



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
06 AUGUST 2018**

Application Number	RES/MAL/16/01475
Location	The Summer House Back Lane Wickham Bishops Essex
Proposal	Reserved matters application for the approval of appearance, landscaping and scale on outline planning application OUT/MAL/13/00118 allowed on appeal ref APP/X1545/A/13/2201061 (Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house)
Applicant	Mr David Brown
Agent	N/A
Target Decision Date	N/A
Case Officer	Yee Cheung
Parish	Wickham Bishops
Reason for Referral to the Committee / Council	This Reserved Matters is presented to Members at the North Western Area Planning Committee following a Judicial Review where the decision notice issued by the Council on 24 April 2017 was quashed by the High Court on 9 February 2018.

1 RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

RES/MAL/16/01475



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Malden District Council 100018588 2014

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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: NW Committee 16/01475/RES

Date: 24/07/2018

MSA Number: 100018588

3. SUMMARY

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

Site Description

- 3.1.1 The majority of the application site is located to the south of and outside the defined settlement boundary of Wickham Bishops with open countryside to the south and west. The very northernmost tip of the application site is within the settlement boundary of Wickham Bishops. To the north School Road and Grange Road are characterised by suburban development featuring predominantly detached dwellings with modest plot frontages within the built up area of Wickham Bishops. To the east there is a group of larger detached dwellings on Back Lane, which are within the development boundary. The existing dwelling 'The Summer House' sits on the junction of School Road and Back Lane within a generous plot. The site to the south contains a garage and tennis court. The garage would be demolished. The site forms part of the residential garden for the existing dwelling. Whilst the site marks a transition between the areas to its north and south it has a greater affinity to the domestic character of the settlement than the open countryside to the south.

Planning History

- 3.1.2 Outline planning permission **OUT/MAL/13/00118** for the *'demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house'* with the detailed matters of 'access' and 'layout' was submitted for consideration. The application was refused on 19 April 2013. This outline planning permission was subsequently allowed on appeal (APP/X1545/A/13/2201061 dated 10 February 2014). Whilst it is noted that it is now more than three years since the outline planning application was granted and the time period set out within condition 2 of the outline permission has passed, the application was extant at the time of submission of this Reserved Matters application, on 5 January 2017, and is therefore still able to be considered and implemented, if approved. The Reserved Matters application was presented to Members at the North Western Area Planning Committee on 6 March 2017 with a recommendation to approve the application subject to conditions. As there were some contentious issues regarding the legality of the application raised by a neighbouring resident, it was resolved that determination of this application be delegated to the Interim Head of Planning Services in consultation with the Chairman of the North Western Area Planning Committee together with the Ward Members. Following internal discussions and seeking advice from legal services, the Reserved Matters application was subsequently approved and a decision notice was issued by the Council on 24 April 2017 subject to conditions.
- 3.1.3 This decision notice **RES/MAL/16/01475** was challenged at the High Court. The High Court's decision on 9 February 2018 was to quash the decision notice and for the application to be reconsidered, this includes the amended plans, consultation responses and letters of representation, in the light of the High Court judgment. The High Court judgement will be discussed in detail below.
- 3.1.4 The only other planning history of relevance to the site and land that is shown to be within the applicant's control is planning application **HOUSE/MAL/11/00829** which allowed a two storey side extension to the existing dwelling.

The Proposal

- 3.1.5 The Reserved Matters application, seeks to address the matters of ‘appearance’, ‘landscaping’ and ‘scale’ of the detached dwelling on land to the south of The Summer House. The ground floor of the dwellinghouse would comprise of the sitting room, dining, kitchen, family room and lounge. At first floor, there would be with four bedrooms (three with en-suite) and a family bathroom. The dwelling proposed would measure 16.1 metres in width at the front elevation, with chimney stacks to both sides that would extend the width to 16.7 metres. At the rear elevation the dwelling would measure 15.1 metres wide. The dwelling would measure 9.9 metres in depth.
- 3.1.6 Due to the site gradient gently falling from north to south, the dwellinghouse would be approximately 8.15 metres in height to ridge level when measured on the north elevation and 9 metres in height to ridge level when measured on the south elevation.
- 3.1.7 The dwelling would also feature a porch to the front elevation that would measure 2.5 metres wide and 1.5 metres deep with a pitched roof built to an eaves height of 2.9 metres (at the south side) and a ridge height of 4.3 metres.
- 3.1.8 The dwellinghouse would be positioned approximately 11 metres from the northern boundary and a minimum of 5.5 metres from the west boundary
- 3.1.9 In the earlier submission as shown on Drawing Nos: 16.09.01, 16.09.02 and 16.09.03, the dwellinghouse was larger in terms of floor area and of a slightly different layout as the plans showed a single-storey element which comprised of a garage and office / study. This has since been omitted through the submission of amended Drawing Nos 16.09.01 Rev A, 16.09.02 Rev A and 16.09.03 Rev B. By omitting the single-storey element, the Reserved Matters application is now akin to the ‘layout’ of the development which was approved under outline planning permission **OUT/MAL/13/00118**. The variance between the outline permission and the reserved matters proposal will be discussed in further detail below.
- 3.1.10 Based on submitted Drawing No: 16.09.02 Revision A dated 3 February 2017, the dwellinghouse would be constructed using red multi-stock brickwork and painted render for the walls. For the roof, red clay plain tiles would be used.

3.2 Conclusion

- 3.2.1 Following the High Court decision, it is considered that the dwellinghouse, with an appearance of a traditional farmhouse, would not appear out of keeping with the character and appearance of the area, feature and protect existing landscaping adequately and not unacceptably impact on the tranquility of the wider rural area. When compared to the ‘layout’ approved under outline planning permission **OUT/MAL/13/00118**, it is considered that on balance, the position of the dwellinghouse, footprint, routes and open spaces within and with buildings and spaces outside the dwellinghouse would not result in a material departure from the arrangement shown on the Site Plan which formed a part of the outline planning permission **OUT/MAL/13/00118**. The proposed development, by virtue of its scale, appearance and landscaping would accord with policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (LDP), Maldon District Design Guide

(MDDG), and Government advice contained within the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 including paragraphs:

