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DIRECTOR OF STRATEGY,  
PERFORMANCE AND  
GOVERNANCE  
Paul Dodson

07 September 2021

Dear Councillor

You are summoned to attend the meeting of the;

**SOUTH EASTERN AREA PLANNING COMMITTEE**

on **WEDNESDAY 15 SEPTEMBER 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 V J Bell

VICE-CHAIRMAN

Councillor N J Skeens

COUNCILLORS

M G Bassenger  
B S Beale MBE  
R G Boyce MBE  
Mrs P A Channer  
R P F Dewick  
A S Fluker  
M W Helm  
A L Hull  
W Stamp, CC





**AGENDA**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**WEDNESDAY 15 SEPTEMBER 2021**

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1. **Chairman's notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 8)

To confirm the Minutes of the meeting of the Committee held on 18 August 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. **21/00488/FUL - Land Between Furzedown and Elms Coal Yard, Main Road, Mundon, Essex. CM9 6NU** (Pages 9 - 24)

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

6. **21/00522/OUT - 7 Station Cottages, Hall Road, Southminster, CM0 7EH** (Pages 25 - 44)

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

7. **21/00526/FUL- Appleberry By The Gables, Stoney Hills, Burnham-On-Crouch, Essex, CM0 8QA** (Pages 45 - 72)

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**

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**Note:**

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos.5-7.
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](http://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**

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**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  
SOUTH EASTERN AREA PLANNING COMMITTEE  
18 AUGUST 2021**

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**PRESENT**

Chairman	Councillor V J Bell
Vice-Chairman	Councillor N J Skeens
Councillors	B S Beale MBE, R G Boyce MBE, Mrs P A Channer, M W Helm and W Stamp, CC

**216. CHAIRMAN'S NOTICES**

The Chairman welcomed all present and took the Committee through some general housekeeping issues.

**217. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors M G Bassenger, R P F Dewick and A L Hull.

**218. MINUTES OF THE LAST MEETING**

**RESOLVED** by assent that the Minutes of the meeting of the Committee held on 21 July 2021 be approved and confirmed.

**219. DISCLOSURE OF INTEREST**

Councillor M W Helm declared a non-pecuniary interest in Agenda Item 5 – 21/00628/FUL, Land North of Riversleigh, Nipsells Chase, Mayland, CM0 6EJ as he knew the applicant. He added that his grandfather had previously owned Nipsells Chase Farm so was familiar with the property.

Councillor W Stamp declared a non-pecuniary interest as a member of Essex County Council a consultee on the application at Agenda Item 5.

Councillor Mrs P A Channer declared a non-pecuniary interest in Agenda Item 5 as she knew the applicant.

**220. 21/00628/FUL- LAND NORTH OF RIVERSLEIGH, NIPSELLS CHASE, MAYLAND, CM0 6EJ**

<b>Application Number</b>	<b>21/00628/FUL</b>
<b>Location</b>	Land North Of Riversleigh, Nipsells Chase, Mayland, CM0 6EJ
<b>Proposal</b>	Construction of a single storey dwelling
<b>Applicant</b>	Mr and Mrs Kenny Paton
<b>Agent</b>	Mr Anthony Cussen - Cussen Construction Consultants

<b>Target Decision Date</b>	20.08.2021
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor / Member of Staff Councillor Sue White is co-applicant

It was noted that a Members' Update had been circulated prior to the meeting that detailed other relevant information, an update on RAMS and other material considerations. Following the Officer's presentation, the Applicant, Mr Paton, addressed the Committee.

The Chairman then opened the debate and a lengthy discussion ensued. Councillor Helm proposed that the application be approved contrary to the Officer's recommendation. Members continued to debate the merits/de-merits of the application. Some felt that the area was sustainable, close to facilities, that it was a way of future proofing homes and development was already taking place in the countryside. Others felt concerned that, whilst recognising development had already taken place in the countryside, this would create a precedent resulting in problems controlling the building of single dwellings in the countryside.

The Chairman then referred to the proposal on the table from Councillor Helm and called for reasons for approval. Officers reminded the Committee that the starting point was the Local Development Plan (LDP) and that should Members be minded to accept a development outside the settlement boundaries there needed to be material planning considerations.

Councillor Helm proposed that the application be approved as the site was considered to be in a sustainable location. In addition, the dwelling could not be seen outside of the site boundary from public views due to screening and therefore did not have a harmful impact on the character and appearance of the countryside.

The Chairman then put Councillor Helm's proposal to approve the application contrary to the Officer's recommendation for the aforementioned reasons and subject to RAMS mitigation and conditions delegated to Officers in consultation with the Chairman, to the Committee. A recorded vote was requested and seconded and the results were as follows:-

For the Proposal

Councillors B S Beale, R G Boyce, M W Helm and W Stamp.

Against the Proposal

Councillor N J Skeens

Abstentions

Councillor V J Bell and Mrs P A Channer

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

The meeting closed at 8.29 pm.

V J BELL  
CHAIRMAN





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**  
**to**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**15 SEPTEMBER 2021**

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<b>Application Number</b>	<b>21/00488/FUL</b>
<b>Location</b>	Land Between Furzedown And Elms Coal Yard Main Road Mundon Essex CM9 6NU
<b>Proposal</b>	New one and a half storey chalet style dwelling.
<b>Applicant</b>	Mr Melvin Thurkettle
<b>Agent</b>	Mr Anthony Cussen - Cussen Construction Consultants
<b>Target Decision Date</b>	20.08.2021
<b>Case Officer</b>	Hannah Dungate
<b>Parish</b>	<b>MUNDON</b>
<b>Reason for Referral to the Committee / Council</b>	Not Delegated to Officers as Departure from Local Plan

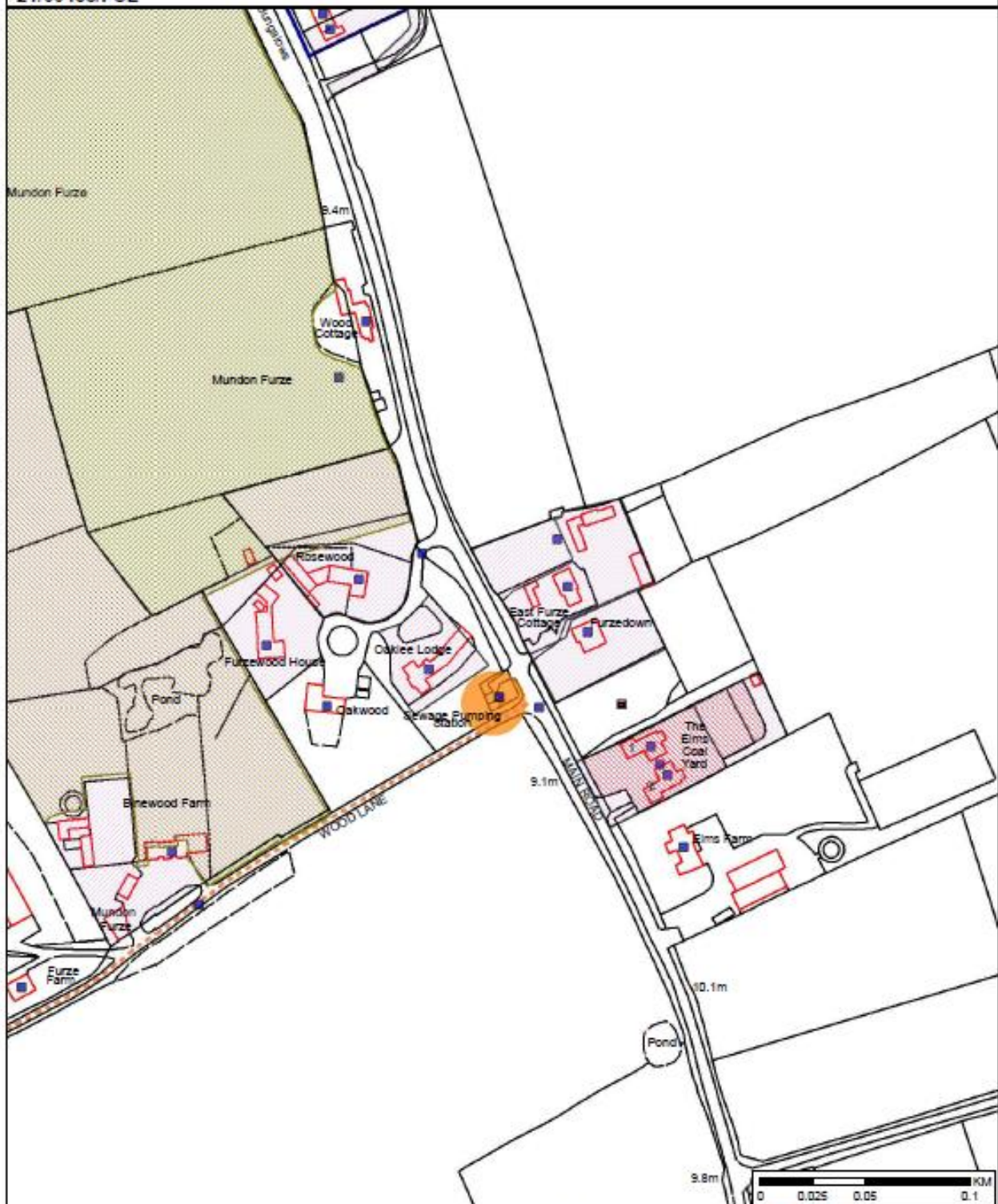
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

**Land Between Furzedown and Elms Coal Yard Main Road Mundon Essex**  
21/00488/FUL



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Maldon District Council 100018588 2014

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

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 26/08/2021

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is a rectangular parcel of land located on the east side of Main Road, outside of the settlement boundary of Mundon. The site is currently an unoccupied piece of overgrown grassland located within a parade of residential properties east of Mundon Road. The surrounding area within the immediate context of the site is rural in character, however, the existing parade of properties on this side of Mundon Road forms a pocket of residential development in a linear formation. Furzedown, a two-storey residential dwelling, is located to the north of the application side and two dwellings are located to the south, both of which have recently been constructed. The site adjoins open countryside to the east.
- 3.1.2 Planning permission is sought for the construction of a one and a half storey dwelling. The main body of the dwelling would measure 7.9m in height at the ridge and would have single storey eaves measuring 2.6m. The main body of the house would measure 8.4m in depth and 12.8m in width. Within the front and rear roof slopes of the property would be 3 incidental pitched roof dormer windows. To the south of the main body of the property would be a one and a half storey linked garage element measuring 6.9m wide and 11.1m in depth. The attached garage would measure 7m in height overall and would have first floor living accommodation above. The element of the property linking the main body of the house with the garage would also have a pitched roof dormer window within the forward-facing roof slope.
- 3.1.3 At the rear of the property would be a one and a half storey pitched roof rear projection with side-facing dormer windows within the first-floor roof slope. Overall, the house would measure 22.2m wide and 14m in depth. At first floor level, six bedrooms are proposed.
- 3.1.4 It is noted that during the life of the application, amended plans have been received which show the first-floor balcony located at the rear of the southern projection above the flat roof element has been removed.
- 3.1.5 It is also noted that the plans submitted are similar to a previously approved scheme for a detached dwelling at the site (90/00453/FULF refers). The main difference is that the garage is now proposed to be linked to the main body of the dwelling by a single storey element. The approved permission also included a condition that the dwelling was to be used in association with the adjacent coal yard, immediately south of the site. Since then, two residential dwellings have been constructed at the coal yard (15/00039/FUL & 15/01361/FUL refers) so that it no longer exists. The proposed dwelling is therefore no longer proposed to be used in conjunction with the previous coal yard.

