

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

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

26 October 2021

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 3 NOVEMBER 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:

CHAIRMAN

Councillor Mrs M E Thompson

VICE-CHAIRMAN

Councillor J V Keyes

COUNCILLORS

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





AGENDA
NORTH WESTERN AREA PLANNING COMMITTEE
WEDNESDAY 3 NOVEMBER 2021

1. **Chairman's notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 12)

To confirm the Minutes of the meeting of the Committee held on 6 October 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. **21/00797/FUL - Ivy House, Hackmans Lane, Purleigh, CM3 6RJ** (Pages 13 - 24)

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

6. **21/00901/FUL - Walden Cottage, 58 Walden House Road, Great Totham, CM9 8PN** (Pages 25 - 34)

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

7. **21/00987/OUT - Land Adjacent 24 Catchpole Lane, Great Totham** (Pages 35 - 50)

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.

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.

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**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
6 OCTOBER 2021**

PRESENT

Chairman	Councillor Mrs M E Thompson
Vice-Chairman	Councillor J V Keyes
Councillors	Mrs J L Fleming, CC, C P Morley, R H Siddall, E L Stephens and Miss S White
In attendance	Councillor C Morris

1. CHAIRMAN'S NOTICES

The Chairman welcomed everyone present and went through some general housekeeping arrangements for the meeting.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M F L Durham, CC and K W Jarvis.

3. MINUTES OF THE LAST MEETING

RESOLVED by assent that the Minutes of the meeting of the Committee held on 8 September 2021 be approved and confirmed.

4. DISCLOSURE OF INTEREST

It was noted that all Members had a non-pecuniary interest in Agenda Item 7 - 21/00824/OUT - Five Corners Maypole Road Wickham Bishops CM8 3NW as they knew the late Councillor Rodney Bass.

Councillor Miss S White had a non-pecuniary interest in Agenda Item 7 - 21/00824/OUT - Five Corners Maypole Road Wickham Bishops CM8 3NW as the agent had completed work for her in the past.

Councillor Mrs J L Fleming declared a non-pecuniary interest as a Member of Essex County Council, a statutory consultee on all planning related matters and Agenda item 5 - 21/00693/OUT - Golf Driving Range Burnham Road Woodham Mortimer as she knows the parties involved. She advised the Committee she would not speak or vote on this item of business.

5. **21/00693/OUT - GOLF DRIVING RANGE, BURNHAM ROAD, WOODHAM MORTIMER**

Application Number	21/00693/OUT
Location	Golf Driving Range Burnham Road Woodham Mortimer
Proposal	Outline planning permission with the matter of access for consideration is sought for the demolition of the building and replacement of the driving range and pitch & putt with up to 25 new one and two bedroom single storey dwellings and public open space with an equipped play area.
Applicant	Joshua Charles Ltd
Agent	Ian Robottom
Target Decision Date	29.10.2021
Case Officer	Hannah Bowles
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Major Application Member Call In from Councillor M F L Durham, the reason for this call in is that this is a major application of significance to the area.

Prior to the presentation it was verbally reported that subsequent to the circulation of the Members' Update the applicant had requested that their application be deferred to the next North Western area planning meeting, however the Officer stated that it was considered reasonable for the determination of the application to proceed as there had been no considerations brought to the Officers attention, or any considerations that would materially affect the report being considered. Following the Officer's presentation, the Chairman opened the debate.

At this point the Lead Specialist: Development Management confirmed that the application under consideration was not a brownfield site.

Councillor Siddall raised concerns about the density of the development, the absence of a completed Section 106 agreement or any contributions and the fact that there was no affordable housing allocated. The Officer advised that the applicant had indicated a willingness to provide affordable units but in the absence of a legal agreement the committee deemed that not good enough.

Councillor Siddall then proposed that the application be refused in accordance with the Officer's recommendation. This was duly seconded by Councillor Keyes.

The Chairman put Councillor Siddall's proposal to the Committee and upon a vote being taken it was agreed.

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

1. The application site is in an unsustainable and rural location and remote from essential support facilities and community services; is inaccessible by a range of transport modes and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development, failing in relation to the social strand of sustainability. Therefore, the proposal conflicts with the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
2. The proposed development would fundamentally alter the open character of the

south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the countryside. The layout of the access road is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal fails on the environmental stand of sustainability, in conflict the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8, D1, and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.

3. The proposed residential development would result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the sites present use significantly harms the character and amenity of the area, the proposed use would be a greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. Further, it has not been demonstrated that the existing use is no longer viable, that there will be no significant loss of tourism facilities or that the land is surplus to requirements to meet local need or that alternative provision in the locality can meet the needs. Therefore, the proposal conflicts with policies E1, E3, E5 and N3 of the Maldon District Local Development Plan and 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, the development makes no contribution for affordable housing to meet the identified need in the locality, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and NHS services, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for the future occupiers of the site contrary to Policies S1, D1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.

6. 21/00808/HOUSE - 31 LATCHINGDON ROAD, COLD NORTON, CM3 6JG

Application Number	21/00808/HOUSE
Location	31 Latchingdon Road, Cold Norton, CM3 6JG
Proposal	Single storey rear extension
Applicant	Mr & Mrs Cadey
Agent	Mr Barry Powell
Target Decision Date	08.10.2021
Case Officer	Sophie Mardon
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Member of Staff

A Members' Update had been circulated prior to the meeting that detailed further representation received from Cold Norton Parish Council.

Following the officer's presentation, the Chairman opened the debate. Councillor Siddall proposed that the application be approved in accordance with the Officer's recommendation. This was duly seconded.

The Chairman put the proposal to the committee and the application was approved.

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 666/1A and 666/2A.
- 3 The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.

7. 21/00824/OUT - FIVE CORNERS, MAYPOLE ROAD, WICKHAM BISHOPS, CM8 3NW

Application Number	21/00824/OUT
Location	Five Corners Maypole Road Wickham Bishops CM8 3NW
Proposal	Outline planning permission with the matter of access for consideration for a new detached dwelling.
Applicant	Mrs Margaret Bass
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	01.10.2021 EOT requested
Case Officer	Hannah Bowles
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Departure from the Local Development Plan 2014 – 2029 Member call in from Councillor J V Keyes Reason: Policy S1

A Members' Update had been circulated prior to the meeting to correct the name of the Councillor on the Member Call In and advise that further representations had been received from interested parties.

Councillor Keyes opened the debate and advised Members that he had called in the application as it was a departure from the Local Plan. He also raised concerns about the heavy development on Maypole Road.

In response to comments raised, the Lead Specialist: Development Management reminded Members that they were commenting on an indicative site plan. He advised that any considerations would need to be made under a detailed application.

