



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
NORTH WESTERN AREA PLANNING COMMITTEE
01 OCTOBER 2018

Application Number	FUL/MAL/18/00805
Location	Brook House, Spar Lane, Purleigh, Essex, CM3 6QW
Proposal	Two replacement dwellings
Applicant	Mr J Lawrence
Agent	Mr David Wallis - Smart Planning Ltd
Target Decision Date	05 October 2018
Case Officer	Hilary Baldwin
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call-in By Cllr Miss S White on the grounds of public interest.

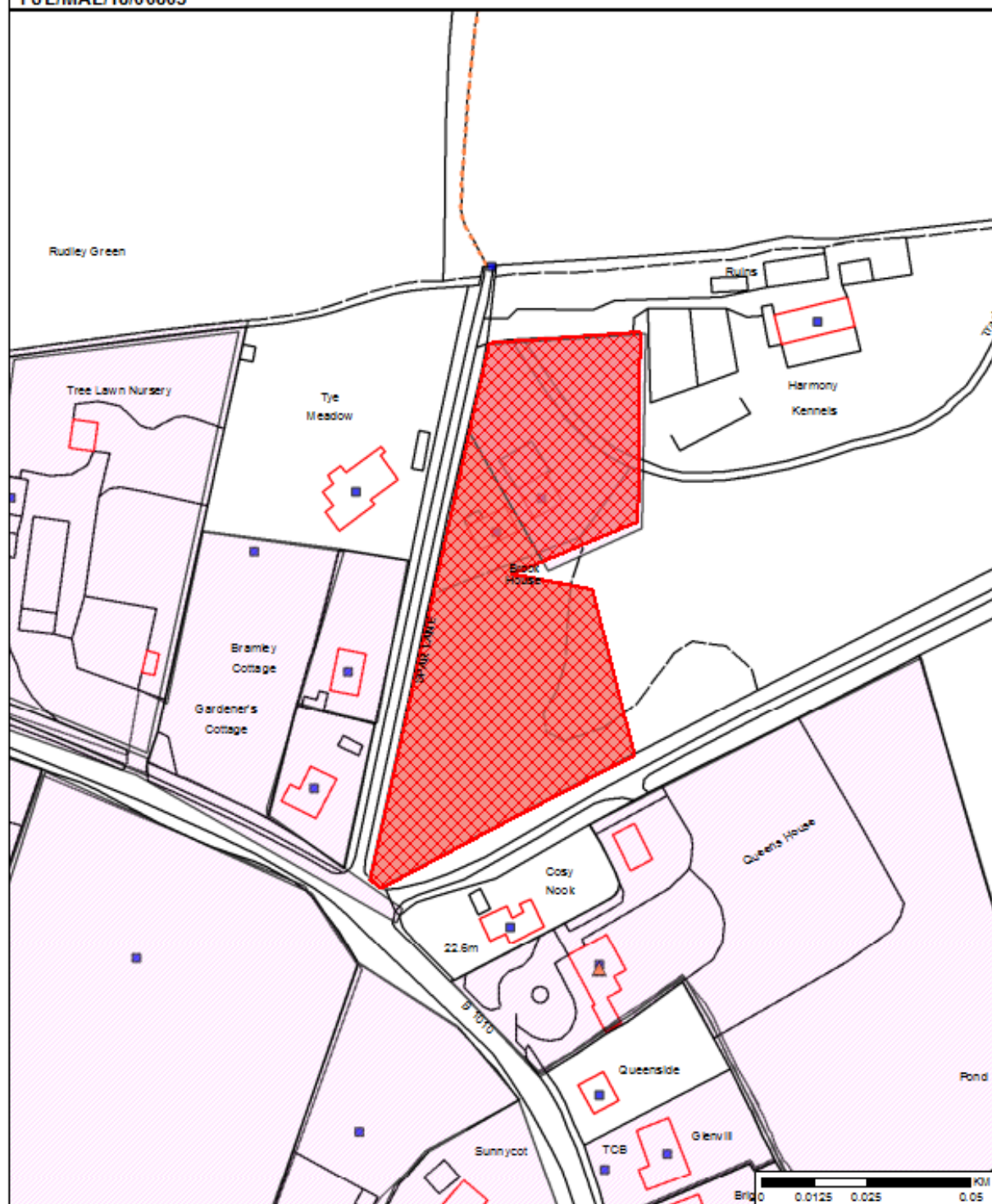
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

