

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

DIRECTOR OF STRATEGY AND
RESOURCES
Paul Dodson

08 October 2024

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 16 OCTOBER 2024** at **7.30 pm**

in the **Burnham Town Council Offices, Chapel Road, Burnham-on-Crouch, Essex, CM0 8JA.**

Please Note: All meetings will 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 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 V J Bell
VICE-CHAIRPERSON	Councillor A Fittock
COUNCILLORS	M G Bassenger D O Bown A S Fluker L J Haywood W J Laybourn M G Neall R G Pratt U C G Siddall-Norman W Stamp, CC





AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE
WEDNESDAY 16 OCTOBER 2024

1. **Chairperson's notices**

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the Committee held on 24 July 2024 (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. **24/00166/FUL - Land Adjacent 9 St Peters Court, Bradwell-on-Sea** (Pages 11 - 28)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)*.

6. **24/00273/FUL - 1 Pitt Cottages, Hall Road, Asheldham, Southminster** (Pages 29 - 54)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)*.

7. **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 Nos. 5 and 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, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.

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)
- Great Totham Neighbourhood Development Plan (2022)
- Langford and Ulting Neighbourhood Development Plan (2022)

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
- The Levelling-up and Regeneration Act 2023

Supplementary Planning Guidance and Other Advice

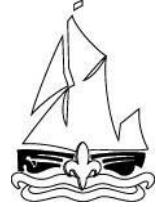
- i) Government policy and guidance
 - National Planning Policy Framework (NPPF) - 2023
 - Planning Practice Guidance (PPG)
 - Planning policy for Traveller sites - 2015

Supplementary Planning Guidance and Other Advice (continued)

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

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

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**MINUTES of
SOUTH EASTERN AREA PLANNING COMMITTEE
24 JULY 2024**

PRESENT

Chairperson	Councillor V J Bell
Vice-Chairperson	Councillor A Fittock
Councillors	M G Bassenger, D O Bown, A S Fluker, L J Haywood, W J Laybourn, M G Neall, U C G Siddall-Norman and W Stamp, CC

210. CHAIRPERSON'S NOTICES

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

211. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor R G Pratt.

212. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 26 June 2024 be approved and confirmed.

213. DISCLOSURE OF INTEREST

There were none.

214. 24/00405/FULM - LAND AT STEEPLE ROAD AND MILL ROAD, MAYLAND

Application Number	24/00405/FULM
Location	Land at Junction of Steeple Road and Mill Road, Mayland
Proposal	Demolition of existing buildings/structures. The construction of 57 new homes, including 27 affordable housing units, the creation of a new access, and associated landscaping, car and cycle parking and refuse and recycling provision.
Applicant	Mr Liam Mcnamara – Savannah Properties
Agent	Mr Richard Quelch - Q Square Group Ltd
Target Decision Date	21.08.2024
Case Officer	Fiona Bradley
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In – Councillor A S Fluker – Policies S1, S3, S7, S8, D1, H1, H2, H4, H5 Departure from the local plan Major Application

It was noted that a Members' Update had been circulated prior to the meeting advising that additional representation had been received from Interested Parties.

The Principal Planning Officer gave Members a verbal update regarding responses that had been received from the Education Authority, Ecology Consultant, and the Lead Local Flood Authority (LLFA). She made Members aware that as a result of the response from the LLFA an additional reason for refusal would need to be added to the recommendation. Following the Officer's presentation, in response to a request from Councillor A S Fluker, with the permission of the Chairperson, the Head of Service: Development Management & Building Control read out a statement sent to Members earlier that day in response to an email that had been sent to Members from the Agent, Mr Leigh on the evening of 23 July. Following this an Objector, Mr Joynes and the Agent, Mr Leigh addressed the Committee. The Chairperson then opened the floor for debate.

A debate ensued where Members discussed the reason for call in, the need for affordable housing, the proposed layout of the site and the proposed density of dwellings per hectare. Councillor A Fittock felt that there were overwhelming reasons why the Committee should support the Officer's recommendation and then proposed the application be refused in accordance with the Officer's recommendation. This was duly seconded.

The Chairperson put Councillor Fittock's proposal to the Committee and at that point, in accordance with Procedure Rule No. 13 (3), Councillor M G Bassenger requested a recorded vote. This was duly seconded.

Following a short discussion, the Chairperson put the proposal of Councillor Fittock including the aforementioned additional reason of refusal as a result of the response from the LLFA to the Committee and the voting was as follows:

For the recommendation:

M G Bassenger, V J Bell, D O Bown, A Fittock, A S Fluker, L J Haywood, W J Laybourn, M G Neall, U C G Siddall-Norman, W Stamp.

Against the recommendation: None.

Abstention: None.

The Chairperson advised that the recommendation of refusal was therefore agreed.

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

- 1 The proposal would introduce residential development beyond a settlement boundary where the principle of the proposed development is not supported as development plan policies seek to protect the intrinsic character and beauty of the countryside. The site is not in a sustainable location as the majority of journeys to and from the site would be reliant of travel by private car. The benefits identified, most notably the over provision of affordable housing, do not outweigh the adverse impacts of the development. Accordingly, the proposal would conflict with the development plan's spatial framework contrary to Policies S1, S2 and S8 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework.
- 2 The proposed development, due to its scale, design, poor connectivity and layout is not in keeping with the local context and the development does not achieve high quality design. Furthermore, the under provision of private amenity space, car parking, and public open space results in over development of the site. The proposal is contrary to Policies S1, D1 and H4 of the approved Maldon District Local Development Plan, the Maldon District Design Guide SPD, the

- vehicle Parking Standards SPD and guidance in the National Planning Policy Framework.
- 3 The application fails to include insufficient information in order to accurately assess the landscape and visual impacts of the proposed development. There is potential for loss of trees and hedges surrounding the site to make provision for the footway to the front of the site, dwellings and rear gardens. The proposal is contrary to Policies S1, S8 and D1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework
- 4 The proposed development, due to the under provision of private amenity space for many plots and the overbearing sense of enclosure of gardens adjacent to the site's boundaries due to the height and proximity of the existing boundary vegetation, would result in poor living conditions for occupants. The proposal is contrary to Policy D1 of the approved Maldon District Local Development Plan, the Maldon District Design Guide SPD and guidance in the National Planning Policy Framework.
- 5 The proposal fails to provide sufficient onsite parking spaces and visitor parking spaces. This would result in indiscriminate parking across the site and surrounding area where on-street parking is very limited. The proposal is contrary to Policies D1, H4 and T2 of the approved Maldon District Local Development Plan, the Vehicle Parking Standards SPD of the local planning authority and guidance in the National Planning Policy Framework.
- 6 The application includes insufficient ecological information to assess the impact of the proposed development on protected and Priority species. In addition, habitat degradation has occurred on the site and there is missing, and insufficient information submitted in relation to mandatory biodiversity net gain. The proposal is contrary to Policies S1, D1, N1 and N2 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework.
- 7 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 the proposal fails to:-
- include adequate provision to secure the delivery of affordable housing to meet the identified need in the locality, address the Council's strategic objectives on affordable housing, and supporting a mixed and balanced community, contrary to Policies S1, H1 and I1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework;
 - secure the necessary contribution towards healthcare provision, such that the impact of the development cannot be mitigated, contrary to Policies S1 and I1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework;
 - secure the necessary contribution towards education provision, such that the impact of the development cannot be mitigated, contrary to Policies S1 and I1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework;
 - secure a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, and the development would thereby have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, D1, N1, N2 and I1 of the approved Maldon District Local Development Plan, the Essex Coast Recreational disturbance Avoidance Mitigation Strategy SPD, and guidance in the National Planning Policy Framework.
- 8 The application includes insufficient information to demonstrate that the proposal would be acceptable in terms of flood risk and how it will maximise opportunities to reduce the causes and impacts of flooding through appropriate

measures such as sustainable drainage systems. The proposal is contrary to Policies D2 and D5 of the approved Maldon District Local Development Plan and the guidance within the National Planning Policy Framework.

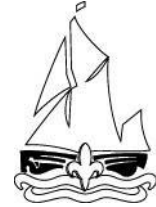
215. ANY OTHER ITEMS OF BUSINESS THAT THE CHAIRPERSON OF THE COMMITTEE DECIDES ARE URGENT

The Chairperson aired concerns around the promises made by the new Government of more development and stressed to Members the importance that the Local Development Plan played in Local Government.

Councillor Fluker asked the Chairperson if it would be possible for meetings of the Committee to start at 7pm. The Chairperson confirmed this could be discussed at the next meeting of the Committee.

There being no other items of business the Chairperson closed the meeting at 8.25 pm.