Councillor White proposed that the application be approved in accordance with the Officer's recommendation. This was duly seconded by Councillor Keyes.

The Chairman put Councillor White's proposal to the Committee and upon a vote being taken it was agreed.

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

APPROVE subject to the applicant entering into a 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 and subject to conditions as detailed in Section 8.

- *Financial contribution in respect of RAMS of £127.30, required to mitigate the impact of the new residential property.*
1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
 4. The development hereby permitted shall be carried out in accordance with the following approved plans: 1201/01, 1201/02 A, 1201/03 A and 1201/04.
 5. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.
 6. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway as shown on the Block Plan Layout drawing 1201/03 A. The width of the access at its junction with the highway shall not be less than 3 metres and shall be provided with an appropriate vehicular crossing of the highway verge and retained as such thereafter.
 7. Prior to occupation of the development, the dropped kerb vehicle crossing at the centre line shall be provided with a visibility splay with dimensions of 2.4m metres by 43m as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction and access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.
 8. The proposed/any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.
 9. The scheme to be submitted as part of the reserved matters with the approved scheme and retained shall make provision for car parking within the site in accordance with the Councils adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter..
 10. Prior to first occupation of the development, cycle parking shall be provided in accordance with the Maldon District Vehicular Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.
 11. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
 12. There shall be no discharge of surface water onto the Highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policies D1 and T2 of the Local Development Plan.
 13. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
 - 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less

than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

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

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

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

The meeting closed at 8.05 pm.

MRS M E THOMPSON
CHAIRMAN



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
3 NOVEMBER 2021**

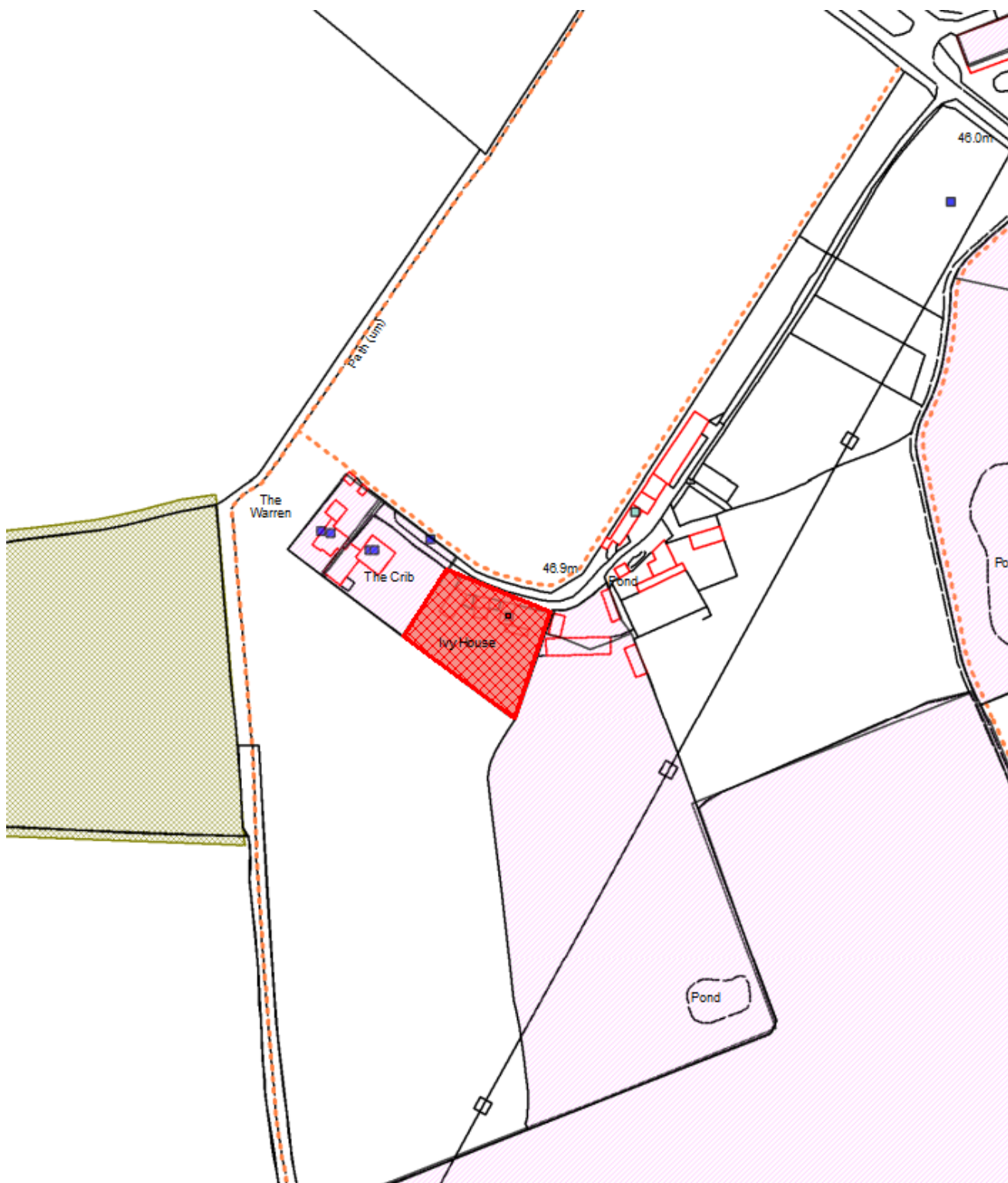
Application Number	21/00797/FUL
Location	Ivy House, Hackmans Lane, Purleigh, CM3 6RJ
Proposal	Demolition of the existing dwelling and erection of a two storey dwelling with attached gym and garage
Applicant	Mr Omar Ashamari
Agent	Miss Nicole Bushell - Arcady Architects
Target Decision Date	12.10.2021 EOT 05.11.2021
Case Officer	Hannah Bowles
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In by Councillor S White Reason: Sustainability

1. RECOMMENDATION

APPROVE subject to conditions as detailed in Section 8.

