

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

DIRECTOR OF STRATEGY AND
RESOURCES
Paul Dodson

30 January 2024

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 7 FEBRUARY 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	<i>Vacant</i>
VICE-CHAIRPERSON	Councillor M E Thompson
COUNCILLORS	M F L Durham, CC 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 7 FEBRUARY 2024

1. **Election of a Chairperson**

To Elect a Chairperson for the remainder of the Municipal Year.

2. **Chairperson's notices**

3. **Apologies for Absence**

4. **Minutes of the last meeting** (Pages 7 - 16)

To confirm the Minutes of the meeting of the Committee held on 10 January 2024 (copy enclosed).

5. **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).

6. **23/01109/FUL- Land North East of Honeywood Farm, Honeypot Lane, Purleigh**
(Pages 17 - 30)

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

7. **23/00302/PROW-Land Opposite St Margaret's Church, Maldon Road, Woodham Mortimer,** (Pages 31 - 36)

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

8. **Any other items of business that the Chairperson of the Committee decides are urgent**

Note:

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item No. 6
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
10 JANUARY 2024**

PRESENT

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 and L L Wiffen
In attendance	Councillors K M H Lagan and N D Spenceley

1. CHAIRPERSON'S NOTICES

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

2. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor R H Siddall and, in addition, the Chairperson welcomed two 'in attendance' Members Councillors K M H Lagan and N D Spenceley.

3. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 6 December 2023 be approved and confirmed.

4. DISCLOSURE OF INTEREST

Councillor M F L Durham declared an other registrable interest in that he was currently Chairman of 'Visit Essex which was non-pecuniary.

5. 23/00920/FUL - THE GRANARY, CHIGBOROUGH FARM, CHIGBOROUGH ROAD, LITTLE TOTHAM, ESSEX

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 – Whirlledge & 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.

Prior to the Officer presentation the Chairperson advised the Committee that he was changing the order of the agenda to accommodate the interest of members of the public present and would start with Item 6 on the agenda. It was noted that a Members' Update had been circulated prior to the meeting that provided further information on planning policies together with additional representations including a large number of letters of support. Following the Officer's presentation, the Applicant, Mr Tallowin, addressed the Committee. The Chairperson then invited Councillors Lagan and Spenceley, both 'in attendance' Members, to address this item under the Council's Procedure Rule 18 for Members.

Before opening the debate, the Chairperson commented that this was a well established camping site and the café was an ancillary use. He stressed the need to support the development and expansion of both rural and town businesses where there was adequate demand. Councillor Morgan then proposed that the application be approved, contrary to the Officer's recommendation, and this was seconded by Councillor White on the basis that it complied with policies S1, S7, E4 and E5 of the Local Development Plan (LDP).

In response to issues raised Officers advised that to conclude the application was ancillary would require a more information on the part of the applicant. Further, whilst there were elements in both the LDP and National Planning Policy Framework (NPPF) to support the application there were other significant elements within the LDP that it did not comply with, therefore warranting a refusal. The upcoming review of the LDP was noted and it was suggested that Members use the opportunity to review any policies that they may be dissatisfied with. The Chairperson concurred with this suggestion adding that it was important policies aligned with requirements going forward.

There being no further discussion and following clarification from Councillor Morgan that his proposal to approve was without specific restrictions the Chairperson put the proposal to approve the application contrary to the Officer's recommendation, with standard conditions delegated to Officers in consultation with the Chairperson, to the Committee. Upon a vote being taken it was agreed.

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

6. **23/00894/FUL - LAND ADJACENT OAKLANDS, KELVEDON ROAD, GREAT TOTHAM**

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

It was noted that a Members' Update had been circulated prior to the meeting that detailed a condition to replace condition 5 on the original Officer's report. Following the Officer's presentation the Agent, Mr Jackson, addressed the Committee.

The Chairperson opened the debate and following a brief discussion Councillor Thompson proposed that the Committee approve the application in accordance with the Officer's recommendation and this was seconded by Councillor Morgan.

There being no further discussion the Chairperson put the recommendation to approve in accordance with the Officer's recommendation to the Committee and upon a vote being taken it was agreed.

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

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 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.
3. 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.
4. 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.
5. All ground works shall be in accordance with the submitted Construction Management Plan (CMP). The CMP shall be adhered to throughout the construction period unless otherwise agreed in writing by the Local Planning Authority.
6. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall

be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 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.

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.
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.

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.

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.

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.

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.

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.

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

7. **23/00952/FUL - 9 CHERRY BLOSSOM LANE, COLD NORTON, ESSEX CM3 6JQ**

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

Following the Officer's presentation the Chairperson opened the debate. Councillor White commented that given her previous objections had now been resolved, and to the satisfaction of the Parish Council, she proposed that the application be approved in accordance with the Officer's recommendation and this was seconded by Councillor Morgan.

The Chairperson put the proposal to approve the application in accordance with the Officer's recommendation to the Committee and upon a vote being taken it was agreed.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved details and in accordance with Policy D1 of the Maldon District Local Development Plan (2017).
3. 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.
4. 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.

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.

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.
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.

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.
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.
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.
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.

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.

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.

8. 23/01003/FUL - LAND AT HOMEFIELD HOUSE, WITHAM ROAD, LITTLE BRAXTED

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

Following the Officer's presentation Mr Richardson, the Agent, addressed the Committee. The Chairperson then opened the debate.

