



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

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**NORTH WESTERN AREA PLANNING COMMITTEE**  
**20 MAY 2019**

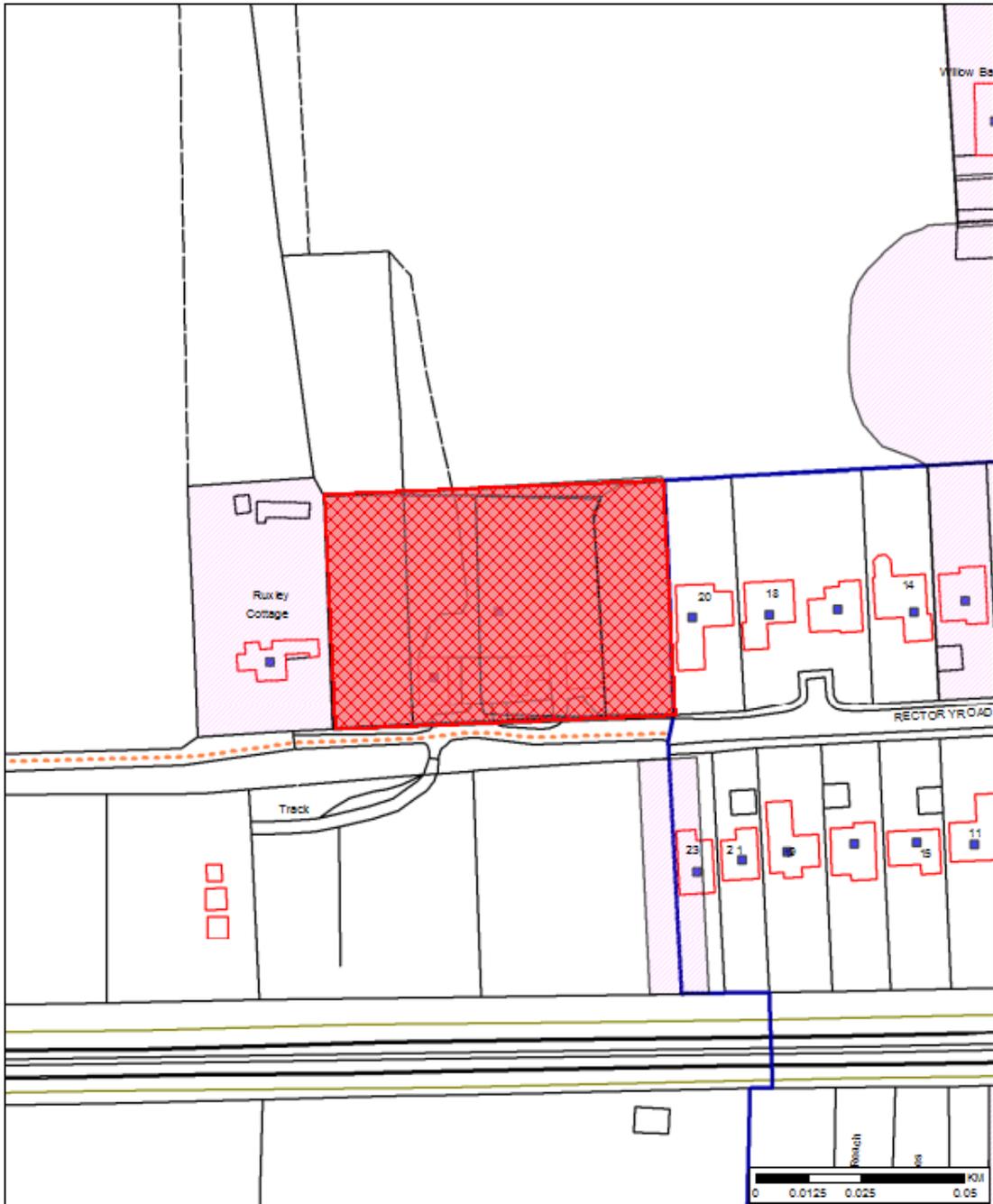
<b>Application Number</b>	<b>FUL/MAL/19/00306</b>
<b>Location</b>	Land East Of Ruxley Cottage Rectory Road North Fambridge
<b>Proposal</b>	Removal of existing buildings and construction of 3no. dwellings including new vehicle access, parking and amenity.
<b>Applicant</b>	Mr Friedlein - Fambridge Farm Company Ltd
<b>Agent</b>	Mr Russell Barnes - R+R Architects Ltd
<b>Target Decision Date</b>	08.05.2019
<b>Case Officer</b>	Hannah Bowles
<b>Parish</b>	<b>NORTH FAMBRIDGE</b>
<b>Reason for Referral to the Committee / Council</b>	Member call in by: Councillor S White Reason: Public Interest

**1. RECOMMENDATION**

**REFUSE** subject to the reasons as detailed within Section 8 of this report.

**2. SITE MAP**

Please see overleaf.



