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CHIEF EXECUTIVE  
Doug Wilkinson

06 January 2025

Dear Councillor

You are summoned to attend the meeting of the;

**NORTH WESTERN AREA PLANNING COMMITTEE**

on **TUESDAY 14 JANUARY 2025 at 7.30 pm**

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

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

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

A copy of the agenda is attached.

Yours faithfully



Chief Executive

**COMMITTEE MEMBERSHIP:**

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





**AGENDA  
NORTH WESTERN AREA PLANNING COMMITTEE**

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**TUESDAY 14 JANUARY 2025**

1. **Chairperson's notices**

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the Committee held on 4 December 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. **24/00253 FUL Land Rear of Green Man Inn, Green Man Lane, Little Braxted**  
(Pages 9 - 28)

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

6. **24/00742/FUL Land Adjacent Eastholm, Latchingdon Road, Purleigh** (Pages 29 - 60)

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

7. **24/00755/HOUSE 1 Oxley Cottage, 1 Oxley Hill, Tolleshunt D'Arcy** (Pages 61 - 70)

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

8. **Tree Preservation Order (TPO) 18/24 Rear of 26 Maldon Road, Great Totham, CM9 8PR** (Pages 71 - 76)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed).

9. **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 – 7.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

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

**NOTICES****Recording of Meeting**

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

**Fire**

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**Health and Safety**

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**Closed-Circuit Televisions (CCTV)**

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**Lift**

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

## **BACKGROUND PAPERS**

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

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

### **Development Plans**

- Maldon District Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-On-Crouch Neighbourhood Development Plan (2017)
- 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  
NORTH WESTERN AREA PLANNING COMMITTEE  
4 DECEMBER 2024**

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**PRESENT**

Chairperson	Councillor M E Thompson
Vice-Chairperson	Councillor M F L Durham, CC
Councillors	J C Hughes, C P Morley and L L Wiffen

**1. CHAIRPERSON'S NOTICES**

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

**2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors S J N Morgan, R H Siddall, E L Stephens and S White.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 6 November 2024 be approved and confirmed.

**4. DISCLOSURE OF INTEREST**

Councillor M F L Durham declared that in relation to Agenda Item 5 – 24/00690/VAR ROE Environmental Limited, Offices, Fleet Farm, Farnbridge Road, North Farnbridge he had previously been a customer of R J Roe. The Chairperson noted that all other Committee Members indicated that this applied to them as well.

5. **2400690VAR ROE ENVIRONMENTAL LIMITED, OFFICES, FLEET FARM,  
FAMBRIDGE ROAD, NORTH FAMBRIDGE**

<b>Application Number</b>	<b>24/00690/VAR</b>
<b>Location</b>	ROE Environmental Limited, Offices, Fleet Farm, Fambridge Road, North Fambridge
<b>Proposal</b>	Variation of Conditions 1 and 2 on approved planning permission FUL/MAL/09/00335 (which varied Conditions 1 and 2 imposed upon planning FUL/MAL/04/01288) to allow parking of additional lorries on the site, bringing the total number to 17 lorries.
<b>Applicant</b>	Sarah Roe - R J Roe & Sons Ltd
<b>Agent</b>	Mr Ian Briggs - Landesign
<b>Target Decision Date</b>	6 December 2024 (extension of time)
<b>Case Officer</b>	Fiona Bradley
<b>Parish</b>	<b>NORTH FAMBRIDGE</b>
<b>Reason for Referral to the Committee / Council</b>	Previous Committee Decision

Following the Officers' presentation, Councillor J C Hughes proposed that the application be approved in accordance with Officers' recommendation. This proposal was seconded and upon a vote being taken duly agreed.

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

- 1 The use of the site as granted under planning permission FUL/MAL/09/00335 shall be restricted for the operation of a maximum 17 No. commercial vehicles from the site which shall be used solely in connection with a drainage contractor's business.
- 2 The only vehicles to be maintained at the site shall be the 17 No. commercial vehicles as detailed within Condition 1 above and no others.

There being no other items of business the Chairperson closed the meeting at 7.36 pm.

M E THOMPSON  
CHAIRPERSON





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

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
14 JANUARY 2025**

<b>Application Number</b>	<b>24/00253/FUL</b>
<b>Location</b>	Land Rear of Green Man Inn, Green Man Lane, Little Braxted
<b>Proposal</b>	Construction of a detached five bedroomed dwelling
<b>Applicant</b>	Mr J Purdy
<b>Agent</b>	Ms Alice Quinn – Smart Planning Ltd
<b>Target Decision Date</b>	17.01.2025
<b>Case Officer</b>	J.Kirkaldy
<b>Parish</b>	<b>LITTLE BRAXTED</b>
<b>Reason for Referral to the Committee / Council</b>	Policy D1 and S8 of the approved Maldon District Local Development Plan

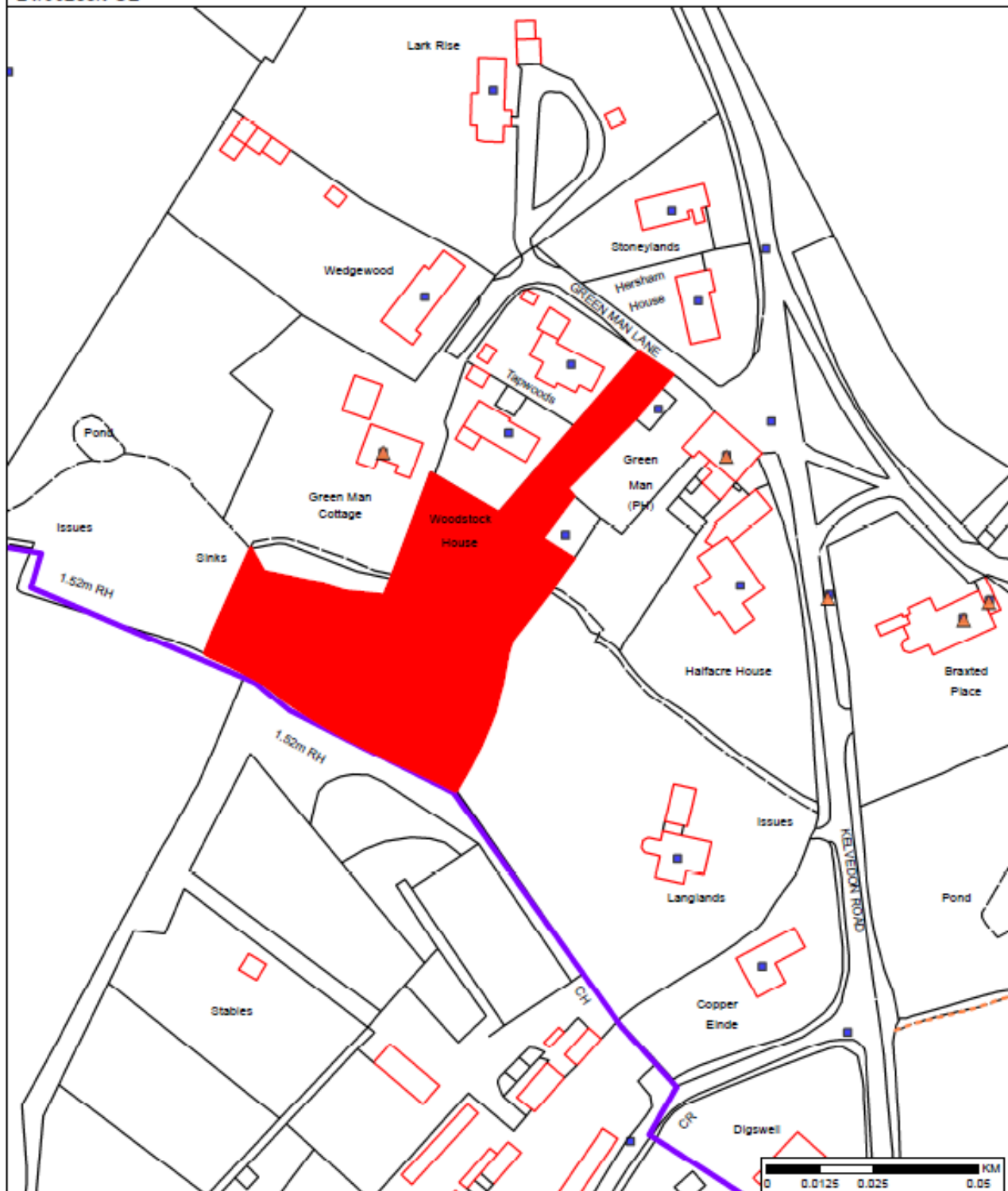
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

**Land Rear Of The Green Man Inn - Green Man Lane - Little Braxted**  
24/00253/FUL



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: North West Area Committee

Date: 12/12/2024

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the western side of Kelvedon Road and to the southern side of Green Man Lane outside of a defined settlement boundary.
- 3.1.2 It is situated to the rear / south of the Green Man Public House (Grade II Listed) which is within the same ownership as the application site. To the north of the site is a cluster of residential dwellings. The Green Man Cottage to the north west of the site is Grade II Listed.
- 3.1.3 Vehicular access to the site is gained from the Green Man Lane, off Kelvedon Road which serves the neighbouring dwellings of 'Tapwoods' and 'Woodstock'. It is a narrow single unmade track which also provides access to an Anglian Water pumping area.
- 3.1.4 To the west of the site is woodland and to the south is paddocks.
- 3.1.5 The site is 'L shaped' and comprises grassland meadow.
- 3.1.6 Although the site is situated within the Parish of Little Braxted it adjoins the boundary with the Parish of Wickham Bishops to the south.

#### **The Proposal**

- 3.1.7 Planning permission is sought for the erection of a 5-bedroom detached two storey dwelling. On the ground floor a living room, dining room, breakfast/kitchen, hall, study, wc, storage cupboard and utility room are proposed. At first floor level there are five bedrooms proposed, two ensembles and a family bathroom.
- 3.1.8 The proposed dwelling has a 'H' shaped form with two slight protruding gables on the front northern and rear southern elevation. It would have an overall width of 16.5 metres and a depth of 10.4 metres with an overall height to the ridge of 8 metres and approximately 5.2 metres to the eaves of the gables.
- 3.1.9 On the rear southern elevation, between the gables, a monopitched roof is proposed above the breakfast / kitchen room. There are three single roof lights proposed above. On the rear elevation from the breakfast / kitchen room a set of five pane bifold doors is proposed providing access into the rear garden. There is a three pane sash style window proposed on the rear elevation for the kitchen and a set of four pane bifold doors proposed for the living room providing light and ventilation.
- 3.1.10 On the eastern elevation a chimney stack is proposed to serve the living room. A single window is proposed on ground floor providing light and ventilation for the dining room. At first floor level a single window is proposed for bedroom 5.
- 3.1.11 On the front northern elevation, the entrance / front door is proposed in the centre, between the gables. It would have a rain porch cover with a flat roof. On either side of the front door there are two small windows proposed providing light and ventilation for the stairwell and wc. There is a slight overhang of the first floor accommodation above the ground floor within the protruding gables. On the ground floor there are two bay windows proposed on front elevation of the gables providing light and ventilation for the dining room and study. At first floor level the fenestration mirrors that of the ground floor, with a window in each gable providing light and

ventilation for bedroom 2 and 4. There are two smaller high level, box shaped windows proposed for the ensuite and stairwell and a single feature window in the centre (above the front entrance) with a pitched roof for the bathroom. There are two smaller windows in the roof of the gables on the front facing elevation.

3.1.12 There is a chimney stack proposed in the centre of the dwelling.

3.1.13 The materials proposed for the dwelling are a red brick plinth, smooth cast render for the gables and featheredged weatherboarding for the centre. Timber windows and clay plain tiles are proposed.

### 3.2 **Conclusion**

3.2.1 The application site is located outside of a defined Settlement Boundary and is within the open countryside. The site is not in a sustainable location as safe access cannot be provided for pedestrians and cyclists to the nearest settlements, therefore occupants of the site would rely heavily on the use of the car to fulfil the requirements of day-to-day living (shopping, education, doctors etc).

3.2.2 Insufficient ecological information has been provided on Great Crested Newt (European Protected Species).

3.2.3 It is therefore considered that the proposed development is contrary to the relevant policies contained within the approved Maldon District Local Development Plan (LDP) and the National Planning Policy Framework (NPPF) and for the reasons stated it is recommended that planning permission is refused.

## 4. **MAIN RELEVANT POLICIES**

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

### 4.1 **National Planning Policy Framework 2023 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision making
- 47-50 Determining applications
- 54 – 57 Planning conditions and obligations
- 82 – 84 Rural Housing
- 108 – 111 Promoting sustainable transport
- 119 -123 Making effective use of land
- 126 – 136 Achieving well designed places
- 157 – 175 Meeting the challenge of climate change, flooding and coastal change.
- 180 – 194 Conserving the natural environment
- 195 – 214 Conserving and enhancing the historic environment.

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

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

**4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide
- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy
- Car Parking Standards

**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 (TCPA 1990), and Paragraph 47 of the National Planning Policy Framework (NPPF) require that planning decisions are to be made in accordance with the LDP unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 Policy S1 of the LDP states that *‘When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF’* and apply a number of key principles in policy and decision making set out in the Policy. 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 Policy S8 of the LDP, flows from Policy S2 and steers new development towards the existing urban areas. Policy S8 does allow for development outside the rural

areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential dwellings but does allow (m) development which complies with other policies of the LDP.

#### Five Year Housing Land Supply (5YHLS)

- 5.1.5 As per Paragraph 75 of the NPPF, the Council as the Local Planning Authority (LPA) for the Maldon District should “monitor their deliverable land supply against their housing requirements, as set out in adopted strategic policies”. As the LDP is more than five years old, paragraph 77 requires LPAs to “identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply”. To this end, Maldon District Council prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.6 On 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 Council’s 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 LPA to demonstrate that it is being consistent with national policy.

#### Housing Provision and Mix

- 5.1.7 The NPPF is clear that housing should be provided to meet an identified need.
- 5.1.8 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub areas across the District.
- 5.1.9 The LHNA is wholly compliant with the latest NPPF and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build.
- 5.1.10 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three bed dwellings; specifically, 10% one bedrooms, 25-35% two bedrooms, 40-50% three bedrooms and 15-25% for 4+ bedroom market dwellings.
- 5.1.11 The proposal is for a 5 bedroom dwelling. Therefore, this would support the need for 4+ bedroom dwellings in the District, however, this would be nominal contribution given the scale of the proposal and would not contribute towards the Districts biggest requirement for three bedroom dwellings.