Councillor Morgan, having called-in the application, proposed that the application be approved contrary to the Officer's recommendation citing Policy S7 and section 89 of the NPPF as reasons for overturning the refusal. Both the aforementioned policy and NPPF section dealt with facilitating economic development within the villages which in his opinion this application supported. His proposal was seconded by Councillor White. There being no further discussion the Chairperson put the proposal to approve the application, contrary to the Officer's recommendation, subject to a Section 106 Agreement for RAMS and tying the new dwelling to Homefield House and conditions to be agreed with the Chairperson, to the Committee. Upon a vote being taken this was agreed.

RESOLVED that the application be **APPROVED** subject to a Section 106 Agreement for RAMS and tying the new dwelling to Homefield House and conditions to be agreed with the Chairperson.

There being no other items of business the Chairperson closed the meeting at 8.30 pm.

M F L DURHAM, CC
CHAIRPERSON



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
07 FEBRUARY 2024**

Application Number	23/01109/FUL
Location	Land North East of Honeywood Farm, Honeypot Lane, Purleigh
Proposal	S73 application for the retention of two self-contained holiday units.
Applicant	Mr A Brown
Agent	Mollie Foley - Stanfords
Target Decision Date	14.02.2024
Case Officer	Devan Hearnah
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In – Councillor S White (policies S1 and D1)

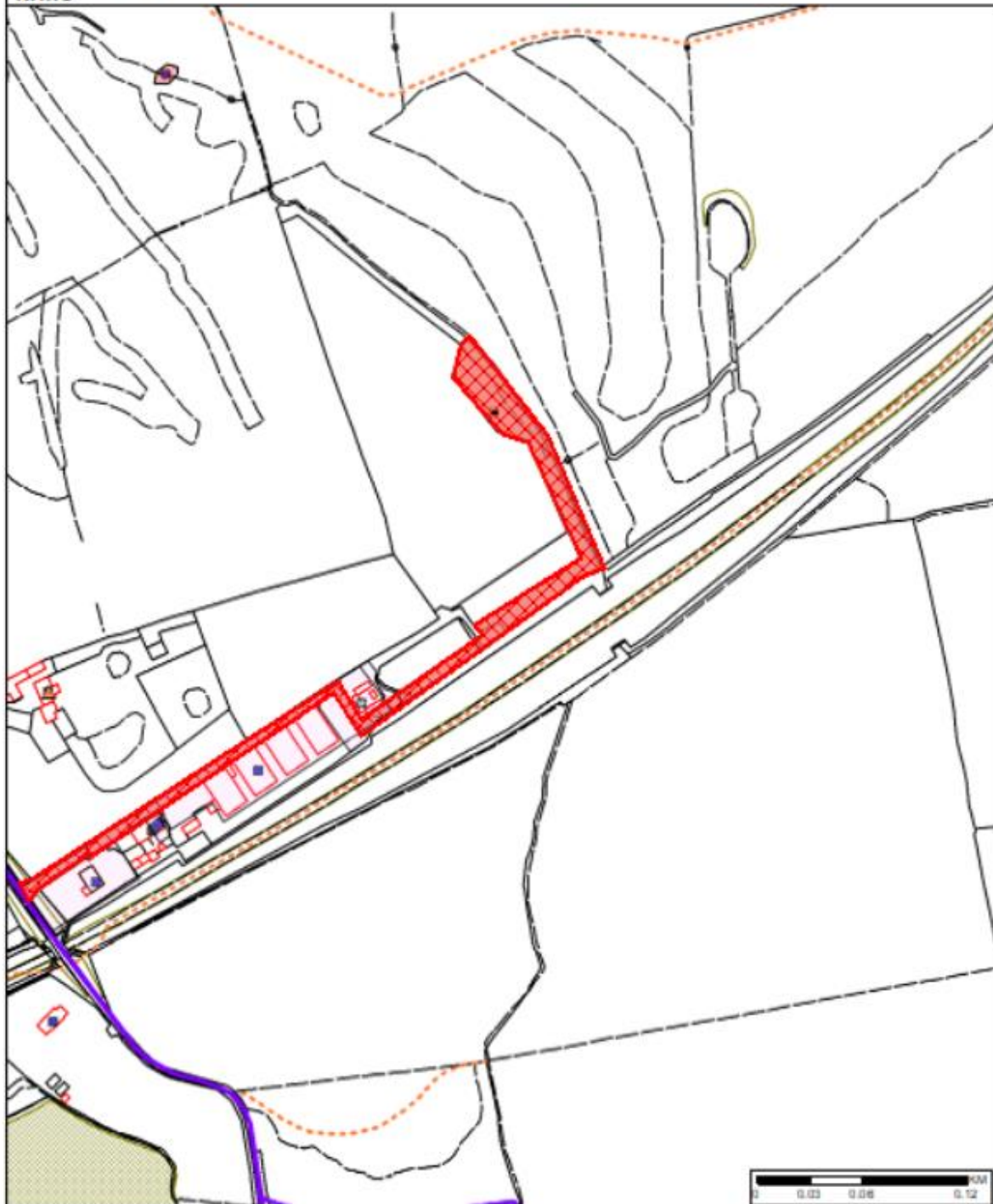
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

23/01109/F UL
NWAC



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:3,000

Organisation: Maldon District Council

Department: Department

Comments:

Date: 08/01/2024

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the west of Honey Pot Lane, outside of a defined settlement boundary. The surrounding area has a rural characteristic. However, the site forms part of the wider site known as Honeywood Farm which consists of agricultural land and structures/buildings containing commercial and residential uses. Three Rivers Golf club lies to the east of the application site. To the south is a Bridleway (Cold Norton 29). Further to the north is a footpath known as Cold Norton 13. There is sporadic development along Honey Pot lane but as stated above the character of the area is generally rural.
- 3.1.2 The application site itself is occupied by a pair of semi-detached holiday lets that have been constructed prior to planning permission being obtained. It is these units that this application seeks retrospective planning permission for. The building occupied by the two units has an overall width of 14.3m and a depth of 5.5m. To the front is a decked area measuring 3m in depth and spanning the entire width of the building. The building has a pitched roof with gable ends with an eaves height of 2.7m and a ridge height of 3.7m. There are two windows on the side elevations (north and south) as well as a flue on each, two obscure glazed windows (one for each unit) on the rear (east) elevation and double glazed doors and a window on the front elevation of each unit. The units are subdivided by fencing and each contain an open plan living, sleeping and dining area with a kitchenette, as well as a separate shower room and toilet. The building has been finished in horizontal timber weatherboarding with a maroon profile metal sheet roof.
- 3.1.3 To the front (west) of the building is post and wire fencing and to the rear (east) is low level obscure fencing that extends to a higher height behind the units. There is a 5-bar gate into the units that is accessed from a footpath laid with bark. The footpath joins the units with a parking area to the southwest.

3.2 Conclusion

- 3.2.1 Insufficient information has been submitted to demonstrate there is an identified need for the holiday accommodation proposed or that there are good connections with other tourist destinations, the green infrastructure network and local services, safely achieved by sustainable modes of transport. Furthermore, the development is not directly linked and ancillary to the existing use. As a result, the development is an unsustainable form of development.
- 3.2.2 Furthermore, 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 the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has also not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites.

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
- 54 – 57 Planning conditions and obligations
- 85 – 89 Building a strong, competitive economy
- 90 – 95 Ensuring the vitality of town centres
- 96 – 107 Promoting healthy and safe communities
- 108 – 117 Promoting sustainable transport
- 123 – 130 Making effective use of land
- 131 – 141 Achieving well-designed and beautiful places
- 157 – 179 Meeting the challenge of climate change, flooding and coastal change
- 180 – 194 Conserving and enhancing the natural environment
- 195 – 214 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- E1 Employment
- E4 Agricultural and Rural Diversification
- E5 Tourism
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations

indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).

- 5.1.2 The LDP has been produced in light of the NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three dimensions identified in the NPPF.
- 5.1.3 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that "The Council will support sustainable developments within the defined settlement boundaries". The policy goes on to state that "development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for...b) employment generating proposals (in accordance with policy E1) ...f) rural diversification, recreation and tourism proposals (in accordance with Policies E4 and E5).
- 5.1.4 Policy E1 predominantly relates to traditional employment generating developments such as offices and industrial/storage processes. Therefore, it is not considered wholly relevant to the consideration of this application. Nevertheless, it is recognised that the development provides employment for one full time member of staff and approximately 2 part time members of staff that will aid the maintenance and management of the units. It is suggested that the holiday lets would be cleaned between each visit by local people, albeit there is no ability to ensure that these are locally employed people.
- 5.1.5 Policy E4 relates to agricultural and rural diversification. Whilst this policy is not usually relevant in respect of holiday lets, it is acknowledged that the site forms part of a wider agricultural site and therefore, is relevant in this instance. Policy E4 recognises '*the diversification of agricultural land and buildings to alternative activities is vital to the viability of many farm enterprises*. The Policy goes on to state that '*The Council recognises the importance of encouraging economic growth in rural areas in order to create jobs and prosperity. Therefore, the Council will seek to promote the development and diversification of agricultural and other land-based rural business where appropriate.*' As such Policy E4 seeks to support the development of new buildings or activities associated with agricultural and other land-based rural business where:
- '1) *There is a justifiable and functional need for the building/activity;*
2) *The function of the proposed building/activity is directly linked, and ancillary to, the existing use; and*
3) *The building / activity could not reasonably be located in existing towns, villages or allocated employment areas.*'
- 5.1.6 The policy is clear that the appropriateness of the use will be considered by the Council in relation to local needs and the impact of the proposal on the site and the surrounding area.
- 5.1.7 The need for the use will be discussed further below as this also relates to Policy E5 (Tourism). In relation to criteria 2, the wider site is used for more formal related employment purposes, agriculture and residential purposes. From the information submitted there is nothing to suggest that there is any link to the existing uses on the site other than the use being sited on the same holding. The units are located a significant distance from the existing uses at the site, most likely to keep incompatible uses separate from one and other, demonstrating a lack of direct and ancillary link to the existing use. As far as can be obtained from the submission, there are no activities provided with the lettings that are associated with the wider site.

Furthermore, it is not clear from the submission whether the employees tasked with managing and maintaining the let's have any function or connection with the existing agricultural business. As such they appear as a standalone use.

