

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

DIRECTOR OF STRATEGY AND
RESOURCES
Paul Dodson

29 December 2023

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 10 JANUARY 2024 at 7.30 pm**

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

Please Note: All meetings will continue to be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. Public participants wishing to speak remotely at a meeting can continue to do so via Microsoft Teams.

To register your request to speak / attend in person please complete a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy and Resources

COMMITTEE MEMBERSHIP:

CHAIRPERSON	Councillor M F L Durham, CC
VICE-CHAIRPERSON	Councillor M E Thompson
COUNCILLORS	J C Hughes S J N Morgan C P Morley R H Siddall E L Stephens S White L L Wiffen





AGENDA
NORTH WESTERN AREA PLANNING COMMITTEE
WEDNESDAY 10 JANUARY 2024

1. **Chairperson's notices**

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the Committee held on 6 December 2023, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B 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. **23/00894/FUL - Land Adjacent Oaklands, Kelvedon Road, Great Totham** (Pages 13 - 36)

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

6. **23/00920/FUL - The Granary, Chigborough Farm, Chigborough Road, Little Totham, Essex** (Pages 37 - 50)

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

7. **23/00952/FUL - 9 Cherry Blossom Lane, Cold Norton, Essex CM3 6JQ** (Pages 51 - 66)

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

8. **23/01003/FUL - Land at Homefield House, Witham Road, Little Braxted** (Pages 67 - 80)

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

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

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 - 8.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – www.maldon.gov.uk/committees

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

NOTICES**Recording of Meeting**

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

Fire

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

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber.

Closed-Circuit Televisions (CCTV)

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

Lift

Please be aware, there is not currently lift access to the Council Chamber.

BACKGROUND PAPERS

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

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

Development Plans

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

Legislation

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

Supplementary Planning Guidance and Other Advice

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

Supplementary Planning Guidance and Other Advice (continued)

ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework – 2014 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

All Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.

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**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
6 DECEMBER 2023**

PRESENT

Vice-Chairperson Councillor M E Thompson
(In the Chair)

Councillors J C Hughes, C P Morley, R H Siddall, E L Stephens and
S White

1. CHAIRPERSONS'S NOTICES

Due to technical issues the meeting started later than scheduled at 19:35.

The Chairperson apologised for the late start then welcomed everyone to the meeting and went through some general housekeeping arrangements.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M F L Durham CC, S J N Morgan and L L Wiffen.

3. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 8 November 2023 be approved and confirmed.

4. DISCLOSURE OF INTEREST

There were none.

**5. 23/00103/COU - BUILDING AT JUNCTION OF BRAXTED PARK ROAD WITH
MALDON ROAD, NEAR TIPTREE, CO5 0QA**

Application Number	23/00103/COU
Location	Building at junction of Braxted Park Road with Maldon Road, near Tiptree, CO5 0QA
Proposal	Application for change of use of existing agricultural barn to farm shop and change of use of existing farm shop to cafe, resurfacing of existing car park commensurate with increased floor space.
Applicant	Mr J. Purdy
Agent	Mrs Alice Quinn of Smart Planning Limited
Target Decision Date	31.03.2023
Case Officer	Fiona Bradley
Parish	TOLLESHUNT MAJOR
Reason for Referral to the Committee / Council	Member Call in by Councillor J V Keyes with regard to Policies S1, S2, D1, H4, E1 and E2

It was noted from the Members' Update that since the agenda had been published the application had been **WITHDRAWN** by the applicant to address concerns raised in the recommended reasons for refusal.

6. 23/00491/FUL - LAND ADJACENT THORNFIELDS, PURLEIGH GROVE, COLD NORTON, CM3 6HN

Application Number	23/00491/FUL
Location	Land adjacent Thornfields, Purleigh Grove, Cold Norton, CM3 6HN
Proposal	The erection of 2No. 4/5-bedroom detached dwellings, both with carports and private amenity, with the construction of a new access road
Applicant	Mr & Mrs Kirk
Agent	Mr Zak Johnson - Front. Architecture
Target Decision Date	13.07.2023
Case Officer	Tim Marsh
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Departure from Development Plan

It was noted from the Members' Update that since the agenda had been published there had been an amendment to paragraph 5.9.1 of the Officer report.

Following the Officer's presentation, the Chairperson opened the floor for debate.

There was a brief discussion regarding planting and drainage at the development site, after which Councillor R H Siddall proposed to approve the application in line with the Officer's recommendations which was duly seconded and when put to the vote by the Chairperson was agreed.

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

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 200 P2, 201, 202, 203 P2, and 204
3. 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 include details of:
 - A. The parking of vehicles of site operatives and visitors
 - B. Loading and unloading of plant and materials
 - C. Storage of plant and materials used in constructing the development
 - D. The erection and maintenance of security
 - E. Wheel washing facilities
 - F. Measures to control the emission of dust and dirt during construction.
4. No development shall take place until details of the existing and proposed ground levels and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried-out and retained in accordance with the approved details.
5. No development above ground level shall take place until a detailed Sustainable Urban Drainage Scheme as specified in the Essex Sustainable Drainage Systems Design Guide has been submitted in writing by the local planning authority. This must be conducted by a competent person and include written explanation of any data provided. The scheme shall subsequently be

implemented prior to occupation of the development and should include and not be limited to:

- Discharge rates/location
- Storage volumes
- Treatment requirement
- Detailed drainage plan
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests shall be carried out upon the subsoil in accordance with DG 365 2016.

6. Prior to first occupation of the development a drainage maintenance plan shall be submitted to and agreed in writing, by the local planning authority. The plan shall include details of maintenance arrangements including who is responsible for different elements of the surface water drainage system, the maintenance activities and their frequencies.
7. No development above ground level shall take place until details of a foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented in accordance with the approved details prior to the first occupation of the development. The scheme shall thereafter be retained in accordance with the approved details.
8. No development above ground level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i. Proposed finished levels contours
 - ii. Hard surfacing materials
 - iii. Planting details.

The soft landscape works shall be carried out as approved no later than the first available planting season (October to March inclusive) following the occupation of the development and shall be retained thereafter in accordance with the approved details. If within a period of five years (from the date of the planting) 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 within a period of 21 days and will be retained thereafter.

The hard landscape works shall be carried out as approved and thereafter retained in accordance with the approved details.

9. 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 with or without modification) 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.
10. 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 with or without modification) no further dormer windows or other form of addition or opening shall be constructed in the roof of the dwelling hereby permitted without planning permission having been obtained from the local planning authority.

11. The external surfaces of the development hereby permitted shall be constructed with the materials shown on plans hereby approved and specified in the submitted planning application form.
12. No development shall take place including any works of demolition until details of a Construction Environmental Management Plan (CEMP: Biodiversity) have been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including precautionary method statements for Great Crested Newts, reptiles and small mammals.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority".
13. No development shall take until a Biodiversity Enhancement Strategy for protected and Priority species has been submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs or product descriptions to achieve stated objectives;
 - c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
 - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) persons responsible for implementing the enhancement measures;
 - f) details of initial aftercare and long-term maintenance (where relevant).The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."
14. No development above ground level shall take until details of a lighting design scheme for biodiversity have been 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 (through the provision of appropriate lighting plans, drawings and technical specifications) 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.
15. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site

affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

16. Prior to the occupation of any part of the development hereby permitted details of the number, location and design of bicycle parking facilities/powered two wheelers shall be submitted to and agreed in writing by the local planning authority. The approved provisions shall be provided in accordance with the approved scheme before any part of the development hereby approved is occupied and retained as such thereafter.
17. Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

There being no other items of business the Chairperson closed the meeting at 7:47 pm.

M E THOMPSON
CHAIRPERSON

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
10 JANUARY 2024**

Application Number	23/00894/FUL
Location	Land adjacent Oaklands, Kelvedon Road, Great Totham.
Proposal	Erection of four dwellinghouses and associated garages and alterations and extension of the existing access and provision of parking spaces to Pippins.
Applicant	Mr S Harding
Agent	Mr Mark Jackson
Target Decision Date	17 January 2024 (EOT agreed)
Case Officer	Lisa Greenwood
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Departure from Local Development Plan

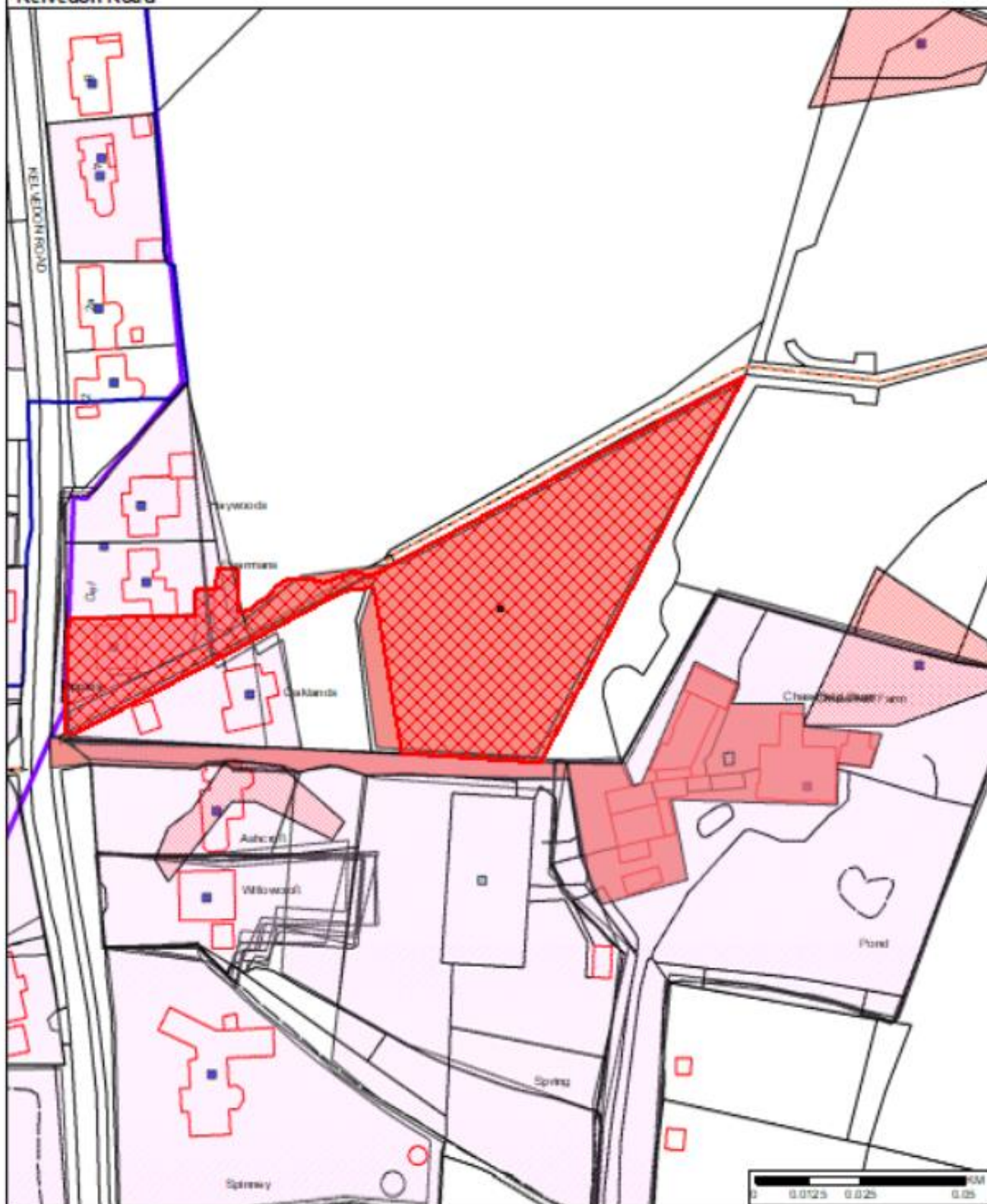
1. RECOMMENDATION

APPROVE for the reasons as detailed in Section 8.

2. SITE MAP

Please see below.

Land adjacent to Oaklands Kelvedon Road



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Maldon District Council 100018588 2014



www.maldon.gov.uk

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: Great Totham

Date: 11/12/2023

MSA Number: 100018588

3. SUMMARY

3.1 Site Description

- 3.1.1 The application site is located on the eastern side of Kelvedon Road and is outside a defined settlement boundary, but within approximately 10 metres of the settlement boundary for Wickham Bishops and approximately 200 metres of the settlement boundary for Great Totham (as the crow flies). The site is set behind a detached residential dwelling, 'Oaklands', and includes a section of associated garden land, a garage associated with the residential dwelling location to the north, 'Pippins', and a parcel of grassland bordered by trees and hedgerow is located to the rear. The site is roughly triangular in shape and measures 0.43 hectares in area. 'Oaklands' loosely follows the pattern of development with the residential development to the south, 'Ashcroft', 'Willowgrove' and 'Spinney'.
- 3.1.2 'Oaklands' and 'Pippins' received planning permission on appeal in September 2014 (appeal reference APP/X1545/A/14/2219199). This followed the refusal of planning application reference 13/00710/OUT. Since this decision, planning permission has been granted for a revised scheme at the same site for the erection of four dwellings (planning reference 15/00600/FUL). At the time, the Council were unable to demonstrate a 5-year housing land supply (5YHLS).
- 3.1.3 With regard to the application site which lies eastwards of Oaklands (to its east), planning permission was granted on appeal for the erection of four dwellings and associated garages and alterations and extension of the existing access in March 2023. The appeal was made following the non-determination of planning application reference 22/00646/FUL.
- 3.1.4 The site is neighboured to the north by open grassland and to the east by open grassland and outbuildings associated with Chasefield Farm. To the south of the site is a menage and equestrian land, also associated with Chasefield Farm. Public footpath no.4 runs to the north of the site. Access to the site is to the east, along Kelvedon Road. The character at the site is rural.