2. SITE MAP

Please see below.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the south west of Hackmans Lane, down a long private and gated access track which extends in excess of 400m from its junction with Hackmans Lane, a public footpath runs parallel with the access track. The track provides access to a cluster of farm buildings, Ivy House, which is the site subject of this application and neighbouring properties; The Crib and associated annexe and The Warren and associated mobile home. The area surrounding this small cluster of development is rural in nature, made up exclusively of open and undeveloped countryside.
- 3.1.2 The application site is currently occupied by a modest, single storey dwelling and an associated detached garage building.
- 3.1.3 Planning permission is sought to demolish the existing dwelling and garage and for the erection of a two storey dwelling with rooms within the roof space and an attached gym and garage.
- 3.1.4 The proposed main dwelling building would measure 15m wide, 10m deep, it would extend 4.9m to eaves and 8.4m to the ridge. The proposed gym and garage would be provided in the form of an attached single storey element of a rough 'T' shape which would project from western side elevation of the main dwelling, linked by the proposed utility room. The link / utility room would measure 4.4m wide, 4.2m deep, it would extend 2.4m to eaves and 4.4m to the ridge. The proposed gym and garage element would measure 6.6m wide, 11.2m deep, it would extend 2.4m to eaves and 5.2m to the ridge.

3.2 Conclusion

- 3.2.1 The proposed replacement dwelling is significantly larger than the dwelling which it would replace. However, having regard to context of the site and scale and design of the existing dwellings within the vicinity of the site, it is considered that on balance, the proposal is acceptable. Further, the proposal would not cause harm to the amenities of adjacent neighbouring occupiers and would provide an adequate level of private amenity space and car parking provision in accordance with approved policies S1, S8, D1 and H4 of the Local Development Plan (LDP) and the provision and guidance as contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework (NPPF) 2021, 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
- 54-58 Planning conditions and obligations
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 152-158 Meeting the challenge of climate change, flooding and coastal change

- 174-188 Conserving and enhancing the natural environment
- 189–208 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

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

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

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

5.1.2 The application site lies outside of the defined settlement boundary. However, as the proposal is for a replacement dwelling the principle of a dwelling being located at this site is already established. Policy H4 of the approved LDP states that planning permission for the replacement of an existing dwelling with a new dwelling will only be granted if:

- 1) *The residential use of the original dwelling has not been abandoned;*
- 2) *The original dwelling is not a temporary or mobile structure;*
- 3) *The original dwelling is not worthy of retention because of its design and relationship to the surrounding area;*
- 4) *The proposed replacement dwelling is of an appropriate scale to the plot and its setting in the landscape;*
- 5) *The proposed replacement dwelling is of a design appropriate to its setting; and*
- 6) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*

5.1.3 Having visited the site it is noted that the residential use of the original dwelling has not been abandoned and that it is not a temporary or mobile structure, in accordance with criteria 1 and 2. The existing bungalow on site is not considered to have a particularly strong relationship to the neighbouring dwellings or surrounding area by

way of its design and is considered to be of limited architectural merit. Therefore, the existing dwelling is not considered to be worthy of retention and does not conflict with criterion 3.

- 5.1.4 The assessment of the proposed dwelling in relation to criteria 4 and 5 is undertaken in detail below.
- 5.1.5 The proposal would not result in the loss of any heritage features and no important landscape or ecology interest has been recorded on this site, in compliance with criteria 6.
- 5.1.6 The proposal would therefore accord with Policy H4 (1) (2) (3) and (6) of the LDP, points (4) and (5) are discussed in the report below.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

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

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.

- 5.2.3 This principle has been reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
 - a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - b) *Height, size, scale, form, massing and proportion;*
 - c) *Landscape setting, townscape setting and skylines;*
 - d) *Layout, orientation, and density;*
 - e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
 - f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
 - g) *Energy and resource efficiency.*
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.2.5 The proposal is for a replacement dwelling. Policy H4 seeks to encourage development only if the proposed replacement dwelling is of an appropriate scale and design to the plot and its setting.

- 5.2.6 The existing dwelling which currently occupies the site is a modest rectangular building with a hipped roof form, with two flat roof projections measuring a maximum of 8.7m wide (including side projection), 14.3m deep and 5.2m to the ridge. The existing garage building measures 12.2m wide, 6m deep and 3.3m to the ridge.
- 5.2.7 The replacement dwelling is significantly larger than the existing dwelling, with an additional storey and a larger footprint. Given the scale of the proposed replacement dwelling there would be a greater visual impact than the existing dwelling to the residents of the neighbouring dwellings utilising the private access track and users of the public footpath located directly to the front of the site. However, it is noted that the neighbouring dwelling located adjacent to the west of the site is a large and modern dwelling, of a much greater scale than that proposed under the terms of this application, particularly taking into account the attached two storey annexe building. Therefore, it is not considered that an objection in respect of the scale of the development could be defensible.
- 5.2.8 Further, whilst the dwelling would extend across the majority of the site, it would maintain a distance of 2.55m from the western boundary, 5.58m from the eastern boundary, 11.4m from the front boundary and 18m from the rear boundary of the site. In addition, it would be set back approximately 5 metres further from the highway than the original property and 10 metres further from the highway than the garage building. Therefore, having regard to the size of the site, it is not considered that the proposed dwelling is excessive in terms of scale and it is not considered to appear cramped within its surroundings in compliance with criteria 4 of policy H4.
- 5.2.9 The proposed design represents a modern take on a farmhouse style property. Whilst it is not particularly reflective of the two dwellings present within the vicinity of the site, they are both of individual designs which are not particularly reflective of each other. The Crib is a large modern dwelling, which is rendered with a high level of glazing within the front elevation and The Warren is a traditional rendered dwelling with a gambrel roof form. Therefore, the design of the dwelling is considered to be in keeping to an acceptable degree given the context of the site. Therefore, it is considered that the proposed replacement dwelling is of a design appropriate to its setting in compliance with criteria 4 of policy H4.
- 5.2.10 Although the dwelling would be located within a rural area, the residential use of the site has already been established and the proposed replacement dwelling is not considered to result in a significant detrimental visual impact upon the character and appearance of the area to warrant refusal of the scheme.
- 5.2.11 The new two storey dwelling would have a larger impact on the streetscene, when compared to the current bungalow. However, it is not considered that the proposed dwelling is excessive in size and, due to the size of the site, it is not considered to appear cramped within its surroundings.
- 5.2.12 The proposed materials have been specified as render and brick for the walls, no other details have been submitted and therefore a condition to secure the details prior to their use in the development has been recommended.
- 5.2.13 Therefore, on balance, it is considered that the development, by reasons of its scale, design and appearance would not result in a demonstrable harm to the character and appearance of the existing site or the locality in accordance with policies D1 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The application site has one adjacent neighbouring property 'The Crib' which is located to the west of the site. The single storey garage and gym element would be located 2.55m from the shared boundary with a separation distance of approximately 26.7m dwelling to dwelling. The main two storey dwelling would be sited around 38m from the neighbouring dwelling.
- 5.3.3 Given the separation distance it is not considered that the proposal would result in an overbearing impact or overshadowing to the detriment of the neighbouring occupiers. Further, there are no windows proposed within the side elevations that would result in undue overlooking.
- 5.3.4 There are no other properties within the vicinity of the site that would be unduly impacted by the proposal.
- 5.3.5 Therefore, is not considered that the replacement dwelling would form an unneighbourly form of development, in accordance with the stipulations of D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted VPS SPD contains the parking standards which are expressed as maximum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.4.3 The replacement dwelling would result in a potential six bedroom property, and therefore would require parking provision for three vehicles. the proposed attached garage would provide space to park two cars and the further parking could be accommodated to the front of the dwelling. Therefore, there is no objection with regards to car parking.
- 5.4.4 The existing access for the site is to remain. The Highways Authority have been consulted and there is no objection to the scheme in terms of highway safety.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 The replacement dwelling would have a larger footprint than the existing dwelling and therefore the amount of private amenity space would be reduced. However, the garden size would still be provided in excess 800sqm which is vastly in excess of the requirement in the SPD. Therefore, there are no objections with regards to private amenity space.
- 5.5.3 Limited details have been provided in respect of hard and soft landscaping. Therefore, a condition has been recommended to ensure that the details are submitted for approval.