- 2, 7 to 12, 47, 53, 54, 59-61, 78-79, 124, 127, 130, 131, 174, 175 and 180

4.2 Maldon District Local Development Plan approved by the Secretary of State on 21 July 2017

- S1 – Sustainable Development
- S8 – Settlement Boundaries and the Countryside
- D1 – Design Quality and the Built Environment
- D2 – Climate Change and Environmental Impact of New Development.
- H4 – Effective Use of Land
- N2 – Natural Environment and Biodiversity.
- T1 – Sustainable Transport
- T2 - Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)
- Essex Design Guide (EDG)
- Car Parking Standards
- Maldon District Design Guide (MDDG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 As set out above, outline planning permission (reference **OUT/MAL/13/00118**) for the *'demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house'* with the detailed matters of 'access' and 'layout' submitted for consideration and was refused on 19 April 2013. This outline planning permission was subsequently allowed on appeal APP/X1545/A/13/2201061 dated 10 February 2014.
- 5.1.2 This application is a reserved matters application for the approval of 'appearance', 'landscaping' and 'scale' in relation to approved outline planning application **OUT/MAL/13/00118**. No other matters should be considered.
- 5.1.3 The Council can demonstrate in excess of a five year supply of housing and this is set out in the Council's Five Year Housing Land Supply Statement and the Council's

Advisory Note, both dated September 2017. This is a material planning consideration. However this application is to consider the reserved matters of 'appearance', 'landscaping' and 'scale' in relation to approved planning application **OUT/MAL/13/00118** and therefore the principle of the development has already been established.

5.2 Procedural Matters

- 5.2.1 It is considered important to acknowledge that a previous decision of the Local Planning Authority to approve the reserved matters application has been the subject of a Judicial Review which has led to that original decision being quashed and the application being 'returned' to the Local Planning Authority for re-assessment. A copy of the judgement is included at **APPENDIX 1**.
- 5.2.2 Judicial Reviews most commonly represent legal challenges with regard to the procedures that were followed in reaching a decision rather than the judgement of planning merits which is most commonly left to the assessment of the Local Planning Authority or the Planning Inspectorate. In this case the Judicial Review was raised on the grounds of a number of procedural matters and the Judgement that has been provided sets out a number of areas that are considered to require comment. This is especially pertinent given the content of letters of objection that have been received which comment on matters that have been directly addressed within the judgement.
- 5.2.3 The Judicial Review undertook an assessment of whether the application had been validly made and determined. The judicial review focused on the following key aspects which will be addressed in turn below:
- Whether the terms of the application could reasonably be altered after the initial submission.
 - Whether amended plans could be considered.
 - Whether the pre-approved layout of the development should restrict the scale of the development.
 - The decision making process of the Council.

Each of the relevant considerations will be assessed in turn below.

Whether the terms of the application could reasonably be altered after the initial submission.

- 5.2.4 It is noted that the submitted plans were required to be varied during the course of the application and that the description of the proposal and the terms of the application were also required to be clarified.
- 5.2.5 Whilst the detail of certain aspects will be discussed further below, it is considered that the maintained objection from a third party in respect of this matter is not consistent with the findings of the Judicial Review and should therefore be afforded little weight accordingly.

The Matter of Layout

- 5.2.6 When the application was first submitted to the Local Planning Authority, the applicant had completed the application form in such a way to indicate that the approval of the matter of layout was being sought. This had previously been agreed at

outline stage and could not therefore be re-considered under the terms of the reserved matters application. This was an administrative error on behalf of the applicant and was subsequently corrected.

- 5.2.7 The application was publicised in accordance with the Council's conventional practices on two occasions and in each occasion the term 'layout' was included in a manner that would imply that it was to be considered. This was incorrect and represented an administrative error.
- 5.2.8 The judgement identifies that there were errors made in this regard and identifies that interested parties should have been made aware of the corrected description of the proposal. However, the judgement also goes on to conclude that no party has been prejudiced by this previous inaccuracy. In this respect it is considered most pertinent to note that the judgement concludes the following:

"It is necessary, in order for any consultation to be fairly conducted, that those consulted know on what they are being consulted. In this case the Claimant and others did not know either about the amendment and the second revised layout plan during the period for making representations.....[the claimant's representative], failed to persuade me, however, that the substitution of the second for the first revised layout plan meant that the Claimant was prejudiced in the representations that he might have wished to make on the planning merits of the amended drawings. "

"The Claimant was not offered the opportunity to reformulate any objections that he may have had to the revised plan including the additional site area in the knowledge that the Interested Party was claiming that it did not require its layout to be approved. That might have caused him to consider whether to make, and to make, additional representations, on whether the "layout" on the second revised plan was in conflict with the "layout" on the Site Plan. He did not have that opportunity. In my judgment it is not satisfactory for the Council merely to say that in fact he had the opportunity after March 6th 2016 to make such representations when they had previously told him that the period for making them had ended. The question is, however, whether he has suffered any material prejudice. [The representative of the claimant] has not identified any such representations that he would or could have made had he been given that opportunity or any other practical detriment the Claimant suffered by being deprived of it."

- 5.2.9 Now that the application is being re-determined by the Local Planning Authority, further phases of publicity of the application has occurred with the description being that which is set out above. Although it is apparent that no party was prejudiced by the previous inaccuracy, it is the case that the matter has been corrected and there is no grounds for a case to be made that the description of the proposal is inaccurate.

Ability to Submit and Consider Amended Plans and Additional Information

- 5.2.10 Amended plans and additional information have been received prior to the judicial review and after. In this respect the Judicial Review sets out the following:
- 5.2.11 *"an amendment of an application for approval of a reserved matter was permissible generally at any stage but that there were two limitations on this freedom to amend after the expiry of the period limited for such applications: (i) an application which dealt with some only of the specified reserved matters cannot be amended after that*

date to deal with another specified reserved matter; and (ii) no amendment would be made which would have the effect of altering the whole character of the application so as to amount in substance to a new application.... However, subject to those limitations, an application which dealt with a reserved matter “to some extent” may still be amended after that date providing some further or some different details in respect of that reserved matter.”

- 5.2.12 From this basis, and noting the content of the National Planning Practice Guidance in respect of this matter, it is considered that it is possible and entirely legitimate to be able to consider amended plans.

Whether the pre-approved layout of the development should restrict the scale of the development.

