelling was constructed under the permission 17/00860/FUL which was allowed at appeal; whereby as stated at the start of this report, permitted development rights were not removed.
The access road is not fit for access by large commercial vehicles that would be required for the development and upkeep of the menage itself	Essex County Council Highways were consulted as part of this application and raised no objection
The track which runs alongside the menage is owned wholly by the owners of the neighbouring property to the south. The Applicant has no right of way and no right of access to this track. The construction of a menage over that land would in fact amount to a trespass and a civil nuisance	From the plans submitted it is not shown that the menage would be constructed on the bordering track, these current plans compared to the original approval and that nothing has been submitted to contrary, it is considered that the menage is to be constructed on land within the Applicants ownership.
Steeple Road itself is narrow and the presence of machinery or commercial vehicles required to construct and maintain the menage would cause a substantial and inherent safety risk for road users	Comments noted, however, given the use of the menage in association with the residential dwelling rather than a commercial use it is not considered that this would result in a significant increase in traffic to and from the site.

Objection Comment	Officer Response
	Furthermore, there is no evidence to suggest that following the completion of the construction of the enclosure, any heavy machinery would be required to access the site on a regular basis.
The proposal would also impact on noise pollution and potential flooding onto the privately owned track.	Comments noted however, there is no residential amenity afforded to the track and the impact on neighbouring amenity is assessed within section 5.3 of this report. Environmental Health have been consulted in relation to the application and have raised no concerns in relation to either noise or flooding, subject to the imposition of appropriate conditions.
The eastern edge of the proposed menage is not located on land within the Applicants ownership.	From the plans submitted it is not shown that the menage would be constructed on the bordering track, these current plans compared to the original approval and that nothing has been submitted to contrary, it is considered that the menage is to be constructed on land within the Applicants ownership.

7.4.2 **Two** 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
I fully support this application which is required for the welfare of the horses; it will not cause any nuisance or loss of amenity nor any intrusion into the overall rural character of this part of the local area.	Comments noted
The land in question was formerly farmland associated with the grazing of livestock and neighbours to both the north-west and south keep horses. It is reassuring to see properties of this type being used in a way that retains the rural aspect of the community	Comments noted
There is no visual detriment to any surrounding neighbours. It is entirely proportionate in size for the surrounding paddocks	Comments noted
It improves the poor state of the existing clay land	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: 2008/001, 2008/1011, 2008/1010 and 2008/100
REASON To ensure that the development is carried out in accordance with the details as approved.
3. The materials used in 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. No floodlighting or other external form of illumination of the site shall be undertaken without the prior written approval of the local planning authority.
REASON To protect the amenity and character of the area and the amenity of neighbouring occupiers in accordance with policies S1, S8 and D1 of the Local Development Plan.
5. The menage hereby permitted shall be used solely for the private exercising of horses' ancillary to the occupiers of The Barn, Steeple Road, Mayland as shown outlined in blue on the location plan and shall not be used for business or commercial use including for the purposes of livery or any riding school activity.
REASON To protect the amenity and character of the area and the amenity of neighbouring occupiers in accordance with policies S1, S8 and D1 of the Local Development Plan.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
26 MAY 2021

Application Number	21/00102/FUL
Location	Land North Of Riversleigh, Nipsells Chase, Mayland
Proposal	Construction of a single storey dwelling
Applicant	Mr and Mrs Kenny Paton
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	07.05.2021
Case Officer	Louise Staplehurst
Parish	MAYLAND
Reason for Referral to the Committee / Council	Councillor / Member of Staff

