



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

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

Application Number	OUT/MAL/19/00345
Location	Land Adjacent Little Hill Farm Mope Lane Wickham Bishops
Proposal	Outline application for single dwelling including determination of access
Applicant	Mr A Stott
Agent	Mr David Wallis - Smart Planning Ltd
Target Decision Date	16.05.2019
Case Officer	Hannah Bowles
Parish	WICKHAM BISHOPS
Reason for Referral to the Committee / Council	Member call in by: Councillor H Bass Reason: Public Interest

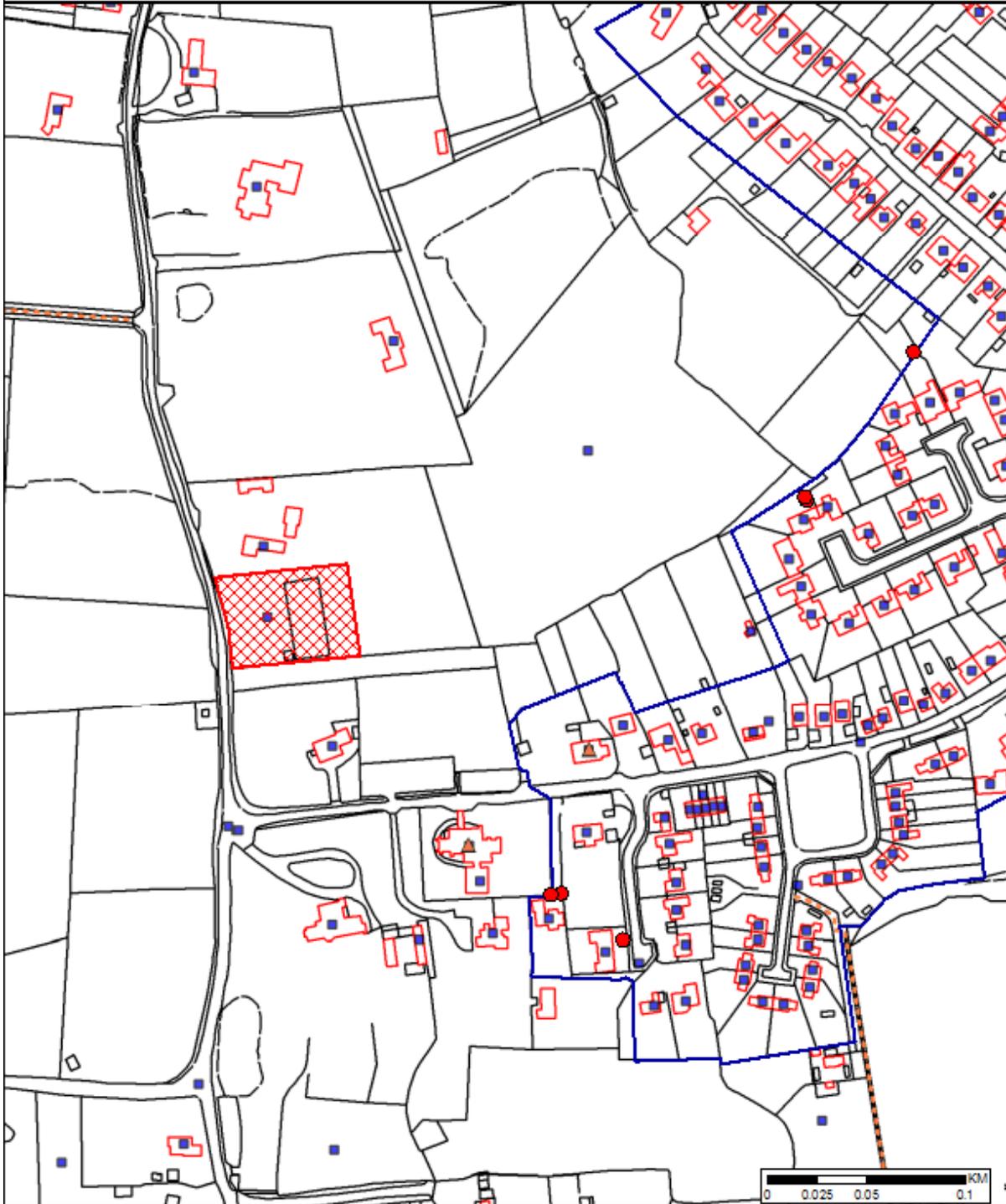
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Land Adjacent Little Hill Farm Mope Lane Wickham Bishops
19/00345/OUT



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 Maldon District Council 100018588 2014

MALDON DISTRICT
 COUNCIL

www.maldon.gov.uk

Scale:	1:2,688
Organisation:	Maldon District Council
Department:	Planning Services
Comments:	
Date:	01/05/2019
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the eastern side of Mope Lane and comprises part of the residential garden of Little Hall Farm. The site is bounded to the south by a mature hedgerow and there is further mature hedging to the highway boundary to the west. The site comprises a tennis court and extends to 0.29Ha. The site lies outside of the settlement boundary of Wickham Bishops.
- 3.1.2 Mope Lane is a narrow country lane which is rural in nature; studded intermittently with houses of various sizes set within generous plots.
- 3.1.3 Outline planning permission is sought for the erection of a detached dwelling, with associated vehicle parking, new vehicle access from Mope Lane and associated private amenity space. All matters are reserved with the exception of access.
- 3.1.4 This application is a re-submission of a previous application, reference OUT/MAL/15/00636, which was initially refused by the Local Planning Authority (LPA) but subsequently allowed at appeal. The reasoning for that decision will be discussed below. The application is identical to that approved under the terms of application OUT/MAL/15/00636, which lapsed on 5 May 2019.