- 5.2.13 A substantial feature of the letters of objection that have been received at this time and previously relates to the reserved matters that are to be considered and the inter-relationship between those matters.
- 5.2.14 The Town and Country Planning (General Permitted Development) Order 2015 and NPPG defines ‘scale’ and ‘layout’ as follows:
- ‘Layout’ – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
 - ‘Scale’ – the height, width and length of each building proposed within the development in relation to its surroundings.
- 5.2.15 The point of contention that has been assessed within the judicial review is whether the scale of the proposed dwelling (in terms of its width and length) has been inherently fixed due to the approval of the layout of the development. The suggestion put forward by an objector is that by approving the layout of the developments within the site, a perimeter is created which the proposed dwelling cannot breach without representing a material change to the layout. An approved matter cannot be re-approved and therefore it is suggested that once the layout has defined the perimeter of the dwelling, it cannot be amended under the terms of the assessment of the matter of ‘scale.’
- 5.2.16 The judgement sets out that this is not the case. Scale does not relate to height alone. The definition of ‘scale’ makes it clear that it includes the height, width and length of the building and therefore it must be the case that the scale of the building can be assessed separately from the layout, with a reasonable degree of tolerance afforded to any deviations to that which might have been approved at outline stage. The judgement is clear that scale and layout can be determined separately and that if this was not the case, they would either not be separated or required to be submitted at the same time, which is not the case. Paragraphs 66, 67, 69 and 70 of the High Court decision where ‘Layout’ and ‘Scale’ are considered to be of substantial relevance in respect of this matter.
- 5.2.17 The judgement is clear that where there is some variation between plans, it is a matter of judgement for the Local Planning Authority to judge whether or not the proposal is so substantially different to be able to be considered as a reserved matter of the outline permission or require a new planning permission.

5.2.18 In making this assessment, it is therefore considered necessary to establish the key dimensions of the dwelling and the site as shown at outline stage (plan 12.2005/P201) and at reserved matters stage (plans 16.09.01 Rev A and 16.09.03 Rev B). These are set out in the table below:

	Width	Depth	Height	Position away from the northern, eastern, southern and western boundary of the application site
OUT/MAL/13/00118 Approved 'Layout' (Existing garage to be demolished). All measurements taken from plan reference 12.2005/P201	15.5 metres	11 metres	Two-storey in height ('Scale' was reserved for subsequent approved)	North - 2.7 metres East - 10.8 metres South - 18.2 metres West - 11.5 metres
Reserved Matters RES/MAL/16/01475 Measurements taken from plans referenced 16.09.01 Rev A and 16.09.03 Rev B	16.1 metres (front elevation and 15.1 metres (rear elevation) This averages out to 15.55 metres. The chimney stacks to the side extend the width of the dwelling to 16.7 metres.	9.8 metres	Due to the site gradient, the new dwellinghouse would be 8.5 metres in height when measured on the north elevation and 9.1 metres when measured on the southern elevation. The height of the development would be 8.3 metres when measured from finished floor level).	North – 5.2 metres East – 12.3 metres South – 14.5 metres West - 11.5 metres

5.2.19 In this instance it is considered that the dwelling has been shown in fundamentally the same position in the two plans. The footprint of the proposed dwellings (measured externally) has been reduced from 173 square metres to 157 square metres. It is acknowledged that the dwelling is of a different shape and of different dimensions, but the similarities are considered to be sufficient for the Local Planning Authority to be able to be satisfied that the proposed development remains 'within the ambit' of the outline permission.

5.2.20 While the Council notes that the layout and position of the dwellinghouse was approved at the outline stage and the distance from the northern boundary has been amended from 2.7 metres to 5.2 metres in this Reserved Matters application, which means that the distance of the dwellinghouse to the southern boundary of the site has been reduced from 18.2 metres to 14.5 metres, and that there are changes to the distance from the eastern boundary of the site, it is considered that the relationship between the dwellinghouse, routes and open spaces within the site and its surroundings would be of negligible difference.

- 5.2.21 It is acknowledged that the objector maintains their objection in this respect, but for the reasons set out above, it is considered that the proposal can be considered to reasonably follow from the outline planning permission that was granted. The width of the dwelling would increase in part, but be reduced for another part and as chimney stacks are considered to be a minor intrusion to the side elevations, it is considered that these can reasonably be excluded from the calculations of the width of the dwelling. The distances from the boundary do change more significantly, but in the context of the site and as the majority of the proposed dwelling would overlap the majority of the existing dwelling, it is considered that the level of divergence is within what can be considered a reasonable level of tolerance. Moreover, it is considered that the change of the shape of the building has not made it 'irregular' and as found at paragraph 75 of the judicial review, the creation of a terrace and patio area must be considered to form part of the landscaping of the site and not the layout of the development at the site.
- 5.2.22 A new planning application (either in outline or in full) is therefore not required to be submitted. Notwithstanding the objection, it is recommended that this assessment is accepted as the position of the Local Planning Authority, based on its planning judgement, which it is reasonably entitled to exercise at its discretion as set out within the conclusion of the Judicial Review.

Procedures Relating to Determination

- 5.2.23 When the application was previously determined by the Local Planning Authority the Council's North West Area Planning Committee deferred powers to the Chief Executive to determine the application having first resolved some outstanding matters in relation to the validity of the application. The Judicial Review has found that the manner in which reports were prepared and made available to the Chief Executive was inadequate and the manner in which the final decision of the Chief Executive was recorded was also inadequate.
- 5.2.24 This application is being presented to the Council's North West Area Planning Committee with a recommendation to determine the application. It is not recommended that the final decision is deferred to Officers and therefore the issue identified within the judgement will no longer be applicable.

5.3 Scale, Appearance and Landscaping

Introduction

- 5.3.1 The application seeks the approval of the matters of scale, appearance and landscaping of the development. In this instance it is considered appropriate to address each of these matters individually and in turn, having first set out a general summary of the relevant policy background in respect of these matters. The policy background is considered to be of primary importance as the Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

Policy Context

- 5.3.2 Policy D1 of LDP is applicable to the consideration of design. This policy coupled with the NPPF aim to ensure good design taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk.

- 5.3.3 The NPPF states in Paragraph 124 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.”* and in paragraph 130 that *“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.”*
- 5.3.4 Policy H4 states that All development will be design-led and will seek to optimise the use of land having regard to, amongst other matters, the location and the setting of the site and the existing character and density of the surrounding area. Policy S8 states that *“planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.”*
- 5.3.5 In addition to the above, it is also pertinent to note that in December 2017, the Local Planning Authority adopted the MDDG which is an adopted Supplementary Planning Document and is now a key mechanism for the delivery of design quality within the district. This new guide, not only looks at overall layout and form, but also the individual characteristics of the natural and built environment. This document is now a material consideration in the assessment of all planning applications.
- 5.3.6 In terms of residential amenity, policies D1 and H4 of the LDP advise that any development should protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight and that any backland / infill development should not result in unacceptable material impact upon the living conditions and amenity of nearby properties.