V J BELL
CHAIRPERSON



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
16 OCTOBER 2024**

Application Number	24/00166/FUL
Location	Land Adjacent 9 St Peters Court, Bradwell-on-Sea
Proposal	Construction of a 4-bedroom house with granny annex above triple garage
Applicant	Mr Martin Lane
Agent	Mr James Thomas
Target Decision Date	23 October 2024
Case Officer	Hayley Sadler
Parish	BRADWELL-ON-SEA
Reason for Referral to the Committee / Council	Departure from the local plan

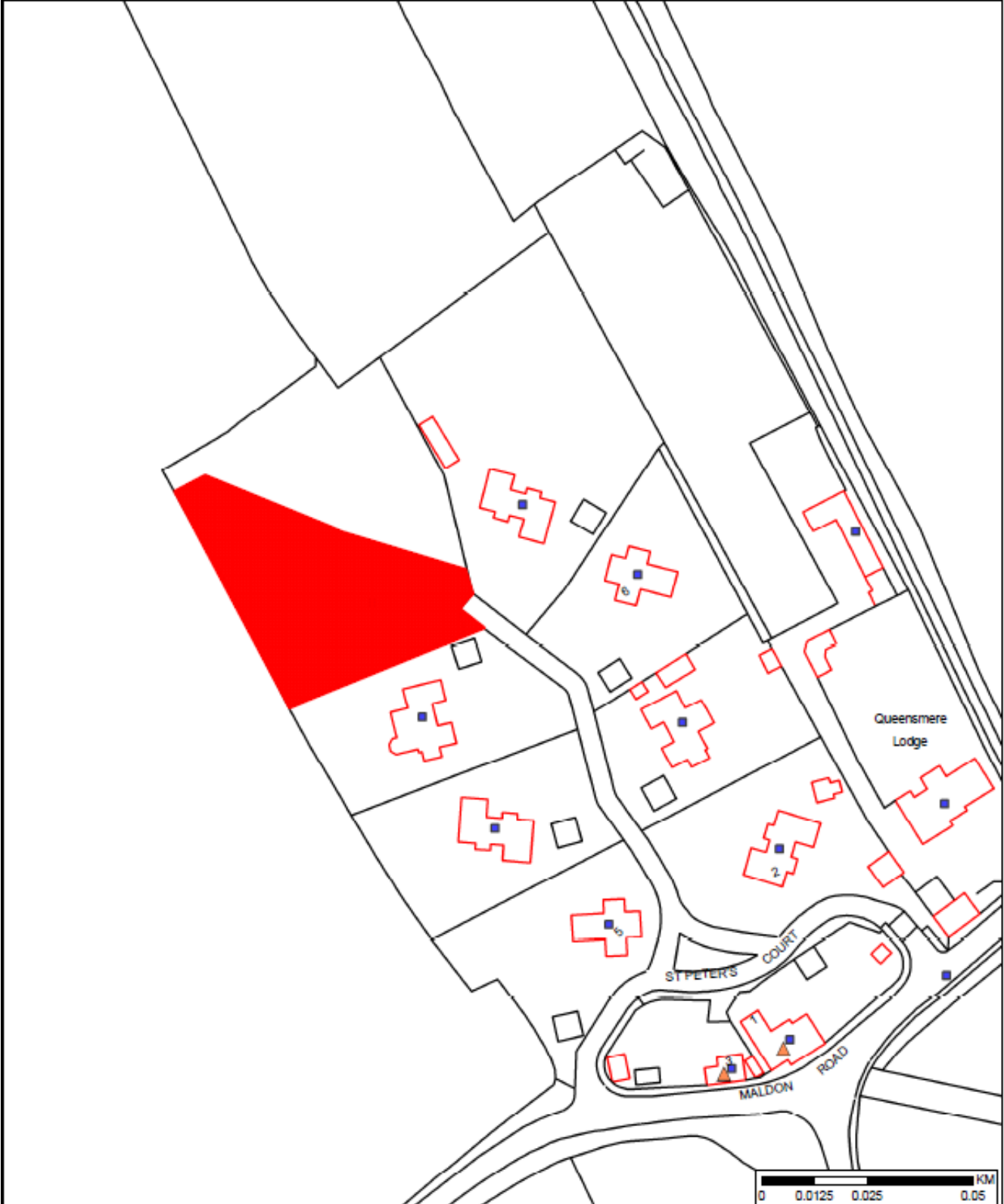
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see below.

Land Adjacent 9 St Peters Court - Bradwell on Sea
24/00166/FUL



 <p>MALDON DISTRICT COUNCIL</p>	<p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	<p>Scale: 1:1,250</p>
	<p>Organisation: Maldon District Council</p>	<p>Department: Department</p>
	<p>Comments: South East Area Committee</p>	<p>Date: 22/08/2024</p>
	<p>www.maldon.gov.uk</p>	<p>MSA Number: 100018588</p>

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the northwest of St Peters Court outside the settlement boundary of Bradwell-on-Sea. St Peters Court is accessed from Maldon Road and is a residential cul-de-sac comprising of nine dwellings. The application site is an undeveloped parcel of land in the northwest corner located between No.8 and No.9. The red line development site is the southern half of a larger site which benefited from previous planning permissions. There is a low boundary fence on the eastern boundary of the (larger) site adjacent to No. 9 and a close boarded fence of approximately 1.8 metres in height to the southern boundary shared with No. 8. The surrounding area is generally rural, with sporadic dwellings fronting the highway. To the east of the site is open countryside. The dwellings within St Peters Court are all detached and sizeable within spacious plots and generous gardens.
- 3.1.2 Planning permission is sought for the erection of a four-bedroom dwelling with a detached granny annex above a double garage.
- 3.1.3 The proposed dwelling would measure 17 metres in width, 16 metres in depth, have a maximum eaves height of 5.8 metres and a maximum ridge height of 12 metres, including the chimney. The dwelling would be 'T shaped' with an intersecting gable roof style. The front elevation would have a front gable end projection extending to the roof, a small porch projection, windows at ground and first floor levels, and a feature window and roof lights to serve rooms within the roof space. The rear elevation would also have a gable end projection with a bay window at ground and first floor levels, windows at ground and first floor, roof lights, juliet balcony and a balcony at first floor level. Both of the side elevation would have gable ends with the north elevation featuring a chimney stack.
- 3.1.4 The proposed double garage would measure 10 metres in width, 7.6 metres in depth, have an eaves height of 2.3 metres and an overall (flat) roof height of 6 metres. The front and rear roofs are pitched. Three garage style doors are proposed to the front elevation although only two are operational for vehicle parking use. A single access door and window are proposed at ground floor level and five roof lights are proposed to the rear elevation, a single access door and tripled paned window are proposed to the side (north) elevation and no windows are proposed to the side (south) elevation facing number 8 St Peters Court.
- 3.1.5 The proposal also includes a driveway and an area of hardstanding to the front and side of the dwelling and garage for the parking of vehicles. An area of soft landscaping is shown on the proposed block plan to the west of the site, which would consist of 4.5 metres wide planting of mixed native hedgerow. The site would also be boarded on the site boundaries with a 1.8 metre close board fencing.
- 3.1.6 The materials proposed in the construction would be red stock facing brickwork with cant bricks and off white render for the walls, textured grey composite eternit slate roof tiles, anthracite grey UPVC windows, bifold and french doors.
- 3.1.7 The development will provide accommodation within the dwelling in the form of a hall, lounge, toilet, utility room, dining room and kitchen at ground floor level, three bedrooms all with en-suites, hallway, and bathroom at first floor level, a balcony is also proposed with access from two of the proposed bedrooms. A master bedroom with en-suite, landing, office and storage space is proposed within the roofspace. The feature window to the front gable at roof level accommodates a double height space /

void to the first-floor landing. The landing accommodating the rooms in the roof is set back internally by 3 metres from the front gable.

- 3.1.8 The garage building comprises two covered car parking spaces and a segregated kitchen at ground floor level, and a single bedroom, lounge and bathroom within the roofspace. All glazing to the first floor is sited to the rear roof plane with no glazing to the front.
- 3.1.9 Agreement to the required pre-commencement condition attached to the recommendation has been gained from the agent.

3.2 Conclusion

- 3.2.1 It is noted that the proposal is in conflict with policy S8 of the Local Development Plan (LDP). However, having taken all material planning considerations into account, including the previous applications approved on the site, including on appeal. It is found that a dwellinghouse in this location has been historically established and therefore no objection is raised to the principle of the development. The impact of the development on the character of the area and the countryside has been assessed and having regard to the previous appeal decision and decision of the South Eastern Area Planning Committee held on 17 June 2019, the proposal would not result in material harm to the character and appearance of the area or the intrinsic character and beauty of the countryside. The development would not cause harm to the amenities of the neighbouring occupiers, and it would provide a suitable living environment for the future occupiers. Off-street parking has been provided in accordance with the Vehicle Parking Standards (VPS), and the Local Planning Authority (LPA) is satisfied that the development would not adversely impact on the public rights of way. Therefore, whilst there is some policy conflict, the proposal is found to be acceptable having regard to the policies in the plan taken as a whole, material considerations in terms of the planning history of the wider site and is consistent with the governments drive to boost the supply of housing set out in the National Planning Policy Framework (NPPF). Subject to the proposed conditions the proposal is acceptable and planning permission is recommended for approval.

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
- 10-14 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligations
- 123-130 Making effective use of land
- 131-141 Achieving well-designed places
- 180-194 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
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- N2 Natural Environment and Biodiversity

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide Supplementary Planning Document (SPD)
- Maldon District Vehicle Parking Standards (VPS) SPD
- Planning Practice Guidance (PPG)
- Essex Coast Recreation Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (adopted August 2020)

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 In terms of 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”. Policy S2 of the LDP aims to focus “strategic growth at the District’s main settlements as they constitute the most suitable and accessible locations in the District”. Policy S8 of the LDP steers new development towards the existing urban areas whilst allowing for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon.

5.1.3 In terms of housing delivery the Council is meeting the 5-Year Housing Land Supply (5YHLS) threshold with 6.3 years’ worth of housing against the Council’s identified housing requirements. However, it should be noted that this is not a ceiling to development as the Council is required to approve housing development, in context of the government drive to meet housing demand where the harm is outweighed by the benefits of the scheme and all other material considerations.