6. ANY RELEVANT SITE HISTORY

- 6.1 There is no relevant site history.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	Object: The application does not contain any information about drainage or sewerage disposal, which Members believe is a very important consideration when assessing the suitability of new development. Flood prevention and the protection of the environment being increasingly important, as reflected in Policies D1 and H4 of the Local Development Plan 2014 - 2029 and guidance contained in the National Planning Policy Framework.	Conditions in respect of the drainage and sewerage disposal have been recommended. Should the application be approved the applicant would be required to provide the details to the LPA for approval.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways	No objection.	Noted.
Ecology – Place services	No objection subject to conditions.	Noted and conditions recommended.

7.3 Internal Consultees

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

7.4 Representations received from Interested Parties

7.4.1 No representations have been received from interested parties.

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: 21/23/01, 21/23/02, 21/23/03, 21/23/04, 21/23/05 and 21/23/07.
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 3 Prior to their use in the development hereby approved, details of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
REASON: In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 4 Within 3 months following the first occupation or connection to utility services, whichever is the sooner, of the dwelling hereby approved, the existing dwelling on the site shall be demolished and the resulting material removed from the site.
REASON: The development has only been approved on the basis that the dwellinghouse hereby approved is a replacement for that which exists in accordance with policy H4 of the Local Development Plan.
- 5 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
 - 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.

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

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

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

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

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

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

- 7 No works or development shall take place until full details of both hard and soft landscape works have been submitted and approved in writing by the Local Planning Authority. These details shall include the layout and materials of all hard surfaced areas. Details of soft landscape works shall include planting plans, written specification (including cultivation and other operations associated with plant and grass establishment), schedules of plant noting species, plant size and proposed numbers/densities, where appropriate and an implementation programme.

REASON: To secure appropriate landscaping of the site in the interests of visual amenity and the character of the area in accordance with policy D1 of the Local Development Plan.

- 8 No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railing and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be construction prior to the first occupation of the development to which it relates and be retained as such thereafter.

REASON: To ensure the use of appropriate details to safeguard the character and appearance of the area in accordance with policy D1 of the Local Development Plan.

- 9 Prior to any works above ground level a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

REASON: To enhance Protected and Priority Species/habitats in accordance with policy N2 of the Local Development Plan and the guidance contained within the NPPF.

- 10 Prior to the occupation of the dwelling hereby approved a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To enhance and protect the habitat for any bats within the area which are Protected and Priority Species, in accordance with policy N2 of the Local Development Plan and the guidance contained within the NPPF.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
3 NOVEMBER 2021**

Application Number	21/00901/FUL
Location	Walden Cottage 58 Walden House Road Great Totham CM9 8PN
Proposal	Replacement dwelling with detached garage and extension to garden land.
Applicant	Mankelow - Bradley David Developments
Agent	Mr Fred McKennon - CITIGROUP
Target Decision Date	11.11.2021
Case Officer	Hannah Bowles
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Member Call In by Councillor J V Keyes Reason: Sustainability and policies S1, H4 and D1

1. RECOMMENDATION

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

2. SITE MAP

Please see below.

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the northern side of Walden House Road, approximately 50 metres west of the settlement boundary for Great Totham. The site is currently occupied by a single storey detached dwelling at the south east corner of the site. The site is surrounded by open countryside to the north, two neighbouring dwellings to the east and a brook along the western boundary.
- 3.1.2 Planning permission is sought for a replacement of the existing bungalow with a two storey dwelling with a detached garage and an extension to the residential garden land.
- 3.1.3 The proposed replacement dwelling would be sited to the north west of the existing dwelling and would measure 15.1m wide, a maximum of 11.8m deep including the front projection, it would extend 5.4m to eaves and 8.4m to the ridge. The dwelling would be constructed in red facing brick walls with stone corners and a slate roof tile with timber windows and stone cills.
- 3.1.4 The proposed double cartlodge would measure 6.6m wide, 6.37m deep and 4.47m to the ridge. The finishing materials would match those used on the proposed dwelling. The existing vehicular access would remain in situ.
- 3.1.5 The proposed extension to the residential garden land relates to an area of open countryside directly to the rear of the site which amounts to 651.9sqm. This would increase the residential land from 1485sqm to 2136.9sqm.
- 3.1.6 This application follows approved permission 18/00817/FUL which proposed a two storey replacement dwelling at the site, a letter confirming the works had commenced has been received and following a site visit it was apparent that groundworks had begun. Therefore, this permission is extant. The changes when comparing the proposed and previously approved replacement dwellings are as follows:
- The design and appearance of the proposed dwelling has been altered from a traditional farmhouse style to a modern Georgian style dwelling.
 - The overall width has increased by 0.4m
 - The overall depth has increased by 2m
 - The garden land is proposed to be extended by 651.9sqm

3.2 Conclusion

- 3.2.1 The application follows the approval of 18/00817/FUL, which granted permission for a two storey replacement dwelling. The increased scale and alterations to the design and appearance of the proposed replacement dwelling has resulted in a development which is dominant, bulky and wholly out of keeping with the development present within the context of the site. Further, significantly exacerbating the harm of the proposal, the change of use of agricultural land to residential garden land would result in the unnecessary urbanisation of the open and undeveloped countryside, which currently positively contributes to the rural area in which it is set, this element of the proposal did not form part of the previously approved scheme. The proposal would result in demonstrable visual harm to the site and surrounding area contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (LDP) and Government guidance contained in the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework (NPPF) 2021, 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
- 54-58 Planning conditions and obligations
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 152-158 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