### **3. SUMMARY**

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

- 3.1.1 The application site is located in a rural part of the district on the edge of North Fambridge, at the western end of Rectory Road and beyond a modern housing development. The site consists of a number of buildings along its southern boundary used for stabling and storage purposes. To the rear of these buildings but still within the site is an area of scrubland which opens out onto a large paddock beyond the site's northern boundary. The western end of the site is an enclosed area of grass and vegetation adjacent to Ruxley Cottage that backs onto a large belt of trees running to the north. A smaller belt of trees occupies the eastern end of the site adjacent to 20 Rectory Road.
- 3.1.2 The existing buildings on the site represent a disparate collection of stable buildings, an arched top Nissan hut and a corrugated metal hay storage barn. The land to the west and east of these buildings and to the rear (north) is undeveloped open land with numerous trees and native hedgerows.
- 3.1.3 The site lies just outside the settlement boundary for North Fambridge.
- 3.1.4 Planning permission is sought to remove the existing buildings on site and construct three dwellinghouses with vehicle accesses to the front and private amenity space to the side and rear of the buildings.
- 3.1.5 There are two types of dwellings referenced on the plans (type 1.1 and 2.1) however, they are handed replicas of each other. The proposed dwellings are bungalows which measure a maximum of 11.2m wide, 8.6m deep and 5.7m in height. The bungalows would be finished with gable roofs and front facing gable projections. The proposed materials are timber cladding with a low level brick plinth and plain tiles.
- 3.1.6 The dwelling proposed in plot 1 as shown on plan reference 002 B 01 f, is orientated to face east whilst the dwellings within plot two and three face onto Rectory Road in a southern direction. Each dwelling would be provided with private amenity space and vehicle access to the highway. Plots one and two would be accessed by way of a single access point and be provided with two parking bays each, set adjacent to the common boundary, whilst plot three would have a two-bay parking area set directly adjacent to the highway and its own point of access.
- 3.1.7 The land to the north of the three dwellings and their private amenity space, which extends back approximately 10m from the northern elevation of the buildings, is designated on the plan as an open paddock.
- 3.1.8 It is pertinent to note that the application follows four previous applications for residential development at the application site, one of which was dismissed at appeal (details are within section six below).

#### **3.2 Conclusion**

- 3.2.1 The proposal is not considered to have overcome the previous reasons for refusal. The erection of three dwellings on this site and associated works, outside the defined

settlement boundary of North Fambridge would fail to protect or enhance the natural beauty, tranquillity, amenity and traditional quality of the rural landscape setting, it is likely to cause a loss of landscaping and rural qualities that currently forms an integral part of, and contributes to, the rural quality of the area. The proposal would therefore fail to make a positive contribution to the locality and cause an unacceptable degree of harm to the character and appearance of the locality and represent unwarranted development within the countryside contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP) and core planning principles and guidance contained in the National Planning Policy Framework (NPPF) and the Maldon District Design Guide (MDDG) (2017).

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

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

##### **4.1 National Planning Policy Framework 2019 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- H5 Rural Exception Schemes
- N1 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF) (2018)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (2017) (MDDG)
- Vehicle Parking Standards