## Sustainable Development

- 5.1.12 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

## Environmental Dimension

- 5.1.13 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District and Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that *"development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes"*. This is supported by the update of the Government's Policy Paper, 'Strategic road network and the delivery of sustainable development' (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that *"new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable"*.
- 5.1.14 The application site is located in Little Braxted. This is identified as an 'other village' in the settlement hierarchy of the approved LDP. Paragraph 2.102 of the approved LDP refers to 'other villages' and states that, *'these are other rural villages with no defined settlement boundary'*.
- 5.1.15 There are limited facilities available in Little Braxted. It has a Public House and Church. There is no pavement into the nearby larger villages of Great Totham and Wickham Bishops. Access to the bus stop (which is approximately 0.3 miles) to the south of the site would be via Kelvedon Road which is a narrow unlit highway with no pedestrian pavements. Pedestrians would need to walk on the road itself or on the grass verge and then cross Tiptree Road, which does not have a pedestrian crossing. Such access to the settlement is not considered safe for pedestrians or cyclists, particularly at times of inclement weather, or during the hours of darkness, or for wheelchair users or people with young children.
- 5.1.16 Therefore, future occupants of the site would inevitably be reliant on the private vehicle to access services and facilities to meet day to day needs. This would increase carbon emissions with associated vehicular movements.
- 5.1.17 Whilst existing residents in this part of the district may rely on the private car, this would not be justification for allowing additional dwellings in an unsustainable location.
- 5.1.18 An appeal decision (APP/X1545/W/24/3342289) for the 'development of existing garden with a new detached dwelling' at Land at Carters Lane, Wickham Bishops, approximately 0.5 miles to the south of the application site has been recently dismissed. A main issue in the appeal was 'access to local facilities'. The Inspector acknowledged that the appeal site is within walking distance of Wickham Bishops

shops and facilities at Witham Road, and bus stop on Kelvedon Road. However, further commented that, *'most likely walking and cycling routes to these facilities, via Carters Lane and Tiptree Road, are rural roads with no footways or lighting, for at least the first 300m or so. The verges to these sections of road are narrow at best, and some parts are banked or overgrown, so that pedestrians would have little choice but to walk on the carriageway. Cyclists too would be potentially vulnerable in these conditions. 16. I appreciate that a 30 mph speed limit applies, but even so, traffic moving at that speed can cause serious injury. Although Carters Lane is quite quiet, it is not disputed that Tiptree Road is significantly busier. Therefore, I find that neither of the roads serving the appeal site can be said to provide for reasonably safe connections for regular use, either on foot or by bicycle. In this regard the development would be contrary to the aims of Policy T2 with regard to ensuring that developments benefit from safe and convenient opportunities for sustainable travel.'*

- 5.1.19 The proposal would therefore conflict with the NPPF and Policy T2 of the approved LDP which requires development to provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate.

#### Social Dimension

- 5.1.20 The development would make a nominal contribution towards the supply of housing within the District as only a single dwelling is proposed.

#### Economic Dimension

- 5.1.21 The development would make a nominal contribution to the local economy through the construction of a single dwelling and additional custom for existing businesses.

#### Summary of Principle of Development

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

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. 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. Policy H4 of the LDP requires development which includes alteration, extension and / or addition to a building to maintain, and where possible enhance, the character and sustainability of the original building and the surrounding area; be 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 enhance the sustainability of the original building; and not involve the loss of any important landscape, heritage features or ecology interests.



- 5.2.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017) (MDDG).
- 5.2.4 The site is located outside of a defined settlement boundary, and therefore countryside policies apply. According to Policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.5 The proposed dwelling would be set back approximately 80 metres from the road frontage of Green Man Lane. It would not be overly visible from the wider public realm given the existing mature vegetation / trees which are situated on the boundary of the site and its discrete position.
- 5.2.6 There is sufficient circulation space retained around the proposed dwelling to ensure it does not appear cramped within the site. It is positioned approximately 11.2 metres from the western boundary, 4.4 metres from the eastern boundary and 32 metres from the rear southern boundary of the site.
- 5.2.7 Kelvedon Road and Green Man Lane comprises an eclectic mix of dwelling types and styles with no particular distinctive character. The proposed dwelling incorporates a traditional style with features that add visual interest and quality to the design including exposed rafters, chimney stacks, sash style windows, featheredged weatherboarding, soft red brick and clay plain tiles. The vernacular materials proposed are compatible with the wider countryside setting.
- 5.2.8 It is not considered that the design and layout of the proposed dwelling would have a detrimental impact on the character and appearance of the surrounding area or countryside setting.
- 5.2.9 The Landscape Character Assessment identifies the site as being situated within the 'Totham Wooded Landscape Character Area'. Visual characteristics of this area include long distance views to drained estuarine marshes and short distance open views to the valleys. Sensitive key characteristics and landscape elements within this character area include several woodland patches and copses, mature trees within hedgerows and occasional ditches which are sensitive to changes in land management. Overall, this character area has relatively high sensitivity to change. The Landscape Character Assessment suggests Landscape Planning Guidelines which includes, '*conserve and protect open views from Mountain Road, Braxted Lane and other rural lanes*' and '*ensure new development response to historic settlement pattern and scale and uses, materials and colours that are appropriate to the local landscape character, such development should be well integrated into surrounding landscape*'. The proposed siting of the dwelling would not result in the loss of open wider views, or loss of woodland. As stated above, the materials and colours proposed are compatible with the countryside setting.
- 5.2.10 In summary, the design and siting of the proposal would not harm the character or appearance of the surrounding in compliance with policies S1, S8, D1 and H4 of the approved LDP.

## **Living Conditions for Prospective Occupiers**

- 5.2.11 The proposed dwelling is five bedrooms with a floor space in excess of 300sqm. It complies with the minimum gross internal floor area for a five bedroom (8 person) dwelling as specified in the Nationally Described Space Standards (March 2015). There is also light, and ventilation proposed for all the habitable rooms.
- 5.2.12 The NPPF states that, 'decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. It further states they should, 'mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life'.
- 5.2.13 The Council's Environmental Health Officer has been consulted and initially requested that a Noise Assessment be provided to assess potential disturbance to prospective occupants of the dwelling from the Green Man Public House.
- 5.2.14 The applicant subsequently provided a Noise Assessment (prepared by Healthy Abode Acoustics October 2024). The report concluded that, *'internal noise levels within the proposed development are predicted to meet the guideline noise criteria contained in BS 8233:2014 provided the identified appropriate minimum specified glazing, ventilation and façade materials are installed to a good manner of workmanship'*. It further states that, *'noise monitoring data confirms that the external amenity areas achieve the desirable levels as set in BS8233:2014 and WHO (1999) guidance levels, therefore no mitigation is required'*.
- 5.2.15 The Environmental Health Officer was reconsulted on the Noise Assessment and commented that, 'The Green Man is a licensed premises with provision for regulated entertainment including amplified recorded and live music until midnight during weekend periods. There is no discussion in the report about activities at the Green Man other than what was audible during the monitoring period which appears to be patrons in the beer garden. The noise report should reflect the potential disturbance which may emanate from the licensed premises and provide any suitable mitigation measures. A series of short term noise measurements as well as 63Hz / 125Hz octave frequencies during periods of entertainment will better capture the music noise level. Appendix C1 provides calculations to determine glazing specifications. However, it appears that calculations have been done for rooms at the rear of the property rather than the front which are more likely to be affected by activities at the public house'. However, the Environmental Health Officer did acknowledge that there have been no record of recent noise complaints and there are already properties in the vicinity of the Public House. Should the application be approved a condition requiring appropriate sound insulation glazing and building construction as mitigation could be imposed. As such, no objection was raised in regard to noise impacts.

- 5.2.16 It is considered that the proposal accords with the NPPF and Policies S1, S8, D1, H4 of the approved LDP and the MDDG Supplementary Planning Document (SPD).

## **Heritage**

- 5.2.17 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the approved Maldon District LDP

states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

5.2.18 The Green Man Public House (situated approximately 10 metres from the site) and Green Man Cottage (situated approximately 11 metres from the site) are Grade II Listed. The Green Man Public House has architectural interest as a Georgian public house, domestic in style, with a fine array of old sash windows on its painted brick front (north) elevation. Green Man Cottage has architectural interest as a Georgian row of three vernacular cottages with a gambrel roof, later converted into a single dwelling.

5.2.19 The Council's Principal Conservation and Heritage Officer has been consulted and raised no objection to the proposal stating that, *'The application site forms part of the wider setting of both listed buildings, providing a pleasant rural backdrop, but makes a neutral contribution to their significance. The trees along the boundary of the application site mean that there is little inter-visibility between the listed buildings and the application site. In my judgement, the proposed house would not have a negative impact on any views of or from the listed buildings. I advise that no harm would be caused to the setting or significance of the listed buildings.'*

5.2.20 The proposal accords with the NPPF and Policy D3 of the approved LDP.

### 5.3 Impact on Residential Amenity

5.3.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section c07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

5.3.2 The site adjoins four neighbouring dwellings and the Green Man Public House. To the north is 'Tapwoods', 'Woodstock House' and to the north west is 'Green Man Cottage'. To the north east is 'Green Man Public House'. To the south east is 'Langlands'.

5.3.3 Objection representations have been received from neighbouring dwellings.

5.3.4 The proposed dwelling would be situated approximately 11 metres (at its closest point) from the shared boundary with 'Green Man Cottage' and over 26 metres from the neighbouring dwelling itself. It would be situated approximately 21 metres from the shared boundary with 'Woodstock House' and approximately 34 metres from the neighbouring dwelling itself. It would be situated over 60 metres from the neighbouring dwelling of 'Tapwoods' which is situated adjacent to the entrance at Green Man Lane and approximately 30 metres from the Green Man Public House itself. The nearest neighbouring dwelling to the south east 'Langfords' would be situated approximately 50 metres from the boundary of the site.

5.3.5 It is considered that given the orientation and separation distances between the proposed dwelling and neighbouring properties, this is sufficient to prevent overlooking, overshadowing or any overbearing impacts from the proposed development.

- 5.3.6 There is an established tree/shrub boundary along the boundaries of the site with these neighbouring properties which is proposed to be retained and would provide screening of the proposal to some extent.
- 5.3.7 The proposal is therefore in accordance with the NPPF and Policy D1 of the approved LDP.

#### **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.
- 5.4.2 The NPPF refers in paragraph 111 that, 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety'.

##### Access

- 5.4.3 There are no alterations proposed to existing access arrangements. The dwelling will be accessed from an existing shared private road and includes a new driveway to the dwelling.
- 5.4.4 The Highway Authority has been consulted and raised no objection to the proposal subject to a condition requiring the provision of cycle parking.

##### Parking Provision

- 5.4.5 The submitted layout plan proposes hardstanding to the front (north) of the dwelling to provide in excess of three car parking spaces.
- 5.4.6 The Vehicle Parking Standards require the provision of three car parking spaces for four or more bedroomed dwellings. Therefore, adequate car parking provision is proposed to accord with the standards.
- 5.4.7 Subject to the above-mentioned condition, the proposed development would accord with the NPPF and policies D1 and T2 of the approved LDP in terms of highway safety and accessibility.

#### **5.5 Private Amenity Space**

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.5.2 The proposal would provide in excess of 100sqm of private amenity space immediately adjacent to the proposed dwelling. It is considered that the amount, location and design of the amenity space would achieve high quality private amenity space, in accordance with Policy D1 of the approved LDP and the MDDG SPD.

## 5.6 Trees

- 5.6.1 Policy S1 of the LDP states that decision making should conserve and enhance the natural environment. Policy D1 of the LDP advises that all development must respect and enhance the character and local context and make a positive contribution in terms of landscape, setting, townscape setting and skylines and in terms of the natural environment.
- 5.6.2 The NPPF states in paragraph 136, 'Planning policies and decisions should ensure that opportunities are taken to incorporate trees elsewhere in developments and that existing trees are retained wherever possible'.
- 5.6.3 An 'Arboricultural Impact Assessment' (prepared by Arborterra Ltd, Sept 2023) has been submitted as supporting documentation. The report concludes in paragraph 5.1.5 that, *'a total of 6 trees and 1 group of shrubs are to be removed as part of the development including 2 category C trees, 4 category U trees'*. It further states that, *'The two Category C trees are of small stature and are considered to be of low value. Removal of the four category U trees is warranted due to their condition. The proposed tree removals will result in a loss of tree cover along the access track. This could be compensated for by suitable tree and shrub planting. The trees to be retained enhance the site by providing privacy, a sense of enclosure, mature landscape elements and environmental services. There are no significant shading issues. Pruning is recommended to the crown of ash T2 in order to provide working space for construction. The proposed pruning is not excessive and will not cause significant harm to the health or appearance of the tree.'*
- 5.6.4 The Council's Arboricultural Consultant has been consulted and commented that *'This application is supported by an Arboricultural Impact Assessment compiled by an appropriately qualified and experienced arboriculturalist in compliance with BS 5837. This assessment clearly details the impacts to existing trees and proposed mitigation measures'*.
- 5.6.5 The Council's Arboricultural Consultant has raised no objection subject to condition relating to hard/soft landscaping.
- 5.6.6 Subject to the above-mentioned recommended condition the proposal accords with the NPPF and Policy D1 and S1 of the approved LDP.

## 5.7 Flood Risk and Drainage

- 5.7.1 Policy D5 of the Local Development Plan sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximize opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.7.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding from rivers and the sea. However, it is at medium risk of surface water flooding. There is a ditch which runs through part of the site.
- 5.7.3 The proposal has been reviewed by the Council's Environmental Health Officer who has recommended that conditions are imposed relating to foul drainage and surface water disposal.

- 5.7.4 The Lead Local Flood Authority has also commented on the application stating that, 'as the site lies within an area where there is a high risk of flooding, we would recommend the use of water butts, permeable paving and storage with an outflow matching the 1 in 1 greenfield rate for the 100-year event or 1l/s, whichever is higher. Furthermore, from the documents provided, it appears there will be alterations made to an existing ditch, therefore, the applicant will need to apply for watercourse consent'.
- 5.7.5 Subject to the above-mentioned recommended conditions the proposal accords with the NPPF and Policies D5 and S1 of the approved LDP.

## 5.8 Natural Environment and Biodiversity

- 5.8.1 Paragraph 170 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'.
- 5.8.2 Policy S1 of the LDP 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.
- 5.8.3 Policy N1 of the LDP 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. Policy N2 of the LDP 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.