3.2 The Proposal

- 3.2.1 Planning permission is sought for the erection of four dwelling houses and associated garages and alterations and extension of the existing access and provision of parking spaces to 'Pippins'. The proposal also includes the conversion of the garage associated with 'Pippins' to an office / motorcycle / cycle store. It is also the intention to divert Public Footpath 4, Great Totham) onto a new 2m public footway on the northern side of the site access linking to the public footpath north of the development site. The application is similar to the application 22/00646/FUL, proposing alterations to the access layout.
- 3.2.2 Plots 1 and 2 are Handed and would have a maximum depth of 14.4 metres, a maximum width of 12.591metres, and a maximum height of 8.873 metres (approximately 4.65 metres to the eaves).
- 3.2.3 At ground floor level, Plots 1 and 2 would provide for an entrance hall, living room, study, WC, cupboard, utility room, kitchen / dining / family area. At first floor level, Plots 1 and 2 would provide for four bedrooms, two en-suite bathrooms, a dressing area, a bathroom and an airing cupboard.

- 3.2.4 Plots 3 and 4 are semi-detached and would have a maximum depth of 11.24 metres, a maximum width of 17.025 metres, and a maximum height of 8.991 metres (approximately 5 metres to the eaves).
- 3.2.5 At ground floor level, Plots 3 and 4 would provide for an entrance hall with cupboard, a kitchen and breakfast area, a WC, and a living / dining area. At first floor level, Plots 3 and 4 would provide for three bedrooms, an en-suite, a bathroom and an airing cupboard.
- 3.2.6 The walls would be finished with brickwork, vertical cladding and render. The roof would be finished with clay plain tiles.
- 3.2.7 Each plot would be served with a garage. Plots 1 and 2 would be served by 'Garage Type 1', whereas Plots 3 and 4 would be served by 'Garage Type 2'. 'Garage Type 1' proposes to provide for two parking spaces and would measure 7.317 metres in depth, 6.31 metres in width, with a maximum height of 4.963 metres. Internally, the garages would measure 6.8 metres in depth and 5.88 metres in width. Two additional parking spaces are proposed in front of the garages. 'Garage Type 2' proposes to provide for one parking space and would measure 7.317 metres in depth, 3.273 metres in width, with a maximum height of 3.894 metres. Internally, the garages would measure approximately 6.8 metres in depth and 2.4 metres in width. One additional parking space is proposed in front of the garages.
- 3.2.8 Bin stores to serve each individual dwelling would be located adjacent to the garages.
- 3.2.9 Each plot would also be served with an area of private amenity space. An indicative landscaping plan is submitted to support the proposal. Existing trees to the application site boundary will be retained. A slight adjustment is proposed to the existing close boarded fences to 'Pippins' and 'Oaklands'.
- 3.2.10 The proposal seeks to upgrade the existing access to a 5.5 metre wide bell mouth junction with a 2 metre wide footway on the northern side of the site. This access would also serve the adjacent dwellings of 'Pippins' and 'Oaklands'.
- 3.2.11 It is also proposed to convert the garage associated with 'Pippins' to an office / motorcycle / cycle store and construct two new parking spaces measuring 5.5 metres in depth and 2.9 metres in width east of the former garage. The internal layout of the garage would remain unchanged however, the garage door opening would be blocked up and a new door proposed for motorcycle entry. A door and half height window would also be introduced at the rear elevation.
- 3.2.12 The development would require the diversion of the existing Public Footpath 4 (Great Totham) onto a new 2 metre public footway on the northern side of the site, linking to the Public Footpath north of the development site.

3.3 Conclusion

- 3.3.1 The site was recently granted planning permission on appeal for four dwellings (appeal reference APP/X1545/W/22/3305970). This is a material consideration of significant weight. In addition, this is a similar scheme in terms of dwelling numbers and general layout. Except for the minor changes to the access layout and the incorporation of the garage to Pippins, the substantive development is largely the same as approved in March 2023. Matters of the position of the site is outside of a defined settlement boundary was considered and found acceptable by the inspector due to its close proximity. Furthermore, the Inspector found no harm given the

eastward extension of built form given its location, existing landscaping and that it is not readily visible at Kelvedon Road and is only apparent from the public footpath. The site's present character appears as domestic garden land. The only harm found by the Inspector is that the proposal does not accord with the prevailing pattern of development, of which, in the planning balance, the Inspector afforded little weight due to the sustainability credentials of the proposal. It is therefore recommended that planning permission is granted.

4. MAIN RELEVANT POLICIES

4.1 National Planning Policy Framework December 2023 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 11-14 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligations
- 60-81 Delivering a sufficient supply of homes
- 108-117 Promoting sustainable transport
- 123-130 Making effective use of land
- 124-125 Achieving appropriate densities
- 131-141 Achieving well-designed places
- 180-188 Conserving and enhancing the natural environment
- 195-214 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan (2017)

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S8 – Settlement Boundaries and the Countryside
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy D1 – Design Quality and Built Environment
- Policy D2 – Climate Change & Environmental Impact of New Development
- Policy D3 – Conservation and Heritage Assets
- Policy D5 – Flood Risk and Coastal Management
- Policy N1 – Green Infrastructure Network
- Policy N2 – Natural Environment, Geodiversity and Biodiversity
- Policy T1 – Sustainable Transport
- Policy T2 – Accessibility
- Policy I1 – Infrastructure Services
- Policy I2 – Health and Wellbeing

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Vehicle Parking Standards (2018)

- Maldon District Design Guide (MDDG) (2017)
- Maldon District Local Housing Needs Assessment (LHNA) (2021)
- Great Totham Neighbourhood Development Plan (2022)

5. MAIN CONSIDERATIONS

5.1 Background to the application

- 5.1.1 The planning history for the site is a material consideration.
- 5.1.2 Turning firstly to ‘Oaklands’ and ‘Pippins’, as stated, ‘Oaklands’ and ‘Pippins’ received planning permission on appeal in September 2014 (appeal reference APP/X1545/A/14/2219199). This follows the refusal of planning application reference 13/00710/OUT. Since this decision, planning permission for a revised scheme for the erection of four dwelling has been granted at the site (planning reference 15/00600/FUL).
- 5.1.3 Condition 9 of planning permission reference 15/00600/FUL restricts the use of the detached garage associated with Pippins for purposes ancillary and incidental to the use of the dwellinghouse to which it relates and not for any commercial or business purpose or as annexed accommodation.
- 5.1.4 Condition 10 of the same permission removed certain permitted development rights, and no extensions or separate buildings (other than ancillary 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 (LPA).
- 5.1.5 With regard to the remainder of the application site, planning permission was granted on appeal for the erection of four dwellings and associated garages and alterations and extension of the existing access in March 2023 (appeal reference APP/X1545/W/22/3305970). This followed the non-determination of planning application reference 22/00646/FUL.
- 5.1.6 At the time of this appeal decision, the Council could not demonstrate a five-year housing land supply. The Inspector agreed with the previous Inspector and concluded that “the small amount of harm to the rural character and appearance of the area is outweighed by the sustainable credentials of the proposal and that the site is suitable for residential development.” The appeal was allowed, and this is a material consideration which is of significant weight.

5.2 Principle of Development

- 5.2.1 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 Paragraph 47 of the NPPF require that planning decisions are to be made in accordance with the Development Plan (LDP) unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.2.2 Policy S1 of the LDP states that “*When considering development proposals the Council will take a positive Policy S1 of the LDP states that ‘When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF’ and apply a number of key principles in policy and decision making set out in the Policy.*”

- 5.2.3 Policy S8 of the LDP steers new development towards the existing urban areas. This Policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential properties but does allow (m) development which complies with other policies of the LDP.

Five Year Housing Land Supply

- 5.2.4 As per Paragraph 76 of the NPPF, the Council as the LPA for the Maldon District is expected to “identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.” To this end, Maldon District Council prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LPD 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.2.5 Following a review into the suitability of the 5 Year Housing Land Supply methodology through its 5YHLS working group established in August 2022, the Council has confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021/2022 of 3.66 years. This means that the Council’s presumption in favour of sustainable development position against paragraph 11 (d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the LDP), the provision of the most suitable types of housing for the district, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.
- 5.2.6 As stated, the planning history for the site is a material consideration. Both appeal decisions for the development of four dwellings including ‘Oaklands and Pippins’, and the most recent decision at the wider application site for the erection of four dwellings, found that any harm caused to the character and appearance of the rural area would be small, and this is outweighed by the sustainability credentials for the proposal and that the site is suitable for residential development.
- 5.2.7 Whilst it is acknowledged that the Council can now demonstrate a 5YHLS, whereas at the time of the Inspector’s decision in March 2023 it could not, as stated, this is not a ceiling for development and the findings of two Inspectors weighs heavily in favour of the development proposed. As the site is well related to the settlement boundaries of Wickham Bishops (by road) and Great Totham (by cycle path) and there is a pavement and commuter bus service that can be accessed safely within walking distance, this outweighs the small harm caused to the intrinsic character and beauty of the rural area. As only amendments to the access, detached garage, parking, and boundary treatments and landscaping are sought to the scheme allowed on appeal (application reference 22/00646/FUL), and the alignment of the Public Right of Way is very similar, the principle of development is found to be acceptable. The merits of the scheme are assessed below.

5.3 Housing Mix

- 5.3.1 The LHNA (2021) is an assessment of housing need for Maldon District 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 National Planning Policy Framework (2023) and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing 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.
- 5.3.2 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three-bed dwellings; specifically, 25-35% two-bedrooms, 40-50% three-bedrooms, and 15-25% for 4+ bedroom market dwellings.
- 5.3.3 The proposal seeks planning permission for the erection of two four-bedroom dwellings and two three bedroom dwellings. The proposal would therefore contribute two dwellings that meet the biggest requirement for housing mix in the District.

5.4 Design and Impact on the Character of the Area

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

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

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

- 5.4.3 The basis of Policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - b) Height, size, scale, form, massing and proportion;
 - c) Landscape setting, townscape setting and skylines;
 - d) Layout, orientation, and density;
 - 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.

- 5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.5 In addition, Policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area 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.
- 5.4.6 The application site lies outside of 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.
- 5.4.7 The proposed development would be located to the rear of 'Oaklands' and would not be visible at Kelvedon Road. Plots 1 and 2 would be handed, with two forward facing two storey gable projections and one rear gable with a rear single storey flat roof projection with roof light and a small single storey projection with a lean-to roof. Although semi-detached, Plots 3 and 4 are of a similar design to Plots 1 and 2. The dwellings would be of a similar height to the existing properties located along this section of Kelvedon Road and in terms of scale, appearance and design, the dwellings would be appropriate for this location, given that gable roof forms and features are among the roof forms of the dwellings in the wider area. The proposal would therefore not appear out of keeping with the existing character of the area and would be appropriate in terms of height, scale and massing for the local context in accordance with Policy D1.
- 5.4.8 Each dwelling would be served by a large area of private amenity space, parking, and a bin store. The site would appear spacious, and the proposal would not render the site cramped or overdeveloped.
- 5.4.9 Whilst it is acknowledged that the development would be contrary to policy, against the grain of the existing development and would extend into the open countryside, this was found to be acceptable by the Inspector for the aforementioned appeal, reference APP/ X1545/W/22/3305970. Within this decision, the Inspector commented that *"the site intrudes into the countryside, but because of its location and the existing landscaping, this is not really apparent other than from the public footpath, and its present character is that of a domestic garden"*. The Inspector shared the view of the Inspector in 2014, and found the small amount of harm to character and appearance, and the associated conflicts with the local policy, did not outweigh the benefits of the scheme. The only harm identified was the fact that the site is "right-angled with Kelvedon Road".

- 5.4.10 Whilst it is acknowledged that the proposal would result in a slight increase to the volume of hardstanding proposed, when compared to the previous scheme, the increase would be marginal and related to the parking spaces to serve 'Pippins'. An initial landscaping scheme is proposed and if planning permission is forthcoming additional information can be secured in this regard via the imposition of a suitably worded condition to balance against any perceived harm.
- 5.4.11 For the reasons stated, the proposal is considered to be acceptable in this regard. Further information regarding the exact materials proposed can be secured via the imposition of a condition on any consent.

5.5 Impact on Residential Amenity

- 5.5.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.5.2 The neighbours to that may be potentially impacted by the proposed development are 'Oaklands' to the south west, 'Pippins' to the west, 'Ashcroft' to the south west, and 'Chasefield Farm' to the east.
- 5.5.3 Owing to the proposed layout of the development, Plot 1 would be sited closest to 'Oaklands', 'Pippins', and 'Ashcroft'. Notwithstanding this, the dwelling proposed at Plot 1 would be separated from the boundary shared with 'Oaklands' by a garage and driveway and separated from the dwelling at 'Oaklands' by circa 30 metres. The dwelling at Plot 1 would also be separated from the neighbouring dwelling located at 'Pippins' by in excess of 50 metres, and from the dwelling located at 'Ashcroft' by in excess of 60 metres. There are no windows proposed at the first floor flank side elevation, fronting the boundary shared with 'Oaklands', and the first floor front and rear windows proposed would not afford direct overlooking of the aforementioned dwellings, or associated private amenity space. By virtue of the above, it is not considered that the proposed development would result in overlooking or a loss of daylight and sunlight to these neighbours, nor would the proposed development appear unduly overbearing.
- 5.5.4 With regard to any potential impact on the 'Chasefield Farm', the proposed dwellings would be separated from this development by in excess of 50 metres. Windows are proposed at the first floor rear elevations of all Plots however, this was not a material consideration for the Inspector when determining appeal reference APP/X1545/W/22/3305970, and no neighbour objections have been received. It is therefore not considered that the proposed development would result in overlooking or a loss of daylight and sunlight to these neighbours, nor would the proposed development appear unduly overbearing.
- 5.5.5 It is acknowledged that the proposal would introduce an extended access, and this would introduce vehicular movements to the rear of the site and increase comings and goings. Notwithstanding this, the proposal has been reviewed by the Council's Environmental Health Officer who raises no objection with regard to noise. Should planning permission be forthcoming, a Construction Method Statement would be required to be submitted to and approved in writing by the LPA prior to the commencement of development, to help to control nuisances during the construction phase.
- 5.5.6 For the reasons stated, the proposal is considered to be acceptable in this regard and accord with Policy D1.