General Character of the Site and Surrounding Area

- 5.3.7 The application site is located to the south of the development boundary with open countryside to the south and west. To the north School Road and Grange Road are characterised by suburban development. This is predominantly detached dwellings with modest plot frontages within the built up area of Wickham Bishops. To the east there is a group of larger detached dwellings on Back Lane, also within the development boundary. The existing dwelling sits on the junction of School Road and Back Lane within a generous plot. The site to the south contains a garage and tennis court. The existing garage would be demolished. The site forms part of the residential garden for the existing dwelling. The locality is on the fringe of the core settlement of Wickham Bishops and the immediate area has a suburban residential feel and appearance. Whilst the Planning Inspector had noted that the site marks a transition between the areas to its north and south, it was considered that the site had a greater affinity to the domestic character of the settlement than the open countryside to the south.
- 5.3.8 The site would be read as part of the edge of the settlement area. It would continue the line of dwellings and form a logical addition at the end of the group of properties as it turns the corner of School Road. Therefore the introduction of a dwellinghouse in this location would sit comfortably as part of the existing frontage development that typifies the settlement at this point. This is reinforced by the site levels where the

difference is approximately 1 metre when compared between the Summer House and the tennis court area where the new dwelling would be sited upon. The proposal would place the new dwelling lower than the existing dwelling Summer House, and the ability to reinforce landscaping through the current reserved matters. It is considered that these factors in combination with the size of the plot would lessen the visual impact of the development proposal.

Scale

- 5.3.9 For the avoidance of doubt, it should be noted that the definition of scale contained within the Town and Country (Development Management Procedure) Order 2015 is as follows:

“the height, width and length of each building proposed within the development in relation to its surroundings.”

- 5.3.10 The dwelling proposed would be a two storey dwelling, which is not considered to be out-of-keeping with the scale of other dwellings within the surrounding area. It is considered that the height of the proposed dwelling is appropriate for a two storey dwelling and it is acknowledged that the overall height is reduced by virtue of the fact that the rear part of the dwelling would have a roof height that is approximately 0.8 metres lower than the roof height of the main front part of the dwelling. The 6.3 metre depth of the front part of the building would enable the building to have a roof that is well proportionated and not unduly tall relative to the overall scale of the building.
- 5.3.11 Notwithstanding the above discussion with regard to the scale of the dwelling relative to that which was shown on the layout, it is considered that the width and depth of the dwelling is subordinate to the overall dimensions of the site and in no regard would appear cramped. Similarly it is considered that the density of the proposed development, as a result of the width and depth of the dwelling, would not be unlike the grain of development within the surrounding area.
- 5.3.12 In terms of impact on the amenities of neighbouring residents, it is noted that the proposed dwelling would be located approximately 23 metres from The Summer House and a minimum of 45 metres from all other dwellings. Due to these separation distances, it is considered that a dwelling of the scale proposed, would not cause a loss of light or outlook within any neighbouring residential property to an extent that would justify the refusal of the application on those grounds.
- 5.3.13 Similarly, as a bi-product of the scale of the dwelling is the amount of accommodation proposed, it is considered appropriate to assess the impact of the use of the dwelling in terms of general amenities and disturbance. In this respect it is considered that the scale of the dwelling would not derive a residential use that would exceed what would have reasonably been expected when outline planning permission was granted and as such no objection should be raised to the scale of the proposed dwelling on those grounds.
- 5.3.14 For these reasons it is considered that the scale of the proposed development can be found acceptable.

Appearance

- 5.3.15 For the avoidance of doubt, it should be noted that the definition of appearance contained within the Town and Country (Development Management Procedure) Order 2015 is as follows:

“the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.”

- 5.3.16 In terms of design, the proposed dwelling would have an appearance of a traditional farmhouse. The dwelling would have symmetrical pattern of window openings arranged around the front door on the central axis. This results in the dwelling being symmetrical, well balanced and in proportion in appearance when viewed from the public domain in accordance with policy D1 of the LDP, the MDDG and Government advice contained in the NPPF.
- 5.3.17 The proposed dwelling, by virtue of its traditional design and the use of appropriate materials would be in-keeping with the traditional Essex vernacular and therefore not appear as an intrusive or incongruous addition to the area.
- 5.3.18 In terms of impact on the amenities of neighbouring residents, it is noted that the proposed dwelling feature numerous doors and windows on all elevations except for the north elevation which would only feature a ground floor door. As set out above, the dwelling would be positioned a substantial distance from all neighbouring dwellings and due to these separation distances and the positioning of the proposed windows, it is considered that the positioning of windows (which contributes to the appearance of the dwelling and is therefore able to be assessed as part of this matter) would not result in overlooking of neighbouring properties to an extent that would justify the refusal of the application on those grounds.

Landscaping

- 5.3.19 For the avoidance of doubt, it should be noted that the definition of landscaping contained within the Town and Country (Development Management Procedure) Order 2015 is as follows:

“the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features.”

- 5.3.20 Within the site it is proposed that the vehicular access would be provided in a position that is the same to that which was shown on the outline application, leading to a driveway at the north east part of the site that would extend to the land in front of the dwelling. To the rear of the dwelling, a terrace and patio area is proposed and the remainder of the majority of the site would be lawned. It is considered that this hard and soft landscaping within the site is appropriate for a dwelling of this type and in this context.

- 5.3.21 Condition 06 of the outline planning permission states that *“Concurrently with the first submission of reserved matters details of the access and parking areas shown on drawing 12.2005/P201 RevA, including any means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority.”* It is considered that the details of hardstanding that have been provided are acceptable to address this matter.
- 5.3.22 In addition to the matters relating to the proposed landscaping of the site, it is considered that this is the appropriate arena to consider the impact on the trees at and adjacent to the site. It is noted that this is a substantial area of objection from an interested party.
- 5.3.23 With regard to the trees to the eastern boundary of the site, the Tree Officer had confirmed that a TPO 3/14 was served to provisionally protect the trees along this site boundary (which is also the boundary with the entrance to Crabbs Farm) as a result of concerns raised about the safety of trees on the site. The serving of a provisional TPO enabled the Council to establish whether the trees in question are at risk. In this case, the trees have not been subject to damaged or unsuitable works since and therefore the original expediency for the serving of TPO 3/14 had no longer applied. However, the Tree Officer had acknowledged that Condition 8 of outline planning permission **OUT/MAL/13/00118** requires tree protection information to be submitted and approved prior to commencement of work on site. Therefore this would not need to be repeated in this Reserved Matters application.
- 5.3.24 Following the High Court decision, the Council has sought a second opinion from an independent Tree Officer. On 5 March 2018, the following advice was provided by the specialist:-

“Existing trees are predominantly located within a boundary hedge line to the east of the site and located parallel to the Crabbs Farm access drive. Other, less significant trees and woody perennial vegetation is located sporadically throughout the site. The line of significant trees along the eastern boundary consists of birch, ash, oak and holly; with oak being the dominant species. On accessing the online database, I can find no record of a tree survey ever being undertaken and I can find no site-specific methodologies or tree protection measures detailed anywhere within the submitted information. These are significant trees with a range of species, condition and age class present and the proposal should seek to safeguard them throughout development and beyond.”