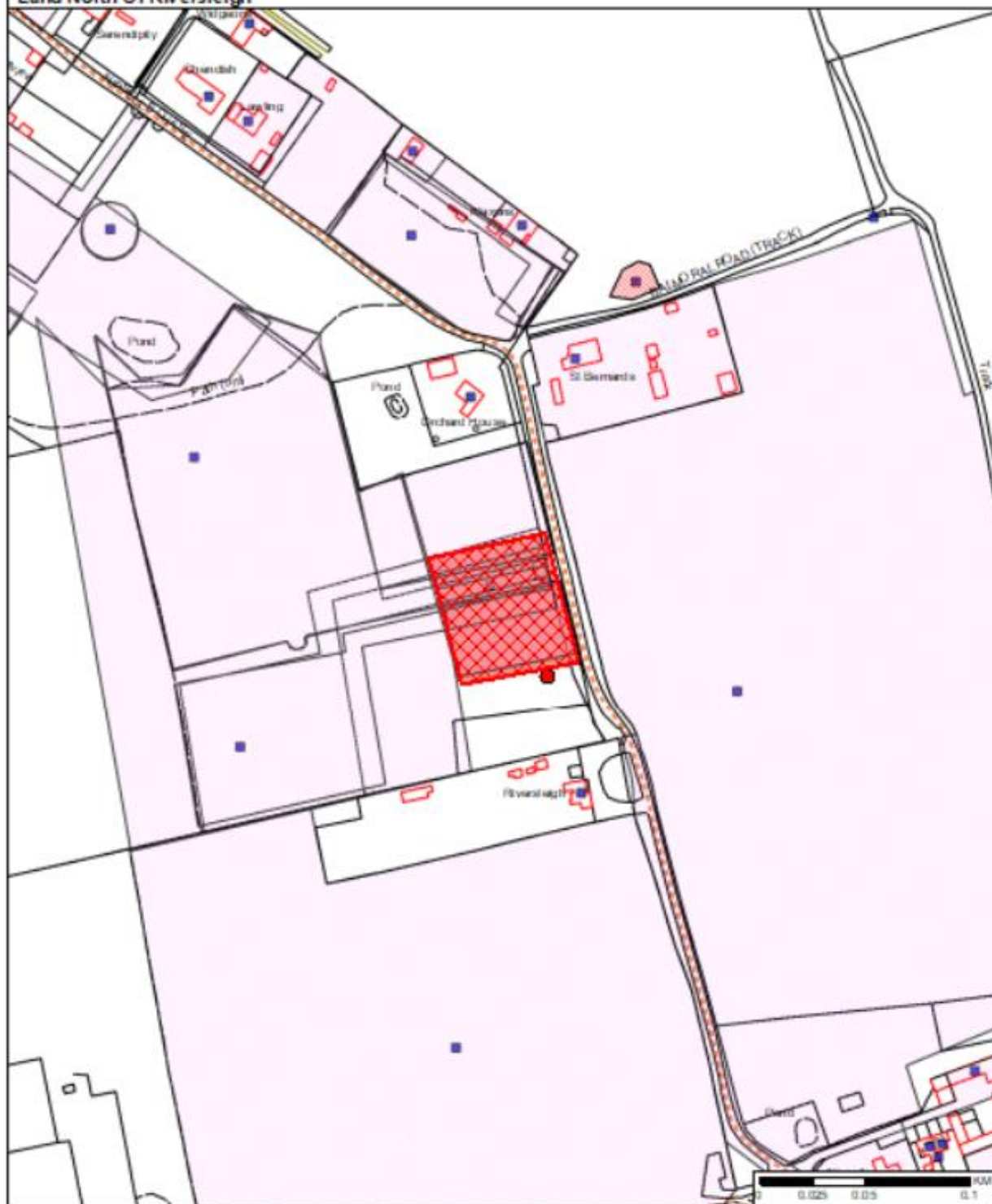
1. RECOMMENDATION


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

2. SITE MAP

Please see below.

21/00102/FUL
Land North Of Riversleigh



 <p>MALDON DISTRICT COUNCIL</p>	<p>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 Stationery Office. Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	<p>Scale: 1:2,500</p>
	<p>www.maldon.gov.uk</p>	<p>Organisation: Maldon District Council</p>
		<p>Department: Department</p>
		<p>Comments: SEAC</p>
		<p>Date: 13/05/2021</p>
		<p>MSA Number: 100018588</p>

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the west of Nipsells Chase to the north of the settlement boundary of Mayland. The site is currently vacant with a vehicle entrance at the centre of the east boundary of the site which leads to the wider field where planning permission has been granted for a barn, stable and ménage. Within the site is a largely open area of grassed land with a number of young trees. The edges of the site feature denser and more mature trees and hedgerow soft landscaping. To the north of the site is the residential property of Orchard House and to the south is the residential property of Riversleigh.
- 3.1.2 Planning permission is sought for the construction of one single storey dwelling. Internally, it will have three bedrooms, one with an en-suite, a home office with a toilet, two further bathrooms, a kitchen, utility room, boiler room, lounge/dining room, garage and veranda.
- 3.1.3 The proposed dwelling would have a 'H' shaped footprint with the overall width measuring 23 metres wide and overall depth measuring 18.8 metres. It will have a main eaves height of 2.6 metres and a ridge height of 8.1 metres. There will be two gable roof projections to the front and rear.
- 3.1.4 A gravel drive and parking area to the north of the dwelling would be provided that would lead from the access taken from Nipsells Chase. The remainder of the site would be used as gardens and amenity space.
- 3.1.5 The proposed dwelling would feature a garage and include ample space for the parking of cars to the north of the dwelling.
- 3.1.6 The materials to be used in the construction of the dwelling would include painted weatherboarding to the elevations and plain tiles or cedar shingles to the roof with timber framed doors and windows.
- 3.1.7 This application follows a previous application 17/00736/FUL which proposed a dwelling within the site, although the site extended further to the north than the current application. This application was withdrawn prior to the committee meeting; however, concerns were raised under this application regarding the impact of a dwelling in this location on the rural character of the area. The officer's report had been published on the committee agenda prior to the application being withdrawn.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, an objection is raised to the principle of the proposed development, which by reason of the unsustainable location of the proposed development and the visual impact on the character, openness and intrinsic beauty of the countryside would be contrary to the National Planning Policy Framework (NPPF) and the policies of the Development Plan.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

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

- Policy S1 – Sustainable Development
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1– Design Quality and Built Environment
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy N2 – Natural Environmental 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)
- Maldon District Vehicle Parking Standards
- Maldon District Design Guide (MDDG) (2017)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 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 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 5-year housing land supply 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 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 outside of the defined settlement boundary of Mayland, a village that is classified as one of the “larger villages” within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.
- 5.1.10 Mayland is classed as a larger village which has a limited range of services and opportunities for employment, retail and education, with a lower level of access to public transportation. There are some local services including a medical centre, school, corner shop/post office and some facilities such as pubs and hairdressers/beauty salons, which the submitted Planning Statement makes reference to. However, the application site is located along Nipsells Chase which is an unmade unlit road with no footpath; 350m north of the main part of Nipsells Chase which is lit and has a footpath. The site is located approximately 650m as the crow flies, to the medical centre and school. The nearest bus stops are ‘Maylandsea opp Post Office’ 580m the west of the site, as the crow flies, and ‘Maylandsea, Wembley Avenue’ 630m in a straight line to the south (approximately 15 minute walk). However, it doesn’t appear that there is a regular 7-day-a-week bus service that uses these bus stops. It is used by six school buses, the 31D which only appears to run on Sundays, the 31 and 31C which only serves this particular bus stop twice a day, and the D1 and D2 which run between Maldon and Southminster/Bradwell every two hours between 7:20 and 17:00 on weekdays. Therefore, even if there was a footpath between the site and the bus stops, due to the lack of a regular service operating throughout the day, this would restrict the opportunities to use public transport to meet the day to day needs of the future occupiers of the proposed dwelling. Given the above, the occupiers of the site would have to walk along Nipsells Chase to be able to access any of the facilities within the main settlement. Due to this, it is likely that the occupiers of the dwelling will be reliant on the use of private cars for their journeys.
- 5.1.11 It is noted that a public right of way is located along Nipsells Chase, however, this does not mean that it is a suitable pedestrian access into Mayland and to bus stops, at all times of the day and year. Neither does it mean it is an access maintained at the public expense meeting accessibility or safety criteria for public use. Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 103 of the NPPF which states that “The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.” Overall it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and the proposal would also fail to accord with Policy T2 of the LDP.
- 5.1.12 It is noted that the previous application 17/00736/FUL was withdrawn prior to a decision being made however was included on the agenda for the South Eastern Area committee due to be heard on 11 September 2017. This report did not make reference to the inaccessibility and unsustainability of the site however as a decision was not made for this application, this is not a material consideration in the assessment.
- 5.1.13 The agent has raised application 16/01492/FUL at Seal Point approved to the north west of the site, off North Drive. However, this is considered to be a materially different application. This site was considered sustainable and accessible due to its

location which connects to the main settlement and the facilities within Mayland via a lit footpath, which is not the case under this application, as discussed above. In addition, the dwelling was considered to be an exemplary designed property which the NPPF supports in unsustainable locations.