5.6 Access, Parking and Highway Safety

- 5.6.1 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.
- 5.6.2 In accordance with the Council's Vehicle Parking Standards Supplementary Planning Document (2018), dwellings with four or more bedrooms are required to provide for 3 parking spaces. Dwellings with three bedrooms are required to provide for 2 parking spaces. The preferred size of a car parking bay is 2.9m x 5.5m. Where parking spaces are provided in front of a garage, an additional 0.5 metres is required to allow the opening of a garage door. The minimum internal size of a garage, when contributing to the parking provision, is 3m x 7m.
- 5.6.3 Whilst it is acknowledged that the internal dimensions of the proposed garages do not meet the requirements of the Vehicle Parking Standards SPD, parking is available to the front of the garages. Cycle storage is also available within the garages proposed. This was not raised as a concern to the Inspector for appeal reference APP/X1545/W/22/3305970. Subject to the imposition of a condition on any forthcoming consent to ensure the parking spaces, means of access and vehicle turning area are constructed, surfaced, laid out and made available for use in accordance with the submitted plans, the proposal is considered to be acceptable in this regard.
- 5.6.4 The proposal has also been reviewed by the Highways Authority, who acknowledge that the proposal is similar to the previous application reference 22/00646/FUL. The proposal seeks to upgrade the existing access to a 5.5 metre wide bellmouth junction with a 2 metre wide footway on the northern side of the site. The proposal also includes the diversion of public footpath no.4 (Great Totham) to the proposed internal footway. An existing fence is to be re-positioned and the access will be provided with the required visibility splays in each direction. The off-street parking for 'Pippins' is being relocated to the rear of the dwelling and an associated dropped kerb access is included within the site layout. A private drive and off-street parking and turning are also included. From a highway and transportation perspective, the impact of the proposed development is considered to be acceptable, subject to the imposition of conditions on any forthcoming consent regarding the submission to and approval in writing by the LPA of a Construction Management Plan; the alteration of the existing access; the provision of visibility splays; the removal and reconstruction of the front fence for 'Pippins', surface treatment; an Order securing the diversion of the Public Right of Way; the construction of the internal road; cycle parking provision; and the provision, implementation and distribution of a Residential Travel Information Pack.
- 5.6.5 With regard to the loss of the garage associated with 'Pippins', it is acknowledged that Condition 9 of planning permission reference 15/00600/FUL restricts the use of the detached garage associated with Pippins for purposes ancillary and incidental to the use of the dwellinghouse to which it relates and not for any commercial or business purpose or as annexe accommodation. The proposal seeks to convert the garage into an office / motorcycle store. Although the garage door would be removed, this would be replaced with a door for motorcycles and the internal layout would not be altered. Two tandem parking spaces are proposed to the east of the garage and would measure 5.5 metres in depth and 2.9 metres in width. The LPA is therefore satisfied that the parking requirement for 'Pippins' would not be

compromised and the use of the garage would be ancillary and incidental to the use of the dwellinghouse and this can be secured via the imposition of a condition on any consent.

- 5.6.6 Taking into account the above, no objection is raised with regard to access, parking and highway safety.

5.7 Private Amenity Space and Landscaping

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms.
- 5.7.2 The proposal would provide for in excess of 100m² of private amenity space for each dwelling, and the proposal is therefore acceptable in this regard.
- 5.7.3 In terms of landscaping, a detailed soft landscaping scheme has not been submitted to support the proposal. Should planning permission be forthcoming, this could be secured via the imposition of a condition.

5.8 Flood Risk and Drainage

- 5.8.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximise opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.8.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.
- 5.8.3 With regard to drainage, the proposal has been reviewed by the Council's Environmental Health Officer who raises no objection. Should planning permission be forthcoming, conditions are recommended to be imposed on any consent to ensure a suitable foul drainage scheme and surface water drainage scheme and proposed.

5.9 Ecology and Impact on European Designated Sites

- 5.9.1 Paragraph 180 of the NPPF (2023) states that 'planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'
- 5.9.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.9.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and / or isolation of existing or proposed green infrastructure. LDP Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.

Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

- 5.9.4 The proposal is supported by a Preliminary Ecological Appraisal (Hybrid Ecology Ltd, October 2023) (PEA). The PEA has been reviewed by the Council's Ecological Consultant who is satisfied that there is sufficient ecological information available for the determination of this application. The mitigation measures identified in the PEA should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds and reptiles.
- 5.9.5 The Consultant also supports the proposed reasonable biodiversity enhancements of bird boxes, bat boxes, and native hedgerow planting, which have been recommended to secure net gains for biodiversity, as outlined in the NPPF. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent. In addition, the PEA highlights that it is likely that bats could be foraging / commuting within and around the site and recommends that if external lighting is proposed, a sensitive lighting scheme is submitted to and approved in writing by the LPA.
- 5.9.6 It is also advised that the site falls within the evidenced recreational Zone of Influence (Zol) for the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Given the residential element of the proposal, the LPA is required to prepare a project level Habitats Regulation Assessment (HRA) to secure a per dwelling tariff by a legal agreement for the delivery of visitor management measures at the designated site.
- 5.9.7 The development of 4no. dwellings falls below the scale at which bespoke advice is given from Natural England (NE). This has been confirmed in comments received by Natural England. To accord with NE's requirements and standard advice 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. 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 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 4no. dwellings

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

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for 4no. dwellings

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

Summary of Appropriate Assessment

- 5.9.8 As the answer is no, it is advised that should planning permission be forthcoming, 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 named European sites from recreational disturbance, when considered 'in combination' with other development.

- 5.9.9 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £156.76 (2023-2024 figure) and thus, the developer contribution should be calculated at this figure. As part of the previously aforementioned appeal, the applicant paid the full RAMS tariff. It is acknowledged that since this time, the tariff has increased. The applicant has therefore submitted payment for the increase and it is considered that this will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitat sites.

5.10 Other Matters

Tree Impact

- 5.10.1 The proposal is supported by an Arboricultural Impact Assessment (Hallwood Associates, 4 October 2023); a Tree Constraints Plan (Harwood Associates, 4 October 2023), a Tree Protection Plan (Harwood Associates, 4 October 2023), and a heads of terms summary for input into a final Arboricultural Method Statement (AMS) (Harwood Associates, 4 October 2023).
- 5.10.2 The proposal has been reviewed by the Council's Arboricultural Consultant, who advises that the Report has identified 4 individual trees, 2 groups of trees and 1 hedge within influencing distance of the proposal. Some trees are to be removed (Category C) to allow access. As these trees and a hedge are not protected, this has not been objected to. Pruning is also to be undertaken of T3, to allow for site access, which includes the removal of second and third order laterals and subordinate branches. Providing the works take place in accordance with BS8545:2014 'Tree: From nursery to independence in the landscape', this is not objected to.
- 5.10.3 The Tree Protection Plan demonstrates suitable tree protection fencing in accordance with BS5837:2012, to be used during the demolition and construction phases is suitably placed to allow all the retained trees to be suitably protected throughout all the stages of the development. However, there is an existing fence between this group of trees and the development and so it is unlikely that any negative impacts will occur. Tree protective fencing as specified should be installed, as required, in accordance with BS5387:2012.
- 5.10.4 The Consultant acknowledges that more details of working methods of mitigation are needed and a condition is required to be imposed on any forthcoming consent. The application is supported from an arboricultural perspective, providing a soft landscaping scheme regarding new planting and a detailed AMS are submitted and approved.

Impact on nearby heritage assets

- 5.10.5 The proposal has been reviewed by the Council's Principal Conservation and Heritage Officer who has advised that nearby heritage assets to the north of the site include nos.12 and 14 Kelvedon Road (both of which are grade II listed), Great Ruffins (grade II* listed), and the garden to Great Ruffins which should be regarded as a non-designated heritage asset for the purposes of the NPPF.

5.10.6 Due to the distance and intervening vegetation, there exists no visibility between the application site and the heritage assets. The Officer advises that the proposal would cause no harm to the setting or significance of the heritage assets and as such, the proposal poses no conflict with Policy D3 of the Maldon District Local Development Plan (2017), Chapter 16 of the NPPF, or the duty set out in section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. No heritage related objection is therefore raised and no conditions are recommended in this instance.

Pre-commencement conditions

5.10.7 Pursuant to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the LPA must obtain the written agreement of the applicant to the terms of any pre-commencement condition recommended before it can be imposed on any planning permission granted.

5.10.8 In this case, pre-commencement conditions are required with regard to a Construction Management Plan, AMS and tree protection methods.

5.10.9 It is acknowledged that a pre-commencement condition for the submission and approval in writing of a Construction Management Statement has been submitted to and approved in writing by the LPA (23/05081/DET) and some works have now commenced on site. The applicant is in the process of submitting additional information in this regard to overcome the requirement for this condition.

5.10.10 With regard to an AMS, works have not yet commenced on the access road or parking area to serve Pippins. Additional information in this regard is also being prepared by the applicant. If this is not received by the time the committee determines the applicant, a pre-commencement condition will still apply in this regard and agreement has been sought by the agent for the applicant and agreed on 18th December 2023.

Permitted development rights

5.10.11 Whilst it is acknowledged that certain permitted development rights were removed for the development of 'Oaklands' and 'Pippins', the Inspector for the appeal for the wider site and the development of four dwellings on the application site did not remove permitted development rights as part of this appeal decision. In this instance, it is considered reasonable that the permitted development rights remain intact for the proposed development. A condition would be imposed on any forthcoming consent to ensure the outbuilding associated with 'Pippins' remains ancillary and incidental to the enjoyment of the dwellinghouse.

6. ANY RELEVANT SITE HISTORY

Reference	Proposal	Status
23/051952/DET	Compliance with conditions notification 22/00646/FUL allowed on appeal APP/X1545/W/22/3305970. Condition 3 – Soft landscaping; Condition 5 – Foul and surface water drainage schemes; Condition 14 – External lighting.	Pending consideration

Reference	Proposal	Status
23/05081/DET	Compliance with conditions notification 22/00646/FUL allowed on appeal APP/X1545/W/22/3305970. Condition 12 – Construction Method Statement.	Condition cleared – 6 July 2023
22/00994/FUL	Revisions to the existing access, extension of the existing access and erection of four dwellinghouses and associated garages.	Declined to Determine – 20 October 2022
APP/X1545/W/22/3305970	Erection of four dwellinghouses and associated garages and alterations and extension of the existing access.	Appeal allowed – 27 March 2023.
22/00646/FUL	Erection of four dwellinghouses and associated garages and alterations and extension of the existing access.	Pending consideration.
15/05165/DET	Compliance with conditions notification FUL/MAL/15/00600 – Condition 3 – Samples, Condition 4 – Surface water and foul drainage scheme. Condition 5 – Tree protection. Condition 6 – Vegetation or dense scrub clearance. Condition 8 – Glazing. Condition 11 – Siting, height, design and materials of the treatment boundaries. Condition 14 – Drainage / ditch / watercourse. Condition 17 – Construction method statement. Condition 19 – Design, appearance and position of the detached garage.	Conditions cleared – 3 February 2016.
15/00600/FUL	Application for 4no. detached dwellings (follows approval on appeal against OUT/MAL/13/00710).	Approved – 22 July 2015.
15/00315/FUL	Application for 4no. detached dwellings (follows approval on appeal against OUT/MAL/13/00710).	Application withdrawn – 19 May 2015.
APP/X1545/A/14/2219199	Residential development of 4 detached dwellings.	Allowed – 23 September 2014.

Reference	Proposal	Status
13/00710/OUT	Residential development of 4 detached dwellings.	Refused – 4 March 2014.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Great Totham Parish Council	No comments received.	Noted.
Wickham Bishops Parish Council	The Parish Council has no comment to make.	Noted.

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	At the time of writing, comments have not been received.	Noted.
Principal Conservation and Heritage Consultant	The proposal would cause no harm to the setting or significance of the heritage assets. As such, the proposal poses no conflict with Policy D3 of the Maldon LDP, Chapter 16 of the NPPF, or the duty set out in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Noted, and discussed at Paragraph 4.11.

7.3 External Consultees

Name of External Consultee	Comment	Officer Response
Essex County Council Highways Authority	From a highway and transportation perspective the impact of the proposal is acceptable, subject to the imposition of conditions regarding the submission and approval in writing to the LPA of a Construction Management Plan; the construction of the vehicular access; the provision of visibility splays; the removal of the front fence for 'Pippins', surface treatment; the division of	Noted, and discussed at Paragraph 4.6 of this report.

Name of External Consultee	Comment	Officer Response
	the right of way; the construction of the new access road and turning head; cycle parking; and the distribution of a Residential Travel Information Pack.	
Ecological Consultant	No objection, subject to securing a proportionate financial contribution towards Essex Coast RAMS and biodiversity mitigation and enhancement measures.	Noted, and discussed at Paragraph 4.9 of this report.
Arboricultural Consultant	The application is supported from an arboricultural perspective provided a soft landscaping scheme regarding the new planting being proposed and a detailed Arboricultural Method Statement can be submitted. These should be submitted as part of a dischargeable condition on any consent.	Noted, and discussed at Paragraph 4.10 of this report.

7.4 Representations received from Interested Parties

7.4.1 No representations have been received from interested parties.

8. **PROPOSED CONDITIONS**

- 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).
- The development hereby permitted shall be carried out in accordance with the following approved plans: WB_001 Rev PL1; WB_002 Rev PL2; WB_1003 Rev PL1; WB_102 Rev PL1; WB_004 Rev PL1; WB_101 Rev PL1; WB_003 Rev PL1; REDW-3475-116; WB_103 Rev PL1; WB_104 Rev PL1; WB_1002 Rev PL1; WB_1001 Rev PL1; HWA10753_TCP; HWA10753_TPP Rev B.
REASON To ensure that the development is carried out in accordance with the details as approved.
- The detached outbuilding associated with 'Pippins' hereby permitted shall only be used for those purposes ancillary and incidental to the use of the dwellinghouse, 'Pippins', Kelvedon Road, Great Totham, for which it is associated, and not for commercial or business purposes or as annexe accommodation.
REASON To protect the amenity of the occupants of neighbouring dwellings in accordance with Policy D1 of the Maldon District Local Development Plan (2017).
- No development works above slab level shall occur until details and samples of the materials to be used in the construction of the dwelling are to be submitted and

approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON In the interest of the character and appearance of the area in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2023).