### Ecology

- 5.8.4 A Preliminary Ecological Appraisal (June 2024 prepared by Plumb Associates) has been submitted as supporting documentation. The report concludes that, *'the site is assessed as having low ecological value with no habitat features suitable for supporting protected species. No additional surveys are necessary'*.
- 5.8.5 The Council's Ecology Consultant was consulted and raised a holding objection stating that, 'The Preliminary Ecological Appraisal identifies the following with regard to ponds within 250 metres, which could be suitable for Great Crested Newt: There are two ponds within 250m of the site, one is in the woodland immediately north of the main access and the other is 40m northwest of the edge of the site and the other is 130m southeast of the site. It was not possible to access either pond as they are within private ownership. The habitat on-site has been stated as not suitable terrestrial habitat for Great Crested Newt, within the Preliminary Ecological Appraisal. As a result, we have reviewed Google Earth historic imagery and note the site was cleared between 2022 – 2023 and appeared to hold a higher terrestrial value for the species. Furthermore, the habitat on-site does still appear to contain suitable features for the species, particularly habitat near the site access. This includes rough grassland / ruderal habitat with log piles / other shelter options. Furthermore, it is highlighted that the application site is located within an Amber risk zone for Great Crested Newt (GCN) on Natural England's GCN Risk Zones (Essex), indicating a high risk of the species being present. Therefore, as the proposals

contains impacts upon terrestrial habitat within 50m of a pond, there is potentially high impact upon the species. As a result, we recommend that presence / likely absence surveys are conducted on the nearby ponds to confirm whether GCN will be present and affected by the proposals.'

- 5.8.6 The applicant subsequently provided a GCN District Level Licensing Impact Assessment and Conservation Payment Certificate (provisional). The Council's Ecology Consultant was reconsulted and raised a further holding objection stating that, '*Whilst we welcome the additional documents, we highlight that a Great Crested Newt District Level Licencing Impact Assessment and Conservation Payment Certificate (IACPC), that is **countersigned by Natural England**, is still required to be demonstrated by the appellant*'. Therefore, the Council's Ecology Consultant was not satisfied that sufficient ecological information on Great Crested Newt (European Protected Species) had been provided which is required to enable the LPA to demonstrate its compliance with statutory duties included its biodiversity duty under s40 Natural Environment and Rural Communities (NERC) Act 2006 (as amended).
- 5.8.7 As the planning application was submitted in March 2024, the biodiversity net gains (mandatory in April 2024) are not required as part of this application.
- 5.8.8 The proposal fails to accord with the NPPF and Policy S1, N1 and N2 of the approved LDP.

## 5.9 Impact on Designated Sites

- 5.9.1 The site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The LPA must therefore undertake a Habitat Regulation Assessment (HRA) and secure a proportionate financial contribution towards the Essex Coast RAMS.
- 5.9.2 The development will result in the net gain of 1 no. dwelling at the site. This falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and strategy advice, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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 HRA Stage 1: Screening Assessment, are listed below:

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

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

Does the planning application fall within the following development types? Yes, the development is for 1no. dwelling, and therefore the net increase of dwellings at the site is 1no. dwelling.

Test 2 – The integrity test

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

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

- 5.9.3 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. Natural England does not need to re-consult on this Appropriate Assessment.
- 5.9.4 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £163.86 (2024/25 figure) and thus, the developer contribution should be calculated at this figure.
- 5.9.5 The applicant has provided the relevant checking and monitoring fees, and a completed and signed unilateral undertaking to ensure that mitigation is secured.

## 5.10 Planning Balance

- 5.10.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF. Given the scale of development (one dwelling) limited contributions have been identified in relation to the social and economic objectives of sustainable development. Occupants of the proposed dwelling would be reliant heavily on the private vehicle to access services and facilities for day-to-day needs given the location of the site and poor public transport connections. The proposed development would result in further development in the countryside, hence there is an adverse impact by the development on the environmental objective of sustainable development. Insufficient ecology information has been submitted to provide certainty of the likely impacts to protected species (Great Crested Newts).
- 5.10.2 In a balancing exercise, it is considered that the harms of the proposal outweigh the benefits and as such development is unsustainable. The benefits of the development cannot outweigh the conflict with policies, S1, S2, S8, D1, H4, N1, N2, T1 and T2 of the approved LDP.

## 6. ANY RELEVANT SITE HISTORY

- 6.1 There is no relevant planning history for the site.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Little Braxted Parish Council	<p>We recommend the refusal of planning permission.</p> <p>The proposed dwelling as a result of its size, scale, height, bulk and mass would result in an incongruous form of development to detriment of the character and appearance of the area.</p>	Noted and discussed in paragraphs 5.2 and 5.3.



<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>The development and intensification of built form resulting from urbanisation of the site would fail to meet the requirements contained in the NPPF for the countryside to be protected for its landscape, natural resources and ecological value, intrinsic character and beauty.</p> <p>Concern regarding intensification of unmade single track road without passing places which also leads to an Anglia Water pumping station.</p> <p>Concern regarding scale and appearance which fails to recognise the setting and relationship to historic features.</p> <p>No bus service reliance on private vehicle and there is no footway.</p>	

## 7.2 Internal Consultees (summarised)

<b>Name of Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Ecology Consultant	Holding objection due to insufficient ecological information on Great Crested Newt (European Protected Species)	Noted and discussed in paragraph 5.7
Arboricultural Consultant	No objection subject to conditions relating to soft landscaping.	Noted and discussed in paragraph 5.5.
Environmental Health	No objection subject to conditions relating to foul drainage and surface water drainage. Also commented on the submitted Noise Assessment.	Noted and discussed in paragraph 5.2 and 5.6
Heritage and Conservation Specialist	No objection.	Noted and discussed in paragraph 5.2

## 7.3 External Consultees

<b>Name of Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Council (ECC) Highways'	No objection subject to condition relating to provision of cycle parking.	Noted and discussed in paragraph 5.3
Lead Local Flood Authority – ECC	Comment that as site lies in high risk of flooding, recommend use of water butts, permeable paving, storage with an outflow matching the 1 in 1	Noted and discussed in paragraph 5.6

Name of Consultee	Comment	Officer Response
	greenfield rate for 100 year event or 1l/s whichever is higher. Alterations to an existing ditch would require consent.	

#### 7.4 **Representations received from Interested Parties** (*summarised*).

- 7.4.1 The application was advertised by way of a site notice posted on 29 July 2024 (with expiry date for comments set at 19 August 2024). The site notice was affixed at eye level to a telegraph pole in a prominent position at the entrance to the Green Man Lane adjacent to the Green Man Public House.
- 7.4.2 Notice was also given by way of newspaper advertisement posted in the Maldon and Burnham Standard, published on 18 July 2024 (with expiry date for comments set at 8 August 2024).
- 7.4.3 No comments have been received from other interested parties during the specified consultation period, nor subsequently during the application process.
- 7.4.4 One letter has been received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
The proposed dwelling as a result of its size, scale, height, bulk and mass would result in an incongruous form of development to detriment of character and appearance of the area.	Noted and discussed in paragraph 5.2
Intensification of built form would fail to meet requirements of NPPF to protect countryside for its landscape, natural resource, ecological value and intrinsic character and beauty.	Noted.
Vehicular access in unmade single track without passing places and is used by Anglian Water (photographs provided) who require unrestricted access. Concern regarding intensification of its use.	Noted and discussed in paragraph 5.3
Occupants of the dwelling would be reliant on private transport to access services and facilities. There is no pavement.	Noted and discussed in paragraph 5.1
Outside of development boundary.	Noted.

## 8. **PROPOSED REASONS FOR REFUSAL**

- The site is located outside of a defined settlement boundary and is in open countryside, where policy constraints apply. Future occupants of the site would be heavily reliant on the use of the car to gain access to everyday services and facilities and employment opportunities and as such the proposal does not provide a sustainable form of development. The proposal does not accord with the Council's spatial strategy contrary to Policies S1,

- S8, D1, H4, T1 and T2 of the Maldon District Local Development Plan (2017) and guidance set out in the National Planning Policy Framework.
- 2 Insufficient ecological information has been submitted to assess the impact of the proposed development on protected and Priority species, specifically Great Crested Newts. The proposed development would therefore be contrary to Policies S1, D1, and N2 of the approved Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework and Circular 06/2005.

**Application Plans**

1387/01E Site Location Plan  
1387/02C Site Layout Plan  
1387/03B Proposed Front Elevation  
1387/04A Proposed Plans and Elevations  
1387/06 Proposed Roof Plan  
MPP\_01\_010 Ditch Diversion  
MPP\_01\_011 Proposed Ditch Capacity  
MPP\_01\_012 Existing Ditch Capacity

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

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
14 JANUARY 2025**

<b>Application Number</b>	<b>24/00742/FUL</b>
<b>Location</b>	Land Adjacent Eastholm, Latchingdon Road, Purleigh
<b>Proposal</b>	Erection of 1no. dwelling with associated landscaping and ancillary works
<b>Applicant</b>	Jacob
<b>Agent</b>	Blaine McMahon - SCENE Architects Ltd
<b>Target Decision Date</b>	21.01.2025
<b>Case Officer</b>	Fiona Bradley
<b>Parish</b>	<b>PURLEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the local plan

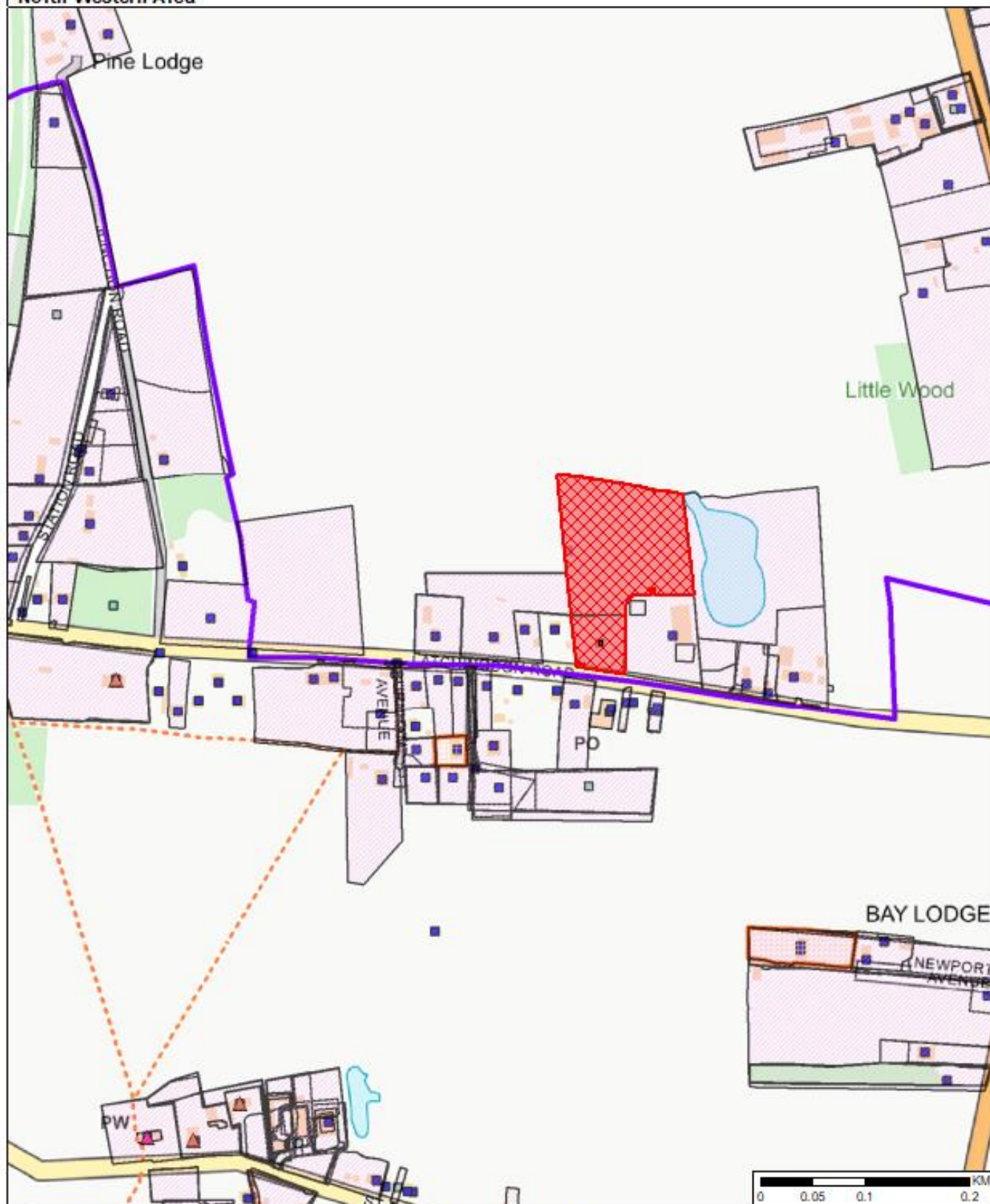
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

# **Land Adjacent Eastholm, Latchingdon Road, Purleigh** North Western Area



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Maldon District Council 100018588 2014

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Scale: 1:5,000

Organisation: Maldon District Council

Department: Department

Comments: 14 January 2025

Date: 09/12/2024

MSA Number: 100018588

### 3. **SUMMARY**

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

##### Site Description

- 3.1.1 The application site is located on the northern side of Latchingdon Road, outside of any defined settlement boundary, and is in open countryside. The site comprises an L-shaped parcel of land 1.62 hectares in area which is currently laid to grass. The site is open and undeveloped, with a boundary of mature hedgerow along the road frontage. Established trees and vegetation are also present along the east, west, and northern boundaries. A dropped kerb providing access to the site is located in the southwestern corner providing access from Latchingdon Road to the site.
- 3.1.2 This section of Latchingdon Road is characterised by ribbon development on both sides of the highway. To the south of the site, beyond the highway, is a convenience shop. To the west of the site is a residential dwelling, Eastholm, and to the east is the farmhouse and associated buildings of Pale Pitts Farm. To the south of the site and beyond the built development are agricultural fields. The character at the site is rural.
- 3.1.3 The site is within Flood Zone 1 and presents a low risk of flooding.

##### The Proposal

- 3.1.4 The proposal is for the erection of a 4 bedroom dwelling, with attached single garage, and associated landscaping and ancillary works. The majority of the dwelling is single storey in height, with an element on the eastern side being one and a half storey high, with a maximum height of 6.8m. The overall depth would be approximately 12m, with an overall width of approximately 21m.
- 3.1.5 The dwelling would be set back from the front boundary by between approximately 28.5 and 31.8m. It would be located 16.3m from the western boundary and 12.4m from the eastern boundary.
- 3.1.6 An area of private amenity space measuring 214.4sqm in area is proposed to the rear of the dwelling. The proposal seeks to upgrade the existing access approved under planning application reference 12/00030/FUL to provide access for the dwelling. Cycle parking would be provided within the attached garage together with space for one car. Three further car parking spaces and turning area is proposed to the front of the dwelling.
- 3.1.7 The proposed external finishing materials comprise white render and grey brickwork to the walls, aluminium windows and red clay tiles to the roof.