## 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 the rural area outside the development boundary of North Fambridge and approved policies S1 and S8 of the LDP provide the strategic position for the future growth and direction of travel of the built environment for the Maldon District. The approved plan and specifically the strategic policies seek to deliver residential growth whilst contributing to protecting and enhancing the District's natural, built and historic environment.
- 5.1.3 The NPPF is also clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three key dimensions that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental roles. This requirement is also included in local plan policies including policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.4 Furthermore, the Maldon District, outside of the defined settlement boundaries is predominantly rural in nature and the provision of three detached dwellings on the site would urbanise it to the detriment of the character of the area. This is discussed further in a subsequent section of this report.
- 5.1.5 North Fambridge is a village with limited services and facilities to serve the local community. Whilst this is the case, it is noted in appeal decisions for residential development, (Ref: OUT/MAL/14/00076, FUL/MAL/13/00552 and OUT/MAL/15/00225) outside but immediately adjacent to the settlement boundary, Planning Inspectors have stated that the locations are 'relatively sustainable' being within easy walking distance of the railway station with mainline service connections and bus services, albeit relatively infrequently. It was concluded in those appeal decisions that the future occupiers of these sites would have access to a range of services, facilities and employment without reliance on the private car.
- 5.1.6 Based on the Planning Inspector's appeal decisions on applications that are located in close proximity to this application site it is considered that the refusal of the proposal, with reference to accessibility in terms of transport provision could not be sustained at appeal. This is furthered by the lack of a reason for refusal on this element within the most recent application on the site subject of this application.
- 5.1.7 It is accepted that the site appears to be previously developed land. It is noted that the NPPF states that paragraph 84 of the NPPF states that "*the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*" The previous use of the site appears to be for equestrian purposes, which is not within the definition of agriculture and as such it is considered that the land represents brownfield land.

- 5.1.8 However, whilst the NPPF encourages the re-use of land, this does not necessarily mean that the re-use should be for residential purposes.
- 5.1.9 It is considered that the site could be used for any of the accepted purposes that are set out within policy S8 which would be policy compliant whilst also achieving the re-use of previously developed land. Such uses should be explored before it can be argued that residential use is the only prudent re-use of the site. Therefore, whilst the re-use of the site can be encouraged, it is considered that this does not give grounds to support the erection of open-market residential dwellings at the site, contrary to local and national planning policies. Therefore, whilst being reasonably accessible, it is considered that the proposal to erect dwellings in a location outside the settlement boundary is still contrary to the policies of the local plan.
- 5.1.10 In this case, due to the detrimental visual impact of development in this area and the demonstrable harm to the character and appearance of the site, and the wider rural area that will be discussed below, it is considered that the proposal does not meet the definition of sustainability as contained within the Framework.

## **5.2 Housing Need**

- 5.2.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two bedroom units to create better housing offer and address the increasing need for smaller properties due to demographic and household formation change. The Council will therefore support, by way of approved policy H2, a greater proportion of smaller units to meet the identified needs and demands for such housing. The NPPF is clear that housing should be provided to meet an identified need as set out in Chapter 5.
- 5.2.2 Whilst the proposal comprises of three dwellings that would have two bedrooms and the developments contribution to the District's identified housing need is therefore of some weight, these benefits can only be categorized as minimal in this instance as it is considered that the benefits do not outweigh the harm caused by inappropriate development in the countryside.

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

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- 5.3.3 *“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”.*

- 5.3.4 *“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”.*
- 5.3.5 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;
  - d) Layout, orientation, and density;
  - e) Historic environment particularly in relation to designated and non-designated heritage assets;
  - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
  - g) Energy and resource efficiency.
- 5.3.6 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.3.7 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.8 The proposal would result in three detached bungalows set along the northern side of Rectory Road on a site that is located between the end of the built form within Rectory Road that is within the settlement and a rural dwelling known as Ruxley Cottage.
- 5.3.9 Rectory Road comprises of two-storey dwellings of Mock Tudor design, all with similar characteristics and appearance. The residential dwellings are set back from Rectory Road with off-street parking to the front in the form of a detached garage or integral garage and general parking within the front curtilage of the building. Only Ruxley Cottage to the end of the Rectory Road is different in terms of design and appearance. This cottage is separated from No. 20 and No. 23 Rectory Road by about 80 metres with agricultural buildings in between No. 20 and the cottage. The design, appearance, architectural style and detailing of this cottage does not reflect the existing dwellings along Rectory Road and therefore has its own charm and identity due to its degree of separation with existing residential properties when viewed in the street scene. The proposed bungalows would relate poorly to the development to the east and west of the site, whilst in isolation the bungalows are considered to be of adequate architectural merit, in this location it is not considered that they would

respect and enhance the character and local context contrary to policy D1 of the MDLDP.