- 5.3.25 Based on the details and amended plans submitted, the Tree Officer initially advised that the proposal cannot be accurately assessed without further specialist arboricultural input. However, provisionally, from looking at the detail submitted thus far, the following comments can be made:-
- *There is insufficient new planting detail in order to mitigate the direct loss of trees required to facilitate the proposal*
 - *No tree survey is provided, leading to a lack of confidence in the assumed root protection areas (RPA's)*
 - *No RPA's are shown for several retained trees*
 - *Demolition of the existing surfaces and structures may cause harm to retained trees if not undertaken with care*

- *Excavation of the new foul water drainage system may cause harm to retained trees.*
 - *The proposed driveway and turning area appears to encroach within identified RPA's and may cause harm if not specified and installed with care*
- 5.3.26 The Tree Officer concluded that the Applicant must provide the following specific detail, in full accordance with BS 5837, to enable a full appraisal to be made of the impact of the proposed scale and landscaping on retained, existing trees:
- *Tree Protection Plan;*
 - *Arboricultural Method Statement, including; Full construction detail of proposed driveway (including edge restraint and wearing course) Full construction detail for new foul water drainage system; Methodology during demolition of existing surfaces and structures; and Required facilitative tree pruning details*
 - *More detail on stock size and to include larger growing species as part of the mitigation planting proposals in lieu of trees lost to enable development.*
- 5.3.27 The applicant has subsequently provided a Arboricultural Report and Arboricultural Implications Assessment, a Landscape Plan and a Tree Protection Plan and, which has been the subject of a further phase of public consultation and input from the Tree Officer.
- 5.3.28 One area of conflict has been addressed by an objector who has identified that a tree at the north east corner of the site that was shown to be removed on plan 16.09.03 Rev B, is now shown to be a group of Hazel trees that can be retained according to the arboricultural submissions. Similarly a Cherry Tree (T9) at the south west corner of the site was one of four fruit trees that were shown to be removed, but is now to be retained.
- 5.3.29 It is noted that there is an inconsistency between plans. However, It is considered that the retention of trees in accordance with the latest tree protection submissions, notwithstanding the content of plan 16.09.03 Rev B, can be secured under the terms of a condition. As this inconsistency can adequately be addressed by a condition and a tree can be retained that was not previously intended to be retained, it is considered that addressing this matter through the imposition of a condition is entirely appropriate.
- 5.3.30 It is considered that addressing this matter through the imposition of a condition will not have prejudiced the ability of the objector to comment on the submissions. It is not considered that the retention of more trees that initially forecast would be a sound reason to refuse this application.
- 5.3.31 The latest advice from the Tree Officer sets out that *“The submitted information leaves me assured that the proposed development can be implemented whilst retaining the most valuable trees and that those trees identified for removal can be mitigated for through the specification of suitable replacement planting. However, the submitted landscape Plan should be updated to show the size, species and planting location of 3 replacement trees, not 2 as is currently the case.”*

5.3.32 From this basis it is considered that the landscaping of the proposed development, including the retention of trees at the site, can be found acceptable and in accordance with the abovementioned policies of the Development Plan.

5.3.33 It is noted that condition 8 of the outline planning permission cannot be discharged through the approval of reserved matters details and therefore a discharge of condition application will still need to be submitted. However, based on the detail submitted, it is considered that the trees to be retained at the site will be able to be adequately protected during the proposed development.

5.4 Surface Water and Foul Water Drainage

5.4.1 Policy D5 states that development should minimise the risk of flooding and policy D2 states that development should minimise all forms of pollution. Condition 5 of the outline planning permission reads as follows: *“Concurrently with the first submission of reserved matters details of the surface water and foul water drainage to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed before the building is occupied in accordance with the approved details.”*

5.4.2 To address this matter the application includes the following details:

- Kingspan Drainage Plan DS1190P and a specification that was submitted within an email dated 02 February 2017.
- Drainage Soakaway Calculations prepared by DMA Building Designs (Dated 11-06-2018)
- Email confirmation from Anglian Water 01 February 2017 that they are willing ‘in principle’ to accept an indirect connection to their infrastructure.

5.4.3 These submissions have been assessed by the Council’s Environmental Health Department who have advised the following:

- *“We have reviewed the information supplied by DMA Building Designs dated June 2018 which indicates that the Aqacell soakaway scheme will be acceptable. From the information provided the condition can be complied with.”*
- “With regards to the new information the foul drainage scheme would be suitable. However we need verification that it is going the mains sewer as the comment from Anglian Water is a only a tentative acceptance and they require further information.

5.4.4 The issue raised with respect to the tentative approval by Anglian Water is not considered to be a reason to object because the condition can be discharged on the grounds that that means of providing foul water drainage would be acceptable, if it should transpire that it is not possible to provide this method of foul water drainage, an amended scheme would be required to be submitted under the terms of a new application.

5.4.5 Based on this assessment it is considered that the foul and surface water drainage details that have been provided are acceptable. Therefore, provided that the development is undertaken in accordance with the approved details, as required by 5

of the abovementioned condition, it is considered that the proposal will be in accordance with the requirements of condition 5.

5.5 Other Matters

Impact on Residential Amenity

- 5.5.1 As set out above, policies D1 and H4 of the LDP advise that any development should protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight and that any backland / infill development should not result in unacceptable material impact upon the living conditions and amenity of nearby properties.
- 5.5.2 An assessment of the impact of the impact on neighbouring residents has been undertaken in respect of each reserved matter above. In summary, it has been found that a reasonable distance of 23 metres would be retained between ‘Summer House’ and the proposed dwelling to the south of the plot. It is noted that no first floor windows are proposed on the northern flank wall of the dwelling and as such, no overlooking, interlooking or loss of privacy would occur between the existing occupiers at that property or the future occupiers at this property. Having considered the distance between the new dwellinghouse and existing residential properties ‘Timberleys’, ‘Brackleys’, and ‘Springbrooks’ to the north of the application of approximately 40 metres (Timberleys), 52 metres (Springbrooks) and 58 metres (Brackleys), it is considered that the development of this site would not prejudice the amenity of the existing occupiers of those properties to warrant refusal. The impact to the aforementioned residential properties has further reduced due to the alterations to the dwelling that have been set out above in comparison to that which was shown at outline stage. In this respect, the proposal would accord with policies D1 and H4 of the LDP.