- 5.1.14 It is noted that 150 dwellings were proposed east of the site at Nipsells Farm Lodge under the terms of 15/00179/OUT (APP/X1545/W/15/3139154). Whilst this application was dismissed on appeal, it is noted that no objection was raised in terms of the accessibility of the site. However, this application involved the provision of a new footpath through the site to the south, joining onto the existing main road of Nipsells Chase, bypassing the unmade part of the road.
- 5.1.15 Similarly, 50 dwellings were refused and dismissed on appeal (APP/X1545/W/16/3153141) to the south of the site, at Land South West of Riversleigh, under the terms of 15/00610/OUT, however, no objection was raised in terms of the accessibility of the site. However, this site was not proposed to be accessed via Nipsells Chase, it was accessed via Orchard Drive to the south, which is a road with lighting and a footpath, which is materially different to the application site.
- 5.1.16 It is noted that the Planning Statement makes reference to a previous dwelling on the site from 1991. There is no dwelling on the site currently and any historical residential use of the site has clearly ceased; the application has correctly been assessed as a new dwelling and not a replacement dwelling.
- 5.1.17 It is noted that the application is for a self-build dwelling. No part of the self-build legislation supports the development of dwellings in otherwise unsuitable or unsustainable locations, where market dwellings would also be unacceptable. Furthermore, the NPPF (paragraph 79) provides clear exceptions as to when dwellings in the countryside may be acceptable; none of which is self-build. Given the assessment above, the application site would be in an inaccessible and unsustainable location.
- 5.1.18 Therefore, given the above, it is considered that the principle of providing a dwelling at this site is not founded and is in conflict with the guidance contained within the NPPF and the LDP.

5.2 Self-Build Housing

- 5.2.1 Paragraph 61 of the NPPF states that LPAs should plan for a mix of housing including 'people wishing to build their own homes'.
- 5.2.2 Footnote 26 to Paragraph 61 identifies that self and custom build properties can provide market housing, however self-build housing does not normally seek to address local housing need.
- 5.2.3 Custom and self-build housing has gained legislative support through the self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). This legislation requires the Council to maintain a self-build register and to 'give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period' i.e. to grant sufficient 'development permissions' to meet the demand for self-build.
- 5.2.4 Policy H2 of the LDP states 'where appropriate, the Council will work with developers, registered providers, landowners and relevant individuals (or groups of

individuals) to address identified local need for self-build housing. The Council's self-build register has 11 people listed and 48 sites granted planning permission and therefore there is a surplus number of sites available for the construction of self-build dwellings meaning there is land available in suitable and sustainable locations

- 5.2.5 There is no part of the self-build legislation that supports development which would be located within an unsuitable, unsustainable location, where market dwellings would also not be found acceptable. Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of 5 exemptions apply; (a) the application relates to an agricultural workers' dwelling, (b) the development would represent the optimal viable use of a heritage asset, (c) the development would re-use redundant or disused buildings, (d) the development would involve the subdivision of an existing dwelling, or (e) the design is of exceptional quality. No reference is made to self-build dwellings.
- 5.2.6 The Planning Statement states that the applicant has been on the self-build register and has not been offered a plot of land; however, it is not the responsibility of the Council to 'offer' a plot of land to people on the self-build register. The onus is on the applicant to attain one of 48 plots available.
- 5.2.7 Therefore, as there are 11 people on the self-build register and 48 plots available, it is not considered that there is any reason to grant planning permission for a self-build dwelling on the application site, particularly as it is within an unsustainable location in terms of accessibility and would have an undue impact on the character of the area.

5.3 Housing Need and Supply

- 5.3.1 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 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.
- 5.3.2 Whilst the LDP carries limited weight at present due to the lack of a 5yhl 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.
- 5.3.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.3.4 Policy H2 of the LDP contains a policy and preamble which when read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner-occupied properties having three or more bedrooms. The Council therefore encourages in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands.

- 5.3.5 The application is for one three-bedroom dwelling which is not a type of dwelling that is explicitly needed within the District at this time. Whilst it would have a minor contribution to the housing need within the District, this would be negligible due to the scale of the development and would therefore not significantly weigh in favour of the development. The fact the proposal is for a three-bedroom dwelling further reduces the limited benefits of the application.

5.4 Design and Impact on the Character of the Area

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

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

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

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

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

- 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;

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

- 5.4.5 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.

- 5.4.6 The proposed dwelling would be located outside the defined settlement boundary within a rural area and by reason of its formal siting and more urban nature would appear entirely at odds and out of keeping with the rural character of the area. This would be harmful to the distinctive character of the area and it would have an

unacceptable impact on its surrounding.

- 5.4.7 When viewed in isolation, there are no objections to the design per se. Notwithstanding, it is considered that this does not mitigate the harm that is caused by the domestication of the site and the erection of a dwelling within the countryside on land which is intended to be used for purposes akin to the countryside and not residential development.
- 5.4.8 Whilst planning permission has been granted for a barn, stable and ménage within the wider site, these are developments which are commensurate with the rural location. This is materially different to the erection of a residential dwelling in a rural location.
- 5.4.9 On the basis of the above, it is considered that the proposed development, by reason of its siting, urban nature, plot size, layout, scale, proportions and design would result in a development out of keeping with the grain and character of the countryside.

5.5 Impact on Residential Amenity

- 5.5.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.5.2 The dwelling known as Riversleigh lies over 55 metres to the south of the site and the dwelling known as Orchard House lies over 85 metres to the north of the site. Due to the significant separation distance, it is not considered that the proposed dwelling would result in an impact on the residential amenity of neighbouring sites by way of a loss of light or a loss of privacy.