#### **3.2 Conclusion**

- 3.2.1 The principle of one dwelling in this location is considered acceptable and by reason of its location and design, the proposed dwellings would not harm the appearance or

character of the locality. Due to the proposed layout and relationship with existing properties, the proposed development is not considered to result in any undue harm by way of overlooking or loss of amenity. Furthermore, an acceptable level of car parking provision and private amenity space can be achieved at the site. Subject to appropriate conditions, the application is recommended for approval.

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

##### **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
- 78-80 Rural Housing
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 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
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- E1 Employment
- E4 Agricultural and Rural Diversification
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility

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

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

#### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).
- 5.1.2 In 2015, an application for two residential properties, south of the application site was submitted to the Council (15/00039/FUL refers). It was recommended for refusal on the grounds that the houses would represent an unsustainable form of development, however, the Council ultimately approved the application, at Committee, on the grounds that the frequency of bus movements past the site therefore made the site sustainable. It is therefore noted that planning permissions 15/00039/FUL and 15/01361/FUL at the neighbouring site have established the acceptability of residential development within this location despite it being located outside of the Defined Settlement. It is worth noting that the bus stop, which benefits from regular bus services, as mentioned above, is located immediately to the front of the application site. Although the development would not accord with Policy S8 of the LDP, which restricts development outside settlement boundaries, the Council cannot demonstrate a five-year supply of deliverable housing sites. Whilst it is accepted that the site might not be the most assessable site decisions at the adjoining site is a relevant material consideration and taking this in to account, and also for the need for consistency within the decision making process, it is considered that the principle of residential development in this location has been accepted by the Council, other considerations for the proposal are discussed below.
- 5.1.3 The proposal should also be read in connection with Policy H4 which considers 'Backland and Infill Development'. The Council will consider such development on a site-by-site basis to take into account local circumstances, context and the overall merit of the proposal providing all the following criteria are met: 1) There is a significant under-use of land and development would make more effective use of it; 2) There would be no unacceptable material impact upon the living conditions and amenity of nearby properties; 3) There will be no unacceptable loss of land which is of local, social, economic, historic or environmental significance; and 4) The proposal will not involve the loss of any important landscape, heritage features or ecology interests. The criteria will be assessed within the main body of the report.

## **5.2 Housing Mix**

- 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 5 Year Housing Land Supply (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 Maldon District Local Housing Needs Assessment (LHNA) (2021) is an assessment of the 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 Planning Practice Guidance, 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 The LHNA (2021) 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.
- 5.2.5 The proposal would provide one six-bedroom dwelling. On the basis of the above housing mix, it is evident that the development would not comply with the greatest requirements of the LHNA and would fail to meet the Council's identified need for smaller dwellings. The proposal would not have a significant impact on housing supply due to the limited number of houses proposed and would therefore not carry significant weight in the consideration of the merits of the scheme.

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

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

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

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the*

*way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.*

- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
  - b) Height, size, scale, form, massing and proportion;*
  - c) Landscape setting, townscape setting and skylines;*
  - d) Layout, orientation, and density;*
  - e) Historic environment particularly in relation to designated and non-designated heritage assets;*
  - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
  - g) Energy and resource efficiency.*
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.6 The surrounding area within the immediate vicinity of the site is rural in character, with agricultural and residential development within the immediate vicinity. There are residential dwellings immediately south, and north of the site, in a linear formation fronting Mundon Road. They are detached dwellings, set within spacious plots. There is open countryside to the east of the site. This stretch of Woodham Road is characterised by soft landscaping although many of the dwellings are widely visible between gaps in the hedgerow along Mundon Road.
- 5.3.7 The existing properties along this part of Mundon Road have pitched roof designs with single storey eaves. Within the front roof slope of these properties are pitched roof dormer windows. In terms of scale, appearance and design, the proposed property would be appropriate in this location, given that the gable roof forms and features are reflective of the dwellings within the wider area. The dwelling would be sited on an underused piece of grassland within an existing run of dwellings and would reflect the existing building line of the properties along Mundon Road. The proposal would not have a harmful impact on the countryside given that it would not appear out of keeping with the existing character of the immediate vicinity and

would have appropriate height, scale, massing and form that would make a positive contribution to the local context in accordance with Policy D1.

- 5.3.8 Subject to the use of sympathetic materials, boundary treatments and landscaping, it is considered that the proposal would comply with policies D1 and H4 of the LDP.

#### **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 adjoining neighbours. The proposed dwelling would be located 3.4m away from the southern boundary of the application site. The dwelling would also be located 19m away from the existing dwelling located north of the application site. Given the separation distance between these properties and the scale and size of the proposal, it is not considered that the proposed development would represent an unneighbourly form of development or give rise to overshadowing, in accordance with the stipulations of D1 of the LDP.
- 5.4.3 During the life of the application, amended plans have been received so that the first-floor balcony located closest to the neighbour located south of the site has been removed. Subject to the inclusion of a condition ensuring that the flat roof of the ground floor extension could not be used as a balcony, there are no concerns in this respect.
- 5.4.4 In terms of overlooking, there would be a first-floor side window proposed within the northern side elevation which would serve bedroom 2. There would also be two side windows within the roof slopes of the rear projection at first floor level. Given that these windows are secondary windows serving bedrooms, and also serve an en-suite bathroom, it would be reasonable to ensure that these windows would be obscure-glazed and non-openable below 1.7m to ensure that no loss of amenity of the neighbouring occupiers; a condition is recommended to this effect. Subject to the inclusion of the above recommended conditions, the proposal would not give rise to overlooking, in accordance with the stipulations of D1 of the LDP.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The proposal comprises a six-bedroom dwelling. As per Maldon's adopted vehicle parking standards, the minimum number of car parking spaces for three-bedroom



dwelling or more is three. The scheme proposes a double garage, as well as an area of hardstanding in front of the proposed garage for the parking of two cars. The internal car parking spaces within the proposed garages would measure 6.2m x 8m and would meet the minimum standards for a 2-car garage which is 6m x 7m. The areas of hardstanding in front of the garages would measure between 2.9m and 5.5m and would therefore meet the 2.9m x 5.5m requirement for car parking spaces. There are therefore no concerns in relation to car parking at the properties.

- 5.5.3 It is noted that the proposed access to serve the development is existing and no concerns have been raised by Essex Highways (EH) in terms of highway safety. Subject to the inclusion of the recommended highways conditions, no concerns in this respect are raised.

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

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.6.2 The proposed house would be served by private amenity space in excess of 100sqm and would comply with Policy D2. There are no concerns in this respect.

## **5.7 Ecology regarding development within the zone of influence (Zol) for the Essex Coast RAMS**

- 5.7.1 Natural England (NE) has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zones of Influence' (Zol) of these sites cover the whole of the Maldon District.
- 5.7.2 NE anticipate that, in the context of the Local Planning Authority's (LPA) duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.3 Prior to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) –NE

have provided an HRA record template for use where recreational disturbance is the only HRA issue.

- 5.7.4 The application site falls within the Zol for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE would not provide bespoke advice. However, NE's general advice is that a HRA should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.7.6 To accord with NE's requirements, an Essex Coast (RAMS) HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

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

Does the planning application fall within the specified development types? **Yes – The proposal is for one dwelling**

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

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

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

Summary of Appropriate Assessment

As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution of £127.30 per dwelling is necessary. Although a signed S106 Agreement has been submitted to support the application the necessary financial contribution of £207.30 has also been received. The figure

includes £127.30 plus an £80 checking and monitoring fee. As such, the appropriate mitigation has been secured.

## **5.8 Other Matters**

- 5.8.1 A condition relating to drainage has been proposed by the Environmental Health service. As such, a condition pertaining to these matters will be included within the recommendation.

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

- **90/00543/FULF** – Erection of detached cottage (residential) associated with adjacent coal yard. Approved 11 August 1998.

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

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Mundon Parish Council	No objections.	Noted

### **7.2 Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Natural England	A Habitats Regulations Assessment (HRA) must be undertaken to secure any necessary mitigation.	Noted
Essex Highways (ECC)	Acceptable subject to relevant conditions.	Noted

### **7.3 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to condition relating to surface water drainage.	Noted

### **7.4 Representations received from Interested Parties**

- 7.4.1 No representations received for this application.

## 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 and retained in accordance with the following approved plans and documents: 1193-01; 1193-02; 1193-03; 1193-04; 1193-07; 1193-08 B; 1193-09 B; 1193-10; 1193-11 B  
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, written details and high-quality photographs of the materials to be used in the construction of the external surfaces, 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 in perpetuity.  
REASON: To ensure the development would not detract from the character and appearance of the area, in accordance with Policy D1 of the Maldon District Local Development Plan.
- 4 Full details and specifications of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These landscaping details shall include the layout of the hard-landscaped areas with the materials and finishes to be used together with details of the means of enclosure (fencing and boundaries), car parking layout, vehicle and pedestrian accesses. The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance program. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.  
REASON: To ensure the adequate provision of landscaping to mitigate the impact of the development in the interests of the character and appearance of the area in accordance with Policy D1 of the Maldon District 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 appropriate surface water drainage is available on site in accordance with Policy D2 of the Maldon District Local Development Plan.

- 6 Details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.

REASON: To mitigate the impact of the development in the interests of the character and appearance of the area in accordance with Policy D1 of the Maldon District Local Development Plan.

- 7 Prior to first occupation of the development, the onsite vehicle parking shall be provided as shown in principle on planning drawing 1193/03, this includes a minimum of three off-street parking spaces. Each parking space shall have dimensions in accordance with current parking standards. The vehicle parking areas shall be retained in the agreed form at all times.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 8 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policies D1 and T2.

- 9 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

**REASON:** To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with Policies D1 and T2.

- 10 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway.

**REASON:** To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the Maldon District Local Development Plan.

- 11 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.

- 12 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development under schedule 2, part 1 classes A, B, C, D, E or F shall take place without planning permission having been obtained from the local planning authority.

**REASON:** To protect the visual amenity of the surrounding area in accordance with policy D1 of the approved Local Development Plan and the guidance contained within the National Planning Policy Framework.

- 13 Prior to the first occupation of the building hereby permitted, the first-floor window(s) in the north and south elevations as shown on drawing nos. 1193/10 and 1193/11B shall be glazed with opaque glass and of a non-openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.