5. Prior to the commencement of the development the applicant shall submit in writing a Construction Management Plan to the Local Planning Authority for approval. Within the Construction Management Plan it must consider the following requirements:

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 site, instead being removed by licenced 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.

From a highway and transportation perspective, the Construction Management Plan shall include:

- a. the parking of vehicles of site operatives and visitors,
- b. loading and unloading of plant and materials,
- c. storage of plant and materials used in constructing the development,
- d. wheel and underbody washing facilities.

REASON In the interest of protecting residential amenity and to ensure that on-street parking of vehicles in the adjoining streets does not occur and to ensure that loose

materials and spoil are not brought onto the highway in the interests of highway safety and in accordance with Policies D1, D2, D5 and T2 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2023).

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 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 adequate provision is made for surface water drainage in accordance with Policies D1 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2023).

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

REASON To ensure adequate provision is made for foul water drainage in accordance with Policies D1 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2023).

8. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, October 2023) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an Ecological Clerk of Works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

9. Prior to any works above ground level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

REASON To enhance protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the National Planning Policy Framework (2023) and s40 of the NERC Act 2006 (Priority habitats & species).

10. Prior to occupation, a lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (ILP) 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 (through the provision of appropriate lighting plans, drawings and technical specifications) 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 allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

11. Prior to the commencement of any works above ground level, full details of the provision and subsequent retention of the soft landscape works on the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- 1) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers / densities.
- 2) Details of the planting scheme implementation programme, including ground protection and preparation weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and / or other support.
- 3) Details of the aftercare and maintenance programme.

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 of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or

defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON To 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 (2017) and the Maldon District Design Guide (2017).

12. Prior to the commencement of development, the applicant shall submit in writing to the Local Planning Authority an Arboricultural Method Statement (including drainage service runs and construction hard surfaces) in accordance with the requirements of BS5837:2012 in relation to tree retention and protection for approval as follows:

The protective fencing and ground protection shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement tree 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. The tree protection measures shall be carried out in accordance with the approved detail.

REASON To ensure the protection of and continued well-being of trees in the interest of the amenity and environmental quality of the locality in accordance with Policies S1 and D1 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).

13. No development shall commence until fencing/ground protection to protect the hedges/shrubs to be retained has been erected in accordance with BS5837:2012, details of which shall have been submitted to the Local Planning Authority for written approval. The protective fencing shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site.

The protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone nothing shall be stored or placed, no fires lit, no vehicle shall gain access, ground levels shall not be altered, no excavation shall be made and no structure shall be erected. If within five years from the completion of the development a retained shrub or hedge is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement shrub or hedge 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 ensure the protection of and continued well being of trees and hedges in the interest of the amenity and environmental quality of the locality in accordance with Policies S1 and D1 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).

14. Prior to first occupation of the development the shared vehicular access shall be altered as shown in principle on planning drawing no. REDW-3475-116 and shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be 5.5 metres for the first 6 metres into the site and shall be provided a 2 metre wide footway on the northern side of the access. The access shall be provided with kerbed radii and tactile crossings. Full layout details to be agreed with the Highway Authority.

REASON To ensure that vehicles can enter and leave the highway in a controlled manner and to make adequate provision for pedestrians in the interest of highway safety in the interest of highway safety in accordance with Policy T2 of the Maldon

- District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
15. Prior to first occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 70 metres, in each direction, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
REASON To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with Policy T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
16. Prior to first occupation of the development and as shown in principle on planning drawing no. REDW-3475-116, the front fence for 'Pippins' shall be removed and re-constructed behind the highway boundary and visibility splay.
REASON To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with Policy T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
17. 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 interest of highway safety in accordance with Policy T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
18. Prior to first occupation of the development and as shown in principle on planning drawing no. REDW-3475-116, no development shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed with the Local Planning Authority has been confirmed and the new route has been constructed to the satisfaction of the Local Planning Authority.
REASON To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies T1 and T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
19. Prior to first occupation of the development and as shown in principle on planning drawing no. REDW-3475-116, the internal shared access road and continuation of the 2 metre footway (new route of public right of way) and provision of a turning head, shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
REASON To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety and to ensure the continued safe passage of pedestrians on the public right of way in accordance with Policy T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
20. Prior to first occupation of the development, cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.
REASON To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policies T1 and T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).
21. Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These

packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON In the interest of reducing the need to travel by car and promoting sustainable development and transport in accordance with T1 and T2 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2023).

INFORMATIVES

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath No. 4 (Great Totham) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

There shall be no discharge of surface water from the development onto the Highway.

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



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 JANUARY 2024**

Application Number	23/00920/FUL
Location	The Granary, Chigborough Farm, Chigborough Road, Little Totham, Essex
Proposal	Section 73a application for change of use of agricultural building to a cafe (Class E use) and provision of associated car parking.
Applicant	Mr P Tallowin
Agent	Miss Kate Jennings – Whirledge & Nott
Target Decision Date	15.01.2024
Case Officer	Kathryn Mathews
Parish	LITTLE TOTHAM
Reason for Referral to the Committee / Council	<p>Member Call In</p> <ul style="list-style-type: none"> • Councillor M FL Durham CC – Reason: Policy E4 and E5 relate to this application. • Councillor K M H Lagan - Reasons: Based on the high level of support that indicates that there is no material harm caused by granting this application and I believe that the adverse impact of granting planning permission would not significantly and demonstrably outweigh the benefits of the development. The cafe is a huge benefit to local tourism and local residents and supports generation of tourism in general to the area. It is therefore not contrary to policies D1 and T2 of the MDC local plan and the NPPF (due to the long-standing buildings and access to the site) and supports the policies and objectives of our LDP Policies S7, E5,E1 and D3.

1. RECOMMENDATION


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

2. SITE MAP

Please see below.

The Granary, Chigborough Farm, Chigborough Road, Little Totham
23/00920/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	North Western Area
	Date:	11/12/2023
	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 within the rural area and around 340m north of Goldhanger Road. The site forms part of a group of buildings forming part of Chigborough Farm and associated courtyard on the western side of Chigborough Road as well as land, also forming part of Chigborough Farm, adjacent to other buildings on the opposite side of the road. The building the subject of this application is a timber framed, weatherboarded structure which is a curtilage listed building being associated with Grade II listed Chigborough Farmhouse located to the south-west. The majority of the site is located in Flood Zone 1 but the part of the site on the eastern side of Chigborough Road is within Flood Zone 3a (high risk).
- 3.1.2 In addition to the application site, Chigborough Farm comprises a number of fishing lakes as well as buildings including a dwellinghouse, pottery studio, fish retail area and a smokehouse (the subject of planning permission reference 18/01215/FUL). The buildings associated with the Farm are surrounded by open countryside, woodland and lakes.
- 3.1.3 Planning permission is sought for the change of use of a former agricultural building to a cafe (Class E use) and the provision of associated car parking. The proposed use has commenced (it is stated that the use commenced on 1 February 2021), and the car parking has been provided so the application is retrospective in nature. The change of use relates to around 120sq.m. of floorspace, all at ground floor level, and it is suggested that a maximum of 40 covers would be provided. The change of use also includes an area of external seating on the southern side of the building within the courtyard (around 106sq.m. in area).
- 3.1.4 The building accommodates a kitchen, WCs and dining area. The change of use has resulted in minimal changes to the external appearance of the building.
- 3.1.5 33no. car parking spaces (5.5m x 2.9m) are provided on the eastern side of Chigborough Road adjacent to a 'smokehouse' and behind an existing native, roadside hedgerow. 3no. disability spaces and 6no. cycle spaces are also proposed within the courtyard.
- 3.1.6 Included within the application site is a 1.5m wide footpath which is around 50m in length and runs along the highway verge between the proposed car parking area and the café courtyard. It is described as having an all-weather surface.
- 3.1.7 The position of existing external lighting is indicated; two lights are within the application site. 7no. low level LED lights are also proposed along the abovementioned footpath.
- 3.1.8 It is stated that up to 10no. part time workers are employed within the year in addition to 4no. existing, full time workers. The hours of opening proposed are 09:00-16:00 Monday to Friday, 09:00-22:00 on Saturdays and 09:00-15:00 on Sundays/Bank Holidays.
- 3.1.9 The application is accompanied by a Design and Access Statement incorporating a Planning Statement and an Ecological Survey and Assessment (April 2023).
- 3.1.10 As part of the Design and Access Statement submitted it is explained that the restaurant/café proposed 'relocated' from the Lodge (which is located on the opposite

side of the courtyard but outside the current application site) where a restaurant with 25 covers was established in the 1980s (reference MAL/589/82)) but which closed in 2022. Reference is made to coarse and trout fishing at the Farm and that there is also glamping, a caravan and camping club site, pottery studio, a fish retail area and smokehouse. It is stated that there has been a food outlet in the Granary for the last 10 years and a café since 2018 (except during 2020- March 2021 due to the Pandemic). Currently the café is operated by Black Pig Catering as The Farm Café and the kitchen is also used for outside events such as weddings, festivals etc. The proposal is referred to as farm diversification and it is claimed that the use supports the local economy and is a social benefit as a food and drink venue.

3.1.11 It is also stated that the proposal supports local tourism (Policy E5) being located close to several caravan and holiday parks and leisure activities including walking and cycling routes (which also means that not all customers arrive by car). In support of the proposal, reference is made to the East of England Tourism: Maldon District Tourism Strategy Research 2009 which identifies a lack of high-quality restaurants in the District.

3.1.12 The current application has been submitted following planning permission having been refused for the following description of development 'Section 73A Change of use of an existing rural building to a restaurant and associated parking' (reference 21/01224/FUL) for the following reasons:

1. *The development is for a restaurant, which is classed as a 'town centre use' outside of an existing town, village, or located employment area. By virtue of the scale of the restaurant provided (40 no. covers), it is not considered to be ancillary to the wider farm operating at the site. Furthermore, it has not been demonstrated to the satisfaction of the Local Planning Authority that there is a justifiable and functional need for the activity within this rural location and that it could not have been reasonably located in existing towns, villages or allocated employment areas. Therefore, the development would be contrary to Policies E2 and E4 of the Maldon District Development Plan (2017), the guidance contained within the National Planning Policy Framework (2021) and the core planning principles and guidance in the National Planning Practice Guidance.*
2. *The proposed development would fail to provide adequate on-site parking provision. The proposal would therefore be likely to cause additional on-street parking, to the detriment of the free flow of traffic and highway safety. The proposal is therefore contrary to Policies S1, D1 and T2 of the Maldon District Local Development Plan (2017), the Council's Vehicle Parking Standards Supplementary Planning Document (2018) and the guidance contained within the National Planning Policy Framework (2021).*
3. *By virtue of the location of the associated car park, safe access to the building the subject of this report cannot be safely achieved by visitors and staff at the site. Visitors and staff would be required to access the building via a narrow and unlit section of highway that is not served by an established footway and this is to the detriment of highway safety. The proposal is therefore contrary to Policy S1, D1 and T2 of the Maldon District Local Development Plan (2017), the Council's Vehicle Parking Standards Supplementary Planning Document (2018) and the guidance contained within the National Planning Policy Framework (2021).*
4. *Insufficient information has been provided to show how biodiversity may be impacted by the development proposal and if required, the mitigation measures that could take place to prevent any associated harm. The proposal is therefore contrary to Policy E4 and N2 of the Maldon District Local Development Plan (2017) and the guidance contained within the National Planning Policy Framework (2021).*

- 3.1.13 The development the subject of the current application relates to the same building but is described as a change of use to a café instead of a restaurant and additional supporting information has been provided in the Design and Access Statement submitted. The footpath link between the main car parking area and the café has also now been included within the application site and the opening hours proposed have been reduced.

3.2 Conclusion

- 3.2.1 It is not considered that the café use proposed is ancillary to the wider site. Therefore, the development represents the introduction of a cafe outside the main towns, villages and employment areas, contrary to Policies S8, E2 and E4 of the LDP. Further, it has not been demonstrated that there is a need for such a use within this location. Therefore, objection to the principle of the development is raised.
- 3.2.2 However, no objections are raised in relation to the impact of the development on the character or appearance of the area, heritage assets, highway safety/access/parking, flood risk or nature conservation.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2023 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
- 55 – 59 Planning conditions and obligations
- 81-85 Building a strong, competitive economy
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 173 Meeting the challenge of climate change, flooding and coastal change
- 174-182 Conserving and enhancing the natural environment
- 189 – 217 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E1 Employment
- E2 Town Centre Provision
- E4 Agricultural and Rural Diversification

- E5 Tourism
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD
- National Planning Policy Framework (NPPF)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 The District's economy comprises employment in high quality manufacturing, construction, business, and light and general industry, as well as non-traditional employment in sectors such as education, health, retail and tourism. All of these sectors make a positive contribution to the local, regional and national economy. The vitality, diversity and responsiveness of the economy is fundamental to the future prosperity of the District and its position within the wider economy.
- 5.1.3 The application site is located outside the defined development boundary of Little Totham and within the countryside. The Council's spatial strategy is to focus new development within settlement boundaries (Policies S1 and S8) but Policy S8 (b) does allow for employment generating proposals in accordance with Policy E1, and Policy S8(f) does allow for rural diversification, recreation and tourism development subject to Policies E4 and E5, provided that the development does not harm the intrinsic beauty of the countryside. Policy S7 supports tourism within the District but subject to other Policies within the LDP, including Policy E5 and N2.
- 5.1.4 Policy E1 of the LDP states that the Council will encourage employment generating developments and investment in the District to support the long term growth vision outlined in the Council's Economic Prosperity Strategy (EPS). Further, the policy goes on to say that proposals to develop vacant employment sites and buildings, or to modernise or redevelop existing employment sites and buildings will be viewed favourably, especially where this supports the retention of existing businesses and/or provides employment space that meets the current needs of local businesses in the District.
- 5.1.5 Policy E4 of the LDP is relevant to this proposal as it refers to agricultural and rural diversification and the proposal is a change of use of an existing rural building (albeit retrospectively), and a car park associated with the change of use. As part of the application, it is stated that the cafe can provide for up to 40no. covers and is currently operated by 'Black Pig Catering.' The café also employs 4 no. full time staff

and 10 no. temporary staff. With reference to the requirements of Policy E4, the following information has been provided as part of the application:

- There is a need for the proposal as there is a functional relationship with this proposal and the surrounding leisure uses at Chigborough Farm (glamping, camping, fishing and Smokery)
- It contributes to the viability of the agricultural business as a whole as rent is paid by the café to and helps support the agricultural business.
- The development respects the building's historic or architectural significance as no alterations to the building have been made to accommodate the change of use.
- The development does not negatively impact on wildlife and the natural environment and there would be a net gain in biodiversity.
- With respect to outside storage, the outside seating area is not visible from outside of the courtyard and it is not considered that this use is detrimental to the visual amenity of the area.
- The use of the building would not lead to dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages. There has been a restaurant on the site since 1980s and two businesses serving food for the last two years without any noticeable impact on the vitality and viability of similar businesses in Maldon.