NWAC
FUL/MAL/18/00805



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	Organisation: Maldon District Council
	Department: Planning Services
	Comments: NWAC
	Date: 18/09/2018
	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 in a rural setting outside of the settlement boundary of Purleigh. The site is positioned to the north of Chelmsford Road and is bounded between Spar Lane to the west and Rudley Green Lane to the south east. Both lanes have a common junction point with Chelmsford Road to the south of the site.
- 3.1.2 Spar Lane continues north past the site and turns into a bridleway leading to Spar Hill. To the north east of the site are former kennel buildings known as Harmony Kennels.
- 3.1.3 Within the site and located in northern section are two structures. The western structure is a single storey timber clad building whilst the second is a two storey brick building. The southern section of the site is overgrown open land with remnants of the former kennel use visible to the east. The site boundaries adjoining the lanes comprise of native hedgerows and trees.
- 3.1.4 It is noted that the site description on the application form states a site area of 2 hectares. However, the site outlined in red on the submitted location and block plan together with the other drawings and documentation reference a site area of 0.58ha.

The Proposal

- 3.1.5 Planning permission is sought to demolish both the existing structures on the site and build two detached, two storey dwellings with detached cartlodes, create separate vehicles access points for each dwelling and provide private amenity space around each dwelling.
- 3.1.6 For clarity, the southernmost dwelling is referenced as Plot 1 whilst the northern most dwelling is referenced as Plot 2.
- 3.1.7 Both dwellings would be identical, but the cartlodes would be different with cartlodge for plot 1 measuring 6 metres by 7 metres and the cartlodge for plot 2 measuring 6 metres by 7.5 metres. The dwelling at Plot 1 would be orientated to face south with the vehicle access being taken from between the junction of Chelmsford Road, Spar Lane and Rudley Green Lane, whilst the dwelling at Plot 2 would be oriented to face south east with the vehicle access being taken from Spar Lane to the west.
- 3.1.8 The ground floor dimensions of both dwellings would be 13.8m wide by 11.9m deep with a further side elevation single storey projection measuring 3 metres wide and 7.2 metres deep and a garden/family room to the rear. The height of both dwellings would be a maximum of 7.35m with the side projection having a height of 5.6 metres.
- 3.1.9 The chalet-style dwellings would feature full two storey gable projections to the front and rear, with dormers windows to the front, rear and side. The dwellings would feature brick plinths with rendered elevations.

- 3.1.10 This application follows the refusal of a similar application FUL/MAL/17/01259 for the following reason:

“The proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework, particularly in terms of the environmental element of sustainability, would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as contained within the National Planning Policy Framework.”

- 3.1.11 The main difference between this application and the previous application is that the plots now feature detached, lower key cartlodges rather than attached garages to the site, with first floor accommodation above. The dwelling on plot 2 has also been re-orientated.

3.2 Conclusion

- 3.2.1 Whilst full regard has been had to the planning history at the site, the proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework, particularly in terms of the environmental element of sustainability, would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan (LDP) and the National Planning Policy Framework (NPPF) as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan (MDLDP) and the core planning principles and guidance as contained within the NPPF.