**REASON:** To satisfactorily protect the residential amenities of nearby occupiers to comply with Policy D1 of the Approved Local Development Plan.

- 14 The roof area of the single storey flat roof rear extension as shown on drawing nos. 1193/11B and 1193/09B shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.

**REASON:** To satisfactorily protect the residential amenities of nearby occupiers to comply with Policy D1 of the Approved Local Development Plan.

## **INFORMATIVES**

1. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.  
The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:  
SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, CM2 5PU.

2. The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:
  - a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
  - b) no dust emissions should leave the boundary of the site;
  - c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
  - d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store, treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is a requirement for dewatering the site the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

3. Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.

4. The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
5. When a sewage treatment plant or septic tank is installed the applicant must ensure that the plant and receiving watercourse complies with DEFRA's general binding rules. Please note that if the general binding rules cannot be complied with you may need to apply for an Environmental Permit to use the system. Please see [www.gov.uk](http://www.gov.uk) for more information on General binding rules for small sewage discharges.

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding). Alternatively, you can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk).

Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.

6. It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects, it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
15 SEPTEMBER 2021**

<b>Application Number</b>	<b>21/00522/OUT</b>
<b>Location</b>	7 Station Cottages, Hall Road, Southminster, CM0 7EH
<b>Proposal</b>	Proposed new detached two storey dwelling.
<b>Applicant</b>	Mr Danny Townsend
<b>Agent</b>	Mrs Belinda Bowen - Townsend Bowen Ltd
<b>Target Decision Date</b>	20.08.2021
<b>Case Officer</b>	Hannah Dungate
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Not Delegated to Officers as Departure from Local Plan

**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see below.

**7 Station Cottages Hall Road Southminster Essex**  
21/00522/OUT



 MALDON DISTRICT COUNCIL	<b>Copyright</b>	Scale:	1:1,250
	For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014	Organisation:	Maldon District Council
		Department:	Department
		Comments:	Not Set
		Date:	26/08/2021
		MSA Number:	100018588
www.maldon.gov.uk			

### **3. SUMMARY**

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

- 3.1.1 The application site is located south of Hall Road and it forms part of the amenity area of no. 7 Station Cottages. The largest part of No. 7 is within the settlement boundary; however, part of the rear garden is outside of the settlement boundary. The proposed development would be contained mainly within the part of land that is located within the settlement boundary.
- 3.1.2 The existing dwelling is part of a pair of semi-detached properties, with a half-hipped roof and front wall dormers. Access to the site is gained via Hall Road. The site is located immediately adjacent to one of the employment sites of Southminster (east of the site). To the north and west there are residential units, and beyond the dwellings to the north there is also an employment land area. To the south the site abuts a field. Southminster rail station is located 150m away from the site.
- 3.1.3 Outline planning permission with all matters reserved is sought for the construction of one detached two storey dwelling.
- 3.1.4 The outline application procedure allows for applicants to identify specific matters for consideration which includes the principle of development, layout, access, scale, appearance and landscaping. The application has identified that this application is to consider the principle of the development only.
- 3.1.5 The considerations of layout, access, scale, appearance and landscaping would form a subsequent reserved matter application, should outline permission be granted for the proposal. Nevertheless, all material planning considerations are relevant where applicable to this application.
- 3.1.6 Whilst the application is outline with all matters reserved an indicative site plan has been submitted in support of the application alongside indicative floor plans and elevations which show the proposed dwelling would be a detached two storey 3-bed property. It should be noted that although a 3 bedroom property is proposed, this does not confirm a three bedroom property can be accommodated on site at this stage as a number of other factors, to be determined at reserved matters stage, would need to be satisfied i.e. parking number and arrangement.
- 3.1.7 The submitted indicative site plan shows a potential layout in conceptual terms, with an extended shared vehicular access from Hall Road and the property set back within the site. The existing plot would be sub-divided at an oblique angle in line with the existing layout of the plot boundaries.

#### **3.2 Conclusion**

- 3.2.1 The proposed development is considered to represent sustainable development and would assist, albeit marginally, in addressing the current Five Year Housing Land Supply (5YHLS) shortfall. The application site would be able to accommodate a single dwelling in a form that would appear in keeping with the prevailing pattern of

development within the street scene. The site is large enough to provide adequate set-back from the public highway, room for car parking and adequate private amenity space. It would also be possible for a dwelling to be designed on the site to ensure that no harm would occur to the residential amenity of neighbouring occupiers. Furthermore, a financial contribution has been secured in relation to Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and therefore the impact of the development on designated sites can be mitigated. The proposal is therefore in accordance with the policies set out within the Local Development Plan (LDP) and the guidance contained within the National Planning Policy Framework (NPPF).

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

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

##### **4.1 National Planning Policy Framework 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
- 78-80 Rural Housing
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

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

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) SPD

- Maldon District Vehicle Parking Standards (VPS) SPD

## 5. **MAIN CONSIDERATIONS**

### 5.1 **Principle of Development**

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

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

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

5.1.4 *"For decision taking this means:*

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

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

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

*Footnote 7 - 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).*

5.1.5 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).

- 5.1.6 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'.
- 5.1.7 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.
- 5.1.8 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.
- 5.1.9 Paragraph 78 of the NPPF states that:
- 5.1.10 *"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."*
- 5.1.11 The application site is partially located within the defined settlement boundary of Southminster which is classified as a "larger" village within the district which has limited access to services, facilities and public transport. There is a local train station located 150m away from the application site, which is on a major branch line from Shenfield to Southend. Adequate public footpaths are located immediately adjacent to the application site which is within walking distance of public transport as well as Southminster High Street, which is located 0.6km away. In light of the above, notwithstanding further assessment below, when considering the sustainability credentials of the site, it is considered that the provision of residential housing within a predominantly residential location would be acceptable in principle.



5.1.12 As such, having regard to the Council not being in a position to demonstrate a 5YHLS, the 'tilted balance is engaged in respect of the assessment of this application as set out at paragraphs 5.1.3-5.1.6 above.

## **5.2 Housing Mix**

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new 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 Maldon District Local Housing Needs Assessment (LHNA) (2021) is an assessment of the 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 Planning Practice Guidance, 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 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.
- 5.2.5 As part of the application, indicative floor plans have been provided showing that the proposed property would have three-bedrooms. Although this information is only indicative at this stage, it is clear from the information provided that the proposal would meet the Council's identified need for a range of smaller dwellings, of which 3 bedroom dwellings has been recently identified which would weigh in favour of the scheme. Notwithstanding, the application is for consideration of the principle only. Paragraph 3.1.6 above identifies that other factors would need to be taken into account in any final determination of the number of bedrooms (i.e. parking provision) which is for consideration at reserved matters stage should the application under consideration be supported.

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

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

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

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

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

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

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

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

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



- 5.3.6 This application is outline with all matters reserved and therefore access, layout, scale, landscaping and appearance are not for consideration as part of this application. However, the application makes clear the quantum of development sought and an indicative site plan, and elevations, have been submitted in support of the proposal. It is therefore necessary to assess whether the proposal is appropriate for the site and surrounding area, having regard to the indicative plans submitted.
- 5.3.7 The surrounding street scene is urban in character due to the presence of residential development and an industrial site; as such the development of this site for a single residential dwelling would not be out of character for the area or existing grain of development. Hall Road comprises properties of mixed design and as such the street scene does not have prevailing character of development. The properties on the southern stretch of this road, immediately adjacent to the application site, are pairs of semi-detached dwellings which have generous settings and spacing between them. The application site also provides a buffer between the residential properties and the industrial site. The introduction of a new house on the site would erode the spacious layout of development on this side of Hall Road and would not be in keeping with the existing semis. However, given that on the opposite side of the road there are a mixture of semi-detached and detached dwellings in narrow plots in close proximity to each other, on balance, it is not considered that a detached two storey property would be so harmful to the existing grain of development in the area to warrant refusal of the application. Although indicative at this stage, the plans show that the proposed house would be set back within the site and would respect the existing building line of properties on this side of Hall Road. The site is large enough to provide adequate set-back from the public highway, room for car parking and adequate private amenity space.
- 5.3.8 Overall, it is therefore considered that the site is of a sufficient size and position within the street scene to enable the erection of a dwelling without harm to the character and appearance of the area. Full details of the design and layout of any dwelling would be considered at the reserved matters stage.
- 5.3.9 It is noted that a Grade II listed building is located opposite the site. The Specialist – Heritage and Conservation has been consulted and has advised that the proposal, given that it would be on the opposite side of the road and similar in form and scale to the adjacent houses, would result in no harm to the setting or significance of No. 8 Hall Road as a Grade II listed building.

#### **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 is outline in nature with all matters reserved. Therefore, at this stage it is not possible to undertake a detailed assessment of the impact of the proposal on residential amenity as all plans submitted are indicative only. However, it is possible

to undertake a broader assessment based on the information that has been submitted.

- 5.4.3 The development would result in one new residential dwelling within an area that is residential in nature and therefore the proposed development is compatible with its wider surroundings in terms of use.
- 5.4.4 The application site is surrounded by existing residential dwellings to the south. The majority of these dwellings are two storey properties. The indicative plan shows the dwelling would be two storey and would be positioned over 2m away from the existing property No. 7 Hall Road. Due to the indicative positioning of the proposed property, it would be projected beyond No. 7 by approximately 3.3m in depth. Whilst the positioning of the property is only indicative at this stage, due to the sufficient separation distance between the properties, it is not considered that the development would result in an unacceptable impact, by way of overshadowing or domination to this neighbour.
- 5.4.5 The plans show that first floor windows would be proposed within the flank elevation of the proposed property, facing No.7. However, these windows are shown indicatively to serve a bathroom and stairwell. As such, it would be reasonable to condition these windows to be obscure-glazed only. Based on the indicative plans, there are no concerns in respect of overlooking to this neighbour.
- 5.4.6 Whilst these positions are only indicative, due to the size of the site and given the quantum of development proposed, it is considered that the proposed dwellings could be sensitively located with consideration given to the location of windows, without representing an unneighbourly form of development.
- 5.4.7 It is noted that the site is located adjacent to an existing industrial site which could have an impact on the amenity of the future occupiers, as well as the existing industrial premises, if complaints of nuisance were to arise as a result of the proposed development. The NPPF suggests that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. As such, during the lifetime of the application, a Noise Impact Assessment (NIA) has been submitted to address the concerns raised by Environmental Health in relation to these matters. Having reviewed the NIA (the Report) by Integrated Acoustics Limited dated 27 July 2021, submitted as part of this amended application, the Specialist – Environmental Health has advised that the content appears satisfactory.
- 5.4.8 On this basis, no objection is raised to the proposal, subject to the inclusion of a condition relating to the installation of an acoustic fence between the eastern boundary of the proposal and Hall Road Industrial Estate. The location and extent of the acoustic fencing is identified in Appendix 10 of the Report.
- 5.4.9 Therefore, subject to the above recommended conditions, it is not considered that the development would not represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of D1 of the LDP.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 Within the VPS, properties with 2 and 3 bedrooms require a minimum of two off-street car parking spaces. Limited details have been provided in relation to car parking and the reports above sets out that a final determination would be upon consideration of the reserved matters application. However, given the size of the site, it would appear that sufficient space could be provided to allow sufficient parking provision at both the proposed and existing properties, in accordance with the above standards.
- 5.5.3 Access is not a matter for determination at this stage, however, it is noted that the existing dropped kerb serving No. 7 would be extended to facilitate access to the proposed dwelling. Essex County Council Highways Authority (ECC) were consulted as part of this application and have advised that the extension of the existing dropped kerb will not have an adverse impact on street parking due to the existing parking restrictions on Hall Lane. As such, they have not raised any objections to the proposal subject to relevant conditions.