##### Background

- 3.1.8 The site is the subject of a recently dismissed appeal, APP/X1545/W/24/3347605 (decision dated 22 November 2024, attached in **APPENDIX 1**), for the erection of 2no. dwellings on the site. The Inspector considered the main issues were:
- i) whether the proposal would be in a suitable location having regard to planning policies and the accessibility of services and facilities, and
  - ii) the effect of the development on the character and appearance of the area.
- 3.1.9 Regarding the site's location, the Inspector concluded in para. 13 that *"although the location of the development outside of any settlement boundary would be contrary to*

*Policy S8 of the LP, in the context of the rural district of Maldon, future occupiers would have reasonable access to day-to-day services and facilities, including public transport, without undue reliance on private cars for long distance journeys. Furthermore, any trips generated by two dwellings would be minimal”.*

- 3.1.10 Regarding the character and appearance of the area, the Inspector concluded that *“although some sensitive infilling resulting in the loss of a small frontage gap would not erode the intrinsic character and beauty of the open countryside, the design and layout of the proposed scheme before me would urbanise the appearance of the site, contrary to Policies D1 and H4 of the LP”.*

### **3.2 Conclusion**

- 3.2.1 The application site is located outside of a defined settlement boundary and is within the open countryside. As a result of the changes to the National Planning Policy Framework (NPPF), the Council cannot now demonstrate a Five-Year Housing Land Supply (5YHLS) and as such the tilted balance at paragraph 11d is engaged. Notwithstanding, as set out above, no objection was raised by the Inspector regarding the site’s location given its access to services and facilities within the village and beyond. Given the recent timing of the appeal decision and as it was for a similar small scale residential development on the site, it is a material planning consideration which is given significant weight.
- 3.2.2 The design and siting of the dwelling is acceptable and comprises sensitive infilling of the existing gap.
- 3.2.3 The proposed development accords with the relevant policies contained within the approved Maldon District Local Development Plan (LDP) and the NPPF in respect of sustainable development and good design. and as such is recommended for conditional 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
- 10-12 Presumption in favour of sustainable development
- 39 Decision making
- 48-51 Determining applications
- 56 – 59 Planning conditions and obligations
- 82 – 84 Rural Housing
- 109 – 114 Promoting sustainable transport
- 124 -128 Making effective use of land
- 131 – 141 Achieving well designed places
- 161 – 169 Meeting the challenge of climate change, flooding and coastal change.
- 187 – 191 Conserving 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
- D3 Conservation and Heritage Assets
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure Services
- I2 Health and Wellbeing

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide
- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy
- Vehicle Parking Standards Supplementary Planning Document (SPD)

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990), and Paragraph 47 of the National Planning Policy Framework (NPPF) require that planning decisions are to be made in accordance with the LDP unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 Policy S1 of the LDP states that “When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF” and apply a number of key principles in policy and decision making set out in the Policy. 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 Policy S8 of the LDP, flows from Policy S2 and steers new development towards the existing urban areas. Policy S8 does allow for development outside the rural areas

where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential dwellings but does allow (m) development which complies with other policies of the LDP.

- 5.1.5 The recent appeal decision is a material planning consideration which is given significant weight in this case. The Inspector found no conflict with Policies S1, S2, or S8 of the LDP. Furthermore, the Inspector found no conflict with the NPPF, which supports opportunities for rural villages to grow and thrive, especially where this will support local services and assist in maintaining the vitality of rural communities. As of 12 December 2024, the Council can no longer demonstrate a 5YHLS and as such the tilted balance at paragraph 11d of the NPPF is engaged. This is discussed below.

#### Five Year Housing Land Supply

- 5.1.6 On 12 December 2024 the Government published an amended version of the NPPF. Paragraph 231 of that framework covers any transition arrangements for the new version and states:

“The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication.”

- 5.1.7 Paragraph 78 of the Framework states that, “Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of “5% to ensure choice and competition in the market for land”.
- 5.1.8 Footnote 39 of Paragraph 78 states; “Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five-year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning practice guidance”.
- 5.1.9 Maldon District Council had prepared and published a Five-Year Housing Land Availability Report on 28 May 2024 which set out the District had a 6.35 year supply of housing. The amended version of the NPPF makes it clear that the changes within it took effect on 12 December 2024 and there is no transitional period. This means that the Council must have regard to its content from that date alongside the revised National Standard Method for calculating the district’s Housing Target set out in NPPG. This alters the yearly housing target for the district from 276 to 569 homes per year. The Council must put a 5% buffer onto the 5YHLS. The overall effect of these changes means that the 5YHLS for Maldon District now stands at 2.70 years.
- 5.1.10 This means that Paragraph 11d of the NPPF as revised, otherwise known as the ‘Tilted Balance’ is engaged which states:
- “d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed;

- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

Footnote 8 states.

“This includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”

- 5.1.11 In summary, if the Development plan is more than five years old, and the council cannot demonstrate a 5YHLS, the balance tilts more in favour of approving development which is sustainable, makes efficient use of land, provides affordable housing and/or is well designed. However, planning policies in the local plan should not be treated as out of date just because they pre-date the new NPPF – such policies should be considered in light of their consistency with the revised Framework.

Housing Provision and Mix

- 5.1.12 The NPPF is clear that housing should be provided to meet an identified need.
- 5.1.13 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub areas across the District.
- 5.1.14 The LHNA is wholly compliant with the latest NPPF and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build. The only significant change with the new NPPF is the emphasis on the provision of Social rented accommodation
- 5.1.15 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three bed dwellings; specifically, 10% one bedrooms, 25-35% two bedrooms, 40-50% three bedrooms and 15-25% for 4+ bedroom market dwellings.
- 5.1.16 The proposal is for a 4-bedroom dwelling. Therefore, this would support the need for 4+ bedroom dwellings in the District, however, this would be nominal contribution given the scale of the proposal and would not contribute towards the District’s biggest requirement for three bedroom dwellings.

Sustainable Development

- 5.1.17 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development

does not change the statutory status of the development plan as the starting point for decision making. Furthermore, given that, as of 12 December 2024 the Council can no longer demonstrate a 5YHLS, the tilted balance (paragraph 5.1.6 above) is engaged. The implication is that the plan is therefore not delivering to its housing targets and in this respect, the most important policies for delivering housing is not in conformity with the NPPF nor, taken as a whole, consistent with the national thrust of delivering housing. Notwithstanding, what is relevant in para ii) of 11d states....' any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination." Paragraph 11d (ii) is relevant to the consideration of this application as set out in the following assessment.

#### *Environmental Dimension*

- 5.1.18 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District and Policy T2 aims to create and maintain an accessible environment.
- 5.1.19 Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that *"development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes"*. This is supported by the update of the Government's Policy Paper, 'Strategic road network and the delivery of sustainable development' (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that *"new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable"*.
- 5.1.20 The application site is located approximately 600m from the settlement boundary of Cold Norton. Cold Norton is defined within the adopted LDP as a 'smaller village'. Notwithstanding this, the Inspector was satisfied that Cold Norton has a reasonable range of services and facilities. At para. 8 the Inspector states that *"The main built-up area of Cold Norton is a 10-minute walk from the site, along a footpath that runs adjacent to a fairly busy 40mph road. The path is of varying widths, in part due to poor maintenance, and is unlit. There is also no street lighting within the settlement boundary. However, facilities such as the pre-school and primary school would only usually be accessed within daylight hours, as would buses to secondary schools. The shop is directly opposite the appeal site and appears to have a flood light directed over the car park area to the front of it, and buses can stop outside the site."* These facilities and services, together with bus services to Maldon and Chelmsford, were considered by the Inspector to provide reasonable access to day to day services without undue reliance of private cars. As the appeal decision is very recent and the circumstances of this application are almost identical, there is no reason to come to a different conclusion.

#### *Social Dimension*

- 5.1.21 The development would make a nominal contribution towards the supply of housing within the District as only a single dwelling is proposed.

#### *Economic Dimension*

- 5.1.22 The development would make a nominal contribution to the local economy through the construction of a single dwelling and additional custom for existing businesses.

#### Summary of Principle of Development

- 5.1.23 Although the location of the development outside of any settlement boundary would be contrary to Policy S8 of the LDP, future occupiers would have reasonable access to day-to-day services and facilities, including public transport, and would not result in undue reliance on private cars for long distance journeys. Giving significant weight to the recent appeal decision, where the principle of development was accepted, and that paragraph 11d of the NPPF is invoked, no objection is raised as no adverse impacts have been found that would outweigh the benefits of this proposal.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. 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. Policy H4 of the LDP requires development which includes alteration, extension and / or addition to a building to maintain, and where possible enhance, the character and sustainability of the original building and the surrounding area; be 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 enhance the sustainability of the original building; and not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017) (MDDG).
- 5.2.4 The site is located outside of a defined settlement boundary, and therefore countryside policies apply. According to Policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.5 The site comprises an area of grass and scrubland bound by high hedges to the front and side. It sits roughly in the centre of a row of frontage development consisting of seven dwellings and a barn. There is also a long row of dwellings and a shop on the opposite side of the road. The site's contribution to the rural character of the area is somewhat limited and is distinctly different to the larger fields, paddocks and wooded areas to the west of the site, between No.71 Latchingdon Road and The Brambles.
- 5.2.6 Except for the converted buildings between the site and Pale Pit Farm, and some in depth development on the southern side of Latchingdon Road, housing in the area generally consists of ribbon development set back behind parking and front gardens

in generous plots. Dwellings vary in terms of age, design and materials, and range in height from single to two-storey, with many having smaller detached outbuildings.

- 5.2.7 The proposed dwelling would be sited slightly further forward than those known as Eastholm and White Thorns, however this would not detract from the existing staggered building line with the siting being similar to that of Homestead and The Brambles. The proposed dwelling and associated hardstanding to the front would be sufficiently set back from the frontage to ensure the existing front boundary hedge could be retained, together with additional soft landscaping. The proposed development would not encroach any further into the countryside at the rear than existing built development and gardens surrounding the site. Subject to appropriate boundary treatment and landscaping that could be controlled by conditions, the gardens would not be visually prominent and accordingly some domestic paraphernalia within these would not result in any harm to the countryside.
- 5.2.8 Since the appeal decision, the agent has reduced the size of the proposed dwelling to better reflect the looser grain and more organic form and pattern of development in the surrounding area. Due to its siting and design, the dwelling would not appear as an incongruous form of development and would not urbanise the rural character and appearance of the area.
- 5.2.9 In summary, the proposal would not harm the character or appearance of the surrounding area in compliance with policies S1, S8, D1 and H4 of the approved LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section c07 of the MDDG. Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.3.2 The neighbours that may be potentially impacted by the proposed development are the neighbours to the west at Eastholm, and to the east at Pale Pitts Farm.
- 5.3.3 The farmhouse associated with Pale Pitts Farm is located in excess of 150 metres to the east of the site. Established trees and vegetation provide a boundary treatment separating the Farm and the application site. Owing to this, and the fact that various farm buildings are interspersed between the proposed dwelling and the farmhouse, it is not considered that the proposal would cause harm to the residential amenity of this neighbour.
- 5.3.4 With regard to the neighbour at Eastholm, the proposed dwelling would be sited in excess of 16 metres, from the western boundary with the neighbouring property, and approximately 28 metres from the dwelling itself. There are no windows in the eastern elevation of the dwelling and the two rooflights in the eastern roof slope (approximately 33 metres from Eastholm) are at a height which prevents any overlooking towards the neighbouring property. Due to the separation distance, the single storey nature of the main part of the dwelling and its orientation, the development would result in any overlooking or loss of privacy to the neighbouring occupants.
- 5.3.5 The Council's Environmental Health Officer has recommended a Construction Management Plan be secured by way of a condition to preserve the amenity of the area and avoid nuisances to neighbours during the construction period.

## **5.4 Living Conditions for Prospective Occupiers**

- 5.4.1 The proposed dwelling have four bedrooms and complies with the minimum gross internal floor area as specified in the Nationally Described Space Standards (March 2015). There is also acceptable light and ventilation proposed for all the habitable rooms.
- 5.4.2 The Council's Environmental Health Officer has advised that there is a building to the northeast of the application site, which is in separate ownership, and has permission as an agricultural store, tractor and machinery store and farm workshop. Permission was granted on appeal under 07/00357/FUL with no conditions restricting hours of use etc. Typically, it is not unusual for such a building to be used at unsocial hours such as early mornings, late evenings and weekends. The Council has not received any noise complaints relating to the use of the barn. Although the proposed dwellings are located closer to the building than Eastholm, the properties to the south are also relatively close. In light of this, and as no objection was raised in the previously refused applications, no objection is raised in this regard.
- 5.4.3 It is considered that the proposal accords with the NPPF and Policies S1, S8, D1, H4 of the approved LDP and the MDDG SPD.

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

- 5.5.1 Policy T2 of the approved LDP 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. Policy D1 seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards. The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards.
- 5.5.2 The NPPF refers in paragraph 111 that, '*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety*'.
- 5.5.3 The existing field access would be used to provide access to serve the dwelling. The Highway Authority has been consulted and raised no objection to the proposal.
- 5.5.4 The proposed garage provides parking for one car and is of a size that also provides sufficient space for cycle parking. The submitted layout plan proposes hardstanding to the front of the dwelling to provide a further three car parking spaces.
- 5.5.5 The Vehicle Parking Standards require the provision of three car parking spaces for four or more bedroomed dwellings. Therefore, adequate car parking provision is proposed to accord with the standards.
- 5.5.6 Sufficient manoeuvring space is provided on site to allow vehicles to turn on site.
- 5.5.7 It is noted that concerns have been raised in letters of representation regarding the impact of development on highway safety, it is noted that the access is existing and the development is for a single dwelling. In the absence of an objection from the Highway Authority a reason for refusal on highway safety grounds can not be justified.

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

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.6.2 The proposal would provide 214sqm of private amenity space immediately adjacent to the rear of the proposed dwelling. The amount, location and design of the amenity space would achieve high quality private amenity space, in accordance with Policy D1 of the approved LDP and the MDDG SPD.

## **5.7 Flood Risk and Drainage**

- 5.7.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximize opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.7.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.
- 5.7.3 The proposal has been reviewed by the Council's Environmental Health Officer, who advises that details regarding surface water and foul water drainage would be required and could be imposed by way of conditions on any permission.
- 5.7.4 Whilst objectors have raised concerns regarding surface water drainage and flooding there are no grounds to justify a reason for refusal on this ground.
- 5.7.5 Subject to the above mentioned recommended conditions the proposal accords with the NPPF and Policies D5 and S1 of the approved LDP.

## **5.8 Natural Environment and Biodiversity**

- 5.8.1 Paragraph 170 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'.
- 5.8.2 Policy S1 of the LDP 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.
- 5.8.3 Policy N1 of the LDP 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. Policy N2 of the LDP 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.