Access, Parking and Highway Safety

- 5.5.3 Policy T2 of the LDP aims to create and maintain an accessible environment, requiring development proposal, inter alia, to sufficient parking facilities having regard to the Council’s adopted parking standards. Similarly, policy D1 of the LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council’s adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.4 The Maldon District Council Vehicle Parking Standards (VPS) contain the parking standards which are expressed as maximum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport. The VPS states that residential dwellings comprising three or more bedrooms require a maximum of three parking spaces. The dwelling is set back from the eastern boundary of the site which allows additional vehicles to be accommodated within the side and front curtilage of the dwellinghouse. In this respect, the proposal would accord with policies D1 and T2 of the LDP in terms of car parking provisions within the site.
- 5.5.5 It is noted that letters of representation have been received commenting that a dwellinghouse of this size without a garage ‘*would be to the significant detriment of the future occupiers’ amenity.*’ It is important to note that it is not unusual for

dwellinghouses of this scale not to have garages for the parking of vehicles. While the Planning Inspectorate has imposed a planning condition removing permitted development rights for garages, extensions and separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume - Condition 7 of outline planning permission **OUT/MAL/13/00118**), this does not preclude the future occupiers of the site for submitting a planning application for a garage to be constructed within the plot if they so wished.

- 5.5.6 In terms of access / egress point to the site, this has been approved under the outline planning application **OUT/MAL/13/00118** as it was submitted for consideration at the time. On Drawing No: Drawing No: 12.2005/P201 in the outline planning application, the application site edged in red, showed the access / egress point which currently serves The Summer House to be utilised for the new dwellinghouse within application site. This access / egress point to the site has not changed when compared to the outline and Reserved Matters application and the amended plan Drawing No: 16.09.03 Revision B dated 27 February 2017 was only submitted by the Applicant in response to a letter of representation stating a new access was being formed onto the private access drive that serves Crabbs Farm. The Highway Authority was re-consulted and has raised no objection to the proposal.
- 5.5.7 In Paragraph 65 of the High Court decision, the Judge considers that access to the dwellinghouse as shown within the main site area is not in conflict with that on the Site Plan (Drawing No: 12.2005/P201 dated 10 January 2013 in the outline planning application **OUT/MAL/13/00118**).

Private Amenity Space

- 5.5.8 Policy D1 of the LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms. This is also set out in the EDG where it advises that a suitable garden size of 100m² for dwellings with three or more bedrooms should be provided. This requirement depends on the location and how the development relates to the prevailing character of the area.
- 5.5.9 The garden space proposed to the rear and side for the new dwellinghouse measures approximately 530 square metres and would be in excess of the standard contained within the EDG for a three or more bedroom dwelling. As such, the proposal would accord with policy D1 of the LDP, the MDDG, and the EDG.

Construction Traffic

- 5.5.10 Letters of representation have been received concerning traffic movement by construction vehicles to and from the site. The Highway Authority has assessed the application and no conditions have been suggested regarding this matter. Further, this issue was not flagged up by the Planning Inspector in the outline planning application **OUT/MAL/13/00118** and as such, the Council has not imposed such condition on this current Reserved Matters application.

Housing Mix

- 5.5.11 The proposal would provide one x four bedroom open market dwellinghouse. Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which when read

alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units. The Council therefore, encourages, in Policy H2 the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated Strategic Housing Market Assessment (SHMA), published in June 2014, identifies the same need requirements for 60% of new housing to be for one or two bedroom units and 40% for three bedroom plus units.

- 5.5.12 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 61 of the NPPF where it states that *"the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies."* In this instance, the proposed dwellinghouse would not assist in meeting the housing shortfall need as set out in the SHMA and Policy H2 of the LDP. However, it is important to note that no planning conditions or any informative was imposed on the outline planning application **OUT/MAL/13/00118** (appeal decision: APP/X1545/A/13/2201061), this effectively means that Council has no control on the housing mix and therefore the Applicant can determine the housing mix without the need for any approval from the Council. It is clear in planning law that the Council cannot refuse a Reserved Matters approval due to unacceptable housing mix unless a condition has been imposed to require such a matter to be agreed at the Reserved Matters stage. It is therefore considered the Council has to accept the housing mix, a one x four bed dwellinghouse being provided in this Reserved Matters submission.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/13/00118** - Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house. Refused: 19 April 2013. Allowed on Appeal: 10 February 2014
- **HOUSE/MAL/11/00829** - Two storey side extension to the existing dwelling. Approved.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops Parish Council comments received dated 7 March 2018 following the High Court decision and 10 July 2018 following the submission of the arboricultural documents	Object for the following reasons:- <ul style="list-style-type: none"> • Increase in size of the proposed dwelling, the addition of a third storey, layout alterations and tree removal, all contrary to 	Addressed by Scale and Landscaping sections of report.

Name of Parish / Town Council	Comment	Officer Response
referred to above.	<p>the plans approved at Appeal for this site;</p> <ul style="list-style-type: none"> • 50% increase in size; • The dwelling would appear visually intrusive in the rural landscape due to its size, height, massing and proportions and would result in an overdevelopment of the plot; • Lack of protection for the group of trees on the eastern boundary (G1 – TPO 3/14) • A dwelling of this size without a garage would be to the significant detriment of the future occupiers' amenity. • The Arboricultural Impact Assessment demonstrates that inadequate access exists to ensure the protection of the trees during construction. The root protection zone would be breached and this is therefore another reason to object to the proposal. 	

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highway Authority consultation response dated 6 March 2018 following the High Court decision	The Highway Authority observes that this is a re-consultation to a 2016 application and that the word “layout” is now omitted from the description of this application. No objection subject to informative	Noted in ‘Access and Parking’

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health Services following the High Court decision (7 March 2018)	No objection. The relevant comments are set out above.	Noted in 'Other Consideration'
Tree Officer	The Tree Officer has been consulted twice in the period since the judicial review, once commenting that additional information was necessary and then subsequently commenting on that additional information. The conclusion is that the tree assessment and protection details are acceptable, but that three replacement trees should be provided instead of two.	Noted in 'Landscaping' Section

7.4 Representations received from Interested Parties (*summarised*)

- 7.4.1 Prior to the first determination of the application by the Local Planning Authority, letters were received **objecting** to the application from four addresses and the reasons for objection are summarised as set out in the table below:

Comment	Officer Response
It was requested that clarification was provided in respect of the deadline for providing comments and that the site is viewed from the west.	Further consultation has subsequently taken place and the site has been viewed from the west.
The application should be deemed to be invalid for the reasons that are discussed fully above.	This matter is fully discussed above and was the subject of the judgement.
The proposals showed the removal of trees that were previously intended to be retained and provided the basis for the appeal decision.	The issue of tree retention has been further addressed through additional submissions by the applicant which are discussed in the report and below.
The planning history of the site with regard to trees and the construction of a garage was discussed.	Comments noted.
The scale of the development would be materially larger than shown at outline stage.	This matter is fully discussed above and was the subject of the judgement.
Boundary treatments would have a detrimental impact on the sense of space about the house.	Boundary treatments would be detailed under the terms of a condition.