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

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.6.2 The level of amenity space required for a three or more-bedroom dwelling is 100 square metres. It is considered that the dwelling could be positioned within the site so that there is this level of amenity space and therefore there are unlikely to be objections to the provision of amenity space. Furthermore, sufficient amenity space would remain at the dwelling of No. 7 Hall Road, after the subdivision of the site.
- 5.6.3 The Council's arboricultural consultant has been consulted on this application and has advised that a row of large conifers along the boundary with the industrial area have been felled at the front of the site and the proposal is unlikely to detrimentally impact on the trees that remain within the site. Notwithstanding this, he has advised that new hedge and tree planting as part of a soft landscape scheme would better provide future amenity and provide ecological benefit. Landscaping is not for consideration as part of this submission and this matter would be taken into account in any subsequent reserved matters application. Notwithstanding, a condition

relating to landscaping is recommended to ensure adequate details are submitted at the reserved matters stage

## **5.7 Ecology and Impact on Designated Sites**

5.7.1 The application site falls within the 'Zone of Influence' (Zol) 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.

5.7.2 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 (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

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

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

Test 2 – the integrity test

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

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

5.7.3 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.

5.7.4 The Essex Coast RAMS 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. A suitable signed legal agreement has not been agreed however the full RAMS fee has been paid and therefore the impact of the development can be sufficiently mitigated.

## **5.8 Planning Balance and Sustainability**

- 5.8.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration
- 5.8.2 The key priority within the NPPF, stated at paragraph's 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.8.3 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.
- 5.8.4 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 within the settlement such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal.
- 5.8.5 In social terms the proposal would assist in supporting a strong vibrant and healthy community as the dwelling would be located in an area where there is good access to local services and facilities.
- 5.8.6 In environmental terms the accessible location of the site could offer some environmental benefits, again, as potential occupiers have viable alternative transport and accessibility choices to the use of a private car for access to everyday needs and services. The availability of public transport is also favourable in environmental terms. However, this would need to be balanced against the impact of the development on the surrounding area and any environmental impact that may be caused.
- 5.8.7 Overall, taking this into account, the development is considered to be sustainable, and subject to other considerations, the principle of development would therefore be acceptable.

## 6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
18/00581/OUT	Outline application for a new two storey detached residential building.	Application Closed
02/00244/FUL	Erection of four self-contained flats for persons with living difficulties.	Refused and Appeal Dismissed

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	Recommend approval.	Noted

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	A Habitats Regulations Assessment (HRA) must be undertaken to secure any necessary mitigation.	Noted
Essex Highways (ECC)	Acceptable subject to relevant conditions.	Noted

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions relating to surface water drainage and the erection of acoustic fencing.	Noted
Tree Officer	No objection subject to soft landscaping condition.	Noted

### 7.4 Representations received from Interested Parties

7.4.1 No representations were received for this application.

## 8. **PROPOSED CONDITIONS**

- 1 The development shall be carried out in accordance with plans and particulars relating to the access, appearance, landscaping, layout and scale of the site (hereinafter called "the reserved matters"), for which approval shall be obtained from the local planning authority in writing before any development is begun. The development shall be carried out fully in accordance with the details as approved.  
**REASON:** The application as submitted does not give particulars sufficient for consideration of the reserved matters.
- 2 Application(s) for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.  
**REASON:** To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3 The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.  
**REASON:** To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 4 No works above ground level shall take place until written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.  
**REASON:** In the interest of the character and appearance of the area in accordance with policy D1 of the approved Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
- 5 No works above ground level shall take place until details of the siting, height, design and materials of the treatment of all boundaries including existing hedging, gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The boundary treatment as approved shall be constructed prior to the first occupation of the development to which it relates and be retained as such thereafter.  
**REASON:** In the interest of local amenity and residential amenity in accordance with policy D1 of the approved Maldon District Local Development Plan.
- 6 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
  - 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 1/l/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 the adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the National Planning Policy Framework, and policy D5 of the approved Maldon District Local Development Plan.

- 7 Prior to first occupation, a 2-meter-high, acoustic, close boarded fence shall be erected on part of the eastern boundary of the development identified in red on the approved drawing no. TB/02 contained within the approved Noise Impact Assessment dated 27<sup>th</sup> July 2021. The acoustic fence shall be maintained as such thereafter.

REASON: To satisfactorily protect the residential amenities of the future occupiers and existing industrial premises to comply with Policy D1 of the Approved Local Development Plan.

- 8 The scheme to be submitted pursuant to the reserved matters shall make provision for the car parking of two off-street car parking spaces at both the existing and proposed properties in accordance with the Council's 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.

REASON: To ensure appropriate parking is provided in accordance with the Council's adopted Vehicle Parking Standards, in accordance with policy T2 of the approved Maldon District Local Development Plan.

- 9 The landscaping reserved matters details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the local planning authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard-landscaped areas with the materials and finishes to be used together with details of the means of enclosure (fencing and boundaries), car parking layout, vehicle and pedestrian accesses. The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance program. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed



in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

**REASON:** To ensure the adequate provision of landscaping to mitigate the impact of the development in accordance with Policy D1 of the approved Maldon District Local Development Plan

- 10 No works related to the alteration of ground levels at the site and no works above ground level shall occur until details of existing ground levels and proposed finished ground levels, and their relationship to the adjoining land, and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

**REASON:** In the interests of the character and appearance of the streetscene and the amenity of neighbouring occupiers, in accordance with policies D1 and H4 of the Maldon District Local Development Plan.

- 11 Prior to occupation of the development the existing dropped kerb vehicle crossing shall be extended by no more than 3.6 metres and shall be provided with an appropriate dropped kerb crossing of the footway. The total length of the shared dropped kerb shall be not be more than 7.2 metres in width.

**REASON:** To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan.

- 12 No unbound material shall be used in the surface treatment of the vehicular access

within 6 metres of the highway boundary.

To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan.

- 13 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

**REASON:** To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan.

## **INFORMATIVES**

- 1 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford. CM2 5PU.

- 2 The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
- 3 Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance for Applicants and Developers and UK best-practice guidance.

- 4 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
  - a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
  - b) No dust emissions should leave the boundary of the site;
  - c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
  - d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

- 5 When a sewage treatment plant or septic tank is installed the applicant must ensure that the plant and receiving watercourse complies with DEFRA's general binding rules. Please note that if the general binding rules cannot be complied with you may need to apply for an Environmental Permit to use the system. Please see [www.gov.uk](http://www.gov.uk) for more information on General binding rules for small sewage discharges.
- 6 Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding). Alternatively, you can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk).

Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.

- 7 It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects, it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
15 SEPTEMBER 2021**

<b>Application Number</b>	<b>21/00526/FUL</b>
<b>Location</b>	Appleberry By The Gables, Stoney Hills, Burnham-On-Crouch, Essex, CM0 8QA
<b>Proposal</b>	Demolition of existing dwelling and outbuildings and erection of 8 single storey dwellings with associated cart lodges, parking, access and landscaping
<b>Applicant</b>	Lauren Nicole Homes Limited
<b>Agent</b>	Mrs H Webb - Smart Planning Ltd
<b>Target Decision Date</b>	17.09.2021
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Development Plan 2014 – 2029 Member Call In Councillor V J Bell has called in the application for the following policy reasons: LDP policy H4 (replacement dwellings), D1(c),(d). BTC NDP policy HO2

**1. RECOMMENDATION**

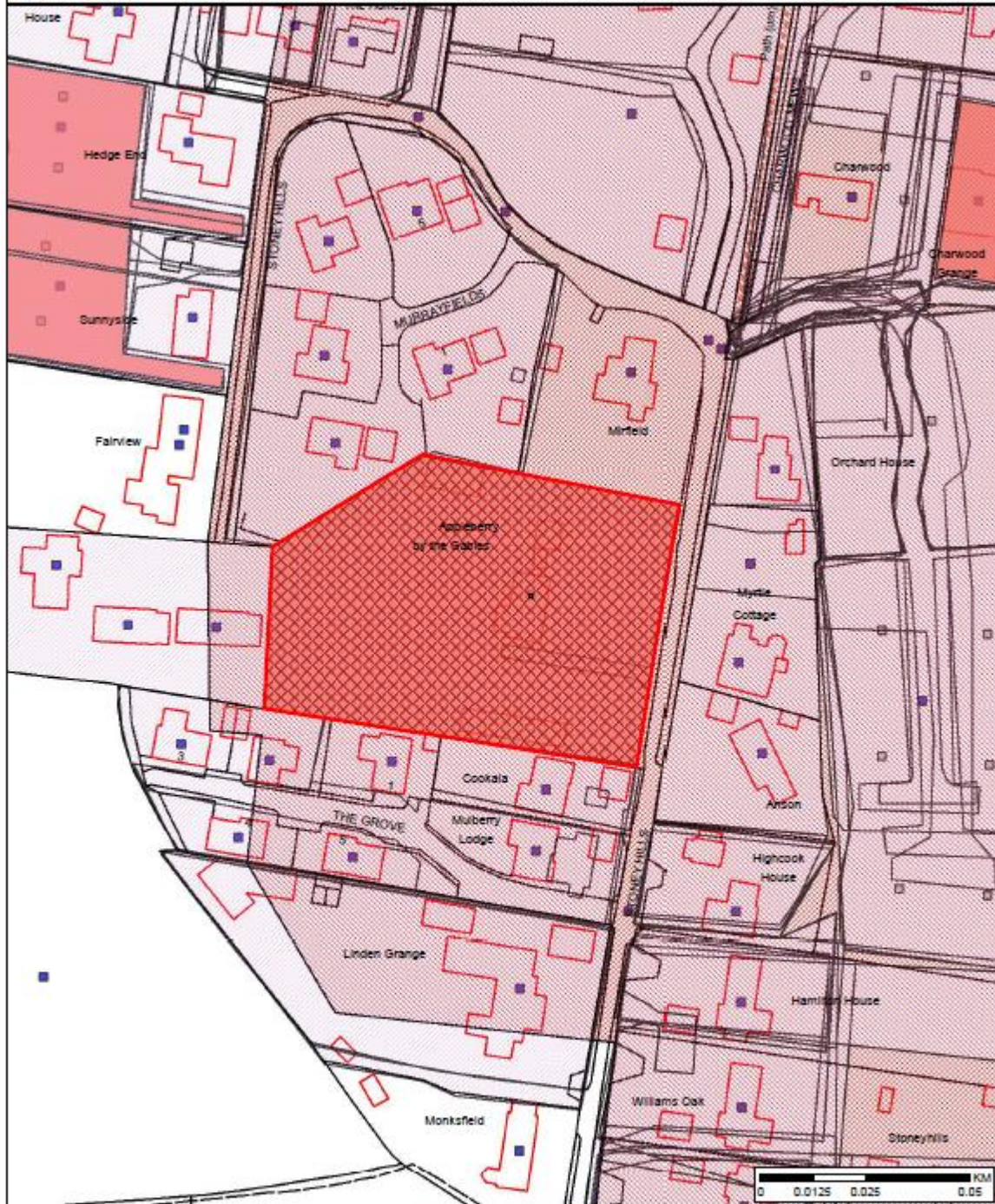
**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy and subject to conditions as detailed in Section 8.