5.6 Access, Parking and Highway Safety

- 5.6.1 Policies D1 and T2 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards, which are expressed as minimum standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 The proposed dwelling would be served by the existing access from Nipsells Chase.
- 5.6.3 The proposed dwelling has three bedrooms, although it is noted the home office has an en-suite and could reasonably be used as a fourth bedroom in the future. A four-bedroom dwelling requires three parking spaces to be provided.
- 5.6.4 There is a parking area to the north of the dwelling which could accommodate three parking spaces of the required dimensions, 2.9 metres by 5.5 metres. An integral garage is also proposed. The parking standards require a single garage to measure 3 metres wide by 7 metres deep internally. The proposed garage measures 5.9 metres wide and 6.7 metres deep. Whilst marginally under the standards, this would be sufficient space for at least one reasonably sized car and therefore there would be sufficient parking provision at the site.

5.7 Private Amenity Space and Landscaping

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sqm of private amenity space for dwellings with three or more bedrooms.
- 5.7.2 The proposed dwelling would have over 100 square metres of amenity space, in accordance with the standards set out within the MDDG (2017).

5.8 Ecology

- 5.8.1 The application site is part of a Local Wildlife Site as designated within the LDP. It is noted that previous applications have been approved on the site for the construction of a barn, stable and ménage and there were no fundamental objections to these developments due to the location on a local wildlife site.
- 5.8.2 The Planning Statement has set out several wildlife and landscaping measures including Swallow boxes, Robin boxes, Brushwood nesting boxes, additional planting along the west and south boundaries to create wild flower corridors, additional native trees and shrubs to all boundaries.
- 5.8.3 The Council's Tree Consultant has suggested a soft landscape scheme is provided to show how this will enhance amenity, ecological net gain and screening/softening. If the application was to be approved, these details would be provided via condition.
- 5.8.4 It is noted that Essex County Council Place Services (Ecology) (ECC) has responded with a holding objection due to insufficient ecological information having been provided, as the submitted ecological report refers to the previous developments on the site and not the proposed dwelling. An updated Ecology report has been submitted and sent to ECC Place Services (Ecology). Their updated response will be included on the Members' Update.

5.9 RAMS and Impact on Designated Sites

- 5.9.1 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.9.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and standard advice an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from the HRA Stage 1: Screening Assessment are listed below:

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

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

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

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

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

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

- 5.9.3 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.
- 5.9.4 The Essex Coastal Recreational Avoidance and Mitigation Strategy document has been adopted. A unilateral undertaking has been submitted with the application; an update will be provided on the Members' Update.

5.10 Planning Balance and Sustainability

- 5.10.1 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 5yhl. The tilted balance is engaged in this case and hence the local planning authority 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.
- 5.10.2 The key priority within the NPPF, stated at paragraphs 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.
- 5.10.3 Notwithstanding the considerations as contained in those paragraphs, 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.
- 5.10.4 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 (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.10.5 With regard to the 3 tests of sustainability, the economic benefits are difficult to quantify as the prospective owners may "self-build" rather than create employment in the construction industry. As the proposal is for one dwelling, any economic benefits would be negligible.

- 5.10.6 In social terms the proposal would provide limited benefits to the vibrancy of the local area, as mentioned in section 5.1, the occupiers of the site would still be reliant on private cars due to the lack of a lit footpath to the nearby facilities. The application is for one family dwelling and therefore provides limited benefits in terms of the housing supply or mix.
- 5.10.7 In environmental terms, due to the location of the site down an unmade unlit track, the site has limited access to services, facilities and public transport infrastructure and that the occupiers of the dwelling will be reliant on private motor vehicles to satisfy the requirements of day-to-day living. The development would also harm the character and appearance of the rural area.
- 5.10.8 Overall, taking this into account, the development is not considered to be sustainable, and therefore the principle of development would therefore be unacceptable.

5.11 Other Material Considerations

- 5.11.1 It is noted that there are trees on the site which are subject to a Tree Preservation Order. The Council's Tree Consultant considers that some young Hornbeams need to be removed, which could likely be replanted elsewhere on the site, and the submitted tree report shows protective fencing can be set up to protect the remaining trees. If the application was to be approved, a condition would be imposed to ensure a tree protection method statement in accordance with BS5837:2012, to include supervision visits, is provided.

6. ANY RELEVANT SITE HISTORY

- **17/00736/FUL** - Proposed construction of a new detached single storey dwelling – Withdrawn
- **17/01043/AGR** - Prior notification for permeable hardstanding, with edging stones. – Refused
- **17/01060/DD** - T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5 day D&D ****5 Day Notice**** - Approved
- **18/00816/HRN** - Hedgerow removal notice for clearance either side of entrance. Area 1 (Southern side) - 2.5m. Area 2 (Northern side) - 3m. – Allow

Applications within the wider site:

- **18/00280/FUL** - Construction of an apple storage barn – Approved
- **18/00839/FUL** - Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses – Approved
- **20/00345/FUL** - Variation of condition 2 and 8 on approved planning permission 18/00839/FUL (Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses) – Approved
- **20/00733/FUL** - An equestrian arena to ride in the wet winter months. The arena is to be made of an equestrian sand mix.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	<p>Object</p> <ul style="list-style-type: none"> • Policy S8 - Outside the Defined Settlement Boundary • Contrary to MDC Local Plan • Acceptance would set a bad precedent • Site is unsustainable 	<p>Comments noted.</p> <p>See section 5.1 and 5.3.</p>

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Place Services – Ecology(ECC)	<p>Object due to insufficient ecological information</p> <p>Undertake HRA in relation to RAMS</p> <p>The site is a local wildlife site; the development should result in biodiversity net gain.</p>	<p>Comments noted. An updated ecology report has been submitted. Any further consultation response will be noted in the Members' Update.</p> <p>Comments noted. See section 5.9.</p> <p>Comments noted. See section 5.8.</p>
Essex County Council Highways Authority (ECC)	No objection – if approved, please include an informative ensuring the public's right of passage over footpath No.17 is maintained free and unobstructed.	Comments noted. If the application were to be approved, this would be included.
Tree Consultant	The arboricultural impact assessment report has identified the trees, their quality, and constraints in accordance with BS5837:2012. Only some young Hornbeams need to	Comments noted. If the application were to be approved, this would be included.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>be removed, which could likely be replanted elsewhere on site. The report shows protection fencing can be set up to protect the trees to remain.</p> <p>If you are minded to approve, I would suggest you condition a tree protection method statement to be provided in accordance with BS5837:2012, to include supervision visits to ensure protection measures are in place and maintained.</p> <p>I would also suggest a soft landscape scheme is provided to show how this will enhance amenity, ecological net gain and screening/softening. I would suggest the use of native plants are used where possible to blend into the surrounding landscape and provide the benefits for wildlife.</p>	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions relating to surface water and foul drainage.	Comments noted. If the application were to be approved, this would be included.