### *Ecology*

- 5.8.4 The application is supported by a Preliminary Ecological Appraisal (Arbtech, July 2023) and eDNA Survey Results (Arbtech, July 2023).
- 5.8.5 The Council's Ecology consultant, Place Services, has advised that the eDNA Survey Results provides confirmation that Great Crested Newts are likely absent from Pond P1. It is noted that P2 could not be accessed during the eDNA surveys. However, the eDNA Survey Results (Arbtech, July 2023) provides reasonable justification that Great Crested Newts would unlikely be affected by the proposals.
- 5.8.6 The consultant is satisfied that there is sufficient ecological information available for determination of this application providing certainty for the Local Planning Authority (LPA) of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The reasonable enhancement measures recommended in the submitted Preliminary Ecological Appraisal are supported. Conditions are therefore recommended to secure the measures in the submitted documents are carried out, to secure a biodiversity enhancement strategy and ensure a wildlife sensitive lighting scheme.

### *Impact on Designated Sites*

- 5.8.7 The site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The LPA must therefore undertake an Habitat Regulation Assessment (HRA) and secure a proportionate financial contribution towards the Essex Coast RAMS.
- 5.8.8 The development will result in the net gain of 1 no. dwelling at the site. This falls below the scale at which bespoke advice is given from Natural England. To accord with NE's requirements and strategy 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 HRA Stage 1: Screening Assessment, are listed below:

#### Test 1 – the significance test

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

Does the planning application fall within the following development types? Yes, the development is for 1no. dwellings, and therefore the net increase of dwellings at the site is 1no. dwellings.

#### Test 2 – The integrity test

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

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

- 5.8.9 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. Natural England does not need to re-consult on this Appropriate Assessment.

- 5.8.10 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £163.86 (2024/25 figure) and thus, the developer contribution should be calculated at this figure.
- 5.8.11 The applicant has provided the relevant checking and monitoring fees, and a completed and signed unilateral undertaking to ensure that mitigation is secured.

#### *Biodiversity Net Gain*

- 5.8.12 Biodiversity net gain is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. Place Services has considered the submitted Biodiversity Net Gain Assessment (Arbtech, September 2024), Statutory Biodiversity Metric – Calculation Tool (September 2024) and the Baseline Habitat Condition Assessment (BHCA) (Arbtech, September 2024) and is satisfied that submitted information provides sufficient information at application stage. As a result, a Biodiversity Gain Plan, as well as the finalised full Statutory Biodiversity Metric – Calculation Tool, should be submitted prior to commencement as part of the biodiversity gain condition. In addition, a Habitat Management and Monitoring Plan should be secured for all significant on-site enhancements (Other neutral grassland, Urban tree, native hedgerow). This should be in line with the approved Biodiversity Gain Plan, with the maintenance and monitoring secured via legal obligation or a condition of any consent for a period of up to 30 years.

#### *Trees*

- 5.8.13 The submitted Arboricultural Impact Assessment states that all trees will be retained and protected during construction, this is shown in the Tree Protection Plan (TPP). However, the TPP includes the layout of the previous proposal for two dwellings, not current proposals, therefore it is difficult to assess whether any tree Root Protection Areas will be encroached upon by the building footprint however, albeit any encroachment would likely be minor and could be suitably mitigated for with suitable tree and root protection methods. It is unclear whether the ground protection, pruning of the hedge or root pruning for foundation installation that is mentioned on the TPP would still be required for the proposed dwelling. Suitable tree protection methods, root protection methods and root pruning methods have been stated within the submitted Arboricultural Method Statement.
- 5.8.14 The Council's Arboricultural consultant supports the application provided an updated TPP showing the current design in relation to tree protection measures in accordance with BS5837:2012 is submitted and that further information regarding new tree planting in accordance with BS8545:2014 is provided. This information can be secured by way of conditions.

### **5.9 Other matters**

- 5.9.1 Four pre-commencement conditions are recommended. In accordance with Government Regulations, the written agreement for these conditions was sought by officers and provided by the agent via email on 9 December 2024.

## 5.10 Planning Balance

- 5.10.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.10.2 Given the scale of development (one dwelling) limited benefits have been identified in relation to the social and economic objectives of sustainable development. The proposed development is of high quality design which would provide a positive environmental benefit which is given moderate weight. Although the development is outside of any settlement boundary, the site was considered by the Inspector to be in a sustainable location, where residents would not be heavily reliant on the use of private cars to access day to day services and facilities. This is a material consideration which is given significant weight.
- 5.10.3 The Council cannot now demonstrate a 5YHLS and paragraph 11d of the NPPF is engaged, Therefore, given the arguments set out above, including the recent appeal decision which found the site to be sustainably located, there are no adverse impacts of granting approval which would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

## 6. ANY RELEVANT SITE HISTORY

- **24/00235/FUL** – Erection of 2no. dwellings with associated landscaping and ancillary works. Dismissed at appeal, ref. APP/X1545/W/24/3347605 22/11/2024.
- **23/00021/FUL** - Erection of 2no. dwellings with associated landscaping and ancillary works. Refused, 09/11/2023.
- **12/00030/FUL** - Creation of a new vehicle crossing to provide access from Latchingdon Road to plots 5 and 7 for maintenance purposes. Granted, 15/05/2012.
- **08/00397/FUL** - Two chalet bungalows. Dismissed at appeal, ref. APP/X1545/A/08/2082893), 18/02/2009.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The application site lies within a rural location outside of a defined settlement boundary where policies of restraint apply. The proposed development would be remote and disconnected from local services resulting in an increased need of private vehicle ownership. It would result in the loss of an open and	Noted. The principle of development is discussed in section 5.1 and impact on character and appearance of the area is discussed in section 5.2 of this report.

Name of Parish / Town Council	Comment	Officer Response
	<p>punctuated rural gap, appear as an incongruous form of development that is out of keeping and will erode the intrinsic character and beauty of the open countryside. The proposal is therefore contrary to Policies S1, S2, S8, D1, D2, H4, T1, T2, N1 and N2 of the Maldon District Local Development Plan (2017), the Maldon District Design Guide (2017), and the policies and guidance in the National Planning Policy Framework (2023).</p> <p>The development does not constitute infill, as there is far more road frontage remaining between this proposed development and the farm buildings to the east than the development will take up.</p>	
Cold Norton Parish Council (adjacent parish)	<p>It is outside the Development Boundary.</p> <p>Over development of site (D1 Design Quality &amp; Built Environment &amp; H4 Effective Use of Land)</p> <p>Ribbon development (S1 Sustainable Development &amp; S2 Strategic Growth)</p> <p>Safety concerns as proposed entrance/exit opposite village shop already issues with speeding at this point (dangerous situation) (T2 Accessibility). This is technically a 40mph road, but this speed is not adhered to. Very narrow footway which has been damaged by lorries driving on footway.</p> <p>Surface water drainage issue already exists at this location.</p> <p>The local village primary school is already oversubscribed.</p>	<p>The principle of development is discussed in section 5.1 and impact on character and appearance of the area is discussed in section 5.2 of this report.</p> <p>In relation to highway safety, no objection was raised by the Highway Authority, as discussed in section 5.5.</p> <p>Surface water drainage is discussed in section 5.7 of this report.</p> <p>In relation to the school being oversubscribed, due to the small scale of the development no consultation is required with Essex County Council as Education Authority. Therefore a reason for refusal on this ground could not be justified.</p>

## 7.2 Statutory Consultees and Other Organisations (*summarised*)

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Council Highways	No objection subject to conditions regarding: surface treatment; gates; cycle parking provision; Residential Travel Information Pack; storage of materials.	Noted and discussed in section 5.5 of this report.

## 7.3 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	<p>No objection.</p> <p>Notes the farm building to the northeast has planning permission for use as an agricultural store, for tractor and machinery and as farm workshop.</p> <p>Conditions are recommended regarding: construction management plan; surface water drainage; foul drainage; contamination.</p>	Noted, addressed in the report and conditions included in the recommendation.
Ecology	No objection subject to securing a financial contribution towards Essex Coast RAMS and biodiversity mitigation and enhancement measures.	Noted, addressed in the report and conditions included in the recommendation.
Trees	No objection subject to conditions regarding: an updated TPP showing the current design in relation to tree protection measures in accordance with BS5837:2012; and further information regarding new tree planting in accordance with BS8545:2014 is provided.	Noted, addressed in the report and conditions included in the recommendation.

## 7.4 Representations received from Interested Parties

- 7.4.1 The application was advertised by way of a site notice posted on 3 October 2024 (with expiry date for comments set at 24 October 2024). The site notice was affixed at eye level to the nearest telegraph pole located to the southwest of the application site, in front of Eastholm, in a prominent position within the street scene.
- 7.4.2 Following the receipt of amended plans, a further site notice was posted on 6 December 2024 (with expiry date for comments set at 20 December 2024).
- 7.4.3 Notice was also given by way of newspaper advertisement posted in the Maldon and Burnham Standard, published on the 26 September 2024 (with expiry date for comments set at 17 October 2024).
- 7.4.4 3 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Concern that the larger area of land to the rear of the proposed dwelling may open the way for future residential development.	Any further development would require planning permission. The current proposals do not set a precedent for future development.
Development would consolidate ribbon development, loss of green space.	Noted, addressed in section 2 5.1 and 5.2 of the report.
Highway safety – site is in a 40 mile per hour zone, access to the site is opposite the shop, adds to congestion and amount of traffic.	Noted, addressed in section 5.5 of the report.
Drainage and flooding are an issue in the area.	Noted, addressed in section 5.7 of the report.
Harmful to character and appearance of the area, urbanising effect.	Noted, addressed in section 5.2 of the report.
The application submitted at the same time as the appeal for two dwellings on the site.	Noted, there is nothing preventing the applicant from submitting an application as an appeal is also running on the site.

## 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 detailed on the decision notice.  
REASON: To ensure the development is retained in accordance with the details as approved.
3. Prior to the commencement of the development hereby approved, full details of both the finished levels, above ordnance datum, of the ground floor of the proposed building and of the finished garden levels and hard and soft surfaces in relation to existing ground levels shall have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.  
REASON: To avoid the excessive raising or lowering of any ground levels and therefore any buildings within the site and to ensure that the development does not prejudice the appearance of the locality in accordance with policy D1

- of the Maldon District Local Development Plan. The levels information is required prior to the commencement of development to ensure that the correct site levels are achieved from the outset of the construction phase.
- 4 The external materials and finishes shall be as indicated on the application form and Design and Access Statement (prepared by Scene, ref. LGDRD-SCN-XX-XX-RP-A-90\_100-A3 Rev. PL01) and shall be permanently retained as such.
- REASON: In the interest of local amenity and in accordance with Policy D1 of the Maldon District Approved Local Development Plan (2017).
- 5 No development above slab level shall take place until full details of the provision and subsequent retention of both hard and soft landscape works on the site have been submitted to and approved in writing by the Local Planning Authority.

These details shall include:

Soft landscape works

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

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

Hard landscape works

- d) Details of all hard surfacing materials.
- e) Details of all boundary treatments.

The hard landscape works shall be implemented in accordance with the approved details prior to first occupation.

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

- 6 Any contamination that is found during construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation

scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

**REASON:** To ensure any contamination found present on the land is remediated in the interests of the future users of this development as well as neighbouring land uses and the water environment in accordance with Policy D2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework.

- 7 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that as a minimum:

- a) The development should be able to manage water on site for 1 in 100-year events plus 40% climate change allowance.
- b) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield).

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

Where the Local Planning Authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

**REASON:** To ensure the adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the National Planning Policy Framework, and Policy D5 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework.

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

**REASON:** To ensure the adequate provision of foul water drainage in accordance with Policy D5 of the Maldon District Approved Local Development Plan (2017).

- 9 No development including any site clearance or groundworks of any kind shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The Plan shall include:

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



REASON: In the interests of local residential amenity in accordance with Policy D1 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework. The Construction Management Plan is required prior to the commencement of development to ensure that the plan is adhered to from the outset of the construction phase.

- 10 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Arbtech, July 2023) submitted with this application.

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 National Planning Policy Framework.

- 11 Prior to any development work 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) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - d) persons responsible for implementing the enhancement measures;
  - e) details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance Protected and Priority Species/habitats, allow the Local Planning Authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies N1 and N2 of the approved Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework.

- 12 Prior to the installation of any external lighting, 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 approved scheme and maintained thereafter in accordance with the scheme. Under no circumstances shall any other external lighting be installed without prior consent from the Local Planning Authority.

REASON: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies N1 and N2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework.

- 13 No development shall commence until information has been submitted and approved in writing by the Local Planning Authority in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows:
- a) Tree retention protection plan  
The protective fencing and ground protection shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the Local Planning Authority. The tree protection measures shall be carried out in accordance with the approved detail.
- REASON: To ensure that appropriate tree protection and retention the interests of ecology and the character and appearance of the area in accordance with Policies S1, D2 and N2 of the Maldon District Approved Local Development Plan (2017). The Tree Protection Plan is required prior to the commencement of development to ensure that the trees are protected from the outset of the construction phase.
- 14 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 National Planning Policy Framework.
- 15 During demolition and construction, areas for the purpose of the reception and storage of building materials shall be identified and made available within the site, clear of the highway.
- REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the demolition and 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 National Planning Policy Framework.
- 16 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway
- REASON: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway 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 National Planning Policy Framework.
- 17 Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.
- REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Policies S1 and T2 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework.
- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order), no enlargement of the dwellinghouse(s),

provision of any building within the curtilage of the dwellinghouse(s), or alteration of the dwellinghouse(s), as permitted by Classes A, AA, B and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

**REASON:** In order to ensure the character and appearance of this rural location is maintained and to ensure neighbouring residential amenity and in accordance with policy D1 of the Maldon District Approved Local Development Plan (2017) and guidance contained within the National Planning Policy Framework.

- 19 Prior to commencement and concurrent with submission of documents relating to the biodiversity gain condition, a Habitat Management and Monitoring Plan, must be submitted to the planning authority and approved in writing. The content of the Habitat Management and Monitoring Plan should include the following:

- a) A management and monitoring plan for onsite biodiversity net gain including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The development shall be implemented in full accordance with the requirements of the approved Habitat Management and Monitoring Plan, with monitoring reports submitted to the council at the specified intervals.

**REASON:** To allow the development to demonstrate mandatory biodiversity net gain and allow LPA to discharge its duties under Schedule 7A to the Town and Country Planning Act 1990.

## **INFORMATIVES**

- 1 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- a Biodiversity Gain Plan has been submitted to the planning authority; and
- the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Maldon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply."