- 5.3.10 Further, the site has a distinct and established rural character which is in direct contrast to the eastern end of Rectory Road which comprises a suburban style estate setting with similar properties set along a formal highway. Whilst being in close proximity to these properties, the site provides a discernible visual change to the rural countryside and the more isolated property of Ruxley Cottage.
- 5.3.11 The appeal decision for OUT/MAL/15/00225 (APP/X1545/W/16/3142557), which refused permission for five dwellings at the application site, whilst being determined on 30 June 2016, is still considered pertinent to the overall assessment of residential development in this location. It is also considered important to note that that proposal was outline in form and therefore the consideration of impact upon the rural landscape would be applicable to other development proposals.
- 5.3.12 The appeal Inspector considered that the main issue was the effect of the proposed development on the character and appearance of the surrounding area and stated that there is a “marked change” in character and appearance as one travels west on Rectory Road. Up to and including No 20 the road is suburban in character but beyond this point the road becomes an unmade track and passes into countryside with well-established trees and hedgerows. The Inspector concluded that the site is therefore predominantly rural, green and tranquil, reinforced by attractive panoramic views of the countryside beyond and that the buildings, whilst dilapidated, make a positive contribution to the rural character and appearance along with Ruxley Cottage given its detached position and farmhouse appearance. It is not considered that this scheme overcomes those concerns previously raised by the Planning Inspectorate and the Local Planning Authority (LPA).
- 5.3.13 In this respect, the inherent nature of domestication, with domestic parking, amenity space and the traditional appurtenances of residential living, would detract from the character and rural tranquillity of the site and its immediate surroundings.
- 5.3.14 The inspector also determined that the site was not a “gap” site between existing residential developments but rather a starting point for the rural landscape that surrounds North Fambridge.
- 5.3.15 Notwithstanding the very recent changes within the recently published Framework, and its overarching support for new housing, it still states at paragraph 127 that planning decision should ensure that developments a) adds to the overall quality of the area, b) is visually attractive with appropriate and effective landscaping and c) is sympathetic to local character and landscape setting.
- 5.3.16 As set out above, it is considered that the proposed development for three detached dwellings would have a detrimental impact on the rural character of the site and the surrounding area. Therefore, it is concluded that the proposed development would visually and adversely harm the character of the rural locality, thus causing material harm to the rural qualities of the surroundings, contrary to Local Plan Policies S1, S8, D1 and H4 and the guidance and provision as contained within the Framework.

## **5.4 Effect on amenity of neighbouring occupiers**

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The application site has two adjacent neighbouring properties; Ruxley Cottage to the west and no. 20 Rectory Road to the east. The proposed bungalow within plot one would be 20.3m from the shared boundary with Ruxley Cottage and the dwelling within plot 3 is sited 14.1m from the shared boundary with no. 20.
- 5.4.3 Given the distance from the boundaries, the single storey nature of the dwellings and considering the existing built form on site; it is not considered that the development would result in a detrimental impact in terms of overlooking, a loss of light or domination.
- 5.4.4 The proposed development, by reason of its location and relationship with the neighbouring dwellings, would not have a greater impact on the amenity of any other nearby neighbour and it is not considered that it would result in unacceptable levels of noise and disturbance from the additional activity caused by the additional dwellings. The impact of the development on the residential amenity is therefore considered acceptable.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.5.3 Each dwelling would have two bedrooms. The recommend parking provision for a two-bed dwelling is two car parking spaces. The plans show that each dwelling would provide parking for two cars and the proposal is therefore considered to accord with adopted parking standards criterion.
- 5.5.4 Essex Highway Authority has been consulted on the application in terms of highway safety and raised no objection to the scheme.
- 5.5.5 The scheme is therefore considered to accord with the criteria of approved policy T2 of the LDP.

## **5.6 Provision of Amenity Space and Landscaping**

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms.
- 5.6.2 The proposed amenity spaces are in excess of the recommended standard.
- 5.6.3 An arboricultural assessment has been submitted with respect to this site. The submitted plans indicate that the accesses to serve the development would be usable without requiring the removal of trees at the site frontage and it is therefore considered that, subject to the imposition of conditions regarding the landscaping of the site, the development would be able to occur without causing the unacceptable loss of trees at the site.
- 5.6.4 The applicant has provided a Phase 1 habitat survey which identifies that further survey work is required, but that a scheme of mitigation could be agreed to address any protected species that are identified at or near the site and measures could be included to enhance the habitat potential of the site. Natural England and the British Standard BS 42020:2013 require that protected species surveys are carried out prior to determination. However, it is acknowledged that previous applications for the development of this site and the previous appeal decision contained no reference to ecology matters. Therefore it is considered in this instance that a refusal on ecology grounds is not reasonable. Should permission be granted, conditions relating to the required surveys should be appended to the decision.
- 5.6.5 Further conditions can also be appended to any grant of permission for full and detailed hard and soft landscaping schemes and boundary treatments to ensure the development integrates into its setting.