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:

- 7, 8, 10-12, 38, 47-50, 59-66, 102-111, 117-118, 124-132 and 184-192

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
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).
- 5.1.2 The site is located within a rural area outside of any settlement boundary. As such, the criterion of the approved strategic LDP policies S1 and S8 must be met. These policies require that housing growth meets local needs and delivers a wider choice of high quality homes in the most sustainable locations. Furthermore, outside of development boundaries it is the Council's priority that the countryside is protected for its landscape and intrinsic character and beauty. As such, the siting of new dwellings in rural areas is contrary to policy.
- 5.1.3 However, the applicant has submitted a formal Planning Statement in support of their proposal and considers that the site benefits from an extant permission, which dates back to 1985 (approved under the terms of application MAL/824/85). That application required the removal of the existing dwelling on site; known as Brook House, and proposed a replacement dwelling to the south of the site. The replacement dwelling would have been approximately located within Plot 1 of the current proposal. A garage with flat above was also approved in a location approximately within Plot 2 of this current application. Furthermore, the 1985 application comprised remodeling of dog kennels, an exercise track and other outbuildings in relation to the business use of the site.
- 5.1.4 It is stated that the garage and flat above were constructed and therefore permission remains extant and the principle of erecting a replacement dwelling has been established. It is however, acknowledged by the applicant that the garage and flat were not constructed or used in accordance with the terms of the conditions of the 1985 application and therefore a subsequent Lawful Development Certificate for existing use was applied for in 2017 (LDE/MAL/17/00012). Sufficient evidence was submitted in support of the use of the two storey brick built structure to allow the Council to consider that on the balance of probability the building was lawful in terms of its use as an open market dwelling.

- 5.1.5 It is therefore argued by the applicant that, given the construction of the garage building and flat over and the subsequent establishment of the lawful use of the dwelling, that the principle of development as approved under the 1985 application is extant and could therefore be built out.
- 5.1.6 The original dwelling on the site remains in place and there are therefore technically two existing dwellings at the application site.
- 5.1.7 However, if the Council were to consider that the whole site now benefits from two residential dwellings and that the replacement of Brook House could be undertaken at some time now or in the future, this would need to be undertaken in accordance with the conditions as appended to that proposal. This would therefore require that the dwelling (located approximately within Plot 1) be appended by a condition to require its use to be solely for the benefit of an agricultural worker or their dependent. It therefore follows that if the Council were minded to approve the current application on the basis that the 1985 permission is still extant and therefore concur with the viewpoint of the applicant, then such a condition would still be relevant for its successor and consequently subject to this proposal.
- 5.1.8 It is noted that the replacement dwelling subject of Plot 2, would, in principle replace the former garage building and flat over, which was granted lawful use as a separate dwelling in 2017 and would be unrestricted.
- 5.1.9 It is pertinent to note that at the time of determination of the 1985 application, the Council approved that proposal subject to a condition that the original Brook House was demolished and its replacement represented an Agricultural Workers Dwelling. Moreover, the requirement for the replacement dwelling to be used in association with the kennels on the site is corroborated by a letter from the applicant to that effect and held within the 1985 application file.
- 5.1.10 In this case, it is considered that the applicant has two existing fallback positions. Firstly, there are two existing dwellings within the area of Plot 2, which could reasonably be replaced, subject to all other material planning considerations, under the terms of policy H4 of the MDLDP. Alternatively, a second fallback position exists where the 'garage/flat' building could be retained and a second dwelling could be built within the area of Plot 1, subject to the demolition of the original dwelling and the proposed dwelling complying with a condition that would be comparable to an agricultural workers condition. There is no fallback position, which would allow two open-market dwellings to be erected within an application site that covers the site area shown by the application that is hereby being considered. In many respects, the benefits of supporting a workers dwelling would offset or mitigate the visual impact of a development and therefore the considerations for two open-market dwellings are materially different to a workers dwelling and an open-market dwelling.
- 5.1.11 Notwithstanding the above, noting that two dwellings can lawfully exist at the site, it is considered that the erection of two replacement dwellings at the site can be supported in principle, subject to all other material considerations.