5.1.4 It is the Council’s position that policies relevant to the assessment of the current application remain in general conformity with the NPPF and the 5YHLS position

demonstrates that the key direction of growth remains in conformity with Local and national policy. Therefore, significant weight can be applied to the LDP Policies,

5.1.5 Planning permission was granted following an appeal under reference 17/01483/FUL for the 'Erection of a detached dwelling' (the 2017 scheme) (within the large site) and permission was also granted under reference 19/00458/FUL 'Erection of 2No. detached 4-bedroom dwellings (the 2019 scheme)' (in two separate parcels of the larger site). Both schemes have not been built nor any works carried out to have implemented the permission and therefore the time bound commencement condition has not been complied with resulting in the permissions now having lapsed.

5.1.6 The proposed new dwelling is located to roughly one half (the southern part) of the site which was approved for two dwellings in 2019. The site is located outside of the settlement boundary of Bradwell-on-Sea, and as such, there is some conflict with policy S8. Bradwell-on-Sea is classified as a 'smaller village' within policy S8 of the plan and described as containing few or no services and facilities, with limited or no access to public transport, and very limited or no employment opportunities. The 2019 approval was heard at the South Eastern Area Planning Committee, which confirmed the weight applied to the Planning Inspector's decision in their approval of the 2019 application.

5.1.7 The Planning Inspector when determining the appeal for the 2017 scheme (APP/X1545/W/18/3204574) stated:

'I accept that there would be some conflict with Policy S8 because the appeal site is outside of the defined development boundary. However, it would not compromise the general principle of preserving the intrinsic character and appearance of the countryside. Nor would it conflict with the overall key sustainable development principles set out in Policy S1, which reflect those in the Framework. As such, I consider the policy conflict would be minor, and the proposal would accord with the development plan as a whole. Thus, I conclude that the appeal site is a suitable location having regard to Policy S1 of the LDP and the Framework (2018).'

5.1.8 This was taken into account in the consideration of the 2019 approval and whilst there is no extant permission the details within the committee report for 19/00458/FUL stated:

'On the basis of the Inspector's findings and that there is an extant permission for one dwelling at the site, it is reasonable to consider that the application site is a suitable location for residential accommodation, as it is not considered that an additional dwelling would provide any considerations which would alter this stance. Therefore, although the principle of development is contrary to Policy S8 of the LDP, having regard to the previous decision, which is a material consideration, it is considered that the principle of the erection of two dwellinghouses in this locality would be acceptable.'

5.1.9 It has been stated that the permission has expired, however, that does not alter the weight applied to the approval on appeal or the Committees approval of the previous applications as material considerations of significant weight in the determination of this current application.

5.2 Housing Mix

5.2.1 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 and up to date PPG 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.

- 5.2.2 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three-bed dwellings; specifically, up to 10% one bedroom, 25-35% two-bedrooms, 40- 50% three-bedrooms, and 15-25% for 4+ bedroom market dwellings.
- 5.2.3 Whilst the proposed development would contribute to the District's housing need, any weight given to this would be limited given that only a single dwelling is proposed. However, this is a bespoke development site with a history of single larger dwellings approved. It is a limited area in a discrete area of similar dwellings. As such, while limited planning weight is given to the contribution of this dwelling to the LHNA, an exception is acceptable and historically predicated. The granny annex is not counted as part of the Council's housing need.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Furthermore, 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.
- 5.3.3 The application site lies outside of the settlement boundary and the relevant policy context has been articulated previously in this report.
- 5.3.4 The application site has been subject of two previous applications for dwellings on the site, and the principle of development is established and are material considerations in the determination of this application. In February 2019 application 17/01483/FUL (Erection of a detached dwelling) was allowed on appeal (APP/X1545/W/18/3204574) in paragraphs 7 & of the appeal decision the inspector stated:

'7. Though the area is generally flat, extensive views of the proposed dwelling from the public domain would be restricted by mature hedgerows and other buildings. The most significant views of the site would be from the south west along Maldon Road. Whilst the proposed dwelling would be visible from this direction, it would be viewed against the existing dwellings of St Peter's Court and, given the position of the proposed dwelling between Nos 9 and 8, the effect of the appeal dwelling on the character and appearance of the countryside would not be significantly greater than the existing dwellings.

8. The dwelling would be of a similar design to the existing dwellings and would sit in a generous plot set back from other properties and the private road and would therefore not compromise the feeling of spaciousness which is characteristic of St Peter's Court.'

The inspector then concluded in paragraph 12 that:

'Thus, I conclude that there would be no harm to the character and appearance of the countryside and no conflict with Policy S8 of the Maldon District Approved Local Development Plan (LDP) 2014-20291 in this regard, which seeks to protect the countryside for its intrinsic character and beauty, amongst other things. Nor would there be conflict with Policy D1 of the LDP which states that development should respect and enhance the character and local context and makes a positive contribution in terms of, amongst other things, landscape setting. There would also be no conflict with criterion 12 of Policy S1 of the LDP which seeks to maintain the rural character of the District, amongst other things or Policy H4 of the LDP which seeks to optimise the use of land having regard to the character and location and setting of the site, amongst other things.'

- 5.3.5 Reference to the 2017 appeal was referred to in the determination of the 2019 application 19/00458FUL (Erection of 2No. detached 4-bedroom dwellings), it is noted that this permission was for two dwellings on the wider site, the site has subsequently been split into two, with two separate owners. It was considered as part of application 19/00458/FUL that whilst the dwellings did not follow the radial pattern of the existing houses within St Peters Court, as the dwellings would be set further back that it would not result in material harm to the character and appearance of the area or the countryside. The dwelling subject of this application is of a similar footprint and is set back slightly than that of the neighbouring property to the south. Reference was also made to the comparable plot sizes, design and proposed materials of the nine dwellings which currently exist within St Peters Court. It was concluded that the development would not result in a cramped form of development and that the 'T' shaped design of the dwelling proposed would be match other dwellings in the streetscene and would not look out of place.
- 5.3.6 The proposal includes a double garage with the appearance of a triple garage externally, and an annex proposed above (kitchen at ground floor) which would be located to the south west of the dwelling' and at a distance 3.7 metres to the boundary with the neighbouring property. Given its composition and design, the garage would be noticeably larger than the existing garages elsewhere in St Peters Court. It is located at a setback position within the application site towards the rear. Whilst the building is large, its position negates any impact on St Peters Close itself. While it introduces built for of a scale larger than adjoining and nearby properties in the area, its impact on the wider landscape to the west would be limited in long views of the site. Furthermore, its impact is muted due to its context with the proposed and existing housing of the complex, and further the scheme proposes a landscaping scheme to rear boundary (west) which would further soften and appearance of the site as a whole in the wider context.
- 5.3.7 Having regard to the above assessment, the previous Inspector's decision and the planning history discussed above, the proposal would not result in material harm to the character and appearance of the site or the intrinsic character and beauty of the countryside. And as such is in compliance with policies S1 and D1 of the Local Plan.

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 Maldon District Design Guide (MDDG) (2017).

- 5.4.2 The application site is boarded by two neighbouring properties, No.8 St Peters Court to the northeast and No.9 St Peters Court to the south.
- 5.4.3 The proposed dwelling would sit 19 metres to the boundary 33 metres to the house respectively at to the northeast, No.8 St Peters Court. It is positioned at 10 metres from the boundary and 16 metres to the neighbouring property to the south, No.9 St Peters Court. There are no windows proposed in the first floor side elevations of the proposed dwellings and no other windows directly facing that property. As such there would be no overlooking or loss of privacy. The majority of the rooflights are to the rear (western) roof slope and would not face onto the adjoining properties. A balcony is proposed at first floor level to the rear, however, due to its position would not be visible to either neighbouring property.
- 5.4.4 The proposed garage would sit approximately 3.7 metres from the rear / side boundary with the neighbouring property to the south, No.9 St Peters Court. It would visibly present a large flank wall facing the boundary with the neighbouring property; however, the garden is large, and the proposed garage / annex is set at a sufficient distance from the neighbouring dwelling itself with no windows facing this neighbour. As such, it is considered the garage would not impose on or be overbearing to the amenities of neighbouring property in terms of their use of that part of the garden. The nearest point of the annex to the rear wall of the neighbouring property house is approximately 16 metres. As said above no windows are proposed to that elevation and as such there would be no loss of amenity due to overlooking.
- 5.4.5 On the basis of the above assessment, there would not be a harmful impact to the residential amenities of either neighbouring properties or that the garage/annexe would have an overbearing impact on the neighbouring property. Furthermore, given the separation distance between the proposal and the neighbouring properties there would be no material impact in terms of light or overshadowing to the neighbouring properties. Therefore, the proposal would comply with Policy D1 of the LDP.

5.5 Access, Parking and Highway Safety

- 5.5.1 Access to the site would be via St Peters Court off Maldon Road. Rushes Lane is a private road and the proposed access point off of St Peters Court to the dwelling is not in the ownership of the applicant. St Peters Court is an unmade gravel Road which provides access to the nine other dwellings.
- 5.5.2 The Council's adopted VPS SPD requires a four bedroom dwelling to have three parking spaces. One bedroom is proposed within the annex, which would result in five bedrooms on site. The ground floor of the garage proposed would provide two covered parking spaces which measure 7m x 3m internally, which would be in compliance with the VPS. Furthermore, there is an area of hardstanding proposed to the front and side of the dwelling and garage which would accommodate at least another four reasonable sized vehicles.
- 5.5.3 Essex County Council (ECC) Highways were consulted on the application and have advised they have no objection to the proposed access subject to recommended conditions in relation to cycle parking and residential travel information pack, together with advisory informatives, if the application is recommended for approval. Therefore, no objection is raised in relation to traffic and transport issues.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open

spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms and 50m² for smaller dwellings.