7.4 Representations received from Interested Parties

- 7.4.1 2 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
Green belt no house or buildings before trees were removed.	There is no green belt land within the Maldon District. The Council is aware of the planning history of the site.
Already permission for a barn and stables on the site, which has eroded the rural character of the site.	Comments noted. The Council is aware of the planning history of the site.

Objection Comment	Officer Response
Exacerbated by the removal of trees and construction of the gated access.	
This application is contrary to the Maldon District Council Local Plan.	Comments noted.
Contrary to S8 and outside the settlement boundary.	Comments noted. See section 5.1 and 5.4.
The site is a Local Designated Wildlife Site.	Comments noted. See section 5.8.
The introduction of the domestic paraphernalia which accompany residential development would not be appropriate on this site.	Comments noted. See section 5.4.
This is not an infill site or replacement dwelling.	Comments noted. See section 5.1.
A comparison cannot be drawn with Seal Point, permitted under 16/01492/FUL.	Comments noted. See section 5.1.
Concerns over accessibility and sustainability due to the road being unmade with no pavement. The path mentioned which links into the centre of the village is often inaccessible due to puddles and mud and is again unsurfaced and inaccessible for pushchair/wheelchair use.	Comments noted. See section 5.1.
The supporting information makes much of the applicant's desire to remain in the village, but there are of course a number of houses always for sale in Mayland. Unless conditions were imposed, there would be no deterrent for the house being sold at any time to someone else.	Comments noted. A condition restricting the occupancy of the dwelling would not meet the six tests and could not be imposed.

8. REASONS FOR REFUSAL

- 1 The site would be disconnected from services and facilities and by reason of its location, it would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S8 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
- 2 The application site lies within a rural location. The proposed development, by virtue of its urban nature and the siting, layout and design of the dwelling would fail to protect and enhance the character and appearance of the rural area and the built form would result in an unwelcome visual intrusion into this undeveloped section of the countryside to the detriment of the character and appearance of the rural area. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
26 MAY 2021**

Application Number	21/00108/FUL
Location	Rosemary, Mangapp Chase, Burnham-On-Crouch, Essex, CM0 8QQ
Proposal	Extension to existing brick plinth/timber framed barn to provide one bedroom ancillary/granny annexe for extended family
Applicant	Mrs Jane Taverner
Agent	N/A
Target Decision Date	22.04.2021
Case Officer	Annie Keen
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In – Councillor W Stamp – Policies S1 and H4

1. RECOMMENDATION


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

2. SITE MAP

Please see below.

Rosemary, Mangapp Chase, Bumham-on-Crouch
21/00108/FUL



 MALDON DISTRICT COUNCIL Copyright <small>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. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2018</small>	Scale:	1:1,250
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	South East Area Committee
	Date:	05/05/2021
	MSA Number:	100018588
www.maldon.gov.uk		

3. **SUMMARY**

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

- 3.1.1 The application site is located on the western side of Mangapp Chase, outside the settlement boundary of Burnham-on-Crouch. The building on-site is a detached chalet style dwelling finished in cream render and red brick with a detached garage and outbuildings to the north and north west of the dwelling. The area to the north of the dwelling where the outbuildings are located appears to be separate to the land to the west of the dwelling. The surrounding area is residential and is characterised by two storey dwellings.
- 3.1.2 Planning permission is sought for extensions and alterations, including a single storey extension to the northern elevation and an increase in roof height, to facilitate the conversion of an existing detached outbuilding into annexe accommodation.
- 3.1.3 The existing outbuilding measures 7.4 metres in width and 3.7 metres in depth, with an eaves height of 2.2 metres and a ridge height of 4.2 metres. The proposed alterations would increase the width of the outbuilding by 2.6 metres and increase the depth by 1.5 metres resulting in the building measuring 9.9 metres in width and 5.2 metres in depth. The eaves of the outbuilding would remain unchanged at 2.2 metres however the roof height would increase by 0.8 metres to measure 5 metres in height.
- 3.1.4 The building would be finished in feather-edged weatherboarding on a brick plinth and roofing tiles to match the existing outbuilding.
- 3.1.5 This application follows the refusal of application 20/00887/FUL which was refused for the following reasons:
- 1 *The application fails to demonstrate that the proposal would amount to residential annexe accommodation ancillary to the main dwelling house by reason of its separation from the main house; design, which fails to integrate with the shared and communal garden area, and the division of the amenity space to the southern boundary. Furthermore, no evidence has been submitted as to the functional link of the proposed annexe to the main dwelling. In this respect the proposal is considered tantamount to a separate residential dwelling on a site which lies outside of the defined settlement boundaries and to which policies of restraint apply. The site has not been identified for development to meet future needs for the District within the Maldon District Local Development Plan and in this respect would be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.*
 - 2 *The Council considers that the development results in the provision of a new independent dwelling. The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for Growth, as identified within the Maldon District Local Development Plan, to meet the objectively assessed needs for housing in the District. The proposed development substantially alters the open character of the area and has an unacceptable visual impact on the countryside though the urbanisation and intensification of domestication of the site, detrimentally harming the character*

and appearance of the locality, the public realm and the intrinsic beauty of the open countryside to the north and west of the site. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan, the guidance contained within the National Planning Policy Framework and the National Planning Practice Guidance.

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

3.1.6 Amendments made to the application include an increase in width and height of the outbuilding and the inclusion of rooflights. However, a reduction in depth is proposed, altering the shape of the building and removing the previously proposed gable projection.