3.2 Conclusion

- 3.2.1 Whilst being contrary to the Local Development Plan (LDP), the proposed development is considered acceptable in principle as the previous appeal decision at the site, for an identical scheme, carries significant weight and is considered to be a material consideration that outweighs the content of the LDP. There are no significant changes to the site, surrounding area or that would justify the refusal of this application. Therefore, given that the proposal is not considered to harm the character and appearance of the area, the amenity of the neighbouring occupiers and provides adequate parking and amenity space the proposal is considered to be in accordance with the policies of the LDP and the guidance contained within the National Planning Policy Framework (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 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:

- Policy S1 – Sustainable Development
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1 – Design Quality and Built Environment
- Policy D2 – Climate Change & Environmental Impact of New Development
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy T1 – Sustainable Transport
- Policy T2 – Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development and Sustainability

5.1.1 Planning permission is sought for a new dwelling outside of the development boundary for Wickham Bishops.

5.1.2 The site is located in the countryside where policies of restraint apply. Policy S8 seeks to support sustainable development in settlement boundaries and to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy states 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 the development is for one of the development types listed within that policy. The proposed residential dwelling would not fall within any of the categories listed within policy S8. Therefore the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

5.1.3 In this instance, as stated above a previous application for the same proposal, (reference OUT/MAL/15/00636), was initially refused but subsequently allowed at appeal. The appeal decision and findings of the Planning Inspector carry significant weight in the determination of this application. It is relevant to note the following comments within the appeal decision, in relation to the principle and sustainability of the site:

- *I do not consider it fundamental to my decision on this appeal to reach a conclusion on the validity of the Council's 5 year HLS as, even if the supply is currently in excess of 5 years, the provision of one additional dwelling would not have a significant effect on this.*

- *I acknowledge that due to the distance from these services that most day-to-day journeys would be by private car. However, there would be a choice of transport modes for future residents and the site is as accessible to services as other dwellings that are within the development boundary on Church Road.*
- *In relation to the District, which is a predominantly rural area, the appeal site is in a relatively sustainable location.*
- *The proposal would help to maintain the vitality of the local services and facilities. Although modest, the development would have social benefits.*
- *There would also be economic benefits associated with the proposal including the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts. Prospective occupiers would provide some support for local services.*
- *With regard to the environmental dimension I have found that the proposal would not have an adverse impact on the character and appearance of the area and future occupiers would have a choice of transport modes and consequently I consider that the environmental dimension of sustainable development would be met.*
- *I have found that the site is in a relatively sustainable location it is not isolated in terms of sustainability either and consequently the proposal would not result in a new isolated home in the countryside.*

5.1.4 The final conclusion of the Inspector, in terms of sustainability, was that:

Taking into account all of the above the proposal would be sustainable development in a rural area. As such despite the conflict with saved Policies S1 and S2 of the LP and Policy S8 of the LDP, insofar as they expect development to be within defined development boundaries, I have not found any harm that would significantly and demonstrably outweigh the benefits associated with the scheme when assessed against the policies in the Framework taken as a whole and thus the proposal would accord with national policy.

5.1.5 At the time of the previous application and appeal it is noted that the approved Maldon District Local Development Plan (MDLDP) was still at draft stage. Further, the NPPF has been revised since the determination of the application. However, given the above findings of the Inspector, particularly the conclusion above, it is not considered that there are any fundamental changes to the site, surrounding area or policy position which would justify a change in stance from that of the Inspectors. Therefore it would be unreasonable to raise an objection on the grounds of sustainability or the principle of dwelling in this location.

5.1.6 It is noted that the Outline permission has expired and cannot have been implemented as a Reserved Matters application has not been approved. However, the appeal findings are still relevant and in the interests of fairness and consistency it is appropriate to still give full weight to the findings of the Planning Inspector.

5.1.7 Therefore, given the Inspector's findings above, it is considered that the proposed development would comply with policies S1, S8 and T2 of the MDLDP.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- 5.2.3 *“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”.*
- 5.2.4 *“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”.*
- 5.2.5 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:-
- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - Height, size, scale, form, massing and proportion;
 - Landscape setting, townscape setting and skylines;
 - Layout, orientation, and density;
 - Historic environment particularly in relation to designated and non-designated heritage assets;
 - Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - Energy and resource efficiency.
- 5.2.6 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).
- 5.2.7 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.
- 5.2.8 The application site is located on the eastern side of Mope Lane outside of the defined development boundary for Wickham Bishops. Mope Lane is characterised by low density development with soft landscaping and residential dwellings located

sporadically. Policy S8 of the LDP