**Application Plans**

LGDRD-SCN-XX-XX-DR-A-01\_002-A3 Rev P01  
LGDRD-SCN-XX-XX-DR-A-01\_001-A3 Rev P01  
LGDRD-SCN-XX-XX-DR-A-01.001-A3 Rev P03  
LGDRD-SCN-XX-XX-DR-A-01.004-A3 Rev P02  
LGDRD-SCN-XX-XX-DR-A-01.005-A3 Rev P02  
LGDRD-SCN-HT1-XX-DR-A-10.001-A3 Rev P02  
LGDRD-SCN-XX-XX-DR-A-30.001-A3 Rev P02

**APPENDIX**

**APPENDIX 1** – Appeal decision reference APP/X1545/W/24/3347605 dated 22 November 2024.



# Appeal Decision

Hearing held on 6 November 2024

Site visits made on 5 and 6 November 2024

**by R Bartlett PGDip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 November 2024**

**Appeal Ref: APP/X1545/W/24/3347605**

**Land adjacent to Eastholm, Latchingdon Road, Purleigh, Essex, CM3 6HR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr S Jacob against the decision of Maldon District Council.
- The application Ref is FUL/MAL/24/00235.
- The development proposed is erection of 2no. dwellings with associated landscaping and ancillary works.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. On the application form the site location is described as "*Land to the North of Latchingdon Road (Opposite existing Londis supermarket)*". The Council amended the site address to "*Land Adjacent Eastholm, Latchingdon Road, Purleigh, Essex*". It was agreed verbally by the parties that as the Council's description is more detailed and better reflects that of previous planning decisions on the site, this should be used to avoid confusion. The post code of neighbouring properties has been added for completeness. It was also clarified by the main parties at the hearing that although the site is located between the settlements of Cold Norton and Latchingdon, it falls within the Parish of Purleigh.
3. The main parties agree that Policies T1, N1, H1 and I1 of the Maldon District Local Development Plan 2014-2019 (2017) (the LP) are not relevant to the proposed development despite being mentioned in the decision notice and statement of common ground.
4. The site lies within the Zone of Influence (ZoI) of one or more European designated habitat sites. A planning obligation was submitted with the appeal that would secure appropriate mitigation, in accordance with the Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS), to ensure that the proposed development would not result in adverse effects to any designated sites. As a result of this, the Council's third reason for refusal was withdrawn.

## Main Issues

5. The main issues are i) whether the proposal would be in a suitable location having regard to planning policies and the accessibility of services and facilities, and ii) the effect of the development on the character and appearance of the area.

## Reasons

### *Location*

6. Policy S1 of the LP seeks amongst other things to deliver homes in the most sustainable locations and to minimise the need to travel. Policy S2 of the LP states that the majority of new growth will be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch. However, it also states that a proportion of new development will be directed to rural villages to support rural housing needs, local services and facilities, and the rural economy. It goes on to state that such development should reflect the size, function and capacity of the settlement and not result in unsustainable spatial patterns to the detriment of the wider area.
7. Policy S8 supports sustainable development within defined settlement boundaries. It also sets out a settlement hierarchy within which the nearest settlement of Cold Norton is defined as a smaller village. The Council confirmed at the hearing that the erection of two dwellings within the settlement boundaries of smaller villages, such as Cold Norton, would normally be considered to constitute sustainable development and would be acceptable in principle. However, in this case the appeal site is located approximately 600 metres outside of the defined settlement boundary, in the countryside. Policy S8 seeks to protect the countryside and it is undisputed that the proposal does not fall within any of the development types listed by that policy as being acceptable.
8. Despite being defined as a smaller village, Cold Norton does have a reasonable range of services and facilities. In addition to a large convenience store, which is directly across the road from the site, there is a public house that also serves food, a village hall that also serves as a pre-school and has a public outdoor playing field and play area, a primary school, a golf club with a restaurant, golf shop and gym, allotments, and a church. Although the local shop no longer appears to provide a post office service, it stocks a wide variety of food and non-food goods and has an ATM, post box, parcel lockers, and a collect plus service.
9. At the hearing I was advised that despite there being no bus stop sign present outside the site or the Londis Store opposite it, buses do stop on demand to drop off and pick up passengers from here. I acknowledge that the Dial and Ride Transport (DaRT) bus service operated by Arrow Taxis has recently ceased and that to date no replacement service has been put in place. I also note that although school bus services are available and can be used by the general public, these only operate on school days. In addition to the Ford Coaches services the Council submitted details of, the Appellant advised that there were other bus services, including the D1 and D2 services, that make approximately 12 or 13 stops in Cold Norton on weekdays and 9 stops on Saturdays. This corresponds with the bus stop sign I observed in Cold Norton during my site visit.
10. North Fambridge train station is approximately 2 miles from the site offering an hourly train service between Southminster and Wickford and onto central London. Whilst this would not be safely accessible on foot and there are no known bus services currently operating on a regular basis between the train station and the site, it is within reasonable cycling distance or a short drive. Car and cycle parking is available at the train station. Accordingly, longer

journeys to larger destinations providing access to a greater range of shopping, healthcare and employment could be made by sustainable transport, following a short car journey or cycle ride.

11. The main built-up area of Cold Norton is a 10-minute walk from the site, along a footpath that runs adjacent to a fairly busy 40mph road. The path is of varying widths, in part due to poor maintenance, and is unlit. There is also no street lighting within the settlement boundary. However, facilities such as the pre-school and primary school would only usually be accessed within daylight hours, as would buses to secondary schools. The shop is directly opposite the appeal site and appears to have a flood light directed over the car park area to the front of it, and buses can stop outside the site. Policy T2 of the LP refers to safe and direct walking and cycling routes to nearby services, facilities and public transport, but does not explain or define what this is. I was advised verbally at the hearing by the appellant that Essex County Council guidance considers a 10-minute walk to be acceptable. This was not disputed by the Council.
12. As the only food shop in the area is the Londis store, which is located opposite the appeal site, outside of the settlement boundary, residents of any existing or new dwellings located within the settlement boundary of Cold Norton would need to walk the same distance, along the same unlit section of footpath, to access this facility, as future occupiers of the proposed development would do to access other services and facilities such as the public house and school. The shop is arguably the facility which would benefit the most residents, the most often, and not just those with young children or that enjoy occasionally visiting the public house or taking part in activities at the village hall, church or golf club.
13. I therefore conclude that although the location of the development outside of any settlement boundary would be contrary to Policy S8 of the LP, in the context of the rural district of Maldon, future occupiers would have reasonable access to day-to-day services and facilities, including public transport, without undue reliance on private cars for long distance journeys. Furthermore, any trips generated by two dwellings would be minimal.
14. I find no conflict with Policies S1, S2, D2, H4 or T2 of the LP, which seek amongst other things to deliver new homes in sustainable locations, including rural villages, to minimise the need to travel, particularly by private motor vehicles, and to have regard to accessibility to local services, facilities and public transport. I also find no conflict with the National Planning Policy Framework (the Framework), which supports opportunities for rural villages to grow and thrive, especially where this will support local services and assist in maintaining the vitality of rural communities. It also encourages significant (not all) development to be located in sustainable locations whilst recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

#### *Character and appearance*

15. The appeal site comprises a small area of grass and scrubland bound by high hedges to the front and side. It sits roughly in the centre of a long row of frontage development consisting of seven dwellings and a barn. There is also a long row of dwellings and a shop on the opposite side of the road. Although the undeveloped open nature of the site provides some limited glimpsed views



through to the wider countryside landscape beyond, its contribution to the rural character of the area is somewhat limited and is distinctly different to the larger fields, paddocks and wooded areas to the west of the site, between No.71 Latchingdon Road and The Brambles.

16. Except for the converted buildings between the site and Pale Pit Farm, and some in depth development on the southern side of Latchingdon Road, housing in the area generally consists of ribbon development set back behind parking and front gardens in generous plots. Dwellings vary in terms of age, design and materials, and range in height from single to two-storey, with many having smaller detached outbuildings.
17. The proposal would utilise the existing vehicular access, which would be widened and extended to serve both new dwellings and the field at the rear of the site. The retention of the field access would result in a generous gap between Eastholm and plot 1, which would be consistent with the adjacent row of dwellings. A large gap would also be retained between plot 2 and the adjacent farm building.
18. Although the proposed dwellings would be sited slightly further forward than those known as Eastholm and White Thorns, this would not detract from the existing staggered building line with the siting being similar to that of Homestead and The Brambles. The dwellings, garages and associated hardstanding to the front of them would be sufficiently set back from the footway to ensure the existing front boundary hedge could be retained, together with additional soft landscaping. The proposed buildings and gardens would not encroach any further into the countryside at the rear than existing built development and gardens surrounding the site. Subject to appropriate boundary treatment and landscaping that could be controlled by conditions, the gardens would not be visually prominent and accordingly some domestic paraphernalia within these would not result in any harm to the countryside.
19. However, the space between the proposed dwellings and garages would be limited to a narrow footway. This together with the height of the garage, which would be almost as high as the dwellings and only slightly stepped back, and the uniformed siting and design of the two dwellings, would appear more estate like than the looser grain, spacious and organic form and pattern of development and mix of dwelling designs found in the immediate surrounding area. For this reason, I agree with the Council that the proposal would appear incongruous in its setting and would urbanise the rural character and appearance of the area.
20. I therefore conclude that although some sensitive infilling resulting in the loss of a small frontage gap would not erode the intrinsic character and beauty of the open countryside, the design and layout of the proposed scheme before me would urbanise the appearance of the site, contrary to Policies D1 and H4 of the LP. These policies require amongst other things that development contributes to and enhances local distinctiveness, having regard to the existing character and density of the surrounding area. The proposal is also contrary to the Framework in so far as it requires new development to be sympathetic to local character and the surrounding built environment and landscape setting. Whilst I acknowledge increased densities and effective use of land is encouraged, the same density could be achieved with smaller or semi-



detached buildings of non-uniformed design and siting, in more spacious surroundings, that better reflect the pattern of development in the area.

### Other Matters

21. The site is within the ZoI of one or more European designated habitats sites covered by the Essex Coast RAMS. As I am not allowing the appeal it is not necessary for me to undertake an appropriate assessment to establish whether the proposal would have any likely adverse effect on any designated habitats sites.
22. I acknowledge that a similar proposal for two chalet bungalows on the same site was refused planning permission in 2008 and was dismissed on appeal in 2009. Although little has changed on the ground since that time, national planning policy now takes a less restrictive approach to new housing in rural areas. I therefore afford the previous appeal decision little weight.
23. The proposal would deliver two large 4 bed family market houses. In the context of the Council having a five-year supply of housing land, and 4+ bedroom family houses not being the greatest identified need according to the latest local housing need assessment (2021), I afford this benefit only moderate weight. The economic benefits derived from the short-term construction period of two dwellings, which the appellant states could be delivered very quickly, and the local spending increase generated by future occupiers would also be very modest but would nevertheless benefit local services. As such I also afford this moderate weight.
24. It has been suggested that the most important policies for determining this appeal should be considered out-of-date for the purposes of paragraph 11d of the Framework. It is undisputed that the Council can demonstrate a five-year supply of deliverable housing sites and therefore paragraph 11d is not automatically engaged on that basis. I have no reason to doubt that part of that five-year supply of land is made up of greenfield windfall sites, but the fact is a five-year supply currently exists. However, this does not mean that further acceptable housing development should be resisted.
25. Although the Framework has been updated since the adoption of the LP and there is a legal requirement to review local plans at least every five years to assess whether they need updating, paragraph 219 of the Framework confirms that policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
26. I have been provided with a copy of a report by the Director of Strategy, Performance and Governance, which was presented to elected members of the Council on 3 November 2022. This report, entitled Maldon District Local Development Plan Review (DPR), together with its associated appendices, sets out in detail how and why current LP policies, including those most important to this proposal, fail to conform with the Framework and need to be reviewed. Whilst the DPR does not conclude that all policies are entirely inconsistent with the general aims of the Framework, it acknowledges that many policies are based upon out-of-date evidence, are negatively worded and contain elements of unnecessary repetition and ambiguity. It also recognises the need to introduce new policies to reflect recent changes to the Framework regarding

matters such as self-build housing and small housing sites. Having regard to the Council's own recognised inconsistencies between its LP policies and the Framework, I have reduced the weight that I afford to them accordingly.

27. Although I have not found any conflict with Policy S2 of the LP, the DPR report notes that this policy supports strategic (major) growth in rural villages and refers to a hierarchy but fails to explain what scale or type of development should be supported in each level of it. The DPR report concludes that this policy is not in conformity with the Framework and advises that the principal of housing development in any area outside of Maldon, Heybridge and Burnham-on-Crouch should be determined having regard only to national policy.
28. With regard to Policy S8, the DPR report acknowledges that the settlement hierarchy was based on evidence dating from 2011, with no site visits being undertaken to assess its accuracy. As a result, villages with more services and facilities are mixed into the same category as hamlets and villages with less services and facilities. It is noted in the DPR report that Policy S8 could be preventing many of the LP key objectives from being delivered by restricting development to within settlement boundaries.
29. Whilst the evidence before me suggests that some individual LP policies do not fully conform with the Framework, the basket of policies that are most important for determining this development proposal are not, when taken collectively, so inconsistent with the Framework as to render them out of date. Consequently, I do not consider that paragraph 11d is engaged. Even if this was the case, the adverse effect of the development on the character and appearance of the site would in my view significantly and demonstrably outweigh the moderate benefits of the proposal when assessed against the policies in the Framework taken as a whole.
30. My attention has also been drawn to the Maldon District Rural Facilities Survey and Settlement Pattern May 2023, which forms part of the evidence base to the emerging local plan (the eLP). This document, like the DPR report, also acknowledges that the settlement hierarchy in the current LP was not based upon thorough and accurate research into the services and facilities on offer in each village. Based upon the more robust surveys recently undertaken, it is proposed that Cold Norton should be defined as a medium village in the future, rather than a smaller village. However, until such time as the eLP and its evidence base have been subject to consultation and examination, I afford this limited weight. I am also mindful that recent changes to the local bus service could affect the eventual categorisation. I have therefore determined the appeal based upon the services and facilities that I consider to be reasonably accessible from the site at the time of making my decision.
31. Both parties have referred me to multiple decisions elsewhere within the district. I have considered each of those and have had regard to any similarities within them. However, as each case is very different in terms of its scale, location, access to services and facilities and in terms of its harms and benefits, I do not consider that the Council's decision is inconsistent with others that were granted permission for a variety of different reasons. Likewise, I have considered this appeal based upon its own merits.

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**Planning Balance and Conclusion**

32. Decisions must be made in accordance with the development plan unless material considerations indicate otherwise. In this case the proposal would conflict with Policy S8 of the LP, due to the site being located outside of any defined settlement boundary. However, the Council's own report concludes that this policy is unduly restrictive and not entirely consistent with the Framework. Furthermore, I have not been provided with evidence of any harm that would arise from the conflict with this policy, in relation to the location of the proposed development. I am satisfied that future occupiers of the development would have the same level of access to services, facilities and public transport as those living within the settlement boundary. Accordingly, I afford the conflict with this policy very limited weight.
33. The development of the site would not result in harm to the intrinsic character and beauty of the countryside or the wider landscape from the loss of a small open gap. However, the form and pattern of the development on the site together with the uniformed house types would be incongruous with the varied house types on spacious surrounding plots and would urbanise the appearance of the area contrary to policies D1 and H4 of the LP. As I consider these policies to be broadly consistent with the Framework, I afford this harm significant weight.
34. Having had regard to all of the evidence before me, I conclude that the proposal would conflict with the development plan and the moderate benefits of the scheme, although material considerations, would not clearly outweigh the harm to the character and appearance of the site. Consequently, for the reasons given above, I conclude that the appeal should be dismissed.