3.1.7 It is also noted a history search shows there was a previous application for a new chalet style dwelling on the site submitted under application 15/00127/OUT was also refused for the following reason:

- 1 *The proposed development on undeveloped land represents an inappropriate form of ribbon development encroaching onto open countryside, and resulting in demonstrable harm to the predominantly rural character of this site and its immediate surroundings. This would be contrary to policies BE1 and CC6 of the Adopted Maldon District Replacement Local Plan and with guidance contained in the National Planning Policy Framework.*

3.2 Conclusion

3.2.1 The proposed development would not meet the criteria of an annexe and therefore is considered as a new dwelling. Due to the position of the dwelling, set back from the main pattern of development, it would be considered as backland development that would result in the intensification of residential development that 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. Furthermore, the dwelling due to the windows and door in the southern elevation would result in direct overlooking of the dwelling to the south east, 'Rosemary' and due to a short fall in parking would potentially cause conditions of obstruction, congestion and inconvenience to residents and other road users. The development is therefore contrary to the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG), policies S1, S8, D1, H4 and T2 of the Maldon District Local Development Plan (MDLDP) and the Special Housing Needs SPD.

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

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (VPS)
- Burnham-On-Crouch Neighbourhood Plan (BOCNP)
- Special Housing Needs SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of providing facilities and ancillary accommodation in association with the existing use of a site is considered acceptable, in compliance with policies D1 and H4 of the LDP.
- 5.1.2 The proposal relates to the creation of ancillary accommodation which involves the conversion and extension of an existing outbuilding into habitable accommodation. The floor plans show the annexe would include a kitchen/living area, a bedroom, bathroom and a storage area. The annexe would be separate from the main dwelling and would have its own entrance.
- 5.1.3 It is a conventional expectation that annexe accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities. It is also an expectation for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe.
- 5.1.4 In addition to the above, the Specialist Needs Housing SPD, which was adopted in September 2018, states that proposals for annexe accommodation will not only be required to meet the criteria in policy H4 but also the criteria within the SPD which is as follows:
- 1) Be subservient/subordinate to the main dwelling;
 - 2) Have a functional link with the main dwelling (i.e. the occupants' dependant relative(s) or be employed at the main dwelling);
 - 3) Be in the same ownership as the main dwelling;
 - 4) Be within the curtilage of the main dwelling and share its vehicular access;
 - 5) Be designed in such a manner to enable the annexe to be used at a later date as an integral part of the main dwelling;

- 6) Have no separate boundary or sub-division of garden areas between the annexe and the main dwelling; and
- 7) Have adequate parking and amenity facilities to meet the needs of those living in the annexe and the main dwelling.

5.1.5 Criteria 1 will be assessed in the design section below. In regard to criteria 2, an email submitted on 16.02.2021 states the proposed annexe would be occupied by the applicant's son and his wife. It is stated the applicant's daughter-in-law works for the NHS and therefore the annexe would allow for them to live separately in order to reduce the applicants chance of catching COVID. The wording of the email is considered to clearly indicate that the proposed development would not be used as ancillary accommodation but in fact as an independent dwelling. Furthermore, no evidence has been submitted to show the occupants of the annexe will be dependent on the main dwelling and therefore criteria 2 cannot be satisfied.

5.1.6 Due to criteria 2 not being satisfied it cannot be assumed that the annex would remain within the same ownership as the main dwelling and therefore criteria 3 cannot be satisfied. The annexe would be located to the north west of the existing dwelling on the site and whilst the Block Plan provided (drawing 210129-04) shows there is no separation of the site, this does not accord with aerial images from Google Maps (2020), as shown below, and therefore the proposal does not accord with criteria 4.



5.1.7 The existing outbuilding will form part of the annexe, whilst this building is detached from the main dwelling it is possible for the outbuilding to be used in relation to the dwelling if the use of the annexe ceased (i.e. for storage or a garden room). However, given the concerns related to its siting and separation boundary, there is concern that this is unlikely to occur in the future and therefore the proposal would not accord with criteria 5 or criteria 6.

5.1.8 The provision of parking could be shared with the main dwelling. Whilst conditions can be imposed when granting planning permission for an annexe to ensure the development remains as an annexe and that the main dwelling and the annexe remain as one planning unit this is only possible when the development can be considered as an annexe. As explained, significant concerns are raised regarding the primary intention of the development to be used in an ancillary nature to the main dwelling. The Local Planning Authority (LPA) considers that the development failed

the criteria of an annexe and therefore it is required for the proposal to be assessed below as a new dwelling.

New Dwelling

- 5.1.9 Planning permission is sought for one new dwelling located outside of the defined settlement boundary of Burnham-on-Crouch.
- 5.1.10 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.11 Policy HO.1 of the BOCNP states that “Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan”.
- 5.1.12 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).
- 5.1.13 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).

- 5.1.14 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 5 year housing land supply cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).

- 5.1.15 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’*.
- 5.1.16 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.
- 5.1.17 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 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
- 5.1.18 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’.*
- 5.1.19 The application site is located outside of the defined settlement boundary of Burnham-on-Crouch, which is classified as one of the *‘main settlements’* within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.
- 5.1.20 Burnham-on-Crouch is a main settlement which contains a number of local facilities, including a primary school, convenience stores, other shops including an estate agent, public houses, village hall and public amenity area and has good public transport links. The application site is located to the west of Mangapp Chase, which is to the north of Green Lane and the to west of Southminster Road. The nearest bus stop to Mangapp Chase is located along Southminster Road and would take approximately 10 minutes to walk to. The bus service provides access to Maldon and Chelmsford, where there is a wide range of facilities. It is noted there is also a train station providing links to London within the main settlement of Burnham -on-Crouch. The 31X and 31B are the most frequent bus services between Burnham-on-Crouch and Chelmsford and runs between 05:50 and 23:10 on week days, with the bus leaving Chelmsford at 05:58 and leaving Burnham-on-Crouch at 20:23. Similar hours are provided on Saturdays with a reduced service on Sundays and public holidays.

5.1.21 Burnham-on-Crouch train station is located a half an hour walk away, which also provides services into Chelmsford and London, however Mangapp Chase and Green Lane, which provides access to the bus stop and the main footpath into Burnham-on-Crouch, are unlit roads with no footpaths. It is therefore considered, whilst the site is not completely isolated, occupiers of the dwelling are likely to be reliant on the use of private cars for the majority of journeys.