- 5.1.8 There is also nothing to suggest that the use could not be reasonably located in existing towns or villages. Whilst it is understood from the submission that a selling point of the holiday lets is their rural location, Maldon is a rural district with a number of small villages. Therefore, such a use cannot only be achieved by development outside of the existing towns or villages and does not provide a justification for this application. The sustainability of the site will be discussed further below.
- 5.1.9 Policy E5 (Tourism) is similar in some respects to Policy E4. The Policy supports tourist accommodation where there is an identified need for the provision and where possible there are good connections with other tourist destinations, the green infrastructure network and local services by sustainable methods of travel. There are also criteria relating to the impacts on the character and appearance of the area and natural and historic environment which will be discussed in the relevant sections of the report to follow.
- 5.1.10 It is acknowledged that the Local Planning Authority (LPA) determined in a report taken to Council on the 3 November 2022 that Policy E5 requires review, partly due to the lack of guidance as to what evidence would be required to demonstrate a identified need for the provision and due to a lack of clarification as to why connections to other tourism uses is required. However, it is noted that an appeal determined in February 2023 (21/01294/FUL APP/X1545/W/22/3301172) placed weight on Policy E5 and discusses how the need for the holiday lets being proposed could not be established. It is, therefore, clear that the LPA can give weight to this policy and the weight to be given is up to the decision maker.
- 5.1.11 In relation to whether there is an identified need for the development the application has been supported by a Tourism Appraisal. The Appraisal includes a general overview of the current tourism climate, the impacts of self-catering accommodation on the economy and job creation, as well as discussing a rise in Fully Independent Travellers. However, there is little by way of how this relates directly to the Maldon District or the application site.
- 5.1.12 The Appraisal notes that during the first year of operation (2022) the units were occupied for 181 days. This is an occupancy rate of 50% of the year. Furthermore, Appendix MRF 3 submitted with the Appraisal shows that during the peak months, June -August 2022 there was an occupancy rate of 73%, albeit this could be less as it is not clear if blocked out days or those marked with photos are bookings. It is not considered that these rates, which are significantly below operating at a full capacity, provide sufficient evidence of a need for the type of accommodation proposed. It is also noted that the development is retrospective and there is no evidence to suggest that this development, whilst achieving an occupancy rate, has not taken this business from elsewhere. The fact that the units have also achieved a 5-star rating does not demonstrate a need or that they are sustainably located.
- 5.1.13 The Appraisal includes an AirBnB search within the vicinity of the site, which shows two dwellings in Cold Norton available for overnight stays and a private room to the south of the site on Lower Burnham Road. However, this relates to the close vicinity of the site and does not include any evidence to demonstrate a suitable market or tourist area has been established. Furthermore, there is no analysis of occupation levels, or any comparisons made to demand and relates to one provider only. As such this offers little evidence of need.

5.1.14 Similarly, the report does not demonstrate that the proposal is needed to help address a shortage in the supply of holiday accommodation linked to any niche or nearby tourist uses such as boating, bird watching, golf or shooting. There is a suggestion that the holiday accommodated is aimed at Independent Travellers, but it has not been evidenced that there has been a shortage of this type of accommodation.

5.1.15 It is clear from the criteria listed in Policies E4 and E5 that the policies both seek to achieve sustainable development which is a clear and key aim of the NPPF. Paragraph 88 of the NPPF which seeks to support a prosperous and rural economy states that decisions should enable:

'a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;
b) the development and diversification of agricultural and other land-based rural businesses;
c) sustainable rural tourism and leisure developments which respect the character of the countryside;...'

5.1.16 As previously set out, the site is located in a rural area outside of a defined settlement boundary. The submitted Tourism Appraisal states that the site is well connected to public footpaths for dog-walking, is located within a 20-minute walk of the Prince of Wales Public House and 1.3 miles from The Norton Public House in Cold Norton. It also acknowledges that the site is 1.5 miles from Stow Maries Great War Aerodrome and 1 mile from Stow Maries Halt Nature Reserve. Three Rivers Golf Club lies a 17-minute walk from the site which offers a gym and events as well as golfing. However, whilst the holiday units lie in close proximity to the Public Right of Way (PRoW) network, the site itself is remote. Access to Stow Maries, including the Prince of Wales Pub and Three Rivers Golf Club, is via Honey Pot Lane, a narrow country lane without any street lighting, footpaths or verges. Honey Pot Lane is also subject to the national speed limit. These factors do not make it a safe or attractive route for pedestrians or cyclists, particularly during winter months, late nights when the pub closes, or during periods of inclement weather. The adjacent bridleway provides connections to St Stephens Road and footpaths 12 and 13 (Cold Norton) and there is access to footpaths 11 and 12 Stow Maries which link to Church Road. However, the usability of these is subject to the same constraints as Honey Pot Lane outlined above. Likewise, Church Lane is also unlit and without footpaths.

5.1.17 The closest settlements to the application site are Stow Maries and Cold Norton, which are both identified as smaller villages under Policy S8, containing few or no services and facilities, with limited access to public transport. Stow Maries lies 6.6 miles from South Woodham Ferrers and Maldon and 3.3m from Latchingdon. On this basis, it is not reasonable to expect visitors to the site to walk or cycle, as it would be deemed unsafe, particularly during the hours of darkness or in inclement weather as stated above. Visitors are therefore more likely to rely on the use of the car for travelling to the site and to other destinations within the District.