5.2 Housing Need

- 5.2.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.2 Policy H2 of the LDP and its preamble, 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, and around 71% of all owner occupied properties having three or more bedrooms.
- 5.2.3 The Council is therefore encouraged in policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal would result in 2, four bed dwellings being created and the proposal is considered to make a very limited contribution to the housing supply/ addressing the housing stock imbalance in the district.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The NPPF is unequivocal in stating the importance of high quality and inclusive design both for individual buildings and within public spaces. Design should establish a strong sense of place to create attractive places to live. Approved policy D1 also states that development must respect and enhance the character and local context and make a positive contribution in terms of:
- Architectural style, including materials, design features and innovative design
 - Scale, height, massing and proportion
 - Landscape setting
 - Historic environment, particularly in relation to designated assets, and:
 - The natural environment
- 5.3.2 Planning permission is sought for the demolition of two dwellings on the site and their replacement with two open market properties with amenity space, off street parking and adjoining garaging and first floor accommodation over. The site benefits from existing vehicle access located at the northern end of Spar Lane, which would be closed in favour of a new access point half way along Spar Lane and one on the junction of Spar Lane and Rudley Green Lane.
- 5.3.3 The impact of two large replacement dwellings together with cartlodes must be assessed in this sensitive rural location in relation to their impact and harm (if any) on the character and appearance of the rural landscape.
- 5.3.4 It is acknowledged that additional sites within the locality have been granted permission for new dwellings; however, these were granted prior to the approval of the Council's LDP. As such, whilst in terms of planning units there would be no net increase within the application site, the impact of the proposal upon the rural area and assessment against the criterion of policies S1, S8, D1 and H4 which require restraint on residential development in rural areas must be assessed in terms of built form and the composite result of additional large dwellings in this location.

- 5.3.5 It was previously a concern of Officers that the two dwellings would represent large detached properties seen in conjunction with each other and which would urbanize the site to the detriment of the rural area. Whilst it was acknowledged that the site contains two dwellings, it was deemed that these are modest in form and set well back from Chelmsford Road and towards the northern end of Spar Lane. It was therefore a concern that the mass and scale of the two proposed dwellings would be seen in tandem from the public realm and would result in the urbanization of the site and the local area. Furthermore, the spread of domestication would result in the private amenity spaces adding to the ribbon of development along the highway.
- 5.3.6 It was previously considered that the current intervening green space to the south of the site and between Spar Lane and Rudley Green Lane adds to the open, verdant and dispersed grain of development in this location outside of a settlement boundary. It was assessed that the settlement boundary of Purleigh is located to the south of the site and is a minimum of 500m with the school, village shop, public house and church further south again. In addition, the southern section of the site provides a clear divide between the dwellings along the northern side of Chelmsford Road and the undeveloped nature of the southern end of the site.
- 5.3.7 Therefore, the siting of two large dwellings with adjoining carports was considered to conjoin the existing development along the northern side of Chelmsford Road and northward along both Spar Lane and Rudley Green Lane. It was considered that the development of the site between these two rural lanes would introduce a hard urban edge as a result of built form, urban sprawl and domestic paraphernalia to the detriment of the character and appearance of the area and the general settlement pattern, which is a key element of the countryside's character, and appearance. The introduction of formal boundaries, access points and hard landscaping for privacy and security was also considered to lead to further urbanization of the plot to the detriment of the visual character of the area.
- 5.3.8 In many respects, the same is true of this application, but due to the removal of the attached garages and the linking sections to the side of the dwellings, it is considered that the scale of the dwellings has been reduced and as such the proposal requires re-assessment.
- 5.3.9 In this respect it is noted that the main part of the dwellings remain fundamentally the same as the dwellings that were previously proposed and therefore the most visually dominant part of the development will have the same impact as before. The main difference between the proposals is that the large link-attached garages which would have projected 14.2 metres from the side elevation of the main dwelling and measured 5.85 metres tall have been removed from the proposals and replaced with the 3 metre wide extensions and the detached cartlodes that are mentioned above.
- 5.3.10 As a result of these changes it is considered that the scale of the built form would have a materially reduced impact on the character and appearance of the countryside. Rather than sprawling masses of built form, it is considered that the dwellings are more appropriately sized in the context of the surrounding area and the side projection and cartlodes appear as reasonable and subordinate additions which result in the development appearing materially different to the development that was proposed before.