**2. SITE MAP**

Please see below.



**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**21/00526/FUL**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	21/08/2021
	MSA Number:	100018588
<a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a>		

### **3. SUMMARY**

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

- 3.1.1 The site is located almost centrally to the area of Stoney Hills, abutting Grove Farm to the south, Mirfield and Murreyfields to the north and Stapleton to the west. Myrtle Cottage and Anson are located to the east of the site. The site is approximately 0.56 hectares in size and it is currently occupied by a single detached chalet style dwelling.
- 3.1.2 Stoney Hills is located outside of the settlement boundary of Burnham-on-Crouch and comprises of mainly large detached dwellings. The area has been the subject of many redevelopment proposals over recent years which have changed its character, from a rural environment to a more suburban setting with properties accessed by cul-de-sacs. The properties within the wider area are mainly individual detached two storey dwellings, chalet style dwellings and bungalows which vary in terms of style, scale and form. The changed nature of the area has been recognised by planning Inspectors in forming their decisions on planning appeals in the area.
- 3.1.3 This application proposes the demolition of the existing dwelling on the land known as Appleberry by the Gables, and the construction of eight single storey detached dwellings with associated parking, access and landscaping. It should be noted that the original submission of this application involved the erection of nine dwellings with associated cart lodges. Following discussions with officers the cart lodges have been removed from the proposal and the number of dwellings reduced to eight, with resultant changes to the layout of the development.

#### **Description of Proposal**

- 3.1.4 A new road would be formed onto the site off Stoney Hills creating the Cul de Sac layout around which the proposed dwellings would be arranged. The access road would be perpendicular to the highway, orientated to its west and then a further; minor spur northwards to provide access to plots 6 and 8. Plots 1,2 and 3 will have direct access onto Stoney Hills.
- 3.1.5 Three different types of dwellings are proposed, details are as follows:

Dwelling type	Plots	Dwelling details	Amenity space
Type 1	4	Two bedroom bungalow with an L-shape and hipped roof, measuring 12.8m deep, a maximum of 9.1m wide, 2.3m high to the eaves, with a maximum height of 6.1m. The dwelling will be fronting the new access road. Two parking spaces are proposed to the west the dwelling.	289sqm
Type 2	1, 2, 3 & 7	Two bedroom bungalow, with hipped roof and projections to front and rear, measuring 13m wide, 11m deep, 2.3m high to the eaves, with a maximum height of 6.1m. Plots 1-3 will be fronting Stoney Hills, while plot 7 will be orientated with its front elevation facing west, towards the access road. All properties will be served by two parking spaces.	217sqm, 245sqm, 284sqm & 257sqm
Type 3	5, 6 & 8	Two bedroom bungalow with an L-shape and hipped roof, measuring 12.4m wide, a maximum of 11.1m deep, 2.3m high to the eaves, with a maximum height of 6.1m. The dwelling will be fronting the new	370sqm, 284sqm & 181sqm

		access road. All properties will be served by two parking spaces and will be fronting the proposed access road.	
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- 3.1.6 It is noted that a number of documents accompany the application, including a Planning Statement, a Drainage Strategy, a Tree Survey and Report, a Preliminary Ecological Appraisal, a Geo-environmental Desktop Study, an Arboricultural Method Statement and Tree Protection Plan and an Arboricultural Implication Assessment.

### **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against the policies in the Local Development Plan and has taken into account all material planning considerations, including the previous permissions and appeals for similar types of residential development allowed within the Stoney Hills area. On this basis, it is considered that the principle of erecting eight dwellings within this area of Stoney Hills is acceptable. Having regard to the ambient and established character of the surrounding development to the site, the proposal would not have a discordant impact on the area or the intrinsic beauty of the wider countryside surrounding the developed area. No objection is raised in relation to the impact of the development on residential amenity or parking provision. Appropriate conditions would ensure any land contamination mitigation, a number of trees will be preserved, and ecological protection and enhancement will be secured. The development is therefore considered to be acceptable, sustainable and in accordance with the aims of the development plan and the National Planning Policy Framework (NPPF).

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 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 – 57 Planning conditions and obligations
- 59 – 79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S6 Burnham-on-Crouch Strategic Growth
- S8 Settlement Boundaries and the Countryside



- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

#### **4.3 Burnham-on-Crouch Neighbourhood Development Plan (7<sup>th</sup> September 2017):**

- Policy HO.1 – New Residential Development
- Policy HO.2 – Range and Type of New Residential Development
- Policy HO.8 – Housing Design Principles
- Policy EN.7 - Waste Bins Storage

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Council is required to determine planning applications in accordance with its LDP unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)), and through Government policy, at paragraph 47 of the NPPF.
- 5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).
- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with footnote 7, of the NPPF which states:

*“For decision making this means:*

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

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

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

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

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (*the ‘presumption’*) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37)
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s *‘presumption in favour of sustainable development’* applies. However, where the development plan is *‘absent, silent or relevant policies are out-of-date’*, planning permission should be granted *‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’*.
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF’ the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.
- 5.1.8 Paragraph 78 of the NPPF states that:

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

- 5.1.9 The application site is located outside of the defined settlement boundary of Burnham-On-Crouch, a town that is classified as one of the ‘*main settlements*’ within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside is assessed below as well as whether the development constitutes sustainable development.
- 5.1.10 Burnham-On-Crouch is a main settlement which contains a range of services and opportunities for employment, retail and education and serves a wide catchment area, with good public transport links. It is noted that the site is within the Stoney Hills area which lies to the north of the main Burnham-On-Crouch settlement. The nearest bus stops lie along Southminster Road, which would take approximately 15 minutes to walk. These bus stops provide services to Maldon and into Chelmsford, where there is a wide range of facilities and trains to London. The 31X and 31B, which are the most frequent bus services between Burnham-On-Crouch and Chelmsford, run between 05:50 and 23:10, leaving Chelmsford and 05:58 and 20:23 leaving Burnham-On-Crouch, on weekdays, with similar hours on Saturdays and a reduced service on Sundays and public holidays. Burnham-On-Crouch train station is located a half an hour walk away, which also provides services into Chelmsford and London. It is noted that the road leading to Stoney Hills is an unmade, unlit track, however a number of new dwellings that have been approved in the area in recent years, some on appeal (this is discussed further below) acknowledge that whilst the local highway is not adopted and provides no dedicated facilities for pedestrians, the area is considered to be in an accessible location and therefore supports the direction of the NPPF which aims to focus growth within sustainable locations offering a choice of transport modes (walking and cycling routes) to public transport facilities. It has also been acknowledged that the character of the area has evolved over time, so it is no longer an area of loose knit, scattered residential development but more akin to a suburban residential area.
- 5.1.11 In a recent appeal decision in Stoney Hills, concerning the demolition of an existing dwelling and the erection of three dwellings (Stapleton, Stoney Hills, Burnham-On-Crouch CM0 8QA - Appeal Ref: APP/X1545/W/18/3207171, dated 8 May 2019) the Inspector in relation to the character of the area stated *“in recent years a number of planning permissions have been approved for new housing development within these large plots, built around shared access driveways. Examples of these include new housing developments at: Mirfield (Council Reference:14/00224/OUT, allowed on appeal); the Hollies (Council References: 16/00408/FUL and 16/00849/OUT); Hilcrest (Council Reference: 16/00196/OUT); and Sunnyside (Council Reference:17/00735/OUT). A number of these new developments have been carried out and I observed during my site visit that the character of the area has changed from a rural one to more suburban residential character. I also observed that house sizes, design and styles vary considerably within the area.”*
- 5.1.12 A similar approach was taken by another Inspector assessing a proposal for the erection of two dwellings at Hedge End (Appeal Ref: APP/X1545/W/18/3198533, dated 28 September 2018) where it was stated that *“The area’s character appears to have changed gradually from a more rural and scattered environment as a result of development of single dwellings or groups of dwellings. The existing pattern of development across Stoney Hills includes detached bungalows and two-storey houses, some of which are sited in larger plots and others are located in cul de sacs off the main road through the area. The design, size and appearance of houses and bungalows throughout Stoney Hills varies considerably”*
- 5.1.13 Two other relevant appeal decisions are 15/00445/OUT - APP/X1545/W/16/3147227 and 15/01082/OUT - APP/X1545/W/16/3147572. Within these, the Inspector states *‘Although the appeal sites are outside the development boundary of Burnham-on-*

*Crouch I consider them to be within a residential area. Based on the evidence before me and my observations during my visit to the area I also agree with previous Inspectors that Stoney Hills is a sustainable location for development. Moreover, I have not identified any harm in respect of character and appearance arising from the proposed developments...however, as stated I conclude that the location of the proposed developments would be suitable and sustainable, and no harm has been identified in terms of character or appearance. Further, although providing only a small number of dwellings, the proposals would make a contribution to the supply of housing to which I attach significant weight. They would also provide small scale units which is also policy compliant in terms of mix. They would therefore conform with paragraph 54 of the Framework which requires local planning authorities to respond to local circumstances and for housing to reflect local needs. As such I consider the proposals would meet the three dimensions.'*

- 5.1.14 It is noted that a similar stance has been taken within the following appeal decisions in the area of Stoney Hills; 15/00108/FUL (APP/X1545/W/15/3134072), 15/00402/FUL (APP/X1545/W/15/3134076) and 15/00420/FUL (APP/X1545/W/15/3134078), 15/00978/OUT - APP/X1545/W/16/3146160, 16/00196/OUT - APP/X1545/W/16/3157183, 16/00408/FUL - APP/X1545/W/16/3161178, 17/00752/OUT - APP/X1545/W/17/3187513, 17/01107/OUT - APP/X1545/W/17/3192426 and 18/00895/FUL - APP/X1545/W/18/3211805. Furthermore, it must be noted that costs were awarded against the Council for appeals APP/X1545/W/18/3211805, dated 2 May 2019 - 18/00895/FUL (Land North of Hillcrest) and APP/X1545/W/17/3187513, dated 28 September 2018 - 17/00752/OUT (Land South of Charwood, which is to the southeast of the application site), as it was considered that the refusal of the planning application was grounds for unreasonable behaviour.
- 5.1.15 Having regard to the abovementioned appeal decisions and many others that have been previously allowed and some of them implemented, it is considered that the acceptability of the principle of additional residential accommodation in the area of Stoney Hills has been established. The application site is clearly contained within a residential enclave and would not represent sprawl into the open countryside. For the reasons stated, it is considered the introduction of dwellings in this location is acceptable.
- 5.1.16 According to policy H4 'Backland and infill development' will be permitted if all the following criteria are met:
- 1) *There is a significant under-use of land and development would make more effective use of it;*
  - 2) *There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;*
  - 3) *There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and*
  - 4) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*
- 5.1.17 Whilst it is not considered the site is currently significantly underused, it is recognised that the construction of additional dwellings in this large infill plot would represent a more effective use of the land and be more compatible with the established pattern of development in the area. The proposal would not result in the loss of land which is of local, social, economic, historic or environmental significance and the site is not known to host any important landscape, heritage features or ecological interests. Given the location of the site within the developed area of Stoney Hills, the density of

the development proposed and the single storey nature of the development, no concerns are raised with the application at this stage.