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

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

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

Replacement dwelling

- 5.1.2 The application site lies outside of the defined settlement boundary. However, as the proposal is for a replacement dwelling the principle of a dwelling being located at this site is already established. Policy H4 of the approved LDP states that planning

permission for the replacement of an existing dwelling with a new dwelling will only be granted if:

- 1) *The residential use of the original dwelling has not been abandoned;*
- 2) *The original dwelling is not a temporary or mobile structure;*
- 3) *The original dwelling is not worthy of retention because of its design and relationship to the surrounding area;*
- 4) *The proposed replacement dwelling is of an appropriate scale to the plot and its setting in the landscape;*
- 5) *The proposed replacement dwelling is of a design appropriate to its setting; and*
- 6) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*

5.1.3 Having visited the site and having regard to the previous applications it is noted that the residential use of the original dwelling has not been abandoned and that it is not a temporary or mobile structure, in accordance with criteria 1 and 2. The existing bungalow on site is not considered to have a particularly strong relationship to the neighbouring dwellings or surrounding area by way of its design and is considered to be of limited architectural merit. Therefore, the existing dwelling is not considered to be worthy of retention and does not conflict with criterion 3.

5.1.4 The assessment of the proposed dwelling in relation to criteria 4 and 5 is undertaken in detail below. Concerns are raised in relation to the design, appearance and overall bulk of the proposed dwelling and the impact it would have on the character and appearance of the site and surrounding area.

5.1.5 The proposal would not result in the loss of any heritage features and no important landscape or ecology interest has been recorded on this site, in compliance with criteria 6.

Extension of Residential Garden Land

5.1.6 Policy H4 of the LDP states that '*small, unobtrusive extensions of residential curtilages into the surrounding countryside, which will not adversely affect the character and rural amenities of the site and wider countryside, may be approved where the following criteria are met:*

- 1) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests; and*
- 2) *Provision is made for suitable landscaping to ensure boundary treatments are of an appropriate rural character and appearance.'*

5.1.7 The change of use to the land to the north of the existing residential curtilage would have an overall area of 651.9sqm. The land is currently open and undeveloped countryside. The proposal would result in an increase of the residential land from 1485sqm to 2136.9sqm.

5.1.8 The extent of the land proposed to change use is not considered to be small or unobtrusive, particularly considering that the existing curtilage measures 1485sqm. Therefore, increasing the residential curtilage by approximately 45%. The proposal would extend the residential garden land into an open and undeveloped area that contributes to the rural character of the area, contrary to the policy H4 of the LDP. In addition, no justification has been provided for the proposed extension of garden land.

- 5.1.9 Whilst the land is not considered to have any overriding landscape, heritage features or ecology interests' that contribute to the character of the area, given the extent of the land proposed to change use and the intrusion into the undeveloped countryside, the proposal is contrary to policy H4 of the LDP and the principal of development cannot be established in this instance.
- 5.1.10 Whilst there is no objection in principle of replacing the existing dwelling, particularly having regard to the extant permission 18/00817/FUL, concerns are raised in respect of the amended design and overall bulk. The proposed change of use of agricultural land to residential garden land did not form part of the previous application and the principle of this element of the proposal is objected to.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people".*
- "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".*
- 5.2.3 This principle has been reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - b) *Height, size, scale, form, massing and proportion;*
 - c) *Landscape setting, townscape setting and skylines;*
 - d) *Layout, orientation, and density;*
 - e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
 - f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
 - g) *Energy and resource efficiency.*
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.2.5 The proposal is for a replacement dwelling. Policy H4 seeks to encourage development only if the proposed replacement dwelling is of an appropriate scale and design to the plot and its setting.
- 5.2.6 The replacement two-storey dwelling approved under the terms of application 18/00817/FUL is significantly larger than the existing bungalow currently occupying the site, given that the permission is extant it provides a fall-back position in the

determination of this application. It should be noted that the proposed extension to the residential garden land did not form part of the previously approved permission.

- 5.2.7 The dwelling proposed under the terms of this application is larger by 0.4m in width and 2m in depth and the design and appearance has been altered from a traditional farmhouse with a gable roof form, to a modern Georgian style dwelling with a hipped roof form. Given the increased scale and change in roof form, the proposed dwelling is notably larger with an overall increase in the bulk and mass than the previously approved dwelling.
- 5.2.8 In terms of appearance the modern Georgian style design is considered to be wholly out of keeping with the development observed within the immediate context of the site. The rural area is largely undeveloped with agricultural buildings, some of which have been converted to other uses and traditional farm dwellings. The proposed modern and Georgian style dwelling would form a prominent and jarring addition to the landscape.
- 5.2.9 It is considered that the dwelling would form a dominant and out of keeping feature within open and rural landscape; even having regard to the previously approved two storey dwelling, it is considered that the proposal would result in demonstrable visual harm to the character and appearance of the site and surrounding area.
- 5.2.10 The proposed change of use of the agricultural land to the rear of the site (north) to residential garden land would result in a loss of 651.9sqm of open and undeveloped countryside. Views of the subject land are available to members of the public travelling along the public highway in both directions, and the open and undeveloped land contributes to the rural feel of the area. The change of use of the land would result in the unjustified domestication of the land and intrusion into the countryside, significantly adding to the overall visual harm of the proposal.
- 5.2.11 Therefore, given the above assessment it is considered that the amended replacement dwelling by reasons of its increased scale, bulk and altered appearance would form in a dominant and wholly out of keeping addition to the streetscene. Further and significantly adding to the visual harm of the proposal is the proposed change of use of the land to the rear of the site. Overall, the proposed development is considered to result in demonstrable harm to the character and appearance of the site and surrounding area contrary to policies D1 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The application site has one immediately adjacent neighbouring property; the proposed development would be approximately 35 metres from the eastern boundary which is shared with the dwelling Sam's Song on Walden House Road and approximately 70m dwelling to dwelling.
- 5.3.3 The proposed dwelling would be sited in approximately the same position as the previously approved replacement dwelling, it is pertinent to note that no concerns

were raised in terms of the impact on residential amenity at the time of the previous assessment.