- 5.3.11 However, the dwellings would still be large buildings and whether or not they are detached, the cartlodes still add to the overall amount of built form at the site. The sprawl of built form and domestication of the site would be generally the same as that which was previously found unacceptable.
- 5.3.12 As set out above, the principle of erecting a replacement dwelling on the site was found acceptable through the grant of permission in 1985, it is conceded that in the file for that application it was considered that a two storey four bed dwelling was appropriate. However, that proposal still represented an agricultural workers dwelling which would have been fit for function and would not represent an expansive property of the scale and mass proposed in this current application and would also have required the removal of the existing dwelling. Furthermore, the provision of an agricultural dwelling provided planning merit that is not contained in this proposal.
- 5.3.13 It is noted that new dwellings have been allowed through the appeal process to the northern side of the highway at the former Treelawn Nursery site, (Ref: OUT/MAL/15/00691 and APP/X1545/W/16/3148836). However, it must be noted that the Inspector for the appeal considered that site to represent previously developed land and was therefore distinguishable from the wider countryside and would consolidate rather than extend the pattern of settlement. The proposal subject of this report result in additional coalescence of the built form in this area and would extend the built form into previously undeveloped land. Therefore, the above appeal is considered to be a material consideration of limited weight when determining this application.
- 5.3.14 Policy H4 states that extensions to residential curtilages will not normally be permitted. Whilst the Council may concede that the site contains two residential properties with domestic curtilages, these do not currently extend to the south of the site. Whilst this land may be in the ownership of the applicant and be subject to an extant permission for a new dwelling, it is not considered that at the present time this land forms part of the domestic land in use by the existing properties.
- 5.3.15 As such, it is considered that the proposal would fail to comply with policies S1, S8, D1 and H4 of the LDP and the provision and guidance as contained within the NPPF and the MDDG.
- 5.3.16 The impact of the development on the character and appearance of the site would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the local plan, the approved policies of the LDP and the NPPF.
- 5.3.17 It is noted that the applicant has provided notes of a meeting that took place with Officers after the refusal of the previous application. Whilst a little skewed, it is considered that the applicant's comments do not wholly misrepresent the discussion that was had. However, the point that is not clearly made is that Officers comments were attempting to set out that if the spread of built form southwards at the site was to be accepted, it must be demonstrated that the visual impact of doing so was acceptable through the reduction of built form and the provision of additional landscaping. It is noted that landscaping proposals have been provided and the built form has been reduced, but overall it is considered that the alterations have not overcome the concerns that were raised previously.

5.4 Impact on Residential Amenity

- 5.4.1 Policies D1 and H4 protects neighbouring occupiers from unacceptable development which results in a loss of amenity in relation to overlooking, overpowering or undue reduction of light to the main windows of the adjacent property
- 5.4.2 The dwellinghouse houses would be located in spacious plots. The distance between the two properties would be in excess of 30m and are not considered to result in loss of amenity to either potential future occupier. There are single storey properties on the western side of Spar Lane, however, both proposed properties would be set back from that lane and would not result in significant loss of amenity to those occupiers.
- 5.4.3 The proposed development, due to its relationship with the neighbouring properties is not considered to give rise to any demonstrable harm by way of overlooking or overshadowing and is compliant with policies D1 and H4 of the LDP and the guidance contained within the NPPF.

5.5 Access, Parking and Highway Safety

- 5.5.1 The Maldon District Council Supplementary Planning Document, Vehicle Parking Standards, states that residential dwellings comprising four bedrooms or more require a maximum of 3 spaces. Such provision would be met in this instance.
- 5.5.2 Essex County Council Highway Authority (ECC) has been formally consulted on the application in terms of highway safety and whilst no comments have been received in this instance, it is noted that no objections were raised to the proposal as previously submitted and due to the similarities in terms of means of access, it is considered that there is not likely to be an objection raised in respect of this application on the grounds of highway safety, subject to the imposition of conditions.