Comment	Officer Response
The appearance of the development would be in contrast with that which was envisaged at outline stage and the appearance of the dwelling would not be mitigated through landscaping as a result of its removal and inadequate replacement.	This matter is fully discussed above, was the reason for amended plans being submitted and was the subject of the judgement.
Changes have been proposed to the manner in which the site would be accessed.	This matter was addressed within the judgement and did not amount to a reason to uphold the challenge.
Insufficient space exists for contractor vehicle parking.	The Highway Authority has assessed the application and no condition has been suggested regarding to the submission of a Construction Management Plan.
The first set of amended drawings did not address the objections initially raised.	A further amended drawing was therefore received and the appropriateness of this is discussed within the judgement.
The Tree Preservation Order at the site should not have been removed without consultation.	The Tree Preservation Order was not confirmed but trees at the site can be protected under the terms of a condition.
The dwellinghouse and its terrace would be materially greater than originally shown and cause a loss of green space at the site.	This matter is fully discussed above and was addressed by the judgement.
The absence of garaging would make the development incoherent and unrealistic and therefore further development will follow.	Any subsequent proposals would require a separate planning permission which would be assessed on their own planning merits.
The use of the access to the site will detract from highway safety and will be reliant on a shared access with a neighbouring property.	Not a material consideration of relevance to the reserved matters.

- 7.4.2 Prior to the first determination of the application by the Local Planning Authority, a letter was received **commenting** on the application which included the following comments:

Comment	Officer Response
The initially submitted plans were identified as being inconsistent with that which was shown at outline stage.	Addressed above.
It was asked if the development would align with the comments made in the original submission.	Addressed above.
It was identified that other developments of similar scale as that shown in the initial plans, within the vicinity of the site, have been refused.	Each application should be considered on its own merits and it is noted that the plans were revised after this comment was made.

Comment	Officer Response
A condition should be imposed to require all construction traffic is contained within the site.	No request for a construction management plan has been received from any consultees.

- 7.4.3 Prior to the first determination of the application by the Local Planning Authority, a letter was received **in support** of the application which included the following comments:

Comment	Officer Response
The new house would sit comfortably amongst the other houses in Back Lane. The site is well screened by the copse of trees.	Noted in 'Design and Impact on the Character of the Area' and 'Tree Protection' section in the report.

- 7.4.4 Following the judgement and due to the submission of additional information, two further phases of public consultation have been undertaken.

- 7.4.5 Further letters were received **objecting** to the application from 4 addresses and the reasons for objection are summarised as set out in the table below:

Comment	Officer Response
The dwelling is materially taller and larger than that which was shown within the outline planning permission.	This scale of the building discussed fully above.
The proposal will not be sympathetic to the countryside as previously envisaged.	This impact of the development on the character of the area is discussed above.
Additional planting would not be provided and trees would be removed.	The impact on trees and adequacy of replacement planting is addressed above.
The dwelling will result in extra vehicles entering and leaving the site.	Access to the site is not a reserved matter.
The entrance to the site is unsafe.	Access to the site is not a reserved matter.
Construction vehicle parking will cause obstructions.	Statutory consultees have not requested a condition in this regard.
The dwelling is being provided with a foul drainage system that would serve a much larger dwelling and this should be taken as being representative of the intentions	Foul and surface water drainage provisions are discussed above. Overprovision cannot be taken to demonstrate any future proposals.
A dwelling of this size is unviable without external storage and a garage which are not shown.	Any future proposal for garaging or storage would have to be considered on its own merits, under the terms of a planning application.
A future proposal to build a garage would undermine the removal of permitted development rights.	Any future proposal for garaging or storage would have to be considered on its own merits, under the terms of a planning application.
The plot has changed shape during the course of the application.	Amendments to the submissions are discussed fully above.

Comment	Officer Response
The adoption of the LDP means that the development should be carefully considered.	The content of the LDP has been the primary consideration.
The scale of the dwelling should be found unacceptable on visual grounds.	The scale of the dwelling is assessed above.
The extent of hardstanding proposed is out-of-keeping with the rural character.	The provision of hardstanding at the site is assessed above.
The submitted plan lacks detailed measurements.	The submitted plans are considered to be adequate, subject to the imposition of conditions in certain respects.
Letters received from the applicant should be treated as additional information that should be the subject of further public consultation.	National Planning Practice Guidance states that the need to undertake further public consultation is at the discretion of the Local Planning Authority.
The applicant states in a supporting letter that there will be 7 new trees planted, but only four are shown.	The content of the arboricultural submissions are discussed fully above.
An assessment should be undertaken in respect of the quality of the trees that are to be affected.	The impact on trees is assessed fully above.
The removal of trees will undermine the Inspectors assessment which sets out that trees are an essential characteristic of the site and contrary to previous statements that trees would not need to be removed.	The impact on trees is assessed fully above.
The proposed replacement planting would be inadequate.	The provision of replacement planting is discussed above.
It has been asked if a site visit has been undertaken.	A site visit has been undertaken.

7.4.6 A further letter was received **in support** of the application which provides similar comments as those made previously.

7.4.7 Letters were received from Bircham Dyson Bell solicitors on behalf of an objector which are summarised and responded to below:

Comment	Officer Response
Letter dated 13/03/18:	
The judgement sets out that the application should be deemed invalid.	This is not consistent with Officers interpretation of the judgement.
The judgement sets out that the development will represent an unacceptable intrusion into the countryside and landscape.	This is not consistent with Officers interpretation of the judgement.
The judgement sets out that the application should be refused.	This is not consistent with Officers interpretation of the judgement.