5.1.6 The operating hours proposed have been reduced since the previous application was refused from up to 10pm every day of the week to 09:00-16:00 Monday to Friday, 09:00-22:00 on Saturdays and 09:00-15:00 on Sundays/Bank Holidays. These revised hours would mean that it was more likely that the café's customers would also visit the wider uses of the site, for example, the fisheries or studio. However, given the size of the café and as it is operated independently of the other uses at Chigborough Farm, the cafe appears to function as a separate planning unit, rather than as an ancillary use to the wider site and surrounding caravan / holiday parks. Policy E4 states that the Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses subject to certain criteria which require that there is a justifiable and functional need for the building/activity and the function of the proposed building / activity is directly linked, and ancillary to, the existing use.

5.1.7 Whilst the considerable support for the continuation of the use of the café is noted and rent from the café would benefit the Farm financially, this, along with the supporting information, is not sufficient for it to be concluded that the proposal complies with the requirements of Policy E4 referred to above. Specifically, that there is not a functional need for the proposal and there is insufficient evidence that the use of the building would not lead to dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages. Whilst the café use could be described as being one which complemented the existing leisure and commercial uses within Chigborough Farm and the local area, this is not the same as there being a functional need for the use proposed, as required by Policy E4.

5.1.8 The other requirements of Policy E4 (the impact of the development on heritage assets and nature conservation) are discussed below.

5.1.9 With respect to Policy S7 of the LDP, the site is not located within a village (being outside of a defined Settlement Boundary and in the open countryside) and therefore this Policy does not apply.

- 5.1.10 Based on Annex 2: Glossary of the NPPF, a café is a main town centre use but, with reference to the sequential test in Policy E2, the site is not within a town or local centre and the only information which has been provided relevant to this issue is that there has been a restaurant on the site since 1980s and two businesses serving food for the last two years without any noticeable impact on the vitality and viability of similar businesses in Maldon. This unsubstantiated claim is insufficient to demonstrate that the development has not had and will not have an adverse impact on the vitality or viability of the District's town/local centres. Therefore, an in-principle objection is raised to the cafe proposed in this location.
- 5.1.11 It is noted that the building appears to have been used for various non-agricultural uses but none of these have been lawful. Furthermore, it is suggested that the café replaces the restaurant which operated lawfully from the nearby, currently vacant, Lodge but there does not appear to be anything to prevent the restaurant use of the Lodge recommencing on the basis that this was the last, lawful use of that building.
- 5.1.12 Based on the above, it is considered that the applicant has failed to provide sufficient information to justify the need for the development or explain why it could not be located in an existing town, village or employment area. Whilst it is acknowledged that the restaurant employs 4 no. full time staff and 10 no. part time staff, this is considered a limited benefit which does not outweigh the harm identified. Owing to the location of the site, it is likely that all of the employees and a significant proportion of the customers would rely on the use of the private car to access the site and there are more sustainable locations for this type of development within the District. The principle of the development is therefore not acceptable.
- 5.1.13 As part of the application, reference is made to the planning permission which was granted by the North Western Area Committee for the 'Construction of a building to be used as a cafe, office and staff room, greenhouse, new walkway, extended car park, improved internal vehicle access, new substation, relocated polytunnel, and associated landscaping' at Claremont Nursery (application reference 22/00643/FUL). However, this was partly for a restaurant to replace a previously approved café at the Nursery and also for other uses and so is not directly comparable to the development the subject of the current application.

5.2 Design and Impact on the Character of the Area and Heritage Assets

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 of the LDP and is found within the MDDG (2017).
- 5.2.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the approved Maldon District Local Development Plan (MDLDP) states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a

designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

- 5.2.4 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.5 The change of use has not resulted in external alterations to the rural building. The building and the associated outside seating area, disabled car parking spaces and cycle store are limited in extent and are all located within a courtyard and so there are no notable public views of the converted barn or the associated outdoor seating and parking areas. The main car park is already in situ and is largely screened from public view by the existing roadside hedgerow. The changes to the grass verge between the main car park and the café are limited in their extent. The proposal has not had an adverse impact on the character or appearance of the site or the character and intrinsic beauty of the open countryside, in compliance with Policies S8, E4 and D1 of the LDP.
- 5.2.6 With respect to the impact of the proposal on heritage assets, the Principal Heritage and Conservation Officer has raised no objections to the proposal. On the basis of this specialist advice, it has been concluded that the development has not had an adverse impact on the building as a curtilage listed structure or the setting of the Grade II listed Chigborough Farmhouse, in compliance with Policy D3 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 Owing to the siting of the rural building (which is in excess of 40 metres from the nearest residential neighbour at Chigborough Farmhouse), and the fact that there are no external alterations proposed to the building, the proposal will not result in a loss of privacy or daylight and sunlight to this / any neighbour, nor will it appear as overbearing.
- 5.3.3 With regard to noise, it is noted that there are no residential properties within the vicinity of the site except for Chigborough Farmhouse which is owned by the applicant and Environmental Health has raised no objections.
- 5.3.4 Therefore, the development has not been found to be an unneighbourly form of development, gives rise to overlooking or overshadowing, or has resulted in an unacceptable increase in the level of noise in the vicinity of the site, in accordance with the stipulations of Policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards. Policy T2 of the same plan 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.
- 5.4.2 The Council's adopted Vehicle Parking Standards SPD (2018) contains the parking standards which are expressed as minimum standards. This takes into account

Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognized that the District of Maldon is predominantly rural in nature and there is a higher than average level of car ownership. Therefore, the minimum Parking Standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and countryside, taking into account the availability of public transport and residents' reliance on the car for accessing employment, everyday services and leisure. The key objectives of the Standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.4.3 For an out of town / district centre cafe, a minimum of 1 space must be provided per 5 square metres of the gross floor area. On the basis of 120sq.m. of floorspace within the building, a minimum of 24 spaces must therefore be provided on site for car parking.
- 5.4.4 A total of 33no. parking spaces are proposed within the main parking area identified on the eastern side of Chigborough Road, which are in addition to the 5no. parking spaces approved to serve the existing smokehouse (reference 18/01215/FUL) which would be sufficient to comply with the adopted parking standards and, therefore, the second reason for refusal of the previous application (reference 21/01224/FUL) has been overcome.
- 5.4.5 Visitors to the café who use the main car park area would need to walk at least 50m along the edge of Chigborough Road where there is no streetlighting or roadside footpath. Visitors who parked in the main car park would rely on the use of the grass verge and having to cross Chigborough Road to gain access to the café proposed. Unlike the previously refused scheme, as part of the current application, the section of grass verge which would be used by visitors has been included within the application site with a hoggin type surface spread across part of the grass verge and solar powered, stake lights have been provided along one side of this path. Whilst the use of this footpath is not ideal from a safety perspective, the amended scheme has reduced the adverse safety risk for customers sufficiently to overcome the third reason the previous proposal (reference 21/01224/FUL) was refused planning permission.
- 5.4.6 Furthermore the development has not resulted in an increase in vehicle movements that has caused materially adverse issues on the local highway network. It is noted that there has been no objection raised by Essex County Council Highways (ECC) in relation to the proposal, subject to a condition that no unbound material is used in the surface treatment of the vehicular access within 6 metres of the highway.
- 5.4.7 Based on the above, the proposal the subject of the current application is not contrary to Policies D1, T1 and T2 of the LDP.

5.5 Flood Risk

- 5.5.1 Part of the application site (the main car park proposed) lies within Flood Zone 3a, as defined by the Planning Practice Guidance: Flood Risk and Coastal Changes although the site is in an area benefiting from flood defences. In accordance with Annex 3: Flood risk vulnerability classification of the NPPF, a cafe and car parking is considered to be a 'less vulnerable' use.

- 5.5.2 For developments within Flood Zones 2 and 3, the Sequential Test does not need to be applied for applications for changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.
- 5.5.3 A Flood Risk Assessment (FRA) has not been submitted as part of the application but the building the subject of the proposed change of use lies within an area of low flood risk (Flood Zone 1) the associated car park area is a 'less vulnerable' use which is acceptable within Flood Zone 3a and the proposal is not required to pass the Exceptions Test. It is also noted that the adjacent car parking area was found to be acceptable in terms of flood risk as part of the assessment for application reference 18/01215/FUL (as part of which an FRA was submitted). Therefore, no objections are raised in relation to flood risk and the proposal is not considered to be contrary to Policy D5 of the LDP.

5.6 Nature Conservation

- 5.6.1 The Ecological Survey and Assessment submitted concludes that the barn has negligible potential as a roosting place for bats, the site is unsuitable for occupation by barn owls, reptiles and great crested newts and there is no evidence of badgers. Reference is made to planting in the courtyard and biodiversity enhancements (the provision of gaps in boundary fencing for hedgehogs, 2no. bird nesting boxes, 2no. solitary beehives and a hedgehog nesting box).
- 5.6.2 ECC Ecology have raised no objections to the proposal on the basis of the conclusions of the Ecological Survey and Assessment submitted, subject to enhancement measures which could be secured through the imposition of conditions if planning permission were to be granted.
- 5.6.3 The proposal is therefore not contrary to Policy E4 and N2 of the LDP and the fourth reason the previous proposal was refused planning permission (referenced 21/01224/FUL) has been overcome.

5.7 Other Material Considerations

- 5.7.1 Limited information has been provided with regard to the drainage provision at the site. However, should planning permission be forthcoming, this could be secured via the imposition of a suitably worded planning condition.

6. ANY RELEVANT SITE HISTORY

- **21/01224/FUL** – Section 73A Change of Use of an Existing Rural Building to a Restaurant and associated parking – Refused
- **18/01215/FUL** - Demolition of former greenhouses and construction of a smoke house for the preparation, curing and smoking of fish -Approved
- **14/00357/FUL** - Siting of a floating cabin used as a holiday let - Approved
- **98/00701/FUL** - Proposed Fishery Hut – Approved
- **MAL/589/82** -Change of use from Garage/GP building to Fisherman's Lodge with cooking facilities and toilet to be used in conjunction with the fisheries at Chigborough Farm – Approved

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Little Totham Parish Council	The Parish Council supports this application because the business is currently restricted to 21 covers and therefore needs to be able to increase the number of customers that can be catered for, in order to be a more sustainable enterprise.	Noted but the existing use of the site is not lawful.
Heybridge Parish Council	No response.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways	No objection, subject to a condition that no unbound material is used in the surface treatment of the vehicular access within 6 metres of the highway.	Noted – the condition recommended could be imposed if planning permission were to be granted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Environmental Health	No observations to make.	Noted.
ECC Ecology	No objection subject to securing enhancement measures.	Noted – the conditions recommended could be imposed if planning permission were to be granted.
Specialist – Heritage and Conservation	The barn is situated to the north of Chigborough Farmhouse which is a grade II listed building. The house consists of an early-19th-century brick front (south) range with 15th and 17th-century timber framed and rendered ranges to the rear. The 15th-century part is particularly interesting having unusual arch-braced A-framed trusses and hollow-chamfered window mullions. The significance of the listed	Noted – refer to section 5.2 of report.

Name of Internal Consultee	Comment	Officer Response
	<p>building derives principally from its architectural interest as a multi-phased farmhouse with medieval origins. The barn is a mid-19th-century timber-framed and weatherboarded structure with a central waggon porch on its south elevation. The building has slack-pitched and hipped roofs which appear to be later than the walls. The barn is a positive feature within the setting of the listed farmhouse, illustrating the site's agricultural history. The change of use to the barn has already occurred and has resulted in no harm to the setting or significance of Chigborough Farmhouse. The barn has been sympathetically repaired in such a way that has preserved its character. Historic buildings generally have to have a use which justifies their maintenance and survival. Countless old barns have fallen out of use and finding new uses for them is a perennial challenge. The café use respects the character of the barn, preserving its spacious internal volume and external character. The parking area on the opposite site of Chigborough Road has existed for many years and causes no harm to the setting of the listed farmhouse, nor does the recent footpath leading from the car park. No objection raised and no conditions to recommend in this instance.</p>	

7.4 Representations received from Interested Parties

- 7.4.1 **73** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
No parking issues	Refer to section 5.4 of report.
Pedestrian access no risk to safety – can walk on verge	Refer to section 5.4 of report.
There is a need for the café – no comparable restaurant/café in this part of	Refer to section 5.1 of report.

Supporting Comment	Officer Response
the District	
Used by local residents and tourists	As above.
Farm diversification	As above.
Customers not diverted from Maldon	As above.
Respects building of historic and architectural significance	Refer to section 5.2 of report.
Employs local people	Noted.
Valuable meeting place for local people	Noted.
No light pollution	Noted.
Reuse of a redundant building	Noted.
Very limited visual impact	Refer to section 5.2 of report.
No harm to neighbours	Refer to section 5.3 of report.
No adverse impacts	Noted.