5.6 Private Amenity Space and Landscaping

- 5.6.1 The Essex Design Guide requires that three or more bedroom dwellings have a minimum of 100m² of private garden space. The proposal would provide in excess of this for each property and as such the required provision would be met.
- 5.6.2 The proposal contains detail of the hard and soft landscaping which is discussed above and is considered to be of some benefit to the appearance of the site.
- 5.6.3 The proposal has been supported by an Arboricultural and Ecology Report. The Council's Tree Consultant was previously satisfied that there are no trees of any significant amenity value on site and the vegetation at the site can be retained and protected. A condition to ensure that any subsequent development is carried out in accordance with the Tree Report can be appended to any grant of permission.

5.7 Other Material Considerations

- 5.7.1 It is noted that the Council's Environmental Health Service have stated that the site is in excess of 2 hectares and would require consultation with the Essex County Council in their capacity as the Lead Local Flood Authority. However, it has been clarified that the red line area of the site extends to approximately 0.58 hectares and is

therefore not a requirement. Furthermore, as the consultation response does not recommend any conditions for foul water drainage and the proposed dwellings would be served by package treatment plants it is considered appropriate to append a condition requiring full details of this should permission be given. The consultation response also recommends conditions for surface water drainage and requirements in the event of land contamination. Should permission be granted it is considered that such conditions are appropriate and necessary and can be appended to any subsequent decision.

- 5.7.2 The matters raised by Purleigh Parish Council are considered to have been addressed within the report.

6. **ANY RELEVANT SITE HISTORY**

- **MAR/120/66/1** - Demolition of existing dwelling and erection of new 4 bedroom bungalow - Approved - 20 May 1974
- **FUL/MAL/85/00824** - Replacement kenneling facilities with garage and flat over, replacement dwelling, resurfacing of track and car park and cesspool drainage – Approved - 24 January 1986
- **LDE/MAL/17/00012** - Claim for a Lawful Development Certificate for the existing residential use – Granted -13 March 2017
- **FUL/MAL/17/01259** - Two replacement dwellings – Refused – 13 March 18

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	Object on the grounds of the visual impact of the development, the sustainability credentials of the site, part of an access appears to have already been created, the provision of kerbing would be out-of-keeping, the plans are inconsistent and the access will be detrimental to highway safety.	Comments noted and addressed as relevant above.

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Authority (ECC)	No response received.	Weight has been given to the advice they have provided in relation to application FUL/MAL/17/01259.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Service	No Objection The site is greater than 2Ha therefore; ECC Lead Local Floor Authority should be consulted. If they do not wish to comment please add a Surface Water Drainage condition	The comments of the Service are noted and addressed within the report.

7.4 Representations received from Interested Parties

7.4.1 1 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
<ul style="list-style-type: none"> The dwellings will not help older people downsize. Overdevelopment of the area and the impact on drainage. Disruption during the construction process. Despite what is shown on the plans, there is no bus stop at the site. The proposal will have an unacceptable impact on Spar Lane. The proposal will have a detrimental impact on biodiversity. Previous maintenance of hedges has not been undertaken appropriately. The bridle path adjacent to the site should be protected. 	<ul style="list-style-type: none"> Comments on housing mix are provided above. There is no not increase in the number of dwellings proposed. Can be addressed under other legislation or a condition. Noted Compared to the former use of the premises as a kennels, the level of vehicle use is not likely to be harmful. This has been assessed above and could be the subject of a condition to require mitigation. A condition would be imposed on any permission granted to address soft landscaping. The level of vehicle use would not be materially greater than the former or existing use.

8. REASON FOR REFUSAL

- 1 The proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework, particularly in terms of the environmental element of sustainability, would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as contained within the National Planning Policy Framework.