5.1.22 It is noted that Mangapp Chase and Green Lane, which lead to Southminster Road where bus stops are located, are unmade, unlit tracks with no footpath, however a number of new dwellings have been approved in the area in recent years namely 18/01227/OUT, 17/00692/FUL, 15/00733/FUL, 14/00059/FUL, where no objections have been raised in terms of the accessibility or location of Mangapp Chase. Applications 16/00591/FUL and 18/00698/FUL were refused however no objections were raised in terms of the locations of the sites. However, it is also noted application 15/00127/OUT for a new dwelling on the site subject of this application was refused due the development representing *'an inappropriate form of ribbon development encroaching onto open countryside, and resulting in demonstrable harm to the predominantly rural character of this site and its immediate surroundings'*.

5.1.23 Therefore, having regard to previous decisions and the history of the site and area, which is a material consideration, it is considered that the principle of the conversion and extension of an outbuilding to one dwelling would not be objected to on accessibility grounds but would be considered unacceptable due to the impact on the open countryside to the north and west. The site is located outside of the defined settlement boundary of Burnham-on-Crouch and therefore is considered to be within the countryside. Additionally, due to the position of the development, set back from the main streetscene it is considered the dwelling may be considered as backland development and therefore this will be assessed below.

5.1.24 Other material planning considerations, including design and impact on the character of the area, the impact on neighbouring occupiers and any traffic or transport issues are also discussed below.

Backland and Infill Development

5.1.25 The development would be located to the north west of the existing dwelling and therefore would be set back from the main streetscene, behind the existing built form on the site. Policy H4 states that whilst backland and infill developments would be considered on a site-by-site basis, backland and infill development would be permitted if the following criteria are met:

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

5.1.26 The development would be located within the rear garden of the existing dwelling on site and therefore the site is currently used as residential garden. No supporting information has been submitted with the application to demonstrate that the proposed site is significantly under used and therefore criteria 1 cannot be satisfied.

- 5.1.27 In regard to criteria 2 and 3, the dwelling would be located to the north west of the existing dwelling, however the existing dwelling would retain a large area of garden land to the west and therefore the development is unlikely to impact upon the living conditions of the current and future occupiers of the existing dwelling. Due to the location of the proposed dwelling and there being no neighbouring properties to the north, east or west it is unlikely to impact upon the living conditions of neighbouring occupiers. It is also considered the development would not impact upon land of local social, economic, historical or environmental significance and therefore criteria 2 and 3 are satisfied.
- 5.1.28 Due to the location of the proposed dwelling being set back from the existing build line of Mangapp Chase, the development would not be in keeping with the established pattern of development and therefore would result in residential development situated further into the countryside. As a result, the proposal would impact upon the intrinsic beauty of the countryside to the north and west and therefore criteria 4 cannot be satisfied.
- 5.1.29 Based on the above assessment, it is considered due to the position of the development and the nature of the surrounding area, the principle of the site being an acceptable location for backland development cannot be met.

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 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 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 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 application is for a one bedroomed dwelling with a kitchen/dining/living area and a bathroom.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the LDP contains a policy and preamble which when read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner-occupied properties having three or more bedrooms. The Council therefore encourages in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.2.5 The proposed development would provide a one bedroomed dwelling and therefore, it would contribute towards the identified need for smaller dwellings.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 and H4 of the LDP and is found within the MDDG (2017).
- 5.3.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.3.4 Policy H0.8 of the BOCNP states that proposals for housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.
- 5.3.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.6 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.7 As stated in paragraphs 3.1.5 and 3.1.7 this application follows the refusal of 15/00127/OUT and 20/00887/FUL, which amongst other reasons were refused for their impact on the countryside and the increase in urbanisation of the site. The proposed development involves the conversion, extension and increase in roof height of an existing outbuilding, located to the north west of the existing dwelling, into habitable accommodation. The proposed extension would extend from the south eastern and northern elevations, increasing the width and depth of the outbuilding to allow for the accommodation proposed. The building would comprise of primary accommodation including a kitchen/living area, a bathroom, bedroom and a store area.
- 5.3.8 In terms of design, the proposed extension would be a large addition to the dwelling however whilst the roof would be increased in height the building would remain single storey in nature and design cues would be taken from the existing building. The

plans show the dwelling would have bi-fold doors installed in the western elevation and rooflights. The proposed alterations to the existing building do not detrimentally impact upon the character of the building and it is considered the proposed extension would be in keeping with the appearance of the existing building. Furthermore, there are no objections are raised to the use of weatherboarding.

- 5.3.9 Whilst it is noted to the east of the site a development of up to 80 dwellings was approved in 2017 at appeal (14/00845/OUT), the site is not subject to the same constraints as the proposed development in terms of its impact on the countryside to the west. It is also noted an application (18/01227/OUT) to demolish the stables to the north east of the application site and to the north of the abovementioned appeal site for the construction of two dwellings was approved at committee in 2018, however it was considered this development would be read alongside the development to the south and therefore would not detrimentally impact upon the open countryside.
- 5.3.10 The development subject of this application due its position being set back from the existing development pattern of Mangapp Chase, is considered to be backland development and therefore would be out of keeping with the existing pattern of built form. Additionally, due to its position the dwelling would be visible from the streetscene to the north of the site and from the public realm, including the PRoW to the north and west of the site. It is therefore considered the development would have a further urbanising impact upon the site and detrimentally impact upon the intrinsic beauty of the wider countryside to the north and west of the site. Furthermore, due to there being no physical link to the main dwelling, the development would appear as a new dwelling within the countryside, and detrimentally impact upon the character and appearance of the locality.

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 is bordered by one dwelling to the south 'No.10 Mangapp Chase' and by the main dwelling on the site, 'Rosemary', which is located to the south east of the proposed dwelling.
- 5.4.3 The development would be situated 18.1 metres from the boundary to the south shared with No.10 Mangapp Chase and 19.8 metres from that same dwelling. Due to the separation distance and the single storey nature of the development it is considered the development would not detrimentally impact upon the neighbouring occupiers by way of overlooking, overshadowing or being unduly overbearing.
- 5.4.4 The development would be situated to the north west of the existing dwelling on the site with a separation distance of 5 metres from the south eastern corner of the proposed dwelling to the north western corner of the existing dwelling. The existing southern elevation contains three windows and a door, which whilst are acceptable at present the proposed use of the existing outbuilding as a dwelling would result in direct overlooking of the existing dwellings private amenity space. Whilst it has previously been suggested by the Applicant that a planning agreement could be implemented, it would not be reasonable to condition a new dwelling to only be used in association with the main dwelling on the site. Furthermore, due to the independence of the new dwelling it would also not be reasonable to condition the new dwelling to only be used in association with the main dwelling or for the use of a

personal permission. Therefore, it would be possible for the dwelling to be sold separately to the main dwelling and as a result the amenity of the existing and future occupiers of 'Rosemary' would be detrimentally impacted due to the direct overlooking of their private amenity space by the occupiers of the proposed dwelling. The development is not considered to result in overshadowing or be unduly overbearing.