- 5.6.2 The development proposed would provide well in excess of 100m² of private amenity space. Therefore, the proposal is in compliance with Policy D1 of the LDP.
- 5.6.3 The proposed area of hedgerow planting is considered a suitable addition to the site and provides a suitable amount of greenery to help soften the appearance of the dwellings. A condition would however be imposed, ensuring that the landscaping is implemented and to ensure that species and stock sizes were appropriate.

5.7 Ecology (including the impact of development within the Zone of Influence (Zol) for the Essex Coast RAMS and RAMS)

- 5.7.1 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.'
- 5.7.2 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.
- 5.7.3 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.
- 5.7.4 The application was submitted prior to the mandatory Biodiversity Net Gain (BNG) requirements came into force, therefore there is no BNG requirement.
- 5.7.5 The application has been accompanied by an updated Preliminary Ecological Appraisal (PEA) and additional ecological information. The survey related to the potential impacts of development on protected species and habitats within the wider Local Wildlife Site.
- 5.7.6 The Council's Ecology Consultant has reviewed the submitted plans and PEA and is satisfied with the information provided subject to recommended conditions and informatives. Should permission be granted, the suggested conditions would be imposed.
- 5.7.7 Natural England (NE) were also consulted on the application and having assessed the information provided have advised that they have no objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites).
- 5.7.8 The site falls within the evidenced recreational Zol of the 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.

- 5.7.9 The development of 1no. 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 ZOI 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. dwellings.

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

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.

- 5.7.10 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 £163.86 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.

5.8 Trees

- 5.8.1 The application has been accompanied by a Tree report in accordance with BS5837:2012 - Arboricultural Impact Assessment (AIA). The application site is a bare (rough terrain) overrun by weeds and containing one solitary tree (T1) and a group of trees (G2). The (T1) is a large oak tree, which is in the very far north-western corner of the site and is surrounded by a small copse of trees (G2) containing several dead elms. The trees on site are not protected by way of a Tree Preservation Order (TPO) and does not fall within a designated Conservation Area. It is proposed that the dead elms within the (G2) are removed to prevent and potential tree failure, which should have a minimal impact on the amenity due to the dense vegetation group of the (G2).

No works are specifically required to the (T1) due to its location in relation to the development proposed and would therefore not alter the existing amenity value. A root protection area (RPA) will be in place around the (T1) and does not extend out to any areas marked for development. The RPA for the (T1) (and in turn, the G2), can be excluded from any construction activity via temporary fencing.

- 5.8.2 The T1 (Oak) is to be retained at the site and a planting scheme is proposed to the western boundary. The specific details relating to the proposed planting has been added as part of the hard and soft landscaping details to be submitted if the application is to be approved.
- 5.8.3 Place Services – Arboriculture was re-consulted on the application following the submission of the AIA, which has shown the presence of two specimens to the north-west of the site with T1 being a category A and the mixed species within G2 being a category C2. The trees are approximately 40 metres from the location of the proposed construction and as such be suitably retained in conjunction with the development. As a result, no objection has been raised subject to the imposition of a recommended condition in relation to the protection of the trees on site.

5.9 Other matters

- 5.9.1 The Council's Environmental Health Department has raised no comments to make on the application.

5.10 Planning Balance

- 5.10.1 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for economic, social and environmental objectives as set out in the NPPF.
- 5.10.2 In judging whether the scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers, against the harm which would arise from the proposed development.
- 5.10.3 Social benefits from providing market homes. The Council has a 5YHLS. The proposal is for one new home which would be of limited benefit due to the scale of development, therefore this is given **limited** weight.
- 5.10.4 In terms of environmental benefits, the proposal is considered to result in good quality design, and this is given **moderate** weight.
- 5.10.5 Economic benefits flowing from the construction phase of the development, where the opportunity exists for sourcing local labour and materials. This is largely a short-term benefit and given the small scale of the development this is given **limited** weight. Longer term economic and social benefits would be derived from the new residents supporting the limited local facilities and services however, such benefits would be limited due to the scale of the development and are given **limited** weight.
- 5.10.6 The main impacts of the development that present a degree of harm/conflict are:
- The proposal would introduce residential use beyond a settlement boundary where policies seek to protect the intrinsic character and beauty of the countryside. The proposal would have a limited degree of conflict with the LDP's spatial framework through the potential for harm to the character and appearance of the area. It is considered that the majority of journeys to and from the site would be reliant on travel

by private car, indicating the site is not in a sustainable location. However, this harm is balanced against the planning history of the site which is a material consideration of **significant** weight. which considered the site's location to be acceptable. Furthermore, in design terms, the infilling of a 'gap' within the existing development context is appropriate in design terms and would be consistent with and consolidate the existing character. A continuous and consistent boundary comprised of new hedging, adjacent to the countryside would reinforce the adjacent boundary treatment. Accordingly, the policy harm is given **limited** weight.

5.10.7 The development is found to constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance which has not been mitigated through a legal agreement. This is given **significant** weight.

5.10.8 Neutral impacts are identified as follows:

5.10.9 It is considered that impacts of the development with regard to design, residential amenity, highway safety, contamination, and flood risk could be mitigated through planning conditions and are therefore considered neutral impacts. The impact on the Essex Coast RAMS is mitigated by the financial contribution which has been paid and therefore is also a neutral impact.

5.10.10 With regard to the NPPF, the development proposal does not represent sustainable development; it fails to address the social and the environmental objectives to support strong, vibrant and healthy communities or to protect the natural environment. The proposal is in conflict with the Development Plan.

5.10.11 The planning balance is not a mathematical exercise whereby a number of weights of benefits equals an acceptable scheme, but instead provides a rounded view of the proposals overall. It is important to recognise the benefits of the scheme, which are limited, but also the limited harm identified with this particular proposal. On the merits of this particular proposal and giving significant weight to the previous appeal and committee decisions, the limited benefits outweigh the limited harm.

6. **ANY RELEVANT SITE HISTORY**

- **17/00409/FUL** - Application for two dwellings, Refused – 22 June 2017.
- **17/01483/FUL** - Erection of a detached dwelling, Refused and allowed on appeal – 11 February 2019.
- **19/00458/FUL** - Erection of 2No. detached 4 bedroom dwellings, Approved – 20 June 2019.
- **19/00754/NMA** - Application for non-material amendment following grant of Planning Permission FUL/MAL/19/00458 Erection of 2No. detached 4 bedroom dwellings. Amendment sought: Removal of condition 4, Approved – 11 July 2019.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Bradwell-on-Sea Parish Council	Support the application	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways	No objection – subject to recommended conditions and informatives	Noted – refer to section 5.5 of report
Natural England	No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites).	Noted – refer to section 5.7 of report
Place Services – Arboriculture	No objection – subject to recommended conditions	Noted – refer to section 5.9 of report
Place Services - Ecology	No objection subject to recommended conditions and informatives	Noted – refer to section 5.8 of report

7.3 Internal Consultees

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

7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
The house will be too big and cramped and not in keeping with the look of St Peters Court	St Peters Court is made up of substantial size dwellings, the proposed house is not that dissimilar in size to the previously approved dwellings on the site
St Peters Court is a private road owned by 7 existing houses	This is a civil matter that cannot be addressed through planning.
The existing sewer is far too small and blocks regularly	Environmental Health has been consulted and have no comments on the proposed development.
The triple garage is too high	Amended plans were received which reduced the size and position of the garage proposed
The proposed windows and sky lights would impact the privacy of the neighbouring property	The roof lights would face westerly and not overlook the adjoining property
The proposed materials are not in keeping with the other houses	It is proposed to use red brick and off white render which is inline with the other dwellings within the immediate surrounding area, the only difference would be the colour of the roof tiles.
Restrictions need to be added if the application is approved so that the road	The application can only be considered on what is proposed and that which

Objection Comment	Officer Response
is not blocked, any damage to the road is repaired	relates to the application site.
Site working should be restricted to Mon-Fri 9am-5pm	A condition could be imposed in relation to the work areas.

8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the approved plans and documents as shown on the decision notice.
REASON To ensure that the development is carried out in accordance with the details as approved.
3. No works shall be carried out above ground level until a sample or high quality photographs of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. 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 approved Local Development Plan and guidance contained within the National Planning Policy Framework.
4. Full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority prior to any works occurring above ground level at the application site. These details shall include:
 - i. Finished levels;
 - ii. Means of enclosure, including gates;
 - iii. Car parking layouts;
 - iv. Vehicle and pedestrian access and circulation areas;
 - v. Hard surfacing materials;
 - vi. Indications of all existing trees and hedgerows on the land and identification of those to be retained; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate. Specifically details of extensive planting to the western boundary to provide an appropriate buffer to the land to its west shall be provided

The details set out in (i) to (v) above shall be implemented as approved prior to occupation of the dwelling and retained thereafter. Soft landscape works, as required by (vi) above, 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.

- REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
5. 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 Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the
- iv. development;
- v. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- REASON In the interests of protecting the amenity of adjacent occupiers during construction in accordance with policy D1 of the LDP.
6. Prior to first occupation of the development, cycle parking shall be provided in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. 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 Policy T2 of the approved Local Development Plan.
7. 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 secure appropriate replanting of the site in the interests of visual amenity and the character of the area in accordance with policy D1 of the Maldon District Local Development Plan and the NPPF.
8. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Plumb Associates, August 2024) 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 protected and Priority species and allow the LPA 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 Natural Environment and Rural Communities (NERC) Act 2006 (as amended) in accordance with policy N2 of the Maldon District Local Development Plan and the NPPF.

9. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the Local Planning Authority.

The Reptile Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.”

REASON To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended) in accordance with policy N2 of the Maldon District Local Development Plan and the NPPF.

10. Prior to first occupation a Biodiversity Enhancement Layout for biodiversity enhancements listed in the Preliminary Ecological Appraisal (Plumb Associates, August 2024) be submitted to and approved in writing by the Local Planning Authority.

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

- a) detailed designs or product descriptions for biodiversity enhancements; and
- b) locations, orientations and heights for biodiversity enhancements on appropriate drawings.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

REASON To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023, s40 of the NERC Act 2006 (as amended) in accordance with policy N2 of the Maldon District Local Development Plan and the NPPF.

- 11 The tree identified for retention on the approved plan drawing number 2320-PL-04 Rev F which is attached to, and forms part of this permission shall be protected during the course of the development. The trees and/or hedges shall be protected by measures which accord with British Standard 5837:2012

(Trees in relation to design, demolition and construction). The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless otherwise first agreed in writing by the local planning authority. If within five years from the completion of the development a tree or hedge shown to be retained is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shall be planted within the site of such species and size, and shall be planted at such time, as specified in writing by the Local Planning Authority.

REASON To secure appropriate replanting of the site in the interests of visual amenity and the character of the area in accordance with policy D1 of the Maldon District Local Development Plan and the NPPF.

12. The garage hereby approved shall not be used other than for the accommodation of private motor vehicles and shall not at any time be converted or used as habitable space / living accommodation at ground floor level. The appearance of the garage building frontage shall not be altered from the approved drawings. There shall also be no change in the proposed kitchen area or any increase in bedroom space within the building without planning permission first having been obtained from the Local Planning Authority.

REASON To ensure that the development is carried out in accordance with the details as approved and in the interests of the amenity of the area in accordance with policies D1 and H4 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

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

REASON In the interest of preserving the character and appearance of the site, in accordance with Policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

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

REASON In the interest of preserving the character and appearance of the site, in accordance with Policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

Approved Plans

2320-PL-01 Rev H
2320-PL-02 Rev G
2320-PL-03 Rev F
2320-PL-04 Rev F



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
16 OCTOBER 2024**

Application Number	24/00273/FUL
Location	1 Pitt Cottages, Hall Road, Asheldham, Southminster
Proposal	Demolition of existing outbuilding and erection of bungalow with associated parking and amenity space.
Applicant	Mr and Mrs G Mott
Agent	Mr Marcus Tate - Smart Planning Ltd
Target Decision Date	Extension of time until 22 October 2024
Case Officer	Fiona Bradley
Parish	ASHELDHAM AND DENGIE
Reason for Referral to the Committee / Council	Departure from the local plan

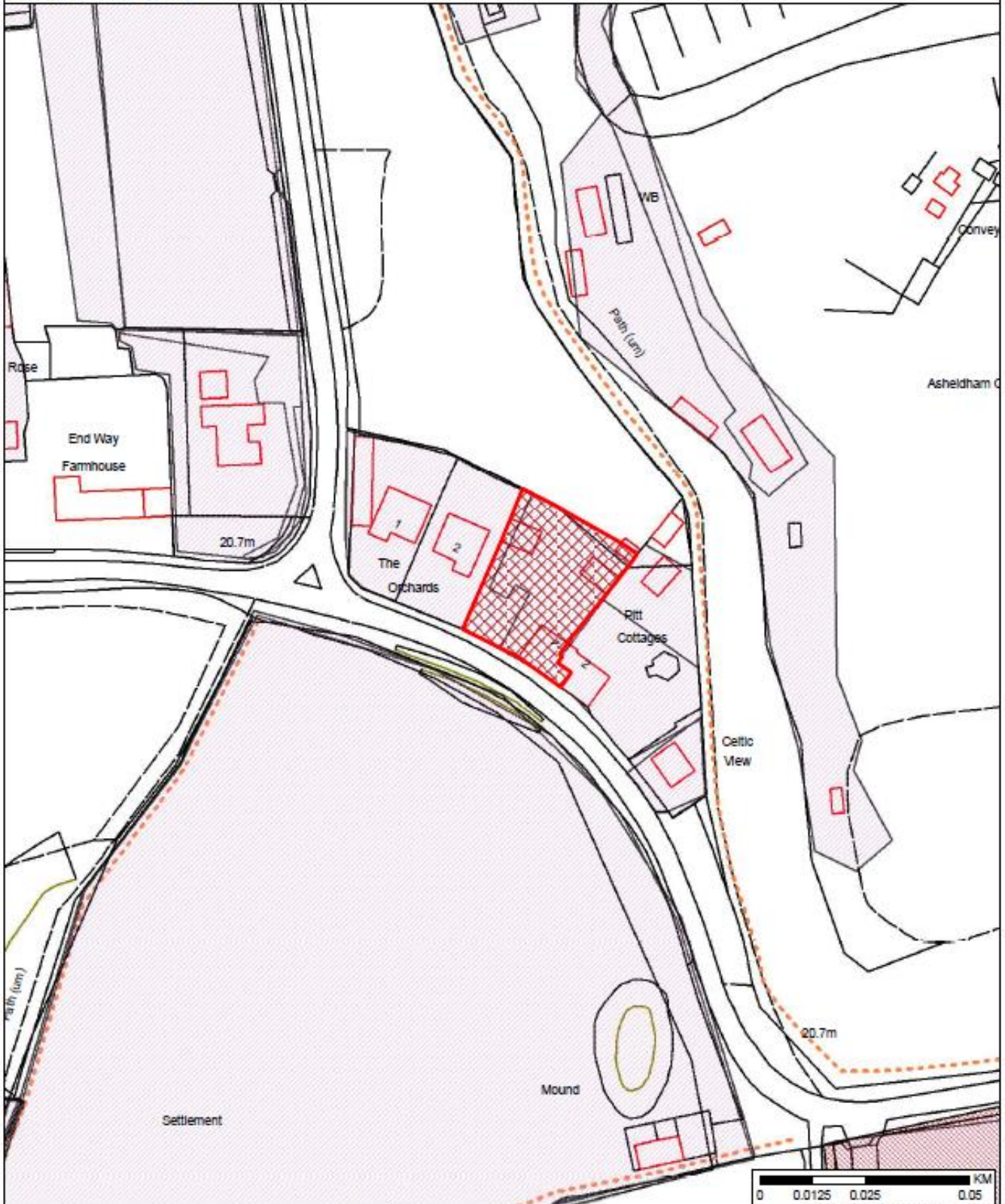
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see below.

Land at 1 Pitt Cottages, Asheldham, Southminster
South Eastern Area



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	16.10.2024
	Date:	20/09/2024
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

The site and surroundings

- 3.1.1 The application site is located outside of a settlement boundary in a generally rural area where dwellings are sporadically located and there are limited footpaths / footways adjacent to the highway. It is situated on the north side of Hall Road close to its junction with Southminster Road, Asheldham. Hall Road is a classified road which joins the B1021 Southminster Road at roughly the centre of the settlement of Asheldham and provides access to the nearby Dengie Crop Dryer facility. The B1021 links the eastern lying villages of the Dengie with the village of Southminster and the town of Burnham-on-Crouch.
- 3.1.2 The application site lies approximately 100m east of the Asheldham Centre and sits within an enclave of existing residential houses made up of Pitt Cottages, two recently constructed bungalows (see planning history below) and Endway Farmhouse. The site forms part of the residential curtilage of number 1 Pitt Cottages, a two-storey semi-detached dwelling. To the immediate south of the site are open fields with the Dengie Marshes beyond. To the north there is a working gravel pit.

Description of proposal

- 3.1.3 Planning permission is sought to demolish an existing outbuilding and construct a 3-bedroom bungalow with amenity space and parking.
- 3.1.4 The proposed bungalow would be set back from the road frontage with a shared, widened access and off-street parking space and turning point for new dwelling and host dwelling. The proposal would be in alignment with the existing bungalows to its west with a similar arrangement and set back to the street.
- 3.1.5 A single shared vehicular access is proposed from Hall Road with two car parking spaces arrangement proposed between the host and proposed dwellings. A turning area is proposed at the frontage. A section of hedgerow is to be retained with close boarded fence along the south-eastern boundary.
- 3.1.6 The proposed bungalow would measure approximately 12 metres in depth and 10.6 metres in width. The entrance into the dwelling is proposed to the southern elevation within a proposed overhang roof projection. The dwelling would have an overall height of 5.6 metres, 2.6 metres to the eaves.
- 3.1.7 The proposed bungalow would comprise 3 bedrooms, a kitchen / dining room, bathroom, hallway and living room.

Conclusion

- 3.1.8 The site is located in the countryside, beyond any settlement boundary, where future occupants would largely be reliant on travel by car. The principle of development is therefore in conflict with the main thrust of the Council's spatial strategy.
- 3.1.9 Notwithstanding the above, the appeal decision for a previous application at the site (planning application ref. 15/00755/FUL, appeal reference no. APP/X1545/W/16/3148231), is a material planning consideration when determining this application. The appeal scheme was for two bungalows on land adjacent to 1 Pitt Cottages, and was part of the garden of 1 Pitt Cottages, as is the current application

site. The appeal was allowed as the Inspector considered the proposal would not harm the character and appearance of the area and the appeal proposal would “*result in reasonably sustainable travel patterns*” (para. 10). Given the appeal scheme’s location being the garden of 1 Pitt Cottages, as per the current application, and the similarities between the schemes, significant weight is given to the appeal decision when considering this application. In this particular instance, it is considered that to take a different view to the Inspector would be difficult to defend on any appeal and hence be considered unreasonable, particularly in light of the governments drive to significantly boost housing supply. Accordingly, no objection is raised in regard to the principle of development.