- 5.1.18 On the basis of the above assessment, the principle of the proposed development is considered acceptable. Other material considerations relating to the impact of the development on the character of the countryside, the living conditions of the future and neighbouring occupiers, highways issues and ecology are assessed below.

## **5.2 Housing Need and Supply**

- 5.2.1 Following a number of recent amendments to the national policy and guidance, the Council has recently reviewed its housing needs evidence to inform the LDP. For market housing the evidence shows a need for 25-35% two-bedroom dwellings, which is the second highest need of all different property sizes. The proposed development would therefore support the supply of two-bedroom dwellings that is currently in need in the district. It is therefore considered that the net gain of seven dwellings (considering that the existing dwelling on site would be demolished) would weigh in favour of the proposed development.

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

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

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

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

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

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;

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

- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the

sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.3.6 Appendix 2 in conjunction with policy HO.8 of the Burnham-on-Crouch Neighbourhood Plan highlights the housing design principles. In particular, principle NHD.9 states that *“The design of new homes in the area should reflect the materials, forms and scale of traditional local buildings. Sensitive modern interpretations of the local vernacular are encouraged, and the town centre conservation area provides many high quality examples of local forms”*.
- 5.3.7 The application site lies outside the defined settlement boundaries. 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. It should also be noted that planning decisions must also have regard to any material considerations relevant to the application under consideration. Relevant material considerations have been stated above under paragraphs 5.1.11 and 5.1.14
- 5.3.8 The site is located outside the defined settlement boundaries of the District, but centrally located within the residential area of Stoney Hills, abutting recently developed and recently approved (to be developed) housing sites to the south, west and further to the north and northeast of the subject application site. It is therefore considered that the site is clearly delineated as part of the wider Stoney Hills area and its visual and physical association is with the neighbouring properties rather than the open countryside. On that basis, it is considered that the development would not result in demonstrable harm through development sprawling into the visual amenity of the open countryside.
- 5.3.9 The development proposes a new road off Stoney Hills to provide access to five out of the eight dwellings proposed on site. As noted above suburban style developments, in a form of small cul de sacs are characteristic of the Stoney Hills area, as it has evolved in recent years. Therefore, the proposal is consistent with the built pattern in the area.
- 5.3.10 The character of Stoney Hills has significantly changed over the recent years as planning permissions have been granted or appeals upheld on a number of sites within the wider area around the application site, so that the area is no longer characterised by scattered development. The changes that have occurred over time have led to a less homogeneous appearance across the area. Instead of the original single dwellings in large plots, a number of groups of dwellings have been recently built and are under construction, notably at land west of Mirfield, the three dwellings permitted at The Hollies, the development of six bungalows recently erected to the rear of Charwood and the seven dwellings immediately adjacent to the south of the application site at Grove Farm. As such, the proposed dwellings currently proposed would not be out of keeping with this mixed character of the wider area.
- 5.3.11 The density of the development following the reduction of the number of dwellings to eight would be 14.3 dwellings per hectare. This is less than the density of the approved development to the south at Grove Farm, which is 16.6 dwellings per hectare. Overall, taking into consideration the evolved character of Stoney Hills, although the development would intensify the residential use of the site, it would be

of an appropriate density which would be comparable to other development in the vicinity. It is therefore considered that the development would not represent an overdevelopment of the site and no objection would be reasonably raised in that respect.

- 5.3.12 In terms of layout, the proposed development would result in eight two-bedroom bungalows with sufficient gaps between them and landscaped front gardens so as not to appear cramped. Moreover, following amendments, the number of the dwellings proposed has been reduced and this has a relatively consistent building line fronting Stoney Hills that largely follows that of the existing dwellings to the north and south of the site. The dwelling on plot 1 would sit slightly behind the dwelling at Mirfield, whilst the dwelling on plot 3 would be marginally forward of the adjacent dwelling at Grove Farm. However, the latter has a garage that sits closer to the highway and thus, the projection of the dwelling on plot 3, taking also into consideration its single storey nature be read in context of those existing buildings on the adjoining sites so as to not appear inconsistent or dominant. The dwellings on plots 1 to 3 would be fronting the highway, while the rest of the dwellings would be fronting the proposed access road, which is considered acceptable. The overall cul de sac arrangement is common in the area of Stoney Hills and thus, the layout of the development would be appropriate and in keeping with the character of the area.
- 5.3.13 With regard to the design of the proposed bungalows, it is noted that they would be of a simple however, not unattractive appearance. Features such as gable projections would be incorporated to all dwellings, as well as, large fenestration and stone window sills to add architectural interest. Although there would be three different design types, the single storey scale, consistent ridge and eaves line, form and proportions maintains a uniformity in character of the group. The entrances of the dwellings would be well defined, fronting the service road and highway with partially front landscaped gardens that soften the appearance of the development. Off-street parking would be provided mainly along the side of the dwellings.
- 5.3.14 Overall the dwellings would be of similar appearance to some of the dwellings recently approved and are currently under construction to the south of the application site, at Grove Farm. Therefore, the development would be in keeping with and maintain the character and appearance of the wider area.
- 5.3.15 Materials to be used would include brown, pewter and grey weatherboarding and Ivanhoe Westminster brickwork to the external walls, with fibre cement blue/black and sandtoft double pantile roof tiles to the roofs. Similar materials are broadly used to the external elevations of the dwellings within the surrounding area in Stoney Hills and therefore, the development would not appear at odds with the existing appearance of the development in the locality.
- 5.3.16 As noted above, the character of the dwellings within the wider area broadly varies and thus, the development would not appear out of place or detrimental to the character and appearance of the streetscene. As a result, it is considered that the development would sit comfortably within the application site and it would be compatible with its surroundings.

## **5.4 Impact on Residential Amenity**

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

- 5.4.2 The application site is surrounded by residential dwellings to all boundaries. The proposed development would result in increased levels of activity, by reason of the increased number of dwellings on site. However, on balance, it is not considered that the development would have a harmful impact on the existing residential amenity of neighbouring sites in terms of noise and disturbance, given that compatible residential uses are also proposed and exist in the area.
- 5.4.3 The dwelling on plot 1 would be located 1 metre away from the northern boundary with Mirfield; however, a 22.4 metres separation distance would be maintained to the dwelling on this site. It is therefore, considered that this separation distance is sufficient to prevent the development appearing cramped with the existing neighbour, and together with its single storey nature and low eaves height would prevent any overshadowing or overdominance. The proposed layout would mitigate any overlooking (in addition to boundary fencing).
- 5.4.4 The dwelling on plot 7 is also located in close proximity to the northern boundary; however, there will be an approximate 15.4 metres distance to the neighbouring property to the north. Similarly, the dwelling would be sited around 18m away from the neighbouring dwelling to the west. Taking into account the separation distance and single storey nature of the development, it is not considered that the proposal would result in a materially harmful impact on the amenity of the neighbouring properties to the north and west.
- 5.4.5 A minimum of 12.3 metres separation distance to the western boundary would be maintained from dwelling on plot 6. This is a sufficient separation distance to mitigate against overbearing or overshadowing impacts.
- 5.4.6 The dwelling on plot 5 would be located 7.1 metres and 8.2 metres away from the boundaries to the west and south respectively. Whilst this is not a significant distance of separation to boundary, given the limited height of the development and lack of first floor windows, it is considered that the impact of the development would be limited and not materially harmful to the residential amenity of the neighbours, by way of loss of light or sense of enclosure, to warrant refusal of the application on those grounds.
- 5.4.7 The distance of plots 3 and 4 to the southern boundary would be a minimum of 6.3 metres. Taking into account the single storey nature of the development, it is considered that the proposal would not result in an overbearing or overlooking impact to the neighbours to the south. Furthermore, due to the orientation of the site, the development would not result in overshadowing.
- 5.4.8 When considering the interrelationship of the dwellings proposed, it appears that sufficient distance would be retained between the properties and their positioning within the plots is such that no adverse impacts are expected to be caused by way of overshadowing or sense of enclosure. Furthermore, the development would be single storey in its entirety and thus, there would be no material levels of overlooking.
- 5.4.9 For the reasons stated above, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard



to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.5.2 Access to the site would be gained off Stoney Hills. Three of the properties, on plots 1 to 3 will be accessed directly from Stoney Hills, while a new private access would be formed to provide access to the dwellings within the western part on the site. The development would provide sufficient turning facilities within the site and as such, no adverse impact onto the existing network or highway safety are raised.
- 5.5.3 The dwellings will have two bedrooms and therefore two parking spaces are required. Two parking spaces on each plot measuring the required bay size of 2.9 metres by 5.5 metres would be provided. Therefore, there are no objections in terms of parking provision. A condition will be imposed to ensure the parking spaces will be set out and retained as such in perpetuity.

#### **Private Amenity Space and Living Conditions of the Future Occupiers**

- 5.5.4 Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable. In addition, the adopted Maldon Design Guide SPD which was adopted to support its policies in assessing applications for residential schemes advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.5.5 The garden area of all proposed dwellings will exceed the minimum amenity space requirements as set out in the MDDG SPD. Each dwelling would have a garden measuring over 181sqm and therefore, there are no objections in relation to amenity space provision.
- 5.5.6 The dwellings will be served by windows which would provide adequate light, outlook and ventilation to all habitable rooms. A good level of accommodation would be provided for the future occupiers and on that basis, it is considered that the development would provide a good level of living environment to the future occupiers

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

- 5.6.1 The application site falls within the 'Zone of Influence' for one or more of the European Designated Sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive features of these coastal European Designated Sites, through increased recreational pressure etc.
- 5.6.2 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 the HRA Stage 1: Screening Assessment are listed below:

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

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

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

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

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

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

5.6.3 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 impact on the integrity of the European sites from recreational disturbance, when considered in combination with other development. NE does not need to be re-consulted on this Appropriate Assessment.