5.1.18 There are bus stops located on the junction of The Street and Stow Road. However, these are not easily accessible from the application site for the reasons given above. Also, whilst the services (No.100, 503, FC01 and Dengie DaRT) provide access to the larger villages and towns of South Woodham Ferrers and Burnham-on-Crouch, the bus services are school service only, or in relation to the DaRT 6A service, operates on Mondays, Wednesdays and Fridays only and only once a day in either direction. This is also a demand responsive service that must be booked in advance. Therefore, there is little to no options for sustainable modes of transport for those

staying at weekends or wanting to explore outside of the site for more than a couple of hours a few days in the week. As such, whilst the wider area does provide tourism connections such as 'Call of the Wild Zoo' in South Woodham, there is no sustainable connection to these facilities from the site.

- 5.1.19 It is acknowledged that the Maldon District is a rural district and that the opportunities for sustainable transport solutions vary between rural and urban areas. However, the site is poorly located in respect of both larger and smaller settlements. The site lies disconnected from any of the limited services and facilities provided within the closest settlement of Stow Maries and therefore, the occupiers of the holiday lets would have a heavy reliance on private modes of transport.
- 5.1.20 It is recognised that the units if approved, would be dwellinghouses restricted by an occupancy condition. As part of the Althorne appeal mentioned above, in 5.1.10, the Inspector concluded that because the LPA could not demonstrate a Five Year Housing Land Supply (5YHLS) and that the appeal site was deemed to be part of the Althorne settlement on the ground (it had a visual as well as a physical relationship), despite it being located outside the settlement boundary, and determined that limiting the scheme to a holiday home would be unnecessary. Therefore, permission for an unrestricted dwelling was granted. Notwithstanding this, the considerations for this application are fundamentally different. The Council can now demonstrate a 5YHLS, (whereas in the appeal example above, the Council had a negative housing land supply of 3.66) and the subject site as demonstrated above is not sustainably located. Therefore, the conclusion on the Althorne appeal would not be an applicable comparison to this application.
- 5.1.21 For the reasons highlighted above, the development has been found to be unsustainable and contrary to Policies S1, S8, E4, E5 and T2 of the Maldon District Local Development Plan.

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. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 and H4 of the LDP and is found within the MDDG (2017).
- 5.2.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.4 The application building lies within a rural area. However, it must be noted that to the west of the building is an area that consists of industrial/commercial units as well as residential uses. The building itself, however, is not read in the context of the wider site due to the separation distance of approximately 175m between the closest built form to the southwest and the holiday lets. Due to this separation distance the application building appears somewhat isolated from any other development. Notwithstanding this, it is noted that the building has been finished in timber weatherboard which gives it a rural outbuilding type of appearance rather than a residential finish. Whilst there is paraphernalia associated with the units, such as

decking and outdoor setting, this is largely screened from the wider area due to dense vegetation and the distance of the site from any public vistas. The building is also fairly modestly sized.

- 5.2.5 Further to the above, the parking area and footpath to the site, as well as the boundary treatments are fairly minimal and maintain the rural character of the area through the use of softer materials and finishes. Therefore, although by the very nature of the development there is some urbanising impact to the countryside this is not to a degree which would warrant a reason for refusal.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The application site lies approximately 300m east of the closest residential property, which is Fowlers Farm, Honeypot Lane. Given the separation distance there is no concerns in relation to the development being overbearing or resulting in overlooking.
- 5.3.3 The site access runs adjacent to Honeywood Farm and Unit 1 Honeywood Farm which benefitted from Prior Approval for a change of use to a dwellinghouse in 2017 (16/00593/COUPA). However, given that the lets only provide accommodation for four people combined at any one time, the vehicle movements past these residential properties are unlikely to be significant.
- 5.3.4 Notwithstanding the above, given the rural location of the site a condition preventing the use of amplified music should be included if the application were to be approved as noise could travel a distance and cause disturbance in this location.

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 In accordance with the Council's VPS (2018), dwellings with 1no. bedroom are required to provide for 1no. parking space.
- 5.4.3 The surface area to the southwest of the holiday lets, within the red line boundary provides sufficient space in excess of two parking spaces. Therefore, no objection is raised. However, if the application were to be approved a condition requiring two electric charging points would be required to meet the requirements of the Maldon District VPS and to improve the sustainability credentials of the development.

- 5.4.4 The proposal has been reviewed by the Highways Authority, who raise no objection. Furthermore, although the use of the site access is intensified as a result of the development, this is not to a level that would impact on highway safety.

5.5 Impact on the Ecology, Trees and Biodiversity

- 5.5.1 Policy N2 of the LDP 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.” Conservation and enhancement of the natural environment is also a requirement of the NPPF.

Ecological Impacts

- 5.5.2 The application has been supported by a Preliminary Ecological Appraisal (PEA) (Serious Nature, November 2023) that concludes that the development has a negligible impact on surrounding habitats, protected species and wildlife. The Appraisal also proposes biodiversity enhancements in the form of bird boxes and bat boxes which are supported. Therefore, if the application were to be approved then a condition requiring the reasonable biodiversity enhancement measures proposed to be provided in a Biodiversity Enhancement Strategy.

Arboricultural Impacts

- 5.5.3 The application has been supported by a Tree Survey (Tree Planning Solutions, October 2023), that identifies two trees and two tree groups that have a potential to be a constraint on the scheme. These trees are category B specimens and so should be retained where possible.
- 5.5.4 Although the development is retrospective, the units have been raised off the ground during construction to limit the impact which compaction may have on the retained trees and there does not appear to be damage to the soil.
- 5.5.5 Notwithstanding the above, the fencing installed around the site could cause negative impacts. As such the Arboricultural consultant has recommended a condition requiring regular reviews of the health of the retained trees, as the locations of any materials stored during the works and construction activities are unknown. Therefore, any symptoms are not currently apparent.
- 5.5.6 As the construction has been completed it is not possible to require an Arboricultural Impact Assessment. However, a condition for regular monitoring should be followed with replacement planting should any of the trees fail due to the construction of the holiday lets.