3.1.10 The proposal is acceptable in design terms and would not result in any harmful adverse impacts on the residential amenities of neighbouring properties. The proposals are acceptable in terms of highway safety and satisfactory parking provision is proposed. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) mitigation tariff, which is necessary to make the application acceptable, has been paid in full.

3.1.11 The proposal is therefore found to be acceptable and is recommended for approval subject to conditions.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework (NPPF), 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 and beautiful places
- 180-194 Conserving and enhancing the natural environment

4.2 Maldon District Approved Local Development Plan 2017 (LDP) approved by the Secretary of State

- S1 Sustainable Development
- S2 Strategic Growth
- 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 Guidance (NPPG)
- Essex Coast Recreation Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) (2020)
- Maldon District Design Guide SPD (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

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 require that planning decisions are to be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Approved Local Plan 2017 (the Local Development Plan or LDP).

Spatial Strategy

- 5.1.2 LDP Policy S1 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 applies 14 key principles in policy and decision making set out in the Policy. This includes principle 2 “*Delivering a sustainable level of housing growth that will meet local needs and deliver a wide choice of high-quality homes in the most sustainable locations*”.
- 5.1.3 To deliver the economic and residential growth in the District whilst protecting and enhancing the area’s natural, built and historic environment, LDP Policy S2 seeks to focus development on existing settlements subject to their role, accessibility and constraints.
- 5.1.4 LDP Policy S8 includes a settlement hierarchy which identifies Asheldham as an ‘other village’ which is one that has no defined settlement boundary. Policy S8 of the LDP flows from Policy S2 and steers new development towards the existing urban areas. Policy S8 confirms that development will be supported within settlement boundaries and that outside these areas it will only be supported where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. The proposed development does not fall within any of the development types listed in Policy S8 as being acceptable in the countryside. Although there is conflict with Policy S8 in that the site is located outside of any settlement boundary, this is balanced against other material planning considerations which are discussed below. Furthermore, it has been found in appeal decisions that Policy S8 is not wholly incompatible with the Framework’s (NPPF) objectives to boost housing supply, when taken together with other relevant policies in the plan that have a role to play in the determination of housing development, together with identified material considerations.
- 5.1.5 In terms of the principle of development, the appeal decision on the adjacent site (application no. 15/00755/FUL, appeal reference no. APP/X1545/W/16/3148231), is a material planning consideration when determining this application which is given significant weight. The appeal decision is included in **APPENDIX A**. The appeal was for two bungalows on land adjacent to 1 Pitt Cottages, and was part of the garden of 1 Pitt Cottages, as is the current application site. There are two elements of the

appeal decision which are particularly relevant when considering the principle of the current development as discussed in the following paragraphs.

- 5.1.6 Whilst the impact on the character and appearance of the development is discussed in detail in section 5.2 below, when considering the principle of development it is necessary to consider Policy S8 which seeks to protect the countryside for its intrinsic character and beauty. The Inspector concluded in para. 7 of the appeal decision that the proposal would accord with the then Policy CC6 *“which seeks to protect and enhance the natural beauty, tranquillity, amenity and traditional quality of the landscape or Policy S2 which seeks to protect the countryside for its own sake and for its landscape value”*. Policy S8 of the LDP has a similar thrust in that it states *“the countryside will be protected for its landscape, natural resource and ecological value as well as its intrinsic character and beauty”*. As the application site is immediately adjacent to the appeal site and also forms part of the garden of 1 Pitt Cottages, it is considered that to take a different view in this instance would be unreasonable in planning terms, and difficult to defend in a case of a contrary view being proffered.
- 5.1.7 In terms of impact on the rural character and appearance of the area, it is also noted that the application site comprises a relatively small gap between the dwelling at 1 Pitt Cottages and the two new dwellings. Again, reference to the appeal decision is a relevant consideration where at para. 6 the Inspector state that *“whilst the proposal would consolidate the existing pattern of built development, it would not be intrusive in the wider rural setting. There is no substantive evidence to suggest that the layout or appearance of the proposed dwellings would be objectionable. Consequently, I consider that the proposal would not have a harmful effect on the character and appearance of the site or the surrounding area”*. It is considered the same circumstances apply in this case due to the site being in the same location and now, due to the appeal decision, being enclosed on both sides by dwellings.
- 5.1.8 In terms of the site’s location and its sustainability credentials, the Inspector acknowledged at para. 8 that there was a limited range of facilities and services in the immediate vicinity of the appeal site and, whilst noting that there were limited bus services and that cycling would be an option, accepted that future occupiers *“would be likely to rely on trips by private car to meet... their day to day needs”*. At para. 10 the Inspector concluded that *“Having regard to the rural nature of the area, and the approach to the sustainability of the location taken by other decision makers, I consider that the appeal proposal would result in reasonably sustainable travel patterns and accord with Framework paragraphs 29 and 35”*. Paragraphs 29 and 35 of the 2012 version of the NPPF, referred to by the Inspector, embody the same overall objectives for sustainable travel choices as paragraphs 108 – 110 of the latest (December 2023) version of the NPPF.
- 5.1.9 Whilst Officers do not consider that the site is sustainably located due to its location and that occupiers would be reliant on cars, significant weight is given to the appeal decision. In terms of the current application, although the DaRT service is no longer operational in the area, it is considered that there are no other material considerations that would lead the LPA to reasonably come to a different conclusion to that of the Inspector. On that basis, and in this particular instance having regard to the appeal decision, the location of the site would not justify a reason for refusal.

Five Year Housing Supply (5YHLS)

- 5.1.10 On the 28 May 2024, the Council confirmed, through approval of its officers’ report and supporting evidence, that it can demonstrate a supply of specific, deliverable sites sufficient to provide for 6.3 years’ worth of housing against the Councils

identified housing requirements. The published figure for the year 2023 / 24 was 6.35 years. However, it should be noted that this is not a ceiling to development as the Council is required to approve housing development in a sustainable manner, having regard to the government's drive to meet housing demand, where any identified harm caused by a development is outweighed by the benefits of the scheme and any other material considerations. In addition, maintaining a balance of delivery of housing on the ground, and approval of new permissions, is necessary for the Local Planning Authority to demonstrate that it is being consistent with national policy.

Summary of Principle of Development

- 5.1.11 The site is outside of any defined settlement boundary and is not considered to be in a sustainable location and therefore conflicts with the spatial strategy of the LDP. Although each application must be considered on its merits, in this particular instance for the reasons set out in the preceding paragraphs, it is considered that due to the appeal scheme and the current proposal being at the same location, significant weight is given to the appeal decision as referenced above. Accordingly, no objection is raised to the development in terms of the principle of development.

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. 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 Maldon District Design Guide 2017 (MDDG) are relevant in this respect.

- 5.2.2 LDP policy D1 takes this further in seeking to ensure that all development respects and enhances the character and local context and makes 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.*

- 5.2.3 LDP 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.

- 5.2.4 More detailed provisions supplementing the above requirements for high quality design and appropriate layout, scale and detailing of development are set out in the MDDG.
- 5.2.5 The proposed new dwelling is a bungalow of traditional form with design features including a brick plinth and timber clad gables. It is subservient in scale and sympathetic in appearance to the two storey terraced cottages adjoining the site to the east. Notably, its design is essentially the same as that of the recently constructed bungalows on the appeal scheme to the west which were not considered to have a harmful effect on the character and appearance of the site or the surrounding area. There is nothing in LDP policy D1 or the MDDG to lead to a different conclusion being reached regarding the design and character of the proposed dwelling.
- 5.2.6 For the above reasons in terms of design the dwelling is considered to accord with relevant provisions of LDP Policy D1 and advice in the MDDG.

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. In addition, Policy H4 (density (7)) requires consideration of the impacts of development on neighbouring amenity.
- 5.3.2 The dwelling is situated on the approximately the same building line as the newly constructed dwellings to the west and is set behind frontage car parking in a similar way to these dwellings. There is only one window in a flank wall and this serves a dining room on the western elevation which would be screened from the neighbouring property by the boundary treatment which would be the subject of the recommended boundary treatment condition. Due to its low overall height and siting, the proposed bungalow does not raise any other neighbour amenity issues in terms of light or outlook.
- 5.3.3 For the above reasons in terms of residential amenity the proposed dwelling accords with relevant provisions of LDP Policy D1 and H4 and advice in the MDDG.

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 adopted Vehicle Parking Standards SPD (VPS SPD) provides minimum standards for car parking provision and requires the provision of 2 spaces for 2 and 3 bedroom dwellings.
- 5.4.3 It is proposed that the host dwelling and the proposed dwelling would share a widened vehicle access and provides for two off street parking spaces each for the existing and proposed dwellings and a turning area within the site in front of the proposed dwelling. The number of spaces proposed meets the requirements of the

VPS SPD. Furthermore, the parking spaces meet the minimum size requirements set out in the VPS SPD.

- 5.4.4 Essex County Council, in its role as the local highway authority, has advised that the proposal is acceptable in terms of access and parking subject to conditions including a requirement to secure the widening of the vehicle access as is now proposed.
- 5.4.5 The proposal therefore accords with Policies T2 and D1 of the LDP, the VPS SPD and relevant guidance in the NPPF.