5.6.4 It is noted that the Essex Coast RAMS is an adopted document. A flat rate tariff of £127.30 per new dwelling is identified within the submitted Coastal Recreational Avoidance and Mitigation Strategy as the contribution to mitigate the impact of a new residential property. The agent has submitted a legal agreement to secure the abovementioned contribution, which is to be checked by the legal team. Therefore, should this be forthcoming the impact of the development will be considered to be mitigated. An update in this respect will be provided within the Members' Update.

## **5.7 Other Material Considerations**

### Contamination

5.7.1 Policy D2 of the Approved Maldon District Local Development Plan (MDLDP) states that where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source. The application is supported by a Geo-Environmental desk study and preliminary assessment, which concludes that no potential sources of contamination were found and the environmental sensitivity of the site is classified as low. The Environmental Health team has been consulted and advised that historic maps suggest that gravel pits at Stoney Hills extended as far south as to include the site currently occupied by Appleberry By The Gables. For that reason and due to the uncertainty of the locations of these gravel pits and the content of the infill ground, it is suggested that conditions requiring further investigation are necessary to be imposed. On that basis, the suggested conditions will be imposed.

### Drainage Strategy

5.7.2 The application is accompanied by a Surface and Foul Drainage Strategy. The Environmental Health team is satisfied that the drainage strategy is suitable and recommended conditions to ensure its implementation. However, it is noted that the strategy relates to the development as originally proposed (nine dwellings) and thus, it is considered that a revised Drainage Strategy should be submitted to be approved by the LPA. It is not considered, however, that the details would be materially different than what has been found to be satisfactory.

## Ecology and trees

- 5.7.3 The site is largely vegetated including young and mature trees and hedgerows along the boundaries. The application is supported by a Tree Survey and Constraints Plan as well as an Arboricultural Method Statement and Tree Protection Plan. The Tree survey identified a number of category B and C trees and no category A trees. There are also a couple of U category trees. From the submitted Tree Protection Plan, it appears that the majority of the hedgerows along the north, south and west boundaries will be retained; however, the hedgerow along the boundary with the highway will be removed. There are also a number of trees adjacent to these boundaries which are proposed to be retained. The rest of the trees within the site would be removed to accommodate the development. At present no response from the Tree Consultant has been received. On the basis of the information provided and in the absence of an expert advice, it is considered that although a number of trees would have to be removed to construct the proposed development, none of the trees on site is of high quality or value and the majority of the trees that are of moderate quality and value (category B) will be retained. It is therefore considered that the removal of the identified trees on the site is acceptable and this element of the proposal would not be sufficient grounds on which to warrant a refusal of the application on those grounds. Furthermore, appropriate conditions would be imposed to secure the protection of the identified trees in accordance with the Tree Protection Plan submitted and provide appropriate enhancements to landscaping of the site. Should a response from the Tree Consultant be received this will be taken into account and included in the Members' Update or verbally addressed at the committee meeting.
- 5.7.4 A Preliminary Ecological Appraisal Incorporating a Bat Survey Inspection has been submitted with the application. The survey and inspection carried out identified that the existing buildings provide a negligible level of bat roosting potential and no bats have been identified on site. It is possible though that bats use the site to commute and forage and for that reason, it has been advised that the boundary hedgerows, with the exception of the hedgerow along the eastern boundary, and trees are retained. A lighting scheme is also recommended. In terms of enhancement measures integral and tree mounted bat boxes are suggested to be installed in the new buildings, along with new planting. General appropriate precautionary measures for the construction phases to protect potential badgers and other reptile species, that were not identified on site, are proposed. Further ecological enhancements in relation to nesting birds are included in the assessment. Overall the Preliminary Ecological Appraisal suggests that the development can proceed without adverse impacts upon legally protected species and habitats. The Ecological Consultant has reviewed the submitted information and raised no objection, subject to the imposition of conditions to secure the mitigation and enhancement measures, as well as an appropriate lighting scheme. Conditions have been imposed accordingly.

## **5.8 Sustainability and Planning Balance**

- 5.8.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.8.2 The key priority within the NPPF, stated at 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.

- 5.8.3 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the harm identified (if any) arising from the proposed development.
- 5.8.4 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional units will potentially support local businesses within Burnham-On-Crouch such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Any economic benefits would therefore be considered nominal.
- 5.8.5 In social terms the proposal would provide some support towards a vibrant and healthy community as the dwellings would be located adjacent to Burnham-On-Crouch where there is access to local facilities, however this is limited, as mentioned in section 5.1, the occupiers of the site would still be reliant on private cars due to the distance between the site and Burnham-On-Crouch town centre and public transport routes. The dwellings proposed have 2 bedrooms and therefore provide some benefits towards the housing mix.
- 5.8.6 In environmental terms, whilst there are public transport links along Southminster Road, due to the location of the site along a private unmade and unlit road with no footpath, it is not likely that the use of private cars will be decreased.
- 5.8.7 It is noted that, as outlined in section 5.1, Inspectors have found the Stoney Hills area to be suitably accessible and sustainable and a suitable area for new housing. It is also considered that the fact it contributes towards the housing mix and the Council's targets on housing supply would weigh significantly in favour of the proposal and therefore the development can be found sustainable.

## **5.9 Pre-Commencement Conditions**

- 5.9.1 Three pre-commencement conditions are recommended and approval for the use of these conditions is to be agreed by the applicant's agent.
- 5.9.2 The consultation response from the Environmental Health Team has indicated that the area in this part of Stoney Hills is part at risk of land contamination and pre-commencement conditions regarding the submission of an investigation and risk assessment and a remediation scheme thereafter if contamination is found on site were requested. These conditions are necessary to be submitted prior to the commencement of the development and any ground works, given that they go to the heart of the permission and that their findings would affect the acceptability of the proposed development. Any investigation would effectively have to be carried out prior to the implementation of the development. Furthermore, a condition requiring the submission of details of the Construction Method Statement is considered necessary to be submitted prior to the commencement of the development and any ground works, given that vehicles would be required to be parked on site during works below ground level. It is also reasonable that materials would have to be stored on site prior to the construction of the development.
- 5.9.3 As a result, it is considered reasonable that the abovementioned conditions are required to be addressed prior to the commencement of the development.

## 6. ANY RELEVANT SITE HISTORY

### 6.1.1 The relevant planning history is set out below:

#### **19/03083/PREAPP** - Residential development (*Wider area*)

- **15/00978/OUT** - Land Rear Of Charwood Stoney Hills - Outline planning permission for a proposed development of 4no. two bedroom bungalows. – REFUSED [22.12.2015] – APPEAL ALLOWED [19.10.2016]
- **15/00718/RES** – Land Adjacent Charwood Stoney Hills - Reserved Matters application for the approval of appearance, landscaping and layout for the erection of one new dwelling. Following Approved Outline Planning Permission OUT/MAL/14/01049 - APPROVED [18.09.2015]
- **14/01049/OUT** – Land Adjacent Charwood Stoney Hills - One new dwelling - APPROVED [16.01.2015]
- **13/00674/OUT** – Land Adjacent Charwood Stoney Hills - Erection of one new dwelling - REFUSED [01.10.2013]
- **17/00103/OUT** – Land Rear Of Charwood Stoney Hills - Proposed development of two bungalows - APPROVED [11.04.2017]
- **14/00610/FUL** – Land Adjacent Myrtle Cottage Stoney Hills - Proposed new dwelling house - APPROVED [22.09.2014]
- **12/00775/FUL** – Myrtle Cottage Stoney Hills – New dwelling house – APPROVED [08.11.2012]
- **14/01152/OUT** – Land South Of Anson Stoney Hills - Two storey dwelling of an area of 232 square metres or 2500 sq feet – APPROVED [12.02.2015]
- **15/00839/RES** - Land South Of Anson Stoney Hills - Reserved Matters application for the approval of appearance, landscaping, layout and scale for a two storey dwelling of an area of 232 square metres or 2500 sq feet. Following approved outline planning permission OUT/MAL/14/01152 – APPROVED [12.10.2015]
- **14/00662/FUL** – Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – REFUSED [02.09.2014]
- **14/00956/FUL** – Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – APPROVED [12.02.2014]
- **12/01038/OUT** – Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – APPROVED [12.03.2013]
- **15/00420/OUT** – Land Opposite Linden Lea Stoney Hills - Outline application for one dwelling including determination of access – REFUSED [02.09.2014] APPEAL ALLOWED [21.07.2016]
- **16/01187/RES** – Land Opposite Linden Lea Stoney Hills - Reserved matters application for the approval of appearance, landscaping, layout and scale OUT/MAL/15/00420 – APPROVED [22.12.2016]
- **15/00445/OUT** – Outline application for one dwelling including determination of access – ALLOWED ON APPEAL [31.10.2016]
- **15/01082/OUT** – Outline application for the erection of five bungalows in lieu of existing commercial and agricultural buildings. ALLOWED ON APPEAL [31.10.2016]
- **16/00418/OUT** – Land to the rear of Sunnyside - Demolition of existing garage and erection of two dwellings on land to the west of Sunnyside and associated access from Stoney Hills. ALLOWED ON APPEAL [05.06.2017]

- **18/00217/FUL** - Land Rear Of Charwood - Construction of 6 bungalows. APPROVED [25.05.2018]
- **16/00408/FUL** - Land Rear Of The Hollies - Erection of 3 dwellings on land to the north of The Hollies and associated access from Stoney Hills. ALLOWED ON APPEAL [27.03.2017]
- **16/00849/OUT** - Land Rear Of The Hollies - Outline planning permission for erection of 3 dwellings on land to the north of The Hollies and associated access from Stoney Hills. APPROVED [11.10.2016]
- **18/00895/FUL** - Land North Of Hillcrest House - Construct 4 new detached dwellings. Allowed on Appeal [02.05.2019]
- **18/00217/FUL** - Land Rear Of Charwood - Construction of 6 bungalows Approved [25.05.2019]
- **19/00400/FUL** - Land At Myrtle Cottage - Proposed 2 bedroom dwelling. Approved [20.06.2019]
- **19/00533/FUL** - Grove Farm. - Full planning application for replacement dwelling (Plot 6) and the erection of two detached bungalows at plots 3 and 7 (Plot 3 of outline planning permission OUT/MAL/15/01082) with associated cart lodge and garaging. Approved [19.07.2019]
- **19/00681/FUL** - Land South Of Charwood - Erection of six dwellings with associated off-street parking, amenity area and landscaping. Approved [04.10.2019]
- **19/00864/FUL** - Land North Of Charwood - New single storey dwelling. Approved [08.11.2019]
- **19/01189/FUL** – Land south of Charwood and East of Orchard House - Construct cul-de-sac road with turning head and vehicular and pedestrian access off stoney hills, erect three detached bungalows and three detached garages, lay out parking spaces and form gardens and amenity areas (amended proposal). Approved [17.01.2020]
- **20/01166/FUL** - Land South Of Charwood and East of Orchard House - Construct cul-de-sac road with turning head and vehicular and pedestrian access off Stoney Hills, erect one detached bungalow and garage, lay out parking spaces and garden. Refused [11.06.2021]

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

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Burnham-On-Crouch Town Council	Recommend refusal of the application due to overdevelopment of the site and the fact that it is outside the development boundary, contrary to policies of the NDO and the LDP.	Comment noted and addressed in section 5.1 of the report.