## **5.7 Other Considerations**

- 5.7.1 The Council's Environmental Health Service has not raised an objection to the scheme but has recommended appropriate conditions for surface water drainage, foul drainage and the process for mitigation of land contamination should it be found during construction. Such conditions can be appended to any grant of permission together with the recommend Informatives.

5.7.2 It is noted that the Parish Council has objected to the scheme and has submitted a detailed consultation response. Whilst the points raised have not been specifically referenced, it is considered that their collective concerns have been addressed throughout the report.

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

- **COUPA/MAL/14/00841** - Prior notification of a proposed change of use of 3 No. agricultural barns to 3 No. dwelling houses (Use Class C3).  
Refused: 02.10.2014
- **COUPA/MAL/15/00065** - Prior approval of proposed change of use of an agricultural building into two dwelling houses (Use Class C3).  
Refused: 24.03.2015
- **OUT/MAL/15/00225** – Outline permission for 5 no. dwelling houses with garages, parking and amenity areas and alterations to Rectory Road including the formation of new vehicular and pedestrian access.  
Refused: 08.09.2015. **Appeal dismissed: 30.06.2016**
- **OUT/MAL/16/01024** - Erection of 2 No. Bungalows, layout, parking and amenity areas and alterations to Rectory Road including the formation of new vehicular and pedestrian accesses.  
Refused: 01.11.2016
- **FUL/MAL/17/00737** – 2no new build rural dwellings of innovative design including new vehicle access, parking and amenity  
Refused: 07.12.2017
- **FUL/MAL/18/00571** - Reuse of existing buildings and conversion into 3no. dwellings including new vehicle access, parking and amenity.  
Refused: 03.10.2018  
Reason for refusal:  
*'The provision of three dwellings on this site and associated works, outside the defined settlement boundary of North Fambridge would fail to protect or enhance the natural beauty, tranquillity, amenity and traditional quality of the rural landscape setting likely to cause a loss of landscaping and rural qualities that currently forms an integral part of, and contributes to, the rural quality of the area. The proposal would therefore fail to make a positive contribution to the locality and cause an unacceptable degree of harm to the character and appearance of the locality and represent unwarranted development within the countryside contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework and the Maldon District Design Guide (2017).'*
- **FUL/MAL/19/00081** - Removal of existing buildings and construction of 3no. dwellings including new vehicle access, parking and amenity.  
Application Withdrawn: 09.03.2018

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
North Farnbridge Parish Council	Object Outside village boundary Previous appeal Inspector comments reiterated Do not agree other developments approved in the area set a precedent.	Noted and addressed within the report.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highway Authority	No Objection Subject to an informative.	Noted and addressed within the report.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Service	No Objection Subject to conditions for foul and surface water drainage and land contamination	Noted and addressed within the report.

### 7.4 Representations received from Interested Parties

7.4.1 One letter was received objecting to the application for the reasons that are summarised below

Objection Comments	Officer Response
The site is outside defined settlement limits. Change nature of the site and introduce domestic paraphernalia. Would set a precedent. Concerns regarding asbestos	The comments of objector have been noted and addressed within the report.  An informative could be appended to the decision in this respect should the application be approved.

## **8. REASONS FOR REFUSAL**

1. The erection of three dwellings on this site and associated works, outside the defined settlement boundary of North Fambridge would fail to protect or enhance the natural beauty, tranquillity, amenity and traditional quality of the rural landscape setting it is likely to cause a loss of landscaping and rural qualities that currently forms an integral part of, and contributes to, the rural quality of the area. The proposal would therefore fail to make a positive contribution to the locality and cause an unacceptable degree of harm to the character and appearance of the locality and represent unwarranted development within the countryside contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and guidance contained in the National Planning Policy Framework and the Maldon District Design Guide (2017).