*R Bartlett*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

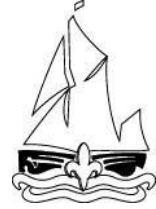
Matthew Leigh BA (Hons) MRTPI – Q Square - Agent

Blaine McMahon - Scene Architects Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Fiona Bradley MRTPI - Principal Planning Officer

Michael Johnson - Head of Service Development Management and Building Control



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

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**to  
NORTH WESTERN AREA PLANNING COMMITTEE  
14 JANUARY 2025**

<b>Application Number</b>	<b>24/00755/HOUSE</b>
<b>Location</b>	1 Oxley Cottage, 1 Oxley Hill, Tolleshunt D'Arcy
<b>Proposal</b>	S73A application for alterations to detached garage previously approved under 16/00002/HOUSE including, raising the ridge height, altered roof pitches, changes to fenestration and external materials.
<b>Applicant</b>	Mr Matthew Lockyer – That Design Co Ltd
<b>Agent</b>	Mr Sam Cook
<b>Target Decision Date</b>	17.01.2025
<b>Case Officer</b>	J.Kirkaldy
<b>Parish</b>	<b>TOLLESHUNT D'ARCY</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor M E Thompson regarding Policy D1 and impact on neighbouring amenity.

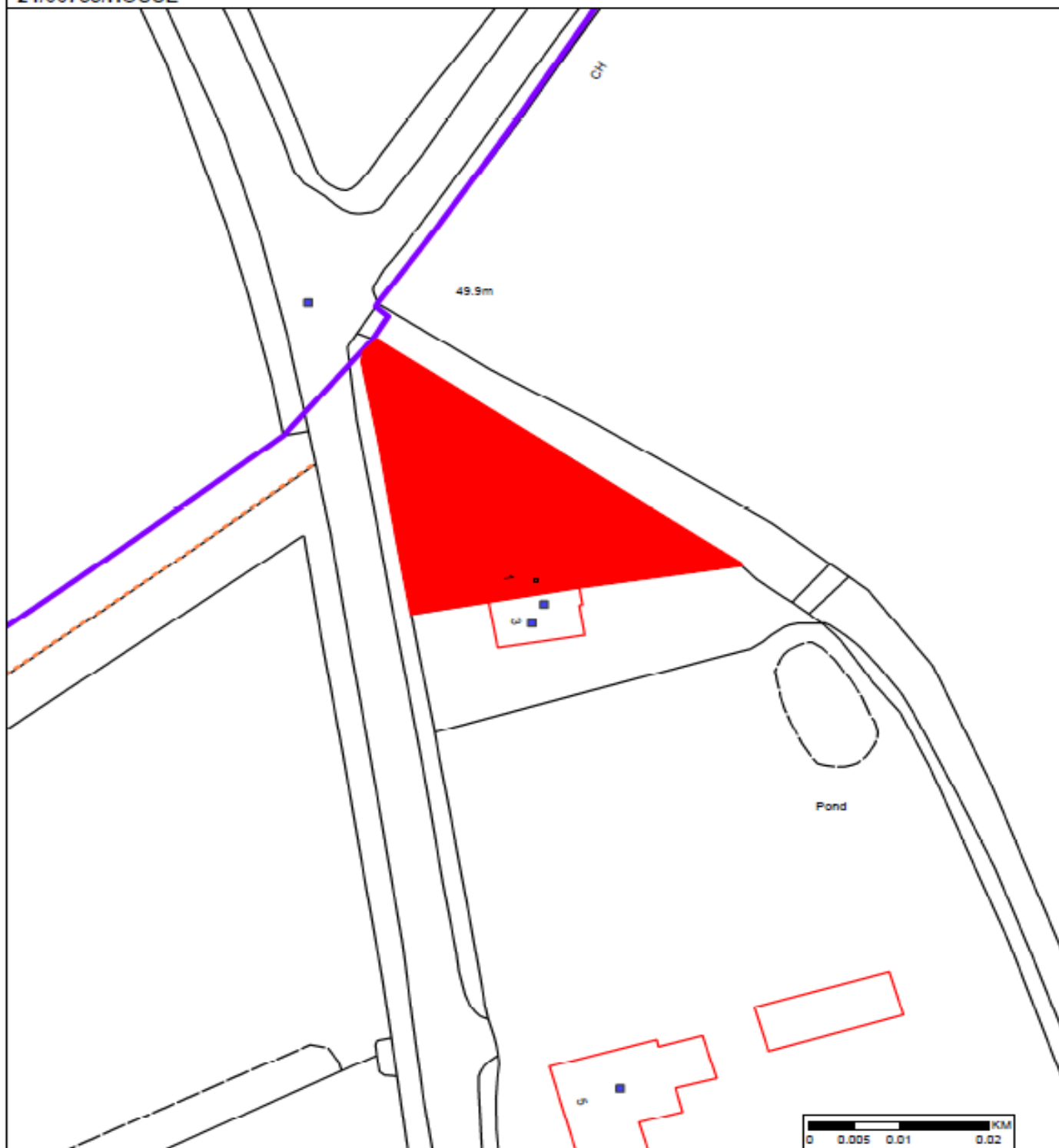
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

**Oxley Cottage - 1 Oxley Hill - Tolleshunt D'Arcy**  
24/00755/HOUSE



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Scale: 1:625

Organisation: Maldon District Council

Department: Department

Comments: North West Area Committee

Date: 12/12/2024

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is situated on the eastern side of Oxley Hill at its junction with Top Road. The site is triangular in shape with a semi-detached dwelling set back from the highway and fronting onto Oxley Hill.
- 3.1.2 The adjoining semi-detached dwelling (No.2) is to the south. The pair of dwellings are two storey, two bedroom properties which benefit from a conjoined single storey rear projection. Vehicular access for both dwellings is to the rear (east) from a private track which provides access to off street parking for both dwellings.
- 3.1.3 The site is situated outside of a settlement boundary and within a rural area with open fields to the front (east) and rear (west) of the site.

#### **The Proposal**

- 3.1.4 In May 2016, planning permission (16/0002/HOUSE) was granted at Planning Committee, contrary to the Officer recommendation for a *'Two storey side extension and a double garage'*.
- 3.1.5 The two-storey side extension has been completed and the double garage is currently under construction, with the block / brick work completed. The roof rafters have also been installed.
- 3.1.6 The double garage is situated to the south eastern rear corner of the site with the garage entrance facing north towards the existing vehicular entrance from the track. To the rear of the double garage is an office area. The garage has a triangular shaped form which fits with the angle of the common boundary with the garden of the adjoining dwellinghouse.
- 3.1.7 The approved garage (16/0002/HOUSE) has a width of 6.7 metres, depth of 12.1 metres, a height of 2.5 metres to the eaves and 3.9 metres to the ridge. It was proposed to be cladded in a weatherboard. On the approved drawing (10H-ELE C) there were only two proposed elevations shown for the double garage, this was the front north western elevation and side north eastern elevation. There were no elevations provided for the southern elevation (abutting the common boundary and facing the rear garden of No.2) and the side southern western elevation. No roof plan was submitted either. Although a floor plan was approved (10H\_GLX B), without an elevation / roof plan for the southern and south western elevation we are unable to understand how this elevation / roof should have appeared. The approved floor plan indicated a single window on the southern elevation and a single window on the south western elevation. On the front north western elevation two garage doors were proposed. On the side north eastern elevation a single pedestrian door was proposed providing access into the garage. A further single window and door was also proposed on this elevation providing access into the office space.
- 3.1.8 This is a revised application which proposes the following amendments from that of the approved scheme:
- The change of materials for the exterior of structure from cladding to red brick.
  - The change of roof pitch from 20 degrees to 25 degrees with increased ridge height to 4.4 metres

- Alterations to the fenestration. Removal of window on southern elevation. Insertion of two roof lights on north eastern elevation. Repositioning of external door for garage on the north eastern elevation.

3.1.9 The submitted Design and Access Statement states that, *'the amendments are due to onsite decisions and the site conditions with surface water run off from the local fields and the desire to tie the structure in with the architectural palette of the primary structure'*. It further states, *'It is understood the ground is not completely level from the track into the curtilage of the plot boundary hence a perceived increase in height to overcome the natural surface water run off from the adjacent fields to the North East. This has the appearance of raising the DPC level by a course of bricks, this combined with the increased roof pitch has the effect of slightly increasing the ridge height'*.

### 3.2 Conclusion

3.2.1 It is considered that the principle of development is acceptable. The design and layout of the proposed would result in harm to the amenity and outlook for occupiers of the neighbouring dwelling at no.2 Oxley Hill. It would appear overbearing, oppressive and dominant and would be an unneighbourly form of development. It is therefore considered that the proposed development is contrary to the relevant policies contained within the approved Maldon District Local Development Plan (LDP) and the National Planning Policy Framework (NPPF).

3.2.2 It is therefore recommended that planning permission is refused.

## 4. MAIN RELEVANT POLICIES

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

### 4.1 National Planning Policy Framework 2023 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision making
- 47-50 Determining applications
- 54 – 57 Planning conditions and obligations
- 119 -123 Making effective use of land
- 126 – 136 Achieving well designed and beautiful places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land

### 4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Car Parking Standards



- Maldon District Design Guide Supplementary Planning Document (SPD)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990), and Paragraph 47 of the National Planning Policy Framework (NPPF) require that planning decisions are to be made in accordance with the LDP unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 Policy S1 of the LDP states that “When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF” and apply a number of key principles in policy and decision making set out in the Policy.
- 5.1.3 The principle of extending an existing dwellinghouse, or an outbuilding, to provide facilities in association with an existing residential use is considered acceptable in line with policies D1 and H4 of the approved LDP.
- 5.1.4 The acceptability of the proposal against policies and all other relevant material planning considerations is assessed below.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.
- 5.2.2 The NPPF states that: *“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*
- “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.*
- 5.2.3 The proposed garage is of a substantial size and is highly visible from within the street scene of Oxley Hill. In the Committee report for the previously approved scheme (16/0002/HOUSE) concerns were raised by Officers that, *‘the location of a large double garage / office building to the rear of the site, which would be close to both the rear boundary and the common boundary with the adjoining property, would result in a significant built form in this location leading to a cramped and contrived development to the rear of these modest properties. The proposal would result in encroachment and visual intrusion of built form into the open landscape to the east of the site which currently contributes to the rural character and appearance of the*

*street scene*'. However, the proposal was approved and therefore the principle of development has been established.

- 5.2.4 The submitted proposal is to increase the ridge height of the garage roof to 4.4 metres (previously approved 3.9 metres). The roof pitch is also proposed to change to 25 degrees (previously approved 20 degrees). Despite the proposed increase in ridge height, the proposed garage would still be subservient to that of the host dwelling (in terms of height). It would not appear to have a significantly greater impact on the character and appearance of the surrounding area or host dwelling. However, as detailed below in paragraph 5.3 (Impact on Residential Amenity) there is concern regarding the proposed gabled southern elevation and the impact on the neighbouring amenity for occupants at No.2 as it appears overbearing, oppressive, and dominant.
- 5.2.5 The proposed two roof lights on the northern side elevation and repositioning of external door would be visible in glimpses when travelling along Oxley Hill in a southerly direction. However, the roof lights appear to be compatible with the size of the roof slope and do not appear harmful to the character and appearance of the surrounding area or the host dwelling.

#### Materials

- 5.2.6 The proposal to have a red brick exterior as opposed to weatherboard cladding as approved in the previous scheme (16/0002/HOUSE) would contrast with the weatherboard exterior of the host dwelling and outbuilding, breaking up the proliferation of a weatherboard material within the site. The red brick would be compatible with the countryside setting and there are no objections raised to this aspect of the proposal.

#### Summary

- 5.2.7 The application proposes amendments to a previously approved scheme (16/0002/HOUSE) and therefore the principle of development has been established. The proposed increase in height and roof pitch from that of the previous scheme is relatively minor and would not have a significantly greater impact on the street scene or character and appearance of the host dwelling. It would also remain subordinate to the host dwelling in terms of its overall height. Whilst there are no concerns raised regarding the proposed red brick exterior, Officers are concerned regarding the brick gabled southern elevation and the impact on neighbouring amenity in terms of its overbearing impact. This is assessed further below.

### **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, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section c07 of the Maldon District Design Guide 2017 (MDDG). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.3.2 The application site is bordered by one neighbouring property, attached to the south, no.2 Oxley Hill. An objection representation has been received from the neighbouring property to the proposal.
- 5.3.3 In the previously approved application (16/0002/HOUSE) the Committee report raised concerns regarding the impact of the proposed garage / office structure on

neighbouring amenity stating that, *'The garage / office structure would be 0.7m from the common boundary of the properties and would extend for 7.8m along the boundary at an eaves height of 2.5m and overall ridge height of 3.9m. This is considered to result in a loss of amenity to adjacent neighbouring occupiers by way of the extent of built form adjacent to the common boundary which is considered to be an unneighbourly form of development due to its depth, height and proximity to the common boundary. The scheme is therefore contrary to emerging policies D1 and H4 of the submitted LDP'*. Whilst it is noted that the application was approved by Planning Committee, as stated above, the previously approved application did not provide elevations of the southern and south western elevation, therefore it would not have been possible to fully assess the impact on neighbouring amenity at no.2 Oxley Hill.

- 5.3.4 The elevations submitted for the current application propose a gabled southern wall to the garage. This has mostly been constructed. Following an Officer site visit there is concern that it appears oppressive and overbearing from the garden of no.2 Oxley Hill. This is exacerbated by the close proximity of the built form to the shared southern boundary (0.8 metres) and the depth of the building which is almost the entire length of the shared boundary. It appears dominant and results in an unneighbourly form of development. It would also create a poor outlook for the occupiers of no.2 Oxley Hill.
- 5.3.5 The neighbouring property (no.2) has raised concern regarding loss of light into their kitchen window as a result of the proposal. It is noted in the Committee report for the previously approved scheme (16/00002/HOUSE) there were no concerns raised by Officers regarding loss of light for neighbouring amenity.
- 5.3.6 On the front north eastern elevation there are two roof lights proposed. Given its position on the north eastern roof slope, it would not be visible from the neighbouring property at no.2 Oxley Hill. There are no windows proposed on the southern or south western elevation facing the common boundary with no.2 and therefore, there is no overlooking / loss of privacy to neighbouring amenity.
- 5.3.7 Given the design and layout of the proposal, it is considered that the development would represent an unneighbourly form of development and would have a harmful impact on the amenities of the occupiers of the neighbouring property.
- 5.3.8 The proposal is therefore contrary to Policy D1 of the LDP and the NPPF.