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Authority (ECC)	No objection subject to condition.	It is noted that the condition requested to be imposed relates to the footpath 5. This footpath is located further north of the application site and it does not run along any of the boundaries of the application site. It is therefore considered unreasonable such condition to be imposed.
Natural England	It has been highlighted that the application site falls within the 'Zone of Influence'. A Habitat Regulation Assessment is required before the grant of any planning permission.	Comment noted and addressed at section 5.6 of the report.
Ecology	No objection subject to conditions.	Noted and addressed in section 5.7 of the report. It is noted that one of the conditions suggested to be imposed relates to a submission of an Enhancement Strategy. Taking into account the scale of the development and the fact that the submitted Ecological Appraisal includes ecological enhancement measures, it is not considered necessary this condition to be imposed.
Anglian Water	No specific comments as the development is under 10 dwellings	Noted.
Waste Management	It is highlighted that a statement confirming compliance with the following points should be submitted by the applicant: <ul style="list-style-type: none"> <li>The vehicle must be able to enter and exit the development driving forwards.</li> <li>There should be sufficient off road</li> </ul>	Given that no response to the points raised by the Council's Waste Management Specialist has been received at the time of writing the report, a condition requesting the submission of a waste management plan will be imposed.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>parking to ensure that there is no parking in the main road or turning head so as to impede the refuse vehicle on collection day (specification of vehicle provided in the Waste Management technical document).</p> <ul style="list-style-type: none"> <li>• The road surface must be built to highways standard and suitable for a 26 tonne vehicle.</li> <li>• The developer should note that as they will have to purchase waste containers from the Council for all properties prior to residents moving in. When the property is nearing completion they must contact the Waste Management Team to arrange.</li> </ul>	
Lead Local Flood Authority	A holding objection has been raised, requesting further information to be submitted in relation to the drainage strategy.	<p>It is noted that the LLFA was consulted because the development as originally submitted was over the threshold of major development. However, the originally proposed garages were removed and number of dwellings was reduced and thus, the development does not constitute major development. On that basis, the relevant consultee to assess the drainage strategy of the proposed development, which is not located within a flood risk zone, is the Council's Environmental Health Team, which reviewed the submissions and raised no objections. As such, subject to the imposition of appropriate</p>



<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
		conditions, as requested by the Council's Environmental Health Team it is not considered that the development would be safe in terms of flood risk without increasing flood risk elsewhere.

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health Team	No objection subject to conditions.	Noted and addressed in section 5.7 of the report.

### 7.4 Representations received from Interested Parties

#### 7.4.1 Representations received objecting to the application:

43 letters of objection have been received.

<b>Objection Comment</b>	<b>Officer Response</b>
Stoney Hills has been built over capacity.	Noted and addressed in section 5.1 of the report.
Overdevelopment of the area.	
Consideration should be given to a relief road on the northern part of Stoney Hills.	Comment noted. However, it should be highlighted that the scale of the development is not such that qualify for a relief road.
It is recommended that further infrastructure and planting to upgrade the area should be considered.	Comment noted. However, it should be highlighted that the scale of the development is not such that qualify for such infrastructure improvements.
The road is congested with heavy vehicles which have also caused damage to vehicles.	Comment noted. In recent appeal decision for a similar development in Stoney Hills, the Inspector stated that although the road is narrow and unlit, due to the lack of a highway objection and in the absence of a technical evidence to support the concerns raised by neighbours, it is not considered that the development would cause congestion, harm to the highway safety or reduce the scope of emergency vehicles to access the site.
Impact on highway and pedestrian safety.	
Traffic generation	
Concerns regarding access of emergency vehicle access	
Loss of trees	Noted and addressed in section 5.7 of the report.
The reduction of the number of dwelling by one is not sufficient.	Noted and addressed in sections 5.1 and 5.3 of the report.
Concerns are raised in relation to future	It is noted that speculative future

Objection Comment	Officer Response
development in nearby sites.	development is not a valid reason to object to the proposal.
Comments are raised in relation to the purposes of the erection of these dwellings.	This is not a material planning consideration.
Concerns regarding the affect to road funding from these additional housing are raised.	
Impact on infrastructure, services and schools'/doctors' capacity.	Within recent appeal decisions for new dwellings in Stoney Hills, Inspectors have not raised a lack of infrastructure as a concern; it would be unreasonable to raise this as a concern now.
Impact on natural habitats and wildlife.	Comment noted and addressed in sections 5.6 and 5.7 of the report.
Impact on health and wellbeing of the existing residents due to the volume of construction.	It is noted that such concerns should be raised with the Council's Environmental Health Team.
Unacceptable noise levels during construction.	
The development is out of keeping with the rural character of the area.	Noted and addressed in sections 5.1 and 5.3 of the report.
Unacceptable design and scale of the dwellings.	
Concerns in relation to compliance with construction management plans.	This is secured by condition. Should the developer does not comply with the condition, this matter should be raised with the Council's Enforcement Team.
Concerns regarding contamination.	Noted and addressed in section 5.7 of the report.
Air pollution.	It is not considered that the development of a scale that would result in unacceptable air quality impacts.
No Site notices have been posted on site.	It should be noted that site notices in relation to the proposal for 9 dwellings were posted on 9 <sup>th</sup> July 2021 and site notices for the amended proposal were posted on 19 <sup>th</sup> August 2021.
Noise impact	Noted and addressed in section 5.4 of the officer report.
Loss of privacy	

## 8. **PROPOSED CONDITIONS INCLUDING HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

- Financial contribution to mitigate the impact of the new residential properties. A fee of £127.30 per new dwelling is required. Thus, in this instance the total payment would be £1,018.40.*
- 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: M001, M002, M003 E, E101, E102, E103, P201 K, P202 C; P203 C; P204 D; P205 D; P206 C, P207 C, P210 D, P211 C AND P212.  
REASON: To ensure that the development is carried out in accordance with the details as approved.
3. The development shall be undertaken in accordance with the finishing material details as shown on the Proposed Materials Plan, P211 C and be retained as such in perpetuity.  
REASON: In the interest of the character and appearance of the conservation area in accordance with policy D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.
4. Prior to works above ground level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include, for example:
  - i. Proposed finished levels contours;
  - ii. Means of enclosure;
  - iii. Car parking layouts;
  - iv. Other vehicle and pedestrian access and circulation areas;
  - v. Hard surfacing materials;
  - vi. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting);
  - vii. Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);
  - viii. Retained historic landscape features and proposals for restoration, where relevant.

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

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

REASON: To 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 approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

5. Details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first use/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 approved Local

Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

6. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than incidental outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

**REASON:** In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

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

**REASON:** To protect the visual amenity of the rural area and the amenities of the neighbouring occupiers in accordance with Policies D1 and H4 of the Maldon District Local Development Plan and the Maldon District Design Guide.

8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities
- Measures to control the emission of dust and dirt during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works

**REASON:** To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the submitted Local Development Plan.

9. No development shall take place, other than that required to carry out necessary investigation, which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved by the local planning authority in writing. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site.

The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include.

- i) A survey of the extent, scale and nature of contamination;
- ii) an assessment of the potential risks to:
  - a) Human health,
  - b) Property (existing or proposed) including buildings, crops, livestock, etc, woodland and service lines and pipes,

- c) Adjoining land,
  - d) Groundwaters and surface waters,
  - e) Ecological systems
  - f) Archaeological sites and ancient monuments;
- iii) An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

**REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy D2 of the approved Maldon District Development Local Plan.

10. Where identified as necessary in accordance with the requirements of condition 9, no development shall take place, other than that required to enable remediation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the local planning authority in writing.

The measures set out in the remediation scheme shall be implemented prior to commencement where possible. Where remediation measures are incorporated into the wider development and cannot be completed prior to commencement they shall be highlighted in the remediation scheme submitted for approval.

The scheme will remove unacceptable risks to human health, buildings and other property and the natural and historical environment. It must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the local planning authority within 28 days.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.

**REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy D2 of the approved Maldon District Development Local Plan.

11. 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 as approved prior to the first occupation of the development.

**REASON:** To ensure the sustainable management of water, minimise flood risk and to minimise discharge of surface water outside of the curtilage of the site in

accordance with policy D2 of the approved Maldon District Development Local Plan.

- 12.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 the sustainable management of water, minimise flood risk and to minimise discharge of surface water outside of the curtilage of the site in accordance with policy D2 of the approved Maldon District Development Local Plan

- 13.No works related to the alteration of ground levels at the site and no works above ground level shall occur until details of existing ground levels and proposed finished ground levels, and their relationship to the adjoining land, and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure the development is in keeping with the character and appearance of the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.

- 14.The dwellings hereby approved shall not be occupied until two car parking spaces have been provided as shown on plan P201 K. The car parking hereby approved shall be retained for the use of occupiers or visitors to the residential units in perpetuity.

REASON: To ensure appropriate parking at the site, in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the adopted Maldon District Vehicle Parking Standards.

- 15.The trees and hedges identified for retention in the Arboricultural Implication Assessment, dated 22<sup>nd</sup> December 2020, the Arboricultural Method Statement and Tree Protection Plan, dated 22<sup>nd</sup> December 2020, as well as the Tree Protection Plans no's 201133/03 Rev A and 201133/02 Rev A, which are attached to and form part of this permission shall be protected during the course of the development. The trees and hedges shall be protected by measures which accord with British Standard 5837:2012 (Trees in Relation to Construction). The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been

removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless otherwise first agreed in writing by the local planning authority. If within five years from the completion of the development a tree or hedge shown to be retained is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shall be planted within the site of such species and size, and shall be planted at such time, as specified in writing by the local planning authority.

**REASON:** To secure the retention of appropriate landscaping of the site in the interests of visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.

16. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4ecology Ltd, January 2021).

**REASON:** To ensure appropriate protection to protected species and enhancement of habitats is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

17. 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 ensure appropriate protection to protected species is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

18. Prior to the occupation of the proposed development, a Waste Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall be implanted in accordance with the approved details and be retained as such in perpetuity.

**REASON:** To ensure that adequate refuse facilities are provided and in the interest of the visual amenity of the area in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and the provision and guidance as contained within the Maldon District Design Guide

### **Informative:**

The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:

- a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
- b) no dust emissions should leave the boundary of the site;
- c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;

d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.