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

- 5.6.1 Natural England (NE) has produced advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within the Maldon District are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘Zones of Influence’ of these sites cover the whole of the Maldon District.

- 5.6.2 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, there is potential for tourist accommodation to have recreational disturbance.
- 5.6.3 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE have provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.6.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.6.5 NE have been notified of the application and advise that this type of development warrants an Appropriate Assessment. Furthermore, it is noted that tourist accommodation could have likely significant effects on the European sites through increased recreational pressures. A large part of the justification provided for this application relies on the ability of the visitors of the site to use the local green infrastructure network for walking and cycling. Therefore, it is highly likely, taking in to account the Applicant's own argument, that those visiting the site would create increased recreational pressures in the same way as a residential use would.
- 5.6.6 The application has not been supported by any information in relation to providing mitigation against recreational pressures and nor has it been supported by a signed Unilateral Undertaking providing the necessary contribution (£137.71) to offset the likely significant effects. Therefore, on this basis it cannot be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance.
- 5.6.7 The development of 2no. units falls below the scale at which bespoke advice is given from 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 (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to 2 dwellings restricted by an occupancy condition.

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

Test 2 – the integrity test

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

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

Summary of appropriate assessment

As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale, nature 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. However, in the absence of a correctly signed legal agreement to secure the aforementioned contribution, the impact of the development may not be able to be mitigated and thus, this would constitute a reason for the refusal of this application.

5.7 Other Material Considerations

Waste

- 5.7.1 Section C09 of the MDDG stipulates that the provision of waste management facilities within developments is fundamental to provide and maintain an attractive and healthy environment. To do so, sufficient space should be provided for the storage of bins at a convenient place and for the access of collection vehicles.
- 5.7.2 Insufficient information has been provided in this regard however, it is considered that this could be dealt with via the imposition of a suitably worded planning condition.

External Lighting

- 5.7.3 The Planning Statement acknowledges that there is no external lighting with the exception of solar stake lighting located at intervals along the footpath from the parking area to the holiday lets, which does not result in excessive light pollution. However, a condition should be imposed requiring that no further lighting is proposed without planning permission.

Foul Drainage

- 5.7.4 The units are supported by a Package Treatment Plant which is sufficient for dealing with foul waste from the site.

6. ANY RELEVANT SITE HISTORY

- 6.1 There is no relevant site history to the application site itself. However, there have been recent applications determined on the wider site:
- **16/00593/COUPA** - Prior approval of proposed change of use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development – Refused 07.07.2016
 - **16/01044/FUL** - Removal of condition 3 (agricultural occupancy condition) on approved planning permission FUL/MAL/82/00003 – Appeal Allowed 18.07.2017
 - **17/01407/FUL** - Removal of condition 1 on approved planning permission FUL/MAL/16/01044 allowed on appeal APP/X1545/W/17/3167028 (Removal of condition 3 (agricultural occupancy condition) on approved planning permission FUL/MAL/82/00003). Approved 06.02.2018
 - **18/00587/FUL** - Section 73A application for the change of use of agricultural buildings to Use Class B8 (storage and distribution). Approved 07.09.20218

- **18/00597/FUL**- Replacement dwelling – Approved 16.07.2018
- **23/00332/FUL** - Section 73A application for the construction of 6 office units. Approved 17.08.2023

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 comment	Noted

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highways Authority	<ul style="list-style-type: none"> • No objection 	<ul style="list-style-type: none"> • Noted
Natural England	<p>No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European Sites)</p> <p>The LPA as the Competent Authority must carry out a Habitats Regulation Assessment before making a decision.</p>	<ul style="list-style-type: none"> • Addressed at section 5.7

7.3 **Internal Consultees**

Name of Internal Consultee	Comment	Officer Response
Ecology	<p>No objection subject to securing:</p> <p>a) a proportionate financial contribution towards Essex Coast RAMS</p> <p>b) biodiversity mitigation and enhancement measures</p>	<ul style="list-style-type: none"> • Addressed at sections 5.6 and 5.7
Environmental Health	No comment	<ul style="list-style-type: none"> • Noted
Arboricultural Consultant	No objection subject to conditions	<ul style="list-style-type: none"> • Addressed at section 5.6

7.4 **Representations received from Interested Parties**

7.4.1 No letters of representation have been received from interested parties.

8. PROPOSED REASONS FOR REFUSAL

1. The development is an unsuitably located tourist accommodation within the countryside. Insufficient information has been submitted to demonstrate that there is an identified need of such tourist accommodation and facility in the area and that the site is suitable with regard to sustainable connectivity. Furthermore, the development is not directly linked and ancillary to the existing use. The development therefore represents inappropriate development outside of the settlement boundary without justification and the principle of development is not acceptable. This is contrary to policies S1, S8, E4, E5 and T2 of the Maldon District Local Development Plan (2017) and the National Planning Policy Framework.
2. The proposed development, whilst not being for an unrestricted residential dwelling, is likely to have a real and demonstrable impact on the European designated nature conservation sites. No information has been submitted as to how the resultant adverse impact on the European designated nature conservation sites would be mitigated and no completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 securing the necessary financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
NORTH WESTERN AREA PLANNING COMMITTEE
7 FEBRUARY 2024