8. PROPOSED REASON FOR REFUSAL

- 1 The development is for a cafe, which is classed as a 'town centre use', outside of an existing town, village, or located employment area. By virtue of the scale of the use proposed (up to 40no. covers), it is not considered to be ancillary to the wider farm operating at the site. Furthermore, it has not been demonstrated to the satisfaction of the Local Planning Authority that there is a justifiable and functional need for the activity within this rural location and that it could not have been reasonably located in existing towns, villages or allocated employment areas. Therefore, the development would be contrary to Policies S8, E2 and E4 of the approved Maldon District Development Plan and the National Planning Policy Framework.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 JANUARY 2024**

Application Number	23/00952/FUL
Location	9 Cherry Blossom Lane Cold Norton Essex CM3 6JQ
Proposal	Erection of 2no. bungalows including parking provision
Applicant	Mr Penny - Penny Homes Ltd
Agent	Andrew Pipe - Andrew Pipe Associates
Target Decision Date	17 th January 2024
Case Officer	Lisa Greenwood
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Not Delegated to Officers as Departure from Local Plan

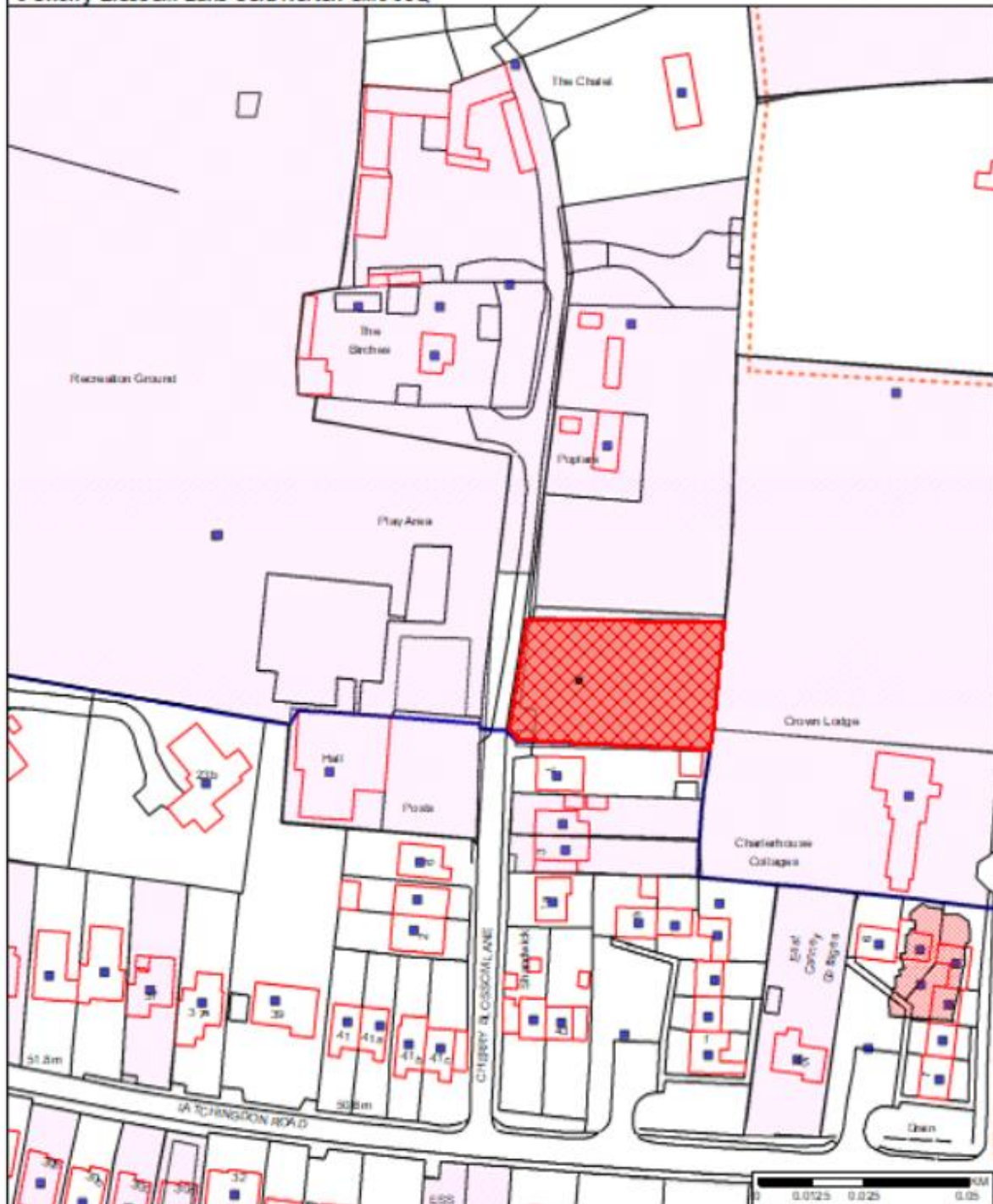
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

22/00931/F UL
9 Cherry Blossom Lane Cold Norton CM3 6JQ



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	Organisation: Maldon District Council
	Department: Department
	Comments: Not Set
	Date: 31/10/2022
	MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The application site is located on the eastern side of Cherry Blossom Lane, just outside of the defined settlement boundary of Cold Norton which runs along the southern edge of the site. The application site is currently grassland bounded by fencing along the eastern and northern boundaries, and hedgerow to the west. Cherry Blossom Lane largely comprises two storey dwellings of pitched roof designs. However, immediately adjacent to the south of the site is no. 7 Cherry Blossom Lane which is a detached bungalow with a pitched roof design. To the north of the site is the garden of a dwelling known as Poplars, which is sited further away to the north. To the east of the site is a large plot associated with a large dwelling known as Crown Lodge. To the west, opposite the site is the Cold Norton Village Hall. As Cherry Blossom Lane extends into the countryside, outside of the defined settlement boundary, the residential character becomes less dense and more spacious in nature, reflecting the semi-rural character of this area.

Description of proposal

- 3.1.2 Planning permission is sought for the erection of 2no. bungalows including parking provision. This is a revised scheme, following the refusal of planning permission reference 23/00371/FUL also for 2no. bungalows but was refused planning permission for a single reason, that being a loss of residential amenity by way of a loss of privacy and overlooking to future occupants of the site and the neighbouring dwelling at no.7 Cherry Blossom Lane.
- 3.1.3 The bungalows proposed in the current application would be set back from the private access road by between 8.9 and 12.63 metres in a staggered arrangement. The bungalows would have a similar orientation and layout to the bungalow south of the site.
- 3.1.4 The bungalow proposed at Plot 1 to the north of the site would measure 8.681 metres by 17.969 metres and would have a maximum height of 5.060 metres (2.382 metres to the eaves). There would be a smaller roof projection at the proposed southern elevation, and this would contain a porch. An area of private amenity space measuring 334m² is proposed to the rear.
- 3.1.5 The bungalow would provide a living / dining area, kitchen, hall, three bedrooms, an en-suite, cloakroom cupboard, and a main bathroom.
- 3.1.6 Plot 2 would provide for a handed development, with the same dimensions and layout as Plot 1. However, the private amenity space proposed would measure 291m².
- 3.1.7 Parking for 2no. vehicles is proposed at the side elevation for each of the bungalow and would be achieved in a tandem arrangement. An existing close boarded fence is to be retained along the eastern and northern boundary. Conifers would overhang the fence along the northern boundary. A section of hedgerow is to be retained along the western boundary. A turning area is provided at the frontage.
- 3.1.8 Cycle storage and refuse and recycling storage would be provided within a cycle and refuse store within the private amenity space to the rear.

3.1.9 The proposal differs from the previously refused scheme for the following reasons:

- Obscure glazing is now proposed to serve the cloakroom;
- A 1.8 metre high fence would be provided as a boundary treatment along the boundary shared by Plots 1 and 2;
- A 2 metre high close boarded fence would be provided along the perimeter of the parking area;
- A 2 metre high close boarded fence has now been erected along the boundary shared with the neighbour at no.7 Cherry Blossom Lane. Upon visiting the site on 13th December 2023 however, the Planning Officer noted that this boundary treatment had not been erected. Instead, a low brick wall remains.
- Details have been submitted regarding the dimensions of the proposed cycle store, which would have a maximum depth of 2.428 metres, a maximum width of 1.987 metres, and a maximum height of 2.103 metres.

Background of the application

3.1.10 The application follows a previous application for a similar proposal that was approved in 2017 (Reference 17/00988/FUL). This application followed a previous application (Reference 13/01172/OUT) which was allowed on appeal (Appeal Reference APP/X1545/A/14/2219763). As part of this appeal decision, the Inspector concluded that the site is in a sustainable location, there would be no significant harm to the character and appearance of the countryside and the site would therefore be a suitable location for housing.

3.1.11 Planning permission has recently been granted on the application site, for a detached three- bedroom bungalow with associated vehicular access, hardstanding and landscaping (planning reference 22/00931/FUL).

3.1.12 As stated, planning permission for the erection of two bungalows at the site was refused due to the detrimental impact on the residential amenity of future occupants and the neighbour to the south at no.7 Cherry Blossom Lane (planning reference 23/00371/FUL).

3.1.13 The application is for committee consideration as the proposal is for two new dwellings outside of the defined settlement, which is a departure from the local plan.

3.2 Conclusion

3.2.1 The proposed development is located outside of the settlement boundary for Cold Norton and thus, is in principle contrary to policies that seek to direct new residential development to established settlements. However, the development abuts the settlement boundary and was assessed against all the dimensions of sustainability and it is considered that, when also taking into account the planning history of the site, the proposal constitutes sustainable development.

3.2.2 Based on the Inspector's findings previously, the development would infill a parcel of unused land which limitedly contributes to the countryside. Therefore, the principle of a residential development in this location has been found acceptable and the appeal decision, together with other recent planning decisions of approval are material considerations in the assessment of the current application. The proposal would not result in detrimental harm to the character of the area.

- 3.2.3 The applicant has sought to provide additional boundary treatments to protect the residential amenity of the future occupiers of the site and the neighbour to the south at no.7 Cherry Blossom Lane. A suitably worded condition can be imposed on any forthcoming consent to ensure that the boundary treatments are erected and permanently retained. The application has addressed the single reason for refusal of the previous application, and It is therefore recommended that planning permission is granted.

4. MAIN RELEVANT POLICIES

4.1 National Planning Policy Framework (NPPF) December 2023, including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 11-14 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligation
- 60-81 Delivering a sufficient supply of homes
- 108-117 Promoting sustainable transport
- 123-130 Making effective use of land
- 124-125 Achieving appropriate densities
- 131-141 Achieving well-designed places
- 180-188 Conserving and enhancing the natural 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
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF) (2021)
- Maldon District Design Guide SPD
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 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 Paragraph 47 of the NPPF (2021) require that planning decisions are to be made in accordance with the Development Plan (LDP) unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).

- 5.1.2 Policy S1 of the LDP states that *“When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF”* and apply a number of key principles in policy and decision making set out in the Policy.
- 5.1.3 Policy S8 of the LDP steers new development towards the existing urban areas. This Policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general use residential properties but does allow at (m) of S8, development which complies with other policies of the LDP. As such, although there is conflict with Policy S8 in that the site is located outside of the settlement boundary, in the opinion of the Local Planning Authority (LPA), this is balanced against other material considerations which are discussed further in the report. Of relevance to this consideration are: Policy I2 which states that suitable types of residential development which cater for the ageing population and support healthy and independent lives will be provided; and Policy H3 which supports the provision of housing for ‘specialist’ needs.
- 5.1.4 As per Paragraph 76 of the NPPF, the Council, as the LPA for the Maldon District is expected to “identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.” To this end, Maldon District Council prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.5 Work has recently been carried out by the Council in reviewing the suitability of the 5 Year Housing Land Supply methodology through its 5 Year Housing Land Supply (5YHLS) Working Group established in August 2022. The work has now assessed the current 5YHLS figure as 6.35 years. At its Statutory Annual committee meeting on the 18 May 2023 the Council subsequently confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021/2022 of 3.66 years. This means that the Council’s presumption in favour of sustainable development position against paragraph 11 (d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the LDP), the provision of the most suitable types of housing for the district, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.
- 5.1.6 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. As stated, the LDP through Policy S1 re-iterates the requirements of the NPPF Policy S1 allows for new development within the defined development boundaries. Paragraph 79 of the NPPF states that:

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will

support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”

- 5.1.7 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 109 of the NPPF acknowledges that “development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.” This is supported by the update of the Government’s Policy Paper, ‘Strategic road network and the delivery of sustainable development’ (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that “new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable.”
- 5.1.8 In terms of the sustainability of the proposed development, although the village of Cold Norton is designated as one of the “smaller villages” in the LDP, has a number of services and facilities to provide the daily requirements of the future residents, including a primary school, public house and convenience stores. There are also frequent bus services to Chelmsford, Maldon, Southminster and other villages within the District. Although the property is located outside of the defined settlement boundary it is considered that due to its close proximity, the future occupiers of the proposed dwelling would not be reliant on private vehicles to meet regular day to day needs.
- 5.1.9 In 2014, the Inspector, in considering an appeal against the Council’s refusal of 13/01172/OUT noted that *“the site would be a suitable location for housing development, and it would represent sustainable development within paragraph 7 of the Framework for which there is a presumption in favour.”* Although some time has passed since this decision, there has been a subsequently approved application for a detached bungalow at the site in 2017 and more recently in 2022, which was approved by the North Western Area Planning Committee. Given this context and the Inspector’s previous findings, to which significant weight is given, the site has been found to be suitable for housing in this instance.
- 5.1.10 Other considerations for the proposal are discussed below, including the impact on the character of the area and residential amenity and the provision of parking and private amenity space at the site.