#### **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.
- 5.4.2 The proposal would not result in any alterations to existing access arrangements to the dwelling, along a track which runs along the northern boundary of the site.
- 5.4.3 The internal dimension of the proposed garage is 6 metres in width and 5.8 metres in depth. The Maldon District Vehicle Parking Standards refers to a minimum size of 6 metres in width and 7 metres in depth for a two bay garage. The proposed garage falls slightly below this size standard; however, this size has previously been found to be acceptable when assessing the previous application 16/00002/HOUSE. Officers

also note that there is space for at least three vehicles on the hardstanding to the north/front of the garage.

- 5.4.4 Therefore, the proposed development in relation to parking provision would be in accordance with Policy D1 of the LDP and Vehicle Parking Standards SPD.

## 5.5 Private Amenity Space

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.5.2 In the previous application 16/00002/HOUSE the Committee report stated that, *‘the proposal would result in a net gain of two bedrooms from two to four. The main garden for the dwelling is to the northern side of the dwelling and is inherently open to the public realm. The works would result in a limited change to the existing provision providing the existing double garage is removed in favour of the proposed garage and as previously stated, providing the existing garage is removed the scheme would meet the criteria of the Design Guide’.*
- 5.5.3 It is noted that there was no condition imposed on the decision notice for 16/00002/HOUSE requiring the removal of the existing double garage to the north of the dwelling house although it has been removed but replaced with a single outbuilding. Historic satellite imagery suggests that this outbuilding was under construction in 2021.
- 5.5.4 Sufficient amenity space (excluding the outbuilding) would be retained to comply with the SPD, which requires 100sqm for a four bedroom dwelling. Therefore, the proposal is in compliance with Policy D1 of the LDP.

## 5.6 Flood Risk and Drainage

- 5.6.1 Policy D5 of the Local Development Plan sets out the Council's approach to minimizing flood risk. Policy S1 of the same Plan requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximize opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.6.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.

## 6 ANY RELEVANT SITE HISTORY

- 6.1 The relevant planning history is summarised in the table below:

Application Reference	Description	Decision
12/00372/FUL	Demolition of two existing houses at 1-3 Oxley Hill and replacement with (i) a single, detached dwelling on the site of 1-3 Oxley Hill and (ii) a single, detached dwelling on land	Refused. Dismissed on appeal.

<b>Application Reference</b>	<b>Description</b>	<b>Decision</b>
	adjoining 21 Oxley Hill, both with associated garaging, car spaces, foul and surface water drainage and landscaping.	
<b>13/00816/FUL</b>	Demolition of two existing houses and replacement with two detached dwellings with associated garaging, car spaces, foul and surface water drainage, landscaping, creation of new access (following closure of existing) and change of use of land to residential.	Refused.
<b>16/00002/HOUSE</b>	Two storey side extension and double garage	Granted.

## **7 CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Tolleshunt D'Arcy	No Comment.	Noted.
Tolleshunt Knights	Objection to the scale, bulk, size of the development and harmful effect this has on neighbouring amenity.	Noted. This is assessed in paragraph 5.2.

### **7.2 Representations received from Interested Parties (summarised).**

#### **7.2.1 One objection representation has been received from a neighbouring dwelling.**

<b>Comment</b>	<b>Officer Response</b>
Due to new gable the current height and gable at the boundary fence line has caused a negative visual impact.	Noted. This is discussed in paragraph 5.2 and 5.3.
It is a dominating structure that is less than 1 metre from the boundary fence.	Noted. This is discussed in paragraph 5.2 and 5.3.
The amenity and character of 1 and 3 Oxley Hill Cottages will be severely impacted due to height and pitch of the new roof. Outlook onto a red brick wall and gable.	Noted. This is discussed in paragraph 5.2 and 5.3.
Overbearing and prominent.	Noted. This is discussed in paragraph 5.2 and 5.3.
No consultation has taken place with neighbours.	Noted.
Loss of light to kitchen.	Noted. This is discussed in paragraph 5.3.
Affects the value of our property.	Not a material planning consideration.

## **8      PROPOSED REASON FOR REFUSAL**

1.      The design and layout of the proposal would create poor amenity and outlook for occupiers of the neighbouring dwelling (no.2 Oxley Hill). It would appear dominant, oppressive and overbearing and would represent an unneighbourly form of development. The development is therefore contrary to the Policy D1 and H4 of the approved Maldon District Local Development Plan, Maldon District Design Guide and guidance set out in the National Planning Policy Framework.

### Application Plans

Location REV C – Existing Block/Roof Plan, Location Plan

Site RevA – Proposed Block Plan

GL RevD – Proposed Floor, Roof Plan (Garage)

GE2 RevB – Proposed Elevation, Section (Garage)

GE1 RevB – Proposed Elevations (Garage)

GLX RevB – Proposed Floor Plan (Approved Garage)

ELE RevC – Existing and Proposed Elevations, Block Plan (Approved House).



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

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**to  
NORTH WESTERN AREA PLANNING COMMITTEE  
14 JANUARY 2025**

<b>Application Number</b>	<b>TPO 18/24</b>
<b>Location</b>	Rear of 26 Maldon Road, Great Totham, CM9 8PR
<b>Proposal</b>	Confirmation of TPO 18/24
<b>Applicant</b>	J. English
<b>Target Decision Date</b>	17 March 2025
<b>Case Officer</b>	J. Kirkaldy
<b>Parish</b>	<b>GREAT TOTHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Decision on confirmation of a Tree Preservation Order as per the Council's Scheme of Delegation.

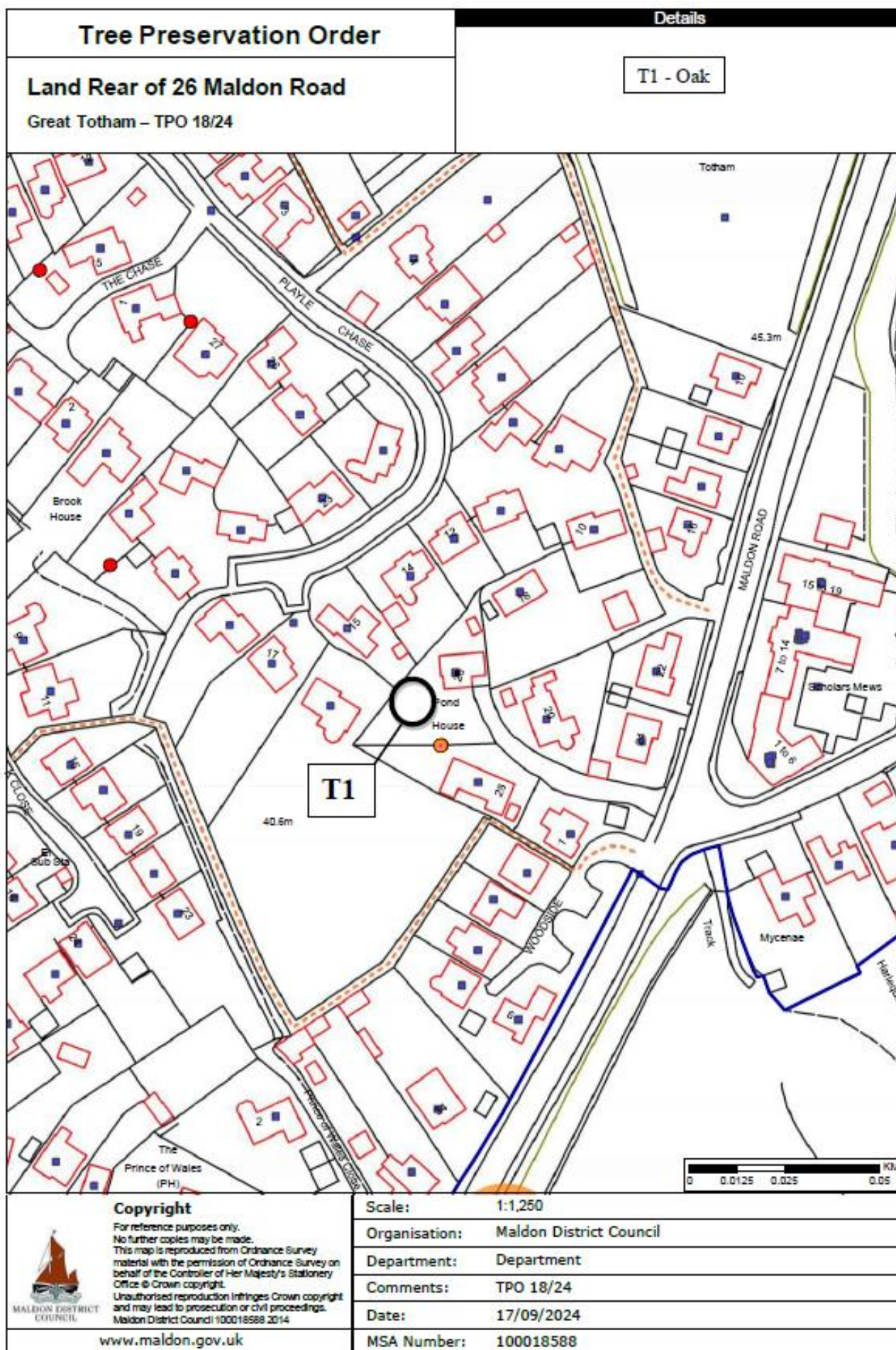
**1. RECOMMENDATION**

**CONFIRM Tree Preservation Order (TPO) 18/24** without any modifications.

**2. SITE MAP**

Please see below.







### **3. SUMMARY**

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

- 3.1.1 In September 2024, the Council received a request from the owner of 26 Maldon Road, Great Totham requesting a Tree Preservation Order (TPO) for an oak tree in their rear garden. The neighbouring property had given them notice to cut the oak tree back to the fence line and they were concerned that the *'works to the tree would be extreme, potentially kill the tree or leave it unbalanced and liable to fall and cause damage'*.
- 3.1.2 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment, which is nationally accepted system of scoring the amenity value of a tree, was carried out by the Council's Arboricultural Consultant. The TEMPO assessment scored the tree 17 out of 25 and concluded that the tree definitely merited a TPO. Therefore, a TPO was served as a provisional order on 17 September 2024, which must be confirmed within six months to become permanent and thus continue the trees protection.
- 3.1.3 One letter of objection has been received from a neighbouring property relating to the serving of the TPO 18/24 located at the land to rear of 26 Maldon Road, Great Totham.
- 3.1.4 The objection remains unresolved; therefore, the question of whether or not to confirm the TPO has been brought before members to determine.
- 3.1.5 For the purposes of the report going forwards, the tree (Oak - species a Quercus robur) subject to this report will be referred to as T1.

#### **3.2 The Site**

- 3.2.1 T1 (as identified in the TPO) is located in the rear garden of no 26 Maldon Road, Great Totham, on the north western boundary of the site.
- 3.2.2 T1 is visible from the public realm of Playle Chase and therefore provides high visual amenity.
- 3.2.3 Although the basal condition of the tree could not be assessed due to its location, an assessment of its canopy shows it to be in good condition with an expected lifespan in excess of 100 years.

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

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

#### **4.1 Relevant Planning Guidance/Documents**

- National Planning Policy Guidance (NPPG).

#### **Other Relevant Guidance:**

- Wildlife & Countryside Act 1981 (as amended)
- The Conservation of Habitats and Species Regulations 2017

## 4.2 **Government Guidelines:**

- 4.2.1 Government guidelines advise that: the Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 4.2.2 If Members decide to confirm TPO 18/24, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:
  - 1. That the TPO is not within the powers of the Act, or
  - 2. That the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 4.2.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

## 5. **MAIN CONSIDERATIONS**

- 5.1 T1 is situated in the rear garden of 26 Maldon Road, Great Totham. The T1 tree is visible from the public realm of Playle Chase and therefore provides high visual amenity.
- 5.2 An assessment of the tree canopy shows it to be in good condition, free of ill health and major defects. In its location it is expected that the tree can continue to thrive for 100+ years.
- 5.3 NPPG states (Paragraph 10 reference ID: 36-010-21040306) '*It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.*'
- 5.4 The proposed works to the tree was brought to the Council's attention by the owner of the tree. T1 is not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, the tree could have been removed or had works carried out, without the permission of Maldon District Council, which would damage the amenity value that the tree offers to the surrounding area.
- 5.5 In the interest of protecting this prominent landscape feature and the amenity value of the tree within the locality, the T1 was assessed using the TEMPO which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment T1 scored 'good' for the suitability of a TPO for amenity due to its size and location which is visible within the public realm of Playle Chase. The assessment of the canopy showed the tree to be in good condition. The expediency assessment reflected the foreseeable threat to

the tree, as the neighbours would like to prune the canopy heavily to the fence line which would be detrimental to the tree's health and longevity. T1 scored an overall total 17 out of 25 which means that the tree definitely merits a TPO.

- 5.6 It is worth noting that the guidance provided alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only).
- 5.7 It should be noted that the TPO would not prevent future works to the trees from being carried out, however it would control any such works to ensure that they were suitable, justified and did not harm the health of the trees or the amenity value they offer to the surrounding area.

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

No relevant site history.

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

### 7.1 **Representations received from Interested Parties**

- 7.1.1 1 letter has been received **objecting** to the TPO 18/24 and the reasons for objection are summarised as set out in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
No inspection by a qualified person to understand the overall condition of the specimen and its potential for longer term safety has been made.	The Council's Arboricultural Consultant undertook a site visit.
Tree represents significant encumbrance to health and safety to premises and occupants. It's adjacent a brick wall, its growth pattern and proximity to dwellings (less than 5 metres).	Noted.
There is another tree adjacent that grows alongside the tree in question and is starved of light, nutrients, water significantly impacting health of tree and long term life span.	Noted.
Its overall size in conjunction with volume of other trees is far from creating value to domestic setting.	Noted.
Tree is heavily encapsulated with ivy.	Noted.
Canopy of tree, without maintenance is serving to close off natural light to my dwelling and neighbouring properties.	Noted.
Tree canopy covers a large proportion of garden. Health and safety risk. Branches have fallen off into adjacent garden.	Noted.
Tree already adjacent to a large TPO area, sits outside of it so need for a	Noted.

Objection Comment	Officer Response
TPO is null and void.	
A significant reduction in excess of 50% or entire removal and replacement with a more suitable species would be beneficial to all	Noted.

## 8. **CONCLUSION**

- 8.1 The oak tree (T1), subject of the TPO, makes a contribution to the character and appearance of the surrounding area due to its size and location. Given that the TEMPO assessment scored 17 for the tree it definitely merits serving a TPO, it is considered that the TPO should be confirmed to prevent inappropriate works being carried out which could harm the amenity value and overall health of the tree.

Photo of Oak tree (T1) taken from adjacent to 15 Playle Chase