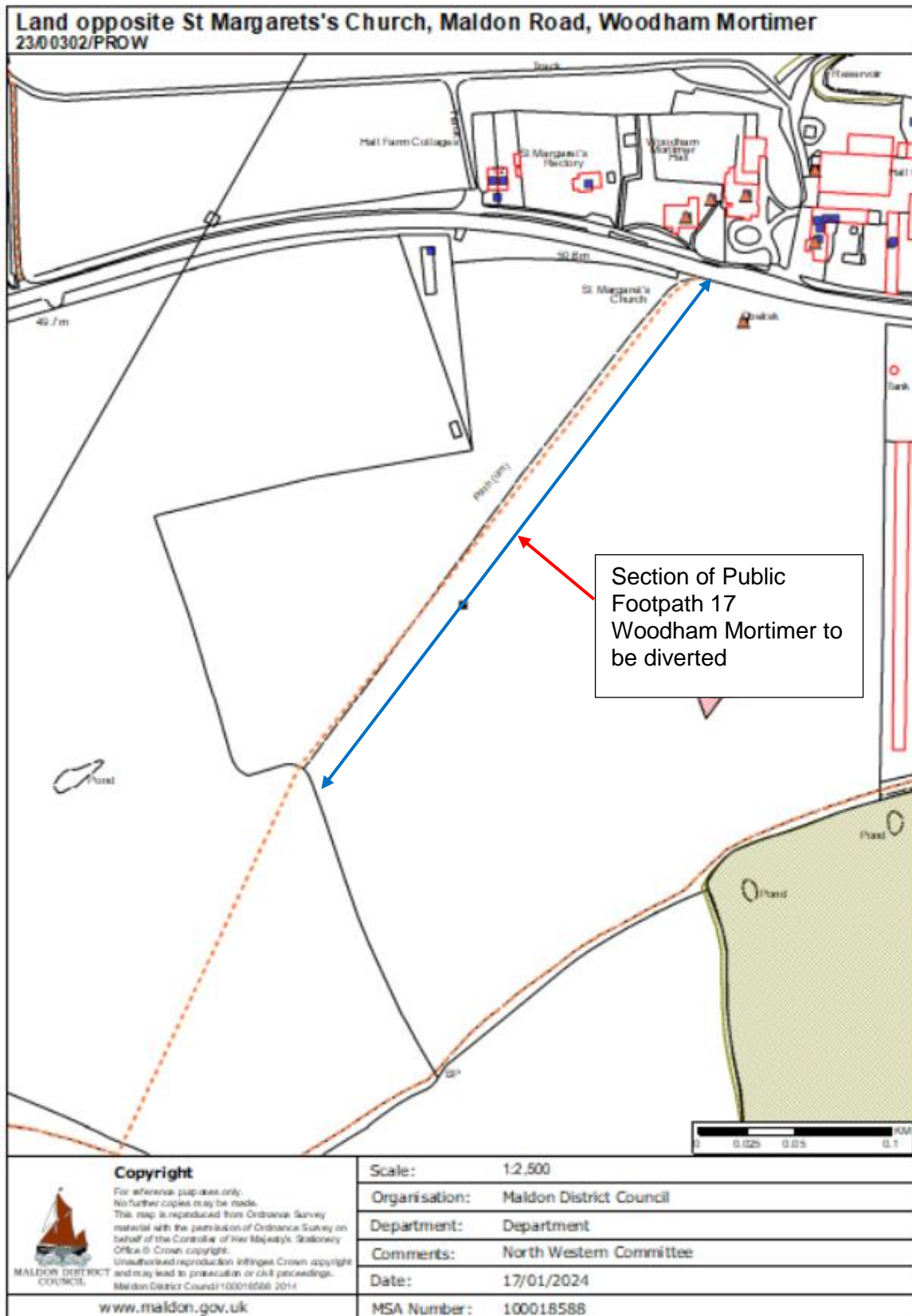
Application Number	23/00302/PROW
Location	Land Opposite St Margaret's Church, Maldon Road, Woodham Mortimer, Maldon, Essex, CM9 6SN
Proposal	Diversion of part of Public Footpath 269_17 Woodham Mortimer leading south from Maldon Road
Applicant	Mr Richard Evans
Agent	Julian Sharpe – White & Sons
Target Decision Date	N/A
Case Officer	Kathryn Mathews
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Not Delegated to Officers

1. RECOMMENDATION

That a permanent Diversion Order of the highlighted section of Public Footpath 17 Woodham Mortimer is **MADE** and, if no relevant objections are received, **CONFIRMED** by Maldon District Council, as 'competent authority' under Section 257 of the Town and Country Planning Act 1990.

2. SITE MAP

Please see below.