5.2 Housing Mix

- 5.2.1 The Council’s Housing Needs Assessment (HNA) (2021) is an assessment of housing need for Maldon District as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The HNA is wholly compliant with the NPPF (2021) 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 size of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.2 The HNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3-bed dwellings (specifically 40-50%). The proposed dwellings would have three bedrooms and would therefore be policy compliant and

would meet the Council's identified need for smaller dwellings, albeit limitedly, which would weigh in favour 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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Policies D1 and H4 of the LDP and the MDDG (2017) are relevant in this respect.
- 5.3.2 The application site is located at the end of an existing residential street which is fronted by bungalows and two storey detached dwellings of predominantly pitched roof design. Although the proposed development would be located on a parcel of land beyond the defined settlement boundary, it is noted that two previous applications approved a single storey detached bungalow at the site (planning references 17/00988/FUL and 22/00931/FUL). Prior to this, an Inspector found that the site would be suitable for development as the area of land did not represent a *"sensitive countryside location"* as it *"makes very little contribution to the visual appearance of the locality"* and *"The open countryside is not immediately apparent from the appeal site"*. The proposed development would form a continuation of the linear development at this section of Cherry Blossom Lane.
- 5.3.3 The siting and layout of the bungalow provided at Plot 1 would remain largely unchanged from that of the previously approved scheme for the erection of 1no. bungalow at the site (planning reference 22/00931/FUL). A slight alteration is proposed to the depth and width of the bungalow, but this is not significant (less than 1 metre). The parking arrangement will alter, as the proposed arrangement would be to the side of the bungalows, as opposed to at the frontage, but this is not considered to be harmful. The layout and roof plan remains the same.
- 5.3.4 The development is handed, and the second bungalow proposed at Plot 2 mirrors the scale and layout of the bungalow proposed at Plot 1.
- 5.3.5 Both bungalows would be provided with sufficient access and parking arrangements, and large areas of private amenity space are proposed to the rear. When viewed at the street scene, the bungalows would be in keeping with the design of the bungalow to the south of the site, at no.7 Cherry Blossom Lane and would not cause harm to the character and appearance of the area. In accordance with Paragraph 124 of the NPPF, it is also considered that the bungalows would make the most effective use of the land.
- 5.3.6 Given this site context, it is not considered reasonable to recommend refusal of the application on design grounds and it is considered that the development, on balance, would be acceptable in terms of its design and impact on the wider character of the area. A condition would be imposed on any consent with regard to the materials proposed to ensure that they are in keeping with the character and appearance of the built form in the locality.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking,

outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

- 5.4.2 The closest neighbours to the site are no.7 Cherry Blossom Lane, which is located directly to the south, and Poplars, which is located directly to the north. The impact of the future occupants of the site will also be assessed.
- 5.4.3 As stated, the development proposed is handed, therefore, the layout of Plot 2 will mirror that of Plot 1. Drawing no.23.667 03 Rev B provides the internal layout of the proposed bungalows. Drawing no.23 667 02 Rev C shows the site layout and the arrangement of the pair of bungalows within the application site.
- 5.4.4 Owing to the fact that the development is handed, bedroom 2, a hallway, kitchen, and living / dining room will front the boundary shared between Plot 1 and Plot 2. Windows are proposed to serve the living / dining room, and a door and windows are proposed to serve the kitchen. Whilst it is acknowledged that car parking is proposed along this section of boundary, direct looking between the plots could be achieved, and this would cause harm to the residential amenity of future occupants.
- 5.4.5 Furthermore, a low brick wall provides a boundary treatment along the boundary shared with the neighbour to the south at no.7 Cherry Blossom Lane. Plot 2 would be separated from this boundary by 1.4 metres. A bathroom and bedroom are proposed to front this boundary. Windows are proposed to serve both the bathroom and the bedroom. Should planning permission be forthcoming, a condition would be imposed to ensure the glazing to serve the bathroom is obscured and non-opening. It is not considered reasonable to obscure the glazing to a habitable room such as a bedroom.
- 5.4.6 With regard to overlooking, as stated, a 2 metre boundary treatment of close boarded timber panel fencing is now proposed along the southern boundary, which is shared with the neighbour at no.7 Cherry Blossom Lane. 1.8 close boarded timber panel fencing is also proposed around the perimeter of the car parking area. Obscure glazing is proposed to the windows to serve the hallway / cloakroom for both plots. It is noted, however, that the hallway is not considered a habitable room and the overlooking from the hallway is not as harmful as the overlooking from the bedroom and kitchen. Taking into account the amendments made however, it is now considered that the proposal would be acceptable with regard to overlooking and the impact on the residential amenity of the future occupants of the site and the neighbour to the south at no.7 Cherry Blossom Lane. A condition would be imposed on any forthcoming planning consent to ensure that the boundary treatments are erected and are retained permanently.
- 5.4.7 With regard to the impact on Poplars, a timber paneled fence with existing conifers provides a boundary treatment between the site and this neighbour. The development would be sufficiently screened and would not result in a loss of privacy or daylight and sunlight, nor would it appear as overbearing to this neighbour.
- 5.4.8 The proposal has been reviewed by the Council's Environmental Health Officer, who notes that should planning permission be forthcoming, a condition should be imposed that requires a construction management plan to be submitted to and approved in writing by the LPA, to control nuisances during construction works.
- 5.4.9 Subject to the erection and retention of the stated boundary treatments, the impact of the development on the residential amenity is therefore now considered to be acceptable, 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 development would be accessed from Cherry Blossom Lane, an unadopted road. Although the site has an existing access and gate, the plans submitted show that the development would involve the formation of a new access centred to the front boundary of the site, in accordance with the previously approved application reference 22/00931/FUL. The Highways Authority raise no objection to the amended access, which is now located more centrally within the site, and this is considered to be acceptable.
- 5.5.3 In accordance with the Maldon District Vehicle Parking Standards, two off-street parking spaces are required to be provided for a three- bedroom dwelling. Two off-street parking spaces to serve each dwelling have been shown on the plan submitted, in accordance with the above requirements.
- 5.5.4 Two cycle parking spaces are also proposed within a shed to the east of the parking area and this is considered to be acceptable.

5.6 Ecology (including the impact of development within the Zone of Influence (Zoi) for the Essex Coast RAMS)

- 5.6.1 Paragraph 180 of the NPPF states that 'planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'
- 5.6.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.6.3 Policy N2 of the LDP which states that '*All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.*'
- 5.6.4 The application concerns the construction of 2no. dwellings within an open meadow. Therefore, to identify whether any protected species would be present and affected by the proposal it is expected that an Ecological Survey undertaken by a suitably qualified ecologist using standard methodologies should be submitted with the application.
- 5.6.5 The proposal has been reviewed by the Council's Ecological Consultant who has reviewed the Preliminary Ecological Appraisal (PEA) (ACJ Ecology, November 2022) submitted to support the proposal, and has no objection to the scheme, subject to securing a proportionate financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) and biodiversity mitigation and enhancement measures. Should planning permission be forthcoming, the Consultant recommends the imposition of planning conditions to ensure

compliance with the PEA, that a Biodiversity Enhancement Strategy for Protected species shall be submitted to and approved in writing by the LPA, and that if any external lighting is proposed, a wildlife sensitive lighting scheme is also submitted to and approved in writing by the LPA.

- 5.6.6 The Consultant notes that the site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the Essex Coast RAMS. The LPA must therefore establish if the proposal falls within the scope of the RAMS as "relevant development". The LPA should prepare a Habitats RegulationS Assessment (HRA) to secure a per dwelling tariff by a legal agreement for the delivery of visitor management measures at designated sites.
- 5.6.7 The development of 2no. dwellings 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 a HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from the HRA Stage 1: Screening Assessment are listed below:

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

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

Does the planning application fall within the specified development types? Yes – The proposal is for two dwellings.

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

- 5.6.8 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 £156.76 per dwelling is necessary. The Council is now in receipt of a signed Unilateral Undertaking (UU) and the appropriate mitigation would therefore be secured, in compliance with policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.
- 5.6.9 Subject to appropriate conditions it is therefore considered that appropriate mitigation measures could be put in place to mitigate the likely harm the proposal would cause. The proposal is therefore considered to comply with Policy N2.

5.7 Private amenity space and landscaping

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD (2017) advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with 3+ bedrooms.

- 5.7.2 As stated, the development provides well in excess of 100m² of private amenity space for both dwellings, and therefore meets this requirement.

5.8 Other matters

- 5.8.1 The proposal has been reviewed by the Council's Environmental Health Officer, who notes that should planning permission be forthcoming, 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.
- 5.8.2 Conditions are also to be imposed with regard to surface water, foul drainage, and procedures concerning contamination, should it be found during construction.
- 5.8.3 There are no trees with amenity value located at the site, and the site comprises of grassland. The Council's Arboricultural Consultant commented on the previously approved scheme and raised no objection to the proposal. The scheme would present a good opportunity to have new landscape installed to benefit amenity and ecological net gain. A condition for a soft landscape scheme to provide suitable tree and shrub planting with suitable plants, quantities, sizes and planting specification to ensure establishment was recommended and would be imposed on any future consent.

6. ANY RELEVANT SITE HISTORY

- **13/01172/OUT** – Single storey bungalow and garage. Appeal Allowed 06.03.2014 (Reference APP/X1545/A/14/2219763).
- **17/00988/FUL** – Construction of a detached 3 bedroom bungalow with associated vehicular access, hardstanding and landscaping. Approved.
- **22/00931/FUL** – Construction of detached three bedroom bungalow with associated vehicular access, hardstanding and landscaping. Approved.
- **23/00371/FUL** – Construction of 2no. bungalows including parking provision. Refused.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Cold Norton Parish Council	No comments.	Noted.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex Highways	The proposed bungalows will be accessed via a private road. From a highway and transportation perspective the	Noted, and discussed at Paragraph 5.5 of the Officer's report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	impact of the proposal is acceptable to the Highway Authority.	
Place Services – Ecology	No objection, subject to securing the relevant RAMS contribution and biodiversity mitigation and enhancement measures.	Noted and discussed at Paragraph 5.6 of this report.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections, subject to the inclusion of conditions and informatives regarding a construction management plan, surface water drainage, foul drainage, contamination, and waste management.	Noted, and discussed at Paragraph 5.8 of this report.

7.4 Representations received from Interested Parties

7.4.1 No representations have been received for this application.

8. PROPOSED CONDITIONS

- The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).
- The development hereby permitted shall be carried out in accordance with the approved details and in accordance with Policy D1 of the Maldon District Local Development Plan (2017).
REASON In order to ensure that the development is carried out in accordance with the approved details and in accordance with Policy D1 of the Maldon District Local Development Plan (2017).
- 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 Maldon District Local Development Plan (2017) and the guidance contained within the National Planning Policy Framework (2023).
- No development above slab level shall take place until details of all hard and soft landscape works and means of protecting the existing hedges at the site that are to be retained during the course of development have been submitted to and approved 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 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 In the interests of the character and appearance of the rural area and highway safety, in accordance with Policies T2, D1, E1 and S8 of the Maldon District Local Development Plan (2017) and the guidance contained within the National Planning Policy Framework (2023).

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, piers, and treatment around the car parking area, have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments as approved, specifically including the treatment around the car parking area and the boundary treatment along the southern boundary separating the site from the neighbour at no.7 Cherry Blossom Lane, shall be constructed prior to the first occupation of the development to which it relates and be permanently 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 (2017) and the Maldon District Design Guide (2017).

6. The existing hedgerows and trees along the northern and eastern boundaries of the application site shall be protected during the construction of the development.

REASON To protect the character of the area and the natural environment in accordance with Policy D1 and N2 of the Maldon District Local Development Plan (2017) and the guidance contained in the National Planning Policy Framework (2023).

7. 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 adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the Policy D5 of the approved Maldon District Local Development Plan (2017) and the National Planning Policy Framework (2023).

8. No works above ground level shall take place until details of the foul drainage scheme to serve the development has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON To ensure the adequate provision of drainage to mitigate against pollution in accordance with Policy D2 of the Maldon District Local Development Plan (2017) and the National Planning Policy Framework (2023).

9. Prior to first occupation of the development, the onsite vehicle parking shall be provided as shown on drawing no. 23.667 02 Rev D, including a minimum of two offstreet parking space for the dwelling hereby approved. 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 that on-street parking is provided as approved in accordance with policies D1 and T2 of the Maldon District Local Development Plan (2017) and the National Planning Policy Framework (2023).

10. All mitigation and enhancement measures and / or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (ACJ Ecology, November 2022), as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

REASON To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation and Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

11. Prior to the commencement of any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs or product information descriptions to achieve stated objectives;
- c) Location, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant).

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

REASON To enhance protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the National Planning Policy Framework (2021) and Section 40 of the Natural Environment & Rural Communities Act 2006 (Priority habitats & species).

12. If external lighting is proposed, prior to occupation, 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 (through the provision of appropriate lighting plans, drawings and technical specifications) 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 allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and Section 40 of the Natural Environment & Rural Communities Act 2006 (Priority habitats & species).

13. Prior to the first occupation of the dwellings hereby permitted, the window in the southern elevation of Plot 2, proposed to serve a bathroom, and the windows to serve each cloakroom on the southern elevation of Plot 1 and the northern elevation of Plot 2, shall be glazed with opaque glass to Pilkington privacy level 5 and comprise a non-opening 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 In the interest of protecting residential amenity, in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2023).



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
10 JANUARY 2024**

Application Number	23/01003/FUL
Location	Land at Homefield House, Witham Road, Little Braxted
Proposal	Proposed change of use of an ancillary storage shed workshop into a key worker family dwelling. Alterations to the outbuilding including changes in materials and fenestration.
Applicant	Mr and Mrs Howard
Agent	Mr Andrew Stevenson – Andrew Stevenson Associates
Target Decision Date	26/12/2024
Case Officer	Fiona Bradley
Parish	LITTLE BRAXTED
Reason for Referral to the Committee / Council	Member Call-In by Councillor S J N Morgan, citing policies S1, S7, H5, H7. Departure from the local plan

1. RECOMMENDATION


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

2. SITE MAP

Please see below.

Homefield House, Witham Road North Western Area



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	Organisation: Maldon District Council
	Department: Department
	Comments: Not Set
	Date: 19/12/2023
	MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The application site is located on the northern side of Witham Road and comprises of Homefield House, a private residential dwelling with landscaped grounds, two out-buildings (the smaller of which is the subject of the application) and a large gravel parking and manoeuvring area.
- 3.1.2 Land within the applicant's ownership is adjacent to the application site and includes the building comprising The Braxted Bakery, however the parking and external area relating to the business are within the application site. The building and land comprising GS Howard Transport Limited are also included in the application site. Also included within the applicant's ownership are stables, paddock and grazing land. The existing access and gravel parking within the application site serves the existing dwelling, the outbuildings, café and the transport business.
- 3.1.3 The site is relatively flat and measures approximately 160m long by 46 m wide. The western boundary, adjacent to Witham Road, and the southern boundary of the site, comprise of existing hedgerows and vegetation.
- 3.1.4 Opposite the site on Witham Road is Sewells Farm, with the farmhouse and associated buildings. The site is surrounded on all other sides by open countryside.
- 3.1.5 In planning policy terms, the site is outside a defined Settlement Boundary and is within the open countryside. Witham town centre is located 1.8km (1.1 miles) to the west of the site as the crow flies, or 3.4km (2.1 miles) by road, on the western side of the A12. The villages of Wickham Bishops and Great Totham are located to the south, with the nearest settlement boundary being 1.8km (1.1 miles) from the site.