5.5 Living Conditions of Occupants

- 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 (2017) advises a suitable garden size for each type of dwellinghouse, namely 50m² for 1-2 bed dwellings and 100m² of private amenity space for dwellings with 3+ bedrooms.
- 5.5.2 The development provides well in excess of 100m² of private amenity space for both the host and proposed dwellings, and therefore meets this requirement.
- 5.5.3 The proposed dwelling accords with the nationally described space standards.
- 5.5.4 The site is adjacent to Asheldham Quarry which has planning permission for extraction and filling activities until 2029. The quarry was operational at the time the previous application and subsequent appeal were considered and no objection was raised in regard to potential impacts on the residential occupants. However, since 2018 the NPPF incorporates the agent of change principle whereby paragraph 193 of the NPPF establishes that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 5.5.5 The Council's Environmental Health department advised that the Essex County Council (ECC) "*waste and minerals permission for the quarry has noise conditions which require regular monitoring of the site and submission of reports to ECC which we are consulted on. There is generally a good history of compliance and no concerns in respect of noise relevant to this application*". ECC, as the Minerals and Waste Planning Authority (MWPA), raised no objection to the 2015 application but made some suggestions in terms of orientation of the dwellings which were not implemented. For this application, the MWPA has advised that the site is within the Minerals Consultation Area and Waste Consultation Area for Asheldham Quarry and as such a Minerals Infrastructure Impact Assessment and a Waste Infrastructure Assessment is required to be submitted. The applicant has submitted the necessary assessments.
- 5.5.6 On the basis that there is no objection from Environmental Health or from the MWPA, and taking account the previous appeal decision which raised no concerns in regard to the quarry operations, no objection is raised in regard to impacts on residential amenity.

5.6 Ecology (including Biodiversity Net Gain (BNG) and 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 was submitted prior to the mandatory BNG requirements came into force, therefore there is no BNG requirement.
- 5.6.5 The application is supported by a preliminary ecological assessment which the County Ecologist is satisfied provides sufficient information for determination of the application. Since the necessary mitigation measures could be secured by condition the proposal is considered to accord with the relevant requirements of LDP policy N1.
- 5.6.6 The application site falls within the ‘Zone of Influence’ (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast RAMS.
- 5.6.7 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (‘NE’). To accord with NE’s requirements and standard advice an Essex Coast RAMS Habitat Regulation Assessment (HRA) Record has been completed (below) 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 previously listed sites? Yes (Blackwater Estuary Special Protection Area (SPA) and Dengie SPA)

Does the planning application fall within the specified development types? Yes (a new dwelling)

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

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

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

Summary of Appropriate Assessment – as a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites provided that mitigation, in the form of a financial contribution or Unilateral Undertaking to secure payment has been received.

- 5.6.8 Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse impact on the integrity of the European sites from

recreational disturbance, when considered in combination with other development. Natural England does not need to be consulted on this Appropriate Assessment.

- 5.6.9 A flat rate tariff of £163.86 per new dwelling is currently the appropriate fee as the contribution to mitigate the impact of a new residential property with regard to the Coastal Recreational Avoidance and Mitigation Strategy. In this case, as the applicant is neither the owner nor the mortgagee, the RAMS payment has been paid in full and this secures the appropriate mitigation. The proposal therefore complies with policies S1, D1, N1 and N2 of the Local Plan and Government advice contained in the NPPF with regards to RAMS.

5.7 Flood Risk and Drainage

- 5.7.1 Policy S1 of the LDP 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 sets out the Council's approach to minimising flood risk.
- 5.7.2 The site is within Flood Zone 1 and presents a low risk of flooding.
- 5.7.3 The Council's Environmental Health department has no objection to the proposal on drainage grounds however has recommended a condition to details of the foul drainage scheme to be submitted.
- 5.7.4 It is therefore considered that the proposal accords with Policy D5 of the Local Plan.

5.8 Other matters

Archaeology

- 5.8.1 Policy D3 requires that, where development might affect geological deposits, archaeology or standing archaeology, an assessment from an appropriate specialist source should be carried out. ECC Archaeology has advised that the site is located within an area of archaeological potential and appropriate conditions are included in the recommendation.

Pre-commencement conditions

- 5.8.2 Pursuant to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority must obtain the written agreement of the applicant to the terms of any pre-commencement condition recommended before it can be included on any planning permission granted. In this case, pre-commencement conditions are required with regard to the approval of archaeological investigations and a foul drainage scheme. Agreement to these has been received via email from the agent.

5.9 Planning balance

- 5.9.1 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for economic, social, and environmental objectives as set out in the NPPF.
- 5.9.2 In judging whether the scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers, against the harm which would arise from the proposed development.

- 5.9.3 Social benefits from providing market homes. The Council has a 5YHLS. The proposal is for one new home which would be of limited benefit due to the scale of development, therefore this is given **limited** weight.
- 5.9.4 In terms of environmental benefits, the proposal is considered to result in good quality design, and this is given **moderate** weight.
- 5.9.5 Economic benefits flowing from the construction phase of the development, where the opportunity exists for sourcing local labour and materials. This is largely a short-term benefit and given the small scale of the development this is given **limited** weight. Longer term economic and social benefits would be derived from the new residents supporting the limited local facilities and services however, such benefits would be limited due to the scale of the development and are given **limited** weight.
- 5.9.6 The main impacts of the development that are harmful are:
- 5.9.7 The proposal would introduce residential use beyond a settlement boundary where policies seek to protect the intrinsic character and beauty of the countryside. The proposal would conflict with the LDP's spatial framework through the harm to the character and appearance of the area. It is considered that the majority of journeys to and from the site would be reliant on travel by private car, indicating the site is not in a sustainable location. However, this harm is balanced against the appeal decision which considered the site's location to be acceptable. Accordingly, this harm is given **limited** weight.
- 5.9.8 The development is found to constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance which has not been mitigated through a legal agreement. This is given **significant** weight.
- 5.9.9 Neutral impacts are identified as follows:
- 5.9.10 It is considered that impacts of the development with regard to design, residential amenity, highway safety, contamination, and flood risk could be mitigated through planning conditions and are therefore considered neutral impacts. The impact on the Essex Coast RAMS is mitigated by the financial contribution which has been paid and therefore is also a neutral impact.
- 5.9.11 With regard to the NPPF, the development proposal does not represent sustainable development; it fails to address the social and the environmental objectives to support strong, vibrant, and healthy communities or to protect the natural environment. The proposal is in conflict with the Development Plan.
- 5.9.12 The planning balance is not a mathematical exercise whereby an amount of weights of benefits equals an acceptable scheme, but instead provides a rounded view of the proposals overall. It is important to recognise the benefits of the scheme, which are limited, but also the limited harm identified with this particular proposal. On the merits of this particular proposal, and giving significant weight to the appeal decision, the limited benefits outweigh the limited harm.

6. **ANY RELEVANT SITE HISTORY**

- **15/00755/FUL** – Proposed construction of two, three-bedroom bungalows. Allowed on appeal 06.06.2016, following refusal on 09.10.2015.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Asheldham and Dengie Parish Council	Refuse this planning application due to the restriction of car parking spaces and the amenity space of the existing property. Also, this is contrary to MDC policy D1, H4 and scale, bulk and design of the application.	Noted, addressed in sections 5.2 and 5.4 of the report.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highway Authority - ECC	No objection, but recommended conditions.	Addressed in section 5.4 of the report. .
Essex County Council Minerals and Waste Planning Authority	The site is within the Minerals Consultation Area and the Waste Consultation Area for Asheldham Quarry and as such a Minerals Infrastructure Impact Assessment and a Waste Infrastructure Assessment is required to be submitted	Addressed in section 5.5 of the report.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions. However, suggest a foul drainage condition as the site does not appear to benefit from a mains sewer connection according to DIGDAT, yet the application form suggests that a main sewer will be used to dispose of foul water. No objection in regard to the adjacent quarry.	Addressed in sections 5.5 and 5.7 of the report.

Name of Internal Consultee	Comment	Officer Response
Ecology	No objection subject to securing a proportionate financial contribution towards Essex Coast RAMS and a condition relating to biodiversity mitigation and enhancement measures. Recommend conditions for: in accordance with the details contained in the Preliminary Ecological Appraisal; a Biodiversity Enhancement Strategy; and a Wildlife Sensitive Lighting Design Scheme	Addressed in section 5.6 of the report.

7.4 Representations received from Interested Parties

7.4.1 No representations have been received for this application.

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the approved plans as shown on the decision notice.
REASON: To ensure that the development is carried out in accordance with the details as approved.
3. Prior to any works above slab level, full details and / or samples of the materials to be used in the construction of the external surfaces of the dwellings and garages shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON: In the interest of the character and appearance of the area in accordance with Policies D1 and D3 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.
4. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.
REASON: To protect the site, which is of archaeological interest, in accordance with policy D3 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.
5. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner

of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

REASON: To protect the site, which is of archaeological interest, in accordance with policy D3 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.

6. Prior to first occupation of the development and as shown on planning drawing 24.7953/P201 Rev A, the existing vehicle access shall be widened to the east to become a shared access. The width of the access at its junction with the highway shall be 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.
REASON: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy T2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.
7. 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 Approved Local Development Plan (2017) and guidance contained within the NPPF.
8. Prior to first occupation of the development the cycle parking shall be provided in accordance with the Essex Planning Officers Association (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 Policy S1, 13) and Policy T1 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.
9. All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway.
REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy T2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.
10. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Plumb Associates, March 2024) 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, 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 Natural Environment and Rural Communities (NERC) Act 2006 (Priority habitats & species), in accordance with Policies N1 and N2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.