3. SUMMARY

- 3.1.1 This application has been made under Section 257 of the Town and Country Planning Act 1990 (which relates to footpaths affected by development) for a footpath Diversion Order. Section 257 provides a 'competent authority' (Maldon District Council in this case) with the power to authorise the diversion of any footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted. Whilst Maldon District Council (MDC) is the determining authority, Essex County Council (ECC) in their role as the Highway Authority, has been instructed to process the application.
- 3.1.2 The footpath the subject of this application is located within the site which has been granted planning permission for the 'Erection of a crematorium with ceremony hall, memorial arboretum and associated use of land, restoration of Coopers Monument, vehicular access, parking, landscaping, pedestrian crossing and diversion of footpath (PROW 269_17)' (reference 21/01276/FUL) on 8 February 2021. The current application relates to Public Footpath 17 Woodham Mortimer which requires partial diversion to enable the approved development to be carried-out.
- 3.1.3 Condition 14 of the planning permission requires the following:

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 DM1 and DM11 of the Maldon Local Development Plan 2017.

- 3.1.4 Public Footpath 17 Woodham Mortimer runs in a roughly north-east/south-west direction across the centre of the site the subject to the abovementioned planning permission, cutting across part of the proposed access road, car park and an area set aside as part of a Priority Farmland Bird Mitigation Strategy. As part of the application, it is stated that the diversion of the footpath as proposed is required to implement the approved development and provide satisfactory undisturbed habitat areas for priority farmland bird species.
- 3.1.5 A length of approximately 330m of the Public Footpath is proposed to be diverted which currently runs in a south westerly direction from Maldon Road to a field boundary from where it would continue unaffected. The diverted route would commence at a point approximately 28m further east along Maldon Road and continue in a southerly direction along a natural surfaced, tree lined path and then in a south westerly direction for a total distance of approximately 165m and then continuing along a natural path in a southerly then south westerly direction for a distance of approximately 238m from where it would continue unaffected. The width of the new path would be 2m, and any works associated with the provision of the diverted route would be carried-out by the applicant, at their expense.
- 3.1.6 ECC Highways has advised that an informal pre-order consultation was conducted with relevant statutory consultees and other interested parties. In response to this consultation no objections were received except from Woodham Mortimer and Hazeleigh Parish Council. The Minutes of the Ordinary Parish Council Meeting of 14 November 2023 state that '*Cllrs do not believe it is necessary for the public to be*

inconvenienced by the relocation of the footpath given that a minor section of a proposed car park is to be constructed across it which could easily be moved to leave the route of Footpath 17 undisturbed. Cllrs question why the Local Planning Authority approved a development that would obstruct a Public Footpath. Without further research of the approved application Cllrs DO NOT SUPPORT the proposed diversion.' The Parish Council did object to the development the subject of planning application 21/01276/FUL but did not raise any concerns regarding the diversion of Public Footpath 17 which was included within the proposal.

- 3.1.7 Planning permission granted does not mean that the public right of way will automatically be diverted or stopped up. However, it is considered that partial diversion of Public Footpath 17 is necessary for the development permitted by planning permission reference 21/01276/FUL to be carried-out. The alternative route proposed would be satisfactory as it would be roughly parallel to the existing route and would retain its rural, landscaped setting as far as possible. Therefore, the disadvantages or loss likely to arise as a result of the diversion of the way to members of the public generally do not outweigh the advantages of the proposed Order. There are no persons whose properties adjoin or are near the existing highway to consider, in this case.

3.2 Conclusion

- 3.2.1 MDC, as 'competent authority', is satisfied that the permanent footpath Diversion Order applied for under Section 257 of the Town and Country Planning Act 1990 is necessary in order to enable development to be carried out in accordance with the planning permission granted. Therefore, it is recommended that the proposed permanent public footpath Diversion Order is Made and, if no relevant objections are received, Confirmed.

4. ANY RELEVANT SITE HISTORY

- **24/00011/VAR** - Variation of condition 2 on approved planning permission 21/01276/FUL (Erection of a crematorium with ceremony hall, memorial arboretum and associated use of land, restoration of Coopers Monument, vehicular access, parking, landscaping, pedestrian crossing and diversion of footpath (PROW 269_17) - Undetermined
- **23/05187/DET** – Compliance with conditions notification 21/01276/FUL (Erection of a crematorium with ceremony hall, memorial arboretum and associated use of land, restoration of Coopers Monument, vehicular access, parking, landscaping, pedestrian crossing and diversion of footpath (PROW 269_17)) Condition 7 - External illumination, Condition 9 - Construction management plan, Condition 21 - Measures to prevent offsite flooding during construction, Condition 25 - Archaeological scheme of investigation and Condition 29 - Lighting design scheme for biodiversity - Undetermined
- **23/05089/DET** Compliance with conditions notification of approved application 21/01276/FUL (Erection of a crematorium with ceremony hall, memorial arboretum and associated use of land, restoration of Coopers Monument, vehicular access, parking, landscaping, pedestrian crossing and diversion of footpath (PROW 269_17)). Condition 3 - Materials. Condition 4 - Hard and soft landscaping. Condition 6 - Foul drainage. Condition 7 - External Illumination. Condition 20 - Surface water drainage scheme. Condition 22 - Surface water drainage maintenance plan. Condition 24 Programme of archaeological work. Condition 25 - Archaeological scheme of investigation. Condition 27 - Biodiversity enhancement strategy. Condition 28 - Landscape and ecological management plan. Condition 29 - Lighting design scheme for Biodiversity. Part Approved/Part Refused 27.10.2023

- **21/001267/FUL** – Erection of a crematorium with ceremony hall, memorial arboretum and associated use of land, restoration of Coopers Monument, vehicular access, parking, landscaping, pedestrian crossing and diversion of footpath (PROW 269_17). Approved 14.02.2023

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