Comment	Officer Response
All previous correspondence should be considered.	All previous correspondence has been reviewed and summarised as appropriate.
All new documentation should be provided to the objector.	Re-consultation has taken place with documents being available in the conventional manner.
Previous submissions have not been adequately considered.	It is considered that this report addressed this matter.
Any change to the layout of the development would render the application invalid. This is supported by the judgement.	This matter is addressed fully in the above assessment.
A list of dimensions has been provided that demonstrate that the layout of the development is different and reduces the green space available at the site.	This matter is addressed fully in the above assessment.
The impact on and protection of trees was not appropriately considered previously.	This matter is addressed fully in the above assessment. Additional information has been sought, consulted upon and appropriately assessed.
The removal of trees was not forecast when the 2013 application for outline planning permission was considered by the LPA of the Planning Inspector and therefore this conflict should be a reason for the refusal of the application.	A condition relating to the trees at the site was imposed on the outline permission and further conditions are recommended now. The matter of landscaping was reserved.
The 2013 assessment of the proposed dwelling should carry weight and it is noted that the assessment was negative.	Notwithstanding the content of statements made in 2013, it should be noted that the Planning Inspector granted outline consent.
The development is contrary to the LDP, particularly policy S8.	This matter is addressed fully in the above assessment.
Letter dated 20/04/18:	
It is requested that the manner in which comments from the March 2018 letter were summarised is revised.	Noted, but not considered to be a material consideration in respect of the assessment of the proposed development.
It is highlighted that the need exists to provide reasons for decisions.	Noted.
All previous correspondence should be provided to the North West Area Planning Committee.	Request noted, however this is not the conventional process of the Local Planning Authority and all correspondence can be viewed on request.
Letter dated 03/07/18:	
The additional information that has been submitted includes inconsistencies with respect to the trees that are to be retained and the	These matters have been addressed above and it is suggested that conditions are imposed to address the identified variances where necessary.

Comment	Officer Response
position of the proposed soakaway.	
The inconsistencies have prevented reasonable consideration of the proposals by third parties.	It is not agreed that the additional information that has been submitted has prevented reasonable assessment of the proposals by third parties.
The means of calculating the appropriateness of the proposed soakaway is unacceptable.	The soakway calculation methodology has been found acceptable by the Council's Environmental Health Team.
The proposed soakaway and pumping station would be within the root protection area of the development.	This matter can be addressed through the imposition of a condition, without any party being prejudiced.
The loss of trees and the impact on trees at the site would result in the development having an intrusive impact on the countryside.	This matter is addressed in the above assessment.
The replacement tree planting proposed does not provide adequate mitigation for the trees that are to be removed.	Replacement tree planting proposals have been assessed by the Tree Officer and the relevant comments are addressed above.
Proposals for the use of protective fencing and other tree protection measures should be properly assessed and are criticized.	The submissions of the applicant in this regard have been deemed acceptable by the Council's Tree Officer.
It is considered that clarification should be provided as to how trees will be protected in the absence of a Tree Preservation Order.	The trees will be protected through the use of conditions.
It is requested that clarification is provided about how conditions and limitations will be enforced.	Any enforcement will be expected to follow conventional planning enforcement procedures of the Local Planning Authority.

7.4.8 A letter has been received from the applicant responding to some of the contents of the letters of objection.

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of this permission.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).

- 2 Subject to the second paragraph of this condition, the development hereby permitted shall be carried out in complete accordance with the approved drawings Location Plan: 12.2005/M002 dated 10 January 2013; Site Layout / Block Plan Drawing No: 16.09.03 Revision B dated 27 February 2017; Proposed Floor and Roof Layout Plan Drawing No: 16.09.01 Revision A dated 3 February 2017; East 'Street Scene' Elevation Drawing No: 16.09.04 Revision A dated 4 February 2017; Proposed Elevations Drawing No: 16.09.02 Revision A dated 3 February 2017, DB/SUM/01 and DB/SUM/02.
Notwithstanding the details shown on plan 16.09.03 Revision B (dated 27 February 2017) no trees shall be felled or removed unless specifically shown on the Tree Protection Plan (DB/SUM/01)
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 3 The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed below and retained as such thereafter:-
Dwellinghouse
Roof Tiles: Barrow: 'Brindle Mix' by Wienerberger Ltd
Brickwork: Durham Red Multi by Wienerberger Ltd
Render: White painted finish
Joinery: Timber
Porch frame: Natural oak
Black rainwater goods and downpipes
REASON: To ensure the external materials to be used in construction of the development is appropriate and in keeping with properties in the locality accordance with policy D1 of the Maldon District LDP.
- 4 The access and parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved Drawing: 16.09.03 Revision B dated 27 February 2017 and shall be retained as such thereafter.
REASON: In the interest of highway safety and to ensure appropriate parking is provided in accordance with policies D1 and T2 of the Maldon District LDP.
- 5 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no first floor windows or other form of opening shall be constructed on the northern flank wall of the dwellinghouse hereby permitted without planning permission having been obtained from the Local Planning Authority.
REASON: To protect the amenity of the neighbouring residential properties to the north of the site in accordance with policy D1 of the Maldon District LDP.
- 6 Prior to the commencement of the development details of the surface water and foul water drainage to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed before the building is occupied in accordance with the approved details.
REASON: To prevent the undue contamination of the site in accordance with policy D2 of the Maldon District LDP.
7. Notwithstanding the content of the Landscape Plan (DB/SUM/02) hereby approved, prior to the commencement of the development hereby approved, details of the siting and species of a third replacement fruit tree at or adjacent to the west boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. Subject to and including the abovementioned revision, all soft landscaping shown on the Landscape Plan (DB/SUM/02) shall be planted during the first planting season following the occupation of the dwelling hereby approved. If within a period of five years from the date of the planting of any tree or plant that tree or plant, or any tree or

plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

REASON: To ensure the suitable replacement of trees at the application site in the interest of local visual amenity in accordance with policies D1 and S8 of the Maldon District LDP.

8. Notwithstanding the details shown on plans 16.09.03 Revision B (dated 27 February 2017), details of the precise location and routes of all soakaways, inspection chambers, pumping stations, pipework and other such infrastructure related to foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be undertaken only in full accordance with the approved details.

REASON: In the interests of tree protection at the site in accordance with the NPPF and policies D1 and S8 of the Maldon District LDP.

INFORMATIVES

- 1 This Reserved Matters application: **RES/MAL/16/01475** shall be read in conjunction with Outline Planning Application: **OUT/MAL/13/00118**.
- 2 All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the specifications of the Highway Authority; details shall be agreed before the commencement of works.
- 3 The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:
SMO2 - Essex Highways
Springfield Highways Depot
Colchester Road
Chelmsford
Essex
CM2 5PU