The proposal

- 3.1.6 Planning permission is sought for the change of use of an ancillary storage building into a key worker family dwelling. Alterations to the outbuilding are proposed including changes in materials and fenestration.
- 3.1.7 The proposed ground floor would comprise a kitchen/dining/living area, utility room, shower room and bedroom/sitting room. The proposed first floor would comprise of two bedrooms, an en-suite and a bathroom.
- 3.1.8 Car parking provision would be on the existing gravel hardstanding to the southeast of the building. External private amenity space, measuring in excess of 300 sqm, would be provided immediately adjacent to the building, and would be enclosed by a post and rail fence and existing hedgerow to the south and east with new hedgerow to the west and a willow fence and access gate screening the amenity space from the adjacent car parking area.
- 3.1.9 It is proposed that the dwelling would be occupied by Mr and Mrs Howard Junior (Mr and Mrs Howard Senior are the applicants), who work for GS Howard Transport Ltd and The Braxted Bakery respectively. The proposed dwelling is intended by the applicant to be tied by way of a S106 agreement to the host dwelling, Homefield House.

3.2 Conclusion

- 3.2.1 The application site is located outside of a defined Settlement Boundary and is within the open countryside. Safe access cannot be provided for pedestrians and cyclists to the nearest settlements, therefore occupants of the site would rely heavily on the use of the car to fulfil the requirements of day-to-day living (shopping, education, doctors etc). The proposed development is not for a keyworker and tying the proposed dwelling to Homefield House does not mitigate the harm of creating a new dwelling in an unsustainable location in the countryside.
- 3.2.2 Insufficient information has been submitted with regard to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), and the necessary financial contributions have not been secured.
- 3.2.3 For the reasons stated, it is therefore recommended that outline planning permission is refused.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 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
- 55 – 59 Planning conditions and obligations
- 60-80 Delivering a sufficient supply of homes
- 104-113 Promoting sustainable transport
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 173 Meeting the challenge of climate change, flooding and coastal change
- 174 – 183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

- I1 Infrastructure Services

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 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 paragraph 47 of the National Planning Policy Framework (NPPF) require that planning decisions are to be made in accordance with the Development Plan (LDP) unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 Policy S1 of the LDP states that *“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF”* and apply a number of key principles in policy and decision making.
- 5.1.3 Policy S8 of the LDP steers new development towards the existing urban areas. This Policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include development to provide new general residential properties.

Five Year Housing Land Supply (5YHLS)

- 5.1.4 As per Paragraph 74 of the NPPF, the Council as the Local Planning Authority (LPA) for the Maldon District is expected to *“identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.”* To this end, Maldon District Council prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.5 Following a review into the suitability of the 5YHLS methodology through its 5YHLS Working Group established in August 2022, the Council has confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021/2022 of 3.66 years. This means that the Council’s presumption in favour of sustainable development position against paragraph 11 (d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the LDP), the provision of the most suitable types of housing for the

district, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.

Sustainable development

- 5.1.6 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. As stated, the LDP through Policy S1 re-iterates the requirements of the NPPF Policy S1 allows for new development within the defined development boundaries. Paragraph 79 of the NPPF states that:

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

- 5.1.7 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that *“development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes”*. This is supported by the update of the Government’s Policy Paper, ‘Strategic road network and the delivery of sustainable development’ (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that *“new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable”*.
- 5.1.8 The site is located in the open countryside approximately 1.8km from the settlement boundary of Wickham Bishops. The nearest bus stop is 2.4km to the north of the site, in Witham, or in Wickham Bishops to the south. However, access to the bus stops would be via Witham Road which is a narrow, unlit stretch of highway with no pedestrian pavements and has a speed limit of 60mph. The only way for pedestrians to access the bus stops would be on the road itself or on the grass verges. Such access to the settlement is not considered safe for pedestrians or cyclists, particularly at times of inclement weather, or during the hours of darkness, or for wheelchair users or people with young children. The proposal would therefore conflict with Policy T2 which requires development to provide safe and direct walking and cycling routes to nearby services, facilities, and public transport where appropriate.
- 5.1.9 To address the site being in an unsustainable location, the submitted ‘Design Access Heritage and Brief Transport Statement’ (the ‘Statement’) states there is an *“ability for the applicants to assist in future childcare and reduce daily travelling”*. However, there would still be a need for the occupants of the proposed dwelling to travel to access facilities and services such as schools (when any children are of an appropriate age), doctors and so on. Furthermore, whilst it is noted that Mr and Mrs Howard Junior currently work on site, there is no guarantee that this would always be the case therefore potential journeys to work are also a possibility in the future.
- 5.1.10 Paragraph 79 of the NPPF acknowledges that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities”*. The application site is disconnected from nearby settlements

and the proposed development would not support the pattern of development set out by the Local Development Framework, nor the vitality of nearby communities.

- 5.1.11 Future occupants of the site would be heavily reliant on the use of the private vehicle for day-to-day living requirements to access facilities and services. The site is therefore considered to be inaccessible and therefore not in a sustainable location.
- 5.1.12 Paragraph 80(a) of the NPPF provides for housing in the countryside where there is an essential need for a rural worker to live at their place of work. Policy H7 of the LDP supports the objectives of Paragraph 80. However, there is no evidence to suggest that there is an essential need for Mr and Mrs Howard Junior to live at the site, as neither of the businesses require anyone to live on site. If there were an essential need, it would already be met by the existing dwelling, Homefield House. It is therefore the case that whilst it would be convenient for Mr and Mrs Howard to live on the site, this convenience does not meet the policy requirements set out above. It is also noted that the applicant suggests tying the proposed dwelling to the existing dwelling, and not either of the businesses on site.
- 5.1.13 The application description and submitted Statement refer to the proposed dwelling as providing “keyworker” accommodation immediately adjacent to the workplace. However, the use of this term is somewhat misleading as Mr and Mrs Howard’s jobs are not such that are considered to be vital for the community and that deliver essential services. As discussed above, the proposed dwelling would be conveniently located for their current place of work, but such work is not that of a keyworker.

Housing Mix

- 5.1.14 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District 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 (2023) and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing 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.
- 5.1.15 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three-bed dwellings; specifically, 25-35% two-bedrooms, 40-50% three-bedrooms, and 15-25% for 4+ bedroom market dwellings.
- 5.1.16 The proposal seeks planning permission for the conversion of an existing bedroom to a dwelling. Whilst the submitted Statement states that the dwelling is a 2 bed dwelling, the ground floor plan shows a “living room / bedroom 3”. Either way, the proposed development therefore would contribute to the District’s biggest requirement for smaller dwellings. However, any weight given to this would be only marginal at best given that a single dwelling is proposed and as the dwelling would be tied to the host dwelling.

Summary of principle of development

- 5.1.17 Given that the site is outside a settlement boundary and does not meet any criterion for being acceptable with regard to Policy S8, the proposal does not accord with the policy. Furthermore, the site is not considered to be accessible as future occupants would be heavily reliant on the use of the private vehicle to access facilities and services with no tangible benefits to the wider community. Although the applicant has

suggested tying the proposed dwelling to the existing Homefield House through a s106 agreement, this does not mitigate the harm of a new dwelling in this unsustainable location.

5.2 Design and Impact on the Character of the Area

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

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

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

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

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

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

5.2.5 The existing building is currently in good condition in terms of its external appearance. The proposed conversion includes external alterations to the building such as new doors and windows. The proposed alterations due, to the materials and detailing, are considered to be acceptable and in accordance with Policy D1.

5.3 Impact on Residential Amenity

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

5.3.2 The nearest residential dwellings are at Sewells Farm, on the southern side of Witham Road. It is considered that due to the distance from the nearest residential

properties and the nature of the proposed development, there would be no adverse impacts on residential amenity.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Vehicle Parking Standards require the provision of two parking spaces for two and three bedroomed properties. The proposals include provision for two parking spaces, meeting this requirement. Adequate space exists on site for the manoeuvring of vehicles.
- 5.4.3 The Highways Authority has been consulted on the application and have raised no objections subject to conditions.
- 5.4.4 Therefore, it is considered that the proposed development is in accordance with policy T2 of the LDP and the Maldon District Vehicle Parking Standards SPD.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms.
- 5.5.2 The proposals include external private amenity space immediately adjacent to the proposed dwelling. It is considered that the amount, location and design of the amenity space would achieve high quality private amenity space, in accordance with Policy D1 and the MDDG.

5.6 Ecology and the impact on European designated sites

- 5.6.1 Paragraph 170 of the NPPF (2021) states that "planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity".
- 5.6.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.6.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and / or isolation of existing or proposed green infrastructure. LDP Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

- 5.6.4 The application is supported by an Ecological Survey and Assessment (Essex Mammal Surveys, July 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. The Council's Ecology Consultant (Place Services) has assessed the submitted assessment and advised that there is sufficient ecological information available for determination of this application.
- 5.6.5 The mitigation measures identified in the Ecological Survey and Assessment (Essex Mammal Surveys, July 2023) (the Assessment) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Hedgehog and Common Toad. The submitted assessment recommends that biodiversity enhancements in the form of two bird boxes, two solitary beehives, and one hedgehog box are included. Accordingly, a Biodiversity Enhancement Strategy should be secured by a condition of any consent.
- 5.6.6 In addition, the Assessment highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, a sensitive lighting scheme would be required.

Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

- 5.6.7 It is noted that the site falls within the evidenced recreational Zone of Influence (Zol) of the Essex Coast Recreational disturbance and Avoidance and Mitigation Strategy (Essex Coast RAMS). The LPA is therefore required to prepare a project level Habitat Regulation Assessment (HRA) Appropriate Assessment to secure a per dwelling tariff by a legal agreement for the delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.
- 5.6.8 The development of 1no. dwelling falls below the scale at which bespoke advice is given from Natural England (NE). This has been confirmed in comments received by NE. To accord with NE's requirements and standard advice 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. The findings from the HRA Stage 1: Screening Assessment are listed below:

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

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

Does the planning application fall within the specified development types? Yes – The proposal is for 1no. dwellings

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

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for 1no. dwelling

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

5.6.9 Summary of Appropriate Assessment

As the answer is no, it is advised that should planning permission be forthcoming, 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 named European sites from recreational disturbance, when considered 'in combination' with other development.

- 5.6.10 The Essex Coast Rams has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £156.76 (2022-2023 figure) and thus, the developer contribution should be calculated at this figure. A Unilateral Undertaking and the relevant checking and monitoring fees have not been received in support of the proposal. As the application is recommended for refusal a Unilateral Undertaking to ensure that this mitigation is secured has not been progressed. The proposal is therefore contrary to Policies S1, D1, N1 and N2 of the Local Plan and Government advice contained in the NPPF.

5.7 **Flood Risk and Drainage**

- 5.7.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximise opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.7.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.
- 5.7.3 The site is not located in a critical drainage area.
- 5.7.4 The proposal has been reviewed by the Council's Environmental Health Officer, who has stated that should planning permission be forthcoming, conditions are to be imposed with regard to surface water and foul drainage. However, as the proposal is for the conversion of an existing building, with no additional built form or hardstanding, this is not considered necessary.

6. **ANY RELEVANT SITE HISTORY**

- **23/00757/FUL** – Conversion of outbuilding to dwelling. Alterations to the outbuilding including changes in materials, fenestration and the removal of the link from the outbuilding to the existing workshop/garage. Withdrawn.
- **18/01500/FUL** - Erection of storage shed and change of use of land to residential. Approved 23.03.2019.
- **15/00926/FUL** - Variation of condition 4 of approved application FUL/MAL/13/00876 (Change of use of a domestic garage and home based catering business to a cafe (Use Class A3). Occasional use 12:00 to 18:00 two days a week). - Variation of opening hours. Approved 22.10.2015.
- **13/00876/FUL** - Proposed change of use from domestic garage and home based catering business to cafe (A3). Occasional use 12:00 to 18:00 two days a week. Approved 12.11.2013.

- **13/00600/FUL** - Proposed change of use from domestic garage and home based catering business to cafe (A3). Refused 15.08.2013.
- **13/00050/FUL** - Change of use from domestic garage to home based business. New window opening formed to existing structure. Approved 13.03.2023
- **10/01110/HOUSE** - Erection of cart shed. Approved 18.02.2023.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Little Braxted Parish Council	Support the application with a S106 agreement linking the development to the occupation of the existing dwelling.	Noted and addressed in section 5.1.17 of this report.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	The existing shared vehicular access will be utilised, and off-street parking is included. Conditions regarding the reception and storage of building materials and the provision of cycle parking are recommended.	Noted, see section 5.4 of this report.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions relating to surface and foul water drainage.	The condition relating to surface water drainage is not considered necessary as there is no new built form on the site. The foul drainage condition could be imposed.
Ecology	Satisfied that there is sufficient ecological information available for determination of this application. No objection subject to	Noted and discussed in section 5.6 of this report.

Name of Internal Consultee	Comment	Officer Response
	securing: a) a proportionate financial contribution towards Essex Coast RAMS b) biodiversity mitigation and enhancement measures	

7.4 Representations received from Interested Parties

7.4.1 No letters were received in response to the application.

8. PROPOSED REASONS FOR REFUSAL

1. The site is outside of a defined settlement boundary and is in open countryside. Future occupants of the site would therefore be heavily reliant on the use of the car to gain access to everyday services and facilities, as such the proposal does not provide a sustainable form of development. The proposal is therefore contrary to Policies S1, S8, D1, H4, T1 and T2 of the Maldon District Local Development Plan (2017), the Maldon District Design Guide (2017) and the policies and guidance in the National Planning Policy Framework.
2. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan (2017) and the guidance set out in the National Planning Policy Framework.

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