- 5.4.5 There are no dwellings to the north or west of the site and therefore would not impact on any neighbouring occupiers to the north or west.

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 contains one bedroom and therefore one parking space is required. The Block Plan submitted shows there are two spaces to the front of the garage to the main dwelling and one space measuring the required width to the front of the dwelling. The application form states there would be no increase in car parking provision and the existing dwelling on site contains 5 bedrooms, therefore the existing dwelling is required to have three parking spaces, which would utilise the area to the front of the site.
- 5.5.3 The proposal states the application is for an annexe and therefore it would have been reasonable to assume the occupants would have shared the existing parking to the front of the site, however the proposal does not meet the criteria of an annexe and therefore is considered as a new dwelling. The dwelling would be required to have one parking space measuring 5.5 metres in depth and 2.9 metres in width, as stipulated in the Maldon District Vehicle Parking Standards SPD. It is unreasonable to assume the parking to the main dwelling would be shared with the proposed dwelling and whilst there is space to the north of the existing parking area the plans do not show this area is to be utilised for parking. As a result, the proposed dwelling would have a shortfall of one parking space which would potentially cause conditions of obstruction, congestion and inconvenience to residents and other road users, contrary to policies D1 and T2 of the LDP.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.6.2 The garden area for the proposed dwelling will measure in excess of 50m² and the remaining garden area of the existing dwelling would remain in excess of 100m², therefore there are no objections in this regard.

5.7 Planning Balance and Sustainability

- 5.7.1 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 FYHLS. The tilted balance is engaged in this case and hence the local planning authority 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.
- 5.7.2 The key priority within the NPPF, stated at paragraphs 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.
- 5.7.3 Notwithstanding the considerations as contained in those paragraphs, 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.
- 5.7.4 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 (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.7.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional units may support local businesses within the settlement such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal.
- 5.7.6 In social terms the development would help to provide assistance in supporting a strong, vibrant and healthy community. Whilst the site is outside the settlement boundary there is access to local facilities and bus stops nearby, however this is limited and therefore the occupiers of the site would still be reliant on private cars due to the lack of a lit footpath to the nearby facilities, as mentioned in section 5.1.22. The proposed development would create one dwelling with 1No. bedrooms and therefore due to the policy requirement for smaller dwellings within the district this would weigh in favour of the development in social terms however the benefits would be limited.
- 5.7.7 In environmental terms, whilst there are public transport links along Southminster Road, due to the location of the site along an unlit road with no footpath, it is not likely that the use of private cars will be decreased significantly. In addition, whilst some residential development on the site could be found acceptable, such as the single storey extension approved under application 08/00858/FUL which would have allowed for a self-contained annexe attached to the main dwelling, the proposed development as a result of its location would cause material harm to the character and appearance of the area.

5.7.8 As outlined in section 5.1, previous applications along Mangapp Chase have found the area to be suitably accessible and a suitable area for new housing. However, as stated above, the proposed location of the dwelling would be considered as backland development resulting in an encroachment of housing into the countryside and an increased urbanisation of the area. Due to this an objection is raised regarding the impact of the development on the character and appearance of the area and the wider countryside.

5.8 Ecology regarding development within the zone of influence (Zol) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

5.8.1 Natural England (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.

5.8.2 NE 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), 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.

5.8.3 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE has provided an HRA record template for use where recreational disturbance is the only HRA issue.

5.8.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.

5.8.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, 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.

5.8.6 To accord with NE's requirements, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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 (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to one dwelling

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

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

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

- 5.8.7 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.
- 5.8.8 The Essex Coastal Recreational Avoidance and Mitigation Strategy document has been adopted. This document states that the flat rate for each new dwelling has been calculated at £125.58 and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

6. **ANY RELEVANT SITE HISTORY**

Application Number	Description	Decision
BUR/33/64	Bungalow and garage	Conditional
MAL/569/82	Agricultural dwelling	Conditional
MAL/777/85	Renovations and extensions	Conditional
08/00858/FUL	Single storey extension	Approved
09/00243/FUL	Conservatory to rear	Approved
10/00272/HOUSE	First floor extension	Approved
15/00127/OUT	Outline application for a new chalet dwelling (access and layout) all other matters reserved	Refused
20/00887/FUL	Extension to existing outbuilding and conversion to granny annexe	Refused

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Support	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Authority (ECC)	No objections	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections	Noted

7.4 Representations received from Interested Parties

7.4.1 No representations have been received.

8. REASONS FOR REFUSAL

- 1 The application fails to demonstrate that the proposal would amount to residential annexe accommodation ancillary to the main dwelling house by reason of its separation from the main house, its design which fails to integrate with the shared and communal garden area, and the division of the amenity space to the southern boundary. Furthermore, no evidence has been submitted as to the functional link of the proposed annexe to the main dwelling. In this respect the proposal is considered tantamount to a separate residential dwelling on a site which lies outside of the defined settlement boundaries and in this respect would be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan, the Special Housing Needs SPD and the guidance contained within the National Planning Policy Framework.
- 2 The proposed development, by reason of its location and the resultant intensification of residential development 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 locality of the development 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).
- 3 The development, due to its relationship to the existing dwelling on the site and the presence of windows and a door in the southern elevation, would result in direct overlooking of the private amenity space of the existing dwelling to the detriment of existing and future occupiers, contrary to policy D1 of the LDP.
- 4 The proposed development would result in a shortfall of one parking space and therefore could result in on-street parking which would potentially cause conditions of obstruction, congestion and inconvenience to residents and other road users, contrary to policies D1 and T2 of the 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, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been

secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.