- 5.3.4 Due to the extensive separation distance, it is not considered that the proposed dwelling would have an overbearing effect on this neighbouring property. There would be three first floor windows on the eastern elevation facing the neighbouring property however given the distance from the neighbouring property, it is not considered that this would result in any overlooking and loss of privacy to Sam's Song. There are no other residential properties bordering the remainder of the application site.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The replacement dwelling would result in a four bedroom property and therefore would require parking provision for three vehicles, the proposed single storey double cartlodge would provide space to park two cars and the further parking could be accommodate to the front of the dwelling and outbuilding. Therefore, there is no objection with regards to car parking.
- 5.4.3 The existing access for the site is to remain. The Highways Authority have been consulted and there is no objection to the scheme in terms of highway safety, subject to the inclusion of a condition regarding construction traffic and storage of materials.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 The proposed development includes a 651.9sqm extension of the residential garden land it is considered that there is sufficient existing garden space well in excess of the 100m² required to serve the replacement dwelling. Therefore, there is no justification in extending the residential curtilage.
- 5.5.3 The submitted block plan shows that the existing soft landscaping and boundary treatments would be retained and extended. Should the application be approved it is considered a condition relating to the submission of details in respect of boundary treatments and landscaping are imposed, particularly as the hedge running along the western side boundary of the site is not within the applicant's control and due to the location of the trees on the southern part of the site a condition should be included for the submission of the tree retention and protection scheme to ensure that the development maintains the rural nature of the site.

6. ANY RELEVANT SITE HISTORY

- **14/00844/FUL** Replacement dwelling - Refused
- **15/00024/FUL** Replacement dwelling - Approved
- **18/00817/FUL** Replacement dwelling (renewal of planning permission FUL/MAL/15/00024) - Approved

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Great Totham Parish Council	No response received.	n/a

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways	No objection subject to conditions.	Noted.

7.3 Internal Consultees

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

7.4 Representations received from Interested Parties

- 7.4.1 No representations have been received from interested parties.

8. REASONS FOR REFUSAL

- 1 The proposed replacement dwelling, due to its design, appearance and scale is considered to form a dominant and bulky building, wholly out of keeping with the character of the area. Furthermore, the harm, as a result of the change of use of agricultural land to residential, would result in the unnecessary urbanisation of the open and undeveloped countryside, which currently positively contributes to the rural area in which it is set. The proposal would result in demonstrable visual harm to the site and surrounding area contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government guidance contained in the National Planning Policy Framework.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
NORTH WESTERN AREA PLANNING COMMITTEE
3rd NOVEMBER 2021

Application Number	21/00987/OUT
Location	Land Adjacent 24 Catchpole Lane, Great Totham
Proposal	One detached dwelling
Applicant	Mr A Marven
Agent	Mr Peter Le Grys
Target Decision Date	17.11.2021
Case Officer	Sophie Mardon
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Member Call In – Councillor J V Keyes - Policies D1, H4 and S1 of LDP

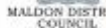
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

21/00987/OUT



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Malden District Council 100018588 2014

www.maldon.gov.uk

Organisation: Maldon District Council

Department: Department

Comments: NW Area Planning Committee

MSA Number: 100018588

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the north western side of Catchpole Lane outside of the settlement boundary of Great Totham. The site is currently undeveloped land laid to grass and surrounded by a number of trees. There is a timber fence and a metal gate along the front boundary. To the south west of the site is a pumping station owned by Anglian Water and to the east is a row of residential properties along Catchpole Lane.

The ground levels decrease towards the north and the west of the site towards Catchpole Brook which runs to the west of the land at approximately 19 metres from the red line boundary of the proposed site.

- 3.1.2 Outline planning permission is sought for one detached dwelling on the application site. The outline application procedure allows for the general principles of how a site can be developed (land use policies and any relevant material considerations for example) and applicants can identify specific matters for consideration either at the application stage, or at a later date (under reserved matters applications), which would include details of layout, access, scale, appearance and landscaping. The applicant has submitted this application to consider the general principle of development of the land for a single dwelling with all matters reserved for consideration under future reserved matters applications should outline planning permission be granted for this proposal.
- 3.1.3 The submitted drawing shows the proposed house located towards the southern part of the substantial (rectangular section) of the site and above the existing access tract to that part of the site. All matters are reserved for future consideration, however, the drawing details dimensions to the likely proposed dwelling and its position relative to the site boundaries. The plan shows a dwelling which could occupy the site with a depth of 14 metres and a width of 11 metres, which would be located 19 metres from the rear boundary and 32 metres from the front boundary of the site. The height of the dwelling, the number of storeys or the number of bedrooms has not been indicated within the planning application. The block plan indicates that there would be an access from Catchpole Road to the east of the site, an area for car parking to the front of the proposed dwelling and private amenity space to the rear of the proposed dwelling, whilst these details are indicative only there is no other foreseeable way to provide access to the site. The planning statement however states that there is a dropped kerb to the south east corner of the site shared with the entrance to the dwelling house at 24.
- 3.1.4 This application is effectively a resubmission of a previous application (**19/00004/OUT**) which was refused for the following reason;

'The application site lies outside of the defined settlement boundary of Great Totham where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the council for development to meet future needs for the district and does not fall within either a garden suburb or strategic allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the district. The proposal would therefore, represent the unjustified encroachment of built form onto undeveloped land, with associated visual impacts, contrary to policies S1, S2, S8, D1 and H4 of the Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.'

- 3.1.5 The applicant took advantage of the opportunity to appeal the Council's decision to refuse planning permission however, the Planning Inspector dismissed the subsequent appeal.

3.2 Conclusion

- 3.2.1 The application is effectively the same as the previous proposal which was refused by the Council and dismissed on appeal for reasons set out above. The only difference in circumstances between the previous and the current application, as stated by the applicant's agent, is that the Council's position regarding the supply of housing land within the district has materially changed, that being the Council can no longer demonstrate a Five Year Housing Land Supply (5YHLS), since that decision. Notwithstanding, it is the Council's position that although the tilted balance is now engaged due to the lack of a 5YHLS, the benefits of the scheme, that being the limited addition of one dwelling, would not outweigh the harm to the open character and appearance of the area which, due to the urbanisation of the site, would detract from the intrinsic character and beauty of the countryside. Therefore, the development is considered to form an unjustified sprawl of built form on this currently undeveloped site, contrary to policies S8, D1 and H4 of the Local Development Plan (LDP).
- 3.2.2 It should be noted that the previous application was not refused for lack of The Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) contribution, this is due to the fact that Essex Coast RAMS SPD was not adopted at the time of the decision. Since the previous decision, the Essex Coast RAMS SPD was formally adopted on 6th August 2020 and is therefore a material consideration which should be given significant weight when assessing the suitability for any new development to mitigate any adverse effects on the integrity of European sites from recreational disturbance, when considered 'in combination' with other development. As the applicant has not submitted 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.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2021 including paragraphs:

- 2-14 Achieving Sustainable development
- 38 Decision-making
- 4-50 Determining applications
- 54-57 Planning conditions and obligations

- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 152-173 Meeting the challenge of climate change, flooding and coastal change

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
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD
- Special Housing Needs SPG
- Great Totham Neighbourhood Plan

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (NPPF) require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved 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 8 - 8 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’.
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 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 are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme
- 5.1.8 Paragraph 79 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 Great Totham, a village that is classified as one of the “larger villages” within the district, as detailed within Policy S8 of the LDP.
- 5.1.10 The site is located adjacent to the settlement boundary of Great Totham. There is a public footpath which could be used by residents of the proposed development to access services and facilities within the village itself. In terms of public transportation, the nearest bus stop is in close proximity on Catchpole Lane, which provides services and links to employment opportunity and other facilities both in Witham and Maldon. Furthermore, in a previous appeal decision at the site for the same proposal (Appeal reference; APP/X1545/W/19/3236566) the inspector stated *‘The site is located on the edge of Great Totham which is classified as a larger village in the LDP, and it has several services and facilities. The site is next to a footpath and close to bus stops along Catchpole Lane. The appellant highlights these serve Maldon and Colchester. Therefore, future occupiers would not have to be solely reliant on private modes of transport to access services, facilities or to commute. I therefore consider the appeal site is an acceptable location, in terms of access to services and facilities’*. Taking the above into account it is considered that the future occupiers of the dwelling would not be overly reliant on the private motor vehicle and therefore, and in respect of this, it is considered that the proposed site is acceptable.
- 5.1.11 Whilst the site is considered to be accessible, this is not considered to outweigh the concerns raised regarding the impact on the intrinsic character and beauty of the countryside, which will be discussed in section 5.3 of the report.

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.
- 5.2.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and PPG, and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.4 No information regarding the number of bedrooms on site has been provided. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds.

Whilst the council is unable to demonstrate 5YHLS, as the proposal is only for 1 dwelling, it is considering the single dwelling would provide a negligible contribution to the housing mix and therefore, it is considered any minor benefits of this, in terms of improving the mix of the district's housing stock would not outweigh the harm identified in the assessment below.

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 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.
- 5.3.5 The site is currently undeveloped agricultural land just outside of the defined settlement boundary. In the previous appeal decision at the site for the same proposal (Appeal reference; APP/X1545/W/19/3236566) the inspector highlighted the importance of this particular parcel of land stating *'The appeal site provides an important open countryside gap in the road and contributes to a significant break in the residential development. The site has a predominantly rural character and appearance, which helps to define the edge of the village'. 'The proposal would introduce a new dwelling and associated residential paraphernalia such as a driveway, car parking and garden to the site. Although in outline, the plans show a dwelling with a substantial footprint. Whilst it would be set back from the road, it would still be clearly visible from public vantage points. The site performs an important transition between the residential part of the road and the more rural character to the west.'* When considering the impact of the development on the character and appearance of the area the inspector concluded *'I find the domestication of the site and introduction of built form, which would also result in the loss of vegetation from the site, would distinctly alter the character and appearance of the appeal site and would erode the pleasant rural gap in development on the northern side of Catchpole Lane. This in turn would harm the intrinsic character and beauty of the countryside.'* Taking the above into account, the proposed development would have a detrimental impact on the character and beauty of the countryside through the addition of built form on the land and the introduction of a residential use of the site which would result in the addition of domestic paraphernalia. Furthermore, it is considered that the erosion of this important parcel of land, which currently

provides an important break between development and countryside along Catchpole Lane, would significantly detract from character and appearance of the site, to the detriment of the intrinsic character and beauty of the countryside.

- 5.3.6 Whilst limited details of the proposed development are available, it is considered that however the site is developed, the proposal would introduce built form on an otherwise undeveloped piece of land and would result in the sprawl of development into the countryside which would result in material harm to the character and appearance of this relatively rural area. Whilst it is acknowledged that the proposed dwelling house has been set back from the road in an attempt to mitigate flood risk concerns, the inappropriate siting of the development would cause further harm to the character and appearance of the locality, which would be at odds with the grain of development within the immediate street scene. It is noted that No.18 is set back a considerable distance from the road however, due to the location of No. 18, which is surrounded by residential properties, this dwelling is not highly visible when traveling along Catchpole lane and therefore its siting is less prominent within the locality. This approach is consistent with the previous appeal decision where the inspector did not consider that the proposal would constitute appropriate infill development, as the appeal site is set back considerably from the nearby buildings, and due to the modest size of the pump house building.
- 5.3.7 With regard to the above, the proposed development of this site for a new single dwelling would result in demonstrable harm to the open character and appearance of the area which, due to the urbanisation of the site, would detract from the intrinsic character and beauty of the countryside. The harm identified above would significantly outweigh any benefits of a new dwelling house, given the limited contribution that a single dwelling would provide to the housing stock. Therefore, the development is considered to form an unjustified sprawl of built form on this currently undeveloped site, contrary to policies S8, D1 and H4 of the LDP.
- 5.3.8 No details have been provided with regard to the appearance of the proposed development and therefore this cannot be assessed at this outline stage.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The application site has two neighbouring properties bordering the application site. These are No.24 Catchpole Lane and No.18 Catchpole Lane to the east. No.18 is not directly next to the site but its private amenity space is to the rear of No.24 and abuts the application site.
- 5.4.3 Based on the layout shown the proposed dwelling would be located 3 metres from the boundary with No.24 Catchpole Lane. Due to the change in the ground levels on the application site, which decreases to the north and the west, the proposed dwelling would be at a lower level than the neighbouring property at No.24. The application does not indicate the height of the proposed dwelling or the number of storeys, however due to the lower ground level and given that the dwelling could be proposed as a bungalow, chalet or two storey dwelling, it would be reasonable to believe that a dwelling could be provided on this site in some form that would not have an overbearing impact on the dwelling at No.24, subject to the details being assessed within the reserved matters application. Similarly, details of the proposed fenestration have not been included as part of this outline application and it is

considered that there is a reasonable prospect that the windows could be positioned on the dwelling to ensure that there was no loss of privacy to the occupiers of No.24.

- 5.4.4 The application site also borders the private amenity space of No.18 Catchpole Lane. However, the proposed dwelling would be situated forward of this boundary. Therefore it is not considered that there would likely be any overlooking which would be significantly worse than that which is currently experienced by the windows on the rear elevations of No.24, 22 and 20 Catchpole Lane which all adjoin the private amenity space of No.18.
- 5.4.5 For the reasons discussed it is considered that there is a reasonable prospect that a dwelling could be erected that would not be detrimentally harmful to the amenity of neighbouring occupiers to a degree which would warrant refusal of the application. Therefore, the proposal is considered to be in accordance with Policy D1 of the LDP.