11. Prior to 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) detailed designs or product descriptions to achieve stated objectives;
 - b) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
 - c) persons responsible for implementing the enhancement measures;
 - d) 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 conserve and enhance protected and Priority species, 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), in accordance with Policies N1 and N2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.

12. Prior to occupation of the development hereby permitted 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 conserve and enhance protected and Priority species, 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), in accordance with Policies N1 and N2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.

13. Prior to the commencement of the development 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 satisfactory drainage of the site, and to minimise flood and pollution risk in accordance with Policies D2 and D5 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the NPPF.

APPENDIX A: Appeal decision for APP/X1545/W/16/3148231

Submitted plans

24.7953/M002
24.7953/M001
24.7953/E101
24.7953/E102
24.7953/P201 Rev A

24.7953/P202
24.7953/P203
24.7953/P204 Rev A

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Admin Account
Maldon District Council
Planning Services
Council Offices
Princes Road
Maldon
Essex
CM9 5DL

Your Ref: FUL/MAL/15/00755
Our Ref: APP/X1545/W/16/3148231

06 July 2016

Dear Sir / Madam,

Town and Country Planning Act 1990
Appeal by Mr and Mrs Peter Bebbington
Site Address: 1 Pitt Cottages, Hall Road, Asheldham, SOUTHMINSTER, CM0 7EA

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Neil Devereux

Neil Devereux

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 14 June 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2016

Appeal Ref: APP/X1545/W/16/3148231

Land adjacent to 1 Pitt Cottages, Hall Road, Asheldham, Essex CM0 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Peter Bebbington against the decision of Maldon District Council.
 - The application Ref FUL/MAL/15/00755, dated 2 July 2015, was refused by notice dated 23 October 2015.
 - The development is proposed is the construction of two, 3 bedroom bungalows.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of two, 3 bedroom bungalows at land adjacent to 1 Pitt Cottages, Hall Road, Asheldham, Essex CM0 7EA in accordance with the terms of the application, Ref FUL/MAL/15/00755, dated 2 July 2015, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the site and the surrounding area;
 - whether the proposal would result in sustainable travel patterns having regard to the National Planning Policy Framework (the Framework).

Reasons

3. The reasons for refusal refer to Policies S1, S8, D1 and H4 of the emerging Maldon District Local Development Plan (LDP). The Council maintains that significant weight should be attached to the LDP. However, in reviewing the interim findings of the Inspector initially appointed to examine the LDP, the Secretary of State for Communities and Local Government did not examine these policies and, therefore, has not reached a judgement on the soundness of the Plan as a whole. Moreover, notwithstanding that the Policies S1 and S8 were considered in the hearing sessions when the Plan was examined initially, in a letter dated 7 April 2016, the Inspector now appointed to examine the LDP confirmed his intention explore further some of the questions debated in the previous hearings. Nor have I been made aware of the extent of any unresolved objections to the policies cited. Having regard to the advice at Framework paragraph 216 therefore, little weight can be accorded to these policies.
-

Character and Appearance

4. The appeal site is located within a small group of dwellings at the junction of Hall Road and Southminster Road. It adjoins the two storey semi-detached dwelling at 1 Pitt Cottages and appears to be used for storage and recreational purposes associated with the occupation of that property. The land is enclosed on all sides by fencing and planting and has a domestic character. Therefore, whilst it falls outside of the settlement boundary defined in the Maldon District Replacement Local Plan (RLP), it has a greater affinity with the adjacent residential development than with the countryside beyond.
5. The Council considers that the site contains 'some high value landscape features' whose value would be diminished as a result of the proposal. However these features have not been identified in the Council's submissions. Whilst there are a small number of trees within the body of the site, there is nothing to suggest that they are of particular value. They are largely screened from external views by the existing boundary planting and, therefore, contribute little to the wider setting of the site. The boundary planting does contribute to the street scene in views along Southminster Road and Hall Road. However, it would be retained in the appeal proposal.
6. The boundary planting would also help to filter external views of the proposed dwellings. The buildings would be single storey in height and reasonably well spaced with opportunities for additional planting along the boundary between the two plots. As such, whilst the proposal would consolidate the existing pattern of built development, it would not be intrusive in the wider rural setting. There is no substantive evidence to suggest that the layout or appearance of the proposed dwellings would be objectionable. Consequently, I consider that the proposal would not have a harmful effect on the character and appearance of the site or the surrounding area.
7. The proposal would not, therefore, conflict with RLP Policy BE1 to the extent that it requires proposals to be compatible with their surroundings. Nor would it be out of accord with Policy CC6 which seeks to protect and enhance the natural beauty, tranquillity, amenity and traditional quality of the landscape or Policy S2 which seeks to protect the countryside for its own sake and for its landscape value.

Sustainable Travel

8. There is a limited range of facilities and services in the immediate vicinity of the appeal site. However, the appellant has drawn my attention to a farm shop within 0.25 miles and community facilities including the Asheldham Centre (0.3 miles) and Dengie Village Hall (1.3 miles) and relatively sizeable local businesses. A wider range of facilities is available in Southminster around 1.6 miles away. Whilst the routes to these facilities are unlit and footpaths are intermittent, the roads are lightly trafficked. They would, therefore, be accessible by bicycle, even if walking is unlikely to be a preferred option. There is also a bus route a short distance from the site with services to Southminster and Burnham on Crouch. The service runs fairly frequently at peak times on weekdays, although it is less frequent at other times. The Dengie DART demand responsive bus service is also available in the area. Nevertheless, future occupiers of the proposed dwellings would be likely to rely on trips by private car to meet the many of their day to day needs.

9. Whilst paragraph 35 of the Framework seeks to give priority to pedestrian, cycle and public transport movements, paragraph 29 recognises that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The Council has not cited any development plan policies in support of its position on this issue.
10. I also note the appellant's evidence that eight planning permissions have been granted recently on application and at one at appeal¹ for new dwellings in Asheldham. Having regard to the rural nature of the area, and the approach to the sustainability of the location taken by other decision makers, I consider that the appeal proposal would result in reasonably sustainable travel patterns and accord with Framework paragraphs 29 and 35.

Other Matters

11. Whilst supporting the proposal, the Parish Council has expressed concern regarding the proposed access. However, I note that the local highway authority advised that it would not object to the proposal provided that it includes a 6m wide vehicular access. A revised plan (ref 1043/03 Rev B), which was considered by the local planning authority when it determined the application, shows such an access. I see no reason disagree with the local highway authority's approach.

Planning Balance

12. Framework paragraphs 7 and 8 require the three roles of sustainability to be considered together. The construction of the development would bring minor, short term, economic benefits. I note that the housing land supply position in the District is a matter of dispute between the appellant and the Council. Nevertheless, the provision of two dwellings would make a modest positive contribution to the social dimension of sustainability, irrespective of the housing land supply situation. Therefore, it merits a measure of weight in support of the proposal in accordance with Framework paragraph 47. Future occupiers could also be expected to make a very limited contribution to the viability of local facilities and services.
13. With regard to the environmental role, I have found that the proposal would not be harmful to the character and appearance of the area and would result in reasonably sustainable travel patterns. Consequently, even if a five year supply of housing land currently exists, I find that the proposal would amount to sustainable development and so is supported by the presumption in favour of sustainable development set out in Framework paragraph 14.

Conditions

14. The Council has suggested a list of 10 conditions. With amendments, I find that they meet the tests set out in the Planning Practice Guidance. A condition specifying the approved plans is necessary in the interests of certainty. I have omitted drawing number 1043/10 as it is a contextual plan. A condition requiring samples of the external materials to be used in the proposed building to be approved and implemented is necessary to safeguard the character and appearance of the area. However, having regard to the advice at paragraph Reference ID: 21a-007-20140306 of the PPG, I consider that such approval does not need to be obtained prior to commencement of the development.

¹ Appeal ref: APP/X1545/A/14/2224528

Conditions to secure the approval and implementation of schemes of landscaping and boundary enclosure are also necessary in the interests of the character and appearance of the area. Again, there is nothing to demonstrate that approval of the boundary enclosure needs to be obtained prior to commencement.

15. Conditions for the approval and implementation of schemes of surface and foul drainage are required in the interests of public health. A condition requiring the approved access to be provided prior to occupation of the dwellings is required to ensure highway safety. The site is located within an area of known archaeological interest. Therefore, conditions to secure the provision and implementation of an archaeological investigation and a written scheme of investigation are necessary in order to safeguard and record the archaeological resource.

Conclusion

16. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
Appeal Ref: APP/X1545/W/16/3148231
Land adjacent to 1 Pitt Cottages, Hall Road, Asheldham, Essex CM0 7EA**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1043/01; 1043/02; 1043/04; 1043/03 Rev B; 1043/05; 1043/06; 1043/07; 1043/08 and 1043/09.
- 3) Prior to their use within the development hereby permitted samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall be 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 works or development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its

- replacement, is removed, 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.
- 5) Prior to their use within the development hereby permitted details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the occupation of the development to which it relates and be retained as such thereafter.
 - 6) Prior to the commencement of the development 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.
 - 7) Prior to the commencement of the development 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) Prior to the occupation of any dwelling hereby permitted the principal access to serve the development shall be constructed in accordance with the details as shown on the approved plan 1043/03B.
 - 9) No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents, the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.
 - 10) No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents, the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

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