5.5 Access, Parking and Highway Safety

- 5.5.1 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.
- 5.5.2 Access does not form part of the outline application however the block plan indicates an access from Catchpole Lane to the proposed dwelling, which is the only realistic way of providing an access within the application site. There is currently an existing gate providing access to the site with a dropped kerb onto the road. Whilst no response had been received from Highways to date, the Highways Authority was consulted on the previous scheme, which has not been altered with this current submission, and previously advised there was no objection to the scheme, subject to several conditions. Therefore, it is likely that no objection would be raised in regard to highway safety, subject to condition.
- 5.5.3 The number of bedrooms within the dwelling is currently unknown and therefore the parking provision required in the SPD is also not known. However, from the details provided on the block plan, it is likely that there would be enough parking provision for at least two vehicles to the front of the dwelling which would be sufficient for a three bedroom dwelling. Therefore, it is likely that there would be suitable parking provision on the site and would not be considered to form a reason for refusal.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.6.2 The block plan provided shows that the private amenity space would be in excess of 100m² in accordance with the guidance contained within Maldon Design Guide SPD for larger dwellinghouses and policy D1 of the LDP. Therefore, there are no objections with regard to this.

5.7 Flood Risk

- 5.7.1 The applicant has indicated that the proposed site is outside of both Flood Zone 2 and Flood Zone 3 however, both of these would be in close proximity to the proposed dwelling. In the previous appeal decision for the site the inspector stated that 'with

respect to flood risk and the absence of a Flood Risk Assessment, I cannot safely conclude the development would be acceptable from a flooding perspective'. The Council's Environmental Health team have advised that the site has acted as a natural flood plain against surface water. Whilst the proposed dwelling has been set back into the site to avoid the relevant flood zones which addresses fluvial flood risk, it does not appear that surface water risk has been considered.

- 5.7.2 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The NPPF also makes it clear that the sequential test process should take account of surface water flood risk as well as fluvial when locating a new property. Although the site would be located within an area at a high risk of surface water flooding, as identified by the Environment Agency map, the Councils' Environmental Health team have considered that this could be dealt with by way of a condition requesting a surface water drainage scheme, along with other relevant conditions surrounding foul drainage. This would allow the construction of the proposed development whilst also ensuring that the risk of surface water flooding to this site and the surrounding properties is not increased.
- 5.7.3 Therefore, although there are concerns with regards to flooding, and the inspectors comments have been taken into consideration, it is considered that in this instance this could be satisfactorily addressed by way of an appropriately worded condition.

5.8 Impact on Designated Sites – RAMS

- 5.8.1 The application site falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast 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.
- 5.8.2 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 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 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 (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

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

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

Test 2 – the integrity test

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

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

- 5.8.3 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.
- 5.8.4 The Essex Coastal RAMS document has been adopted since the previous application was dismissed at appeal and therefore is a material consideration which should be given significant weight when assessing the suitability for any new development. This document states that the flat rate for each new dwelling has been calculated at £127.30 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.

5.9 Planning Balance and Sustainability

- 5.9.1 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 5THLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.9.2 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.
- 5.9.3 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.
- 5.9.4 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.
- 5.9.5 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 unit may support local businesses such as shops and services. This would however be very 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. Any economic benefits would therefore be considered marginal.
- 5.9.6 In social terms the proposal has limited benefits in terms of supporting a strong vibrant and healthy community, as the housing would be located in an area where there is access to local facilities without the unavoidable need for private cars and the proposed dwelling would provide adequate living conditions for future occupiers in terms of private amenity space. Furthermore, the development would not impact on the amenity of any neighbouring occupiers. However, given the limited contribution the single dwelling house would provide to the housing stock, the above benefits

would not outweigh the harm identified on the character and appearance of the locality. Particularly when considering the previous appeal and the inspector's decision to dismiss the appeal based on the adverse impact on the intrinsic character and beauty of the countryside.

5.9.7 In environmental terms the accessible location of the site could offer some environmental benefits, again, by removing the unavoidable need to use private cars. However, these minor benefits are not considered to outweigh the significant concerns raised with regard to the detrimental impact on the character and appearance of the area. Particularly when considering the previous appeal and the inspector's decision to dismiss the appeal based on the adverse impact on the intrinsic character and beauty of the countryside

5.9.8 Overall, due to the concerns raised regarding the detrimental impact on the character and appearance of the locality, it is not considered that any benefits would outweigh these concerns, particularly when considering the previous appeal and the inspector's decision to dismiss the appeal based on the adverse impact on the intrinsic character and beauty of the countryside.

6 ANY RELEVANT SITE HISTORY

- **19/00004/OUT.** – Outline application for the erection of one detached dwelling
- Appeal dismissed – 18th November 2019.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Great Totham Parish Council	The Council objects to the application. The development would result in unjustified encroachment of built form onto undeveloped land causing detrimental harm. The proposed site is outside of the development limits and provides an important break in the residential developments into open countryside.	Comments noted. Addressed in section 5.2 of the report

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or	Noted and discussed in section 5.7 of the report

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy	
Essex County Council Highways	No response at the time of writing the report	N/A

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	EH raised an objection to a previous application based on the siting of the development within flood zones 2 & 3 and that the site acted as a natural flood plain against surface water. Whilst the dwelling has been moved back into the site to avoid the relevant flood zones addressing fluvial flood risk, it does not appear that surface water flood risk has been considered. The updated NPPF makes it very clear that the sequential test process should take account of surface water flood risk as well as fluvial when locating new property. On this basis, should the application be approved, a suitable surface water condition should be applied along with other relevant conditions and informatives	Noted and discussed in section 5.6 of the report.

7.4 Representations received from Interested Parties

7.4.1 No representation have been received for the application

8 REASONS FOR REFUSAL

- 1 The proposed development of this site for a new single dwelling would result in demonstrable harm to the open character and appearance of the area which, due to the urbanisation of the site, would detract from the intrinsic character and beauty of the countryside. The siting of the dwelling would not reflect the pattern of development within the area and would exacerbate the harm to the character and appearance of the area. The harm identified above would significantly outweigh any benefits of a new dwelling house, given the limited contribution that a single dwelling would provide to the housing stock. Therefore, the development is considered to form an unjustified sprawl of built form on this currently undeveloped land, contrary to policies S8, D1 and H4 of the LDP.
- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the development makes no contribution for affordable housing to meet the identified need in the locality, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for the future occupiers of the site contrary to Policies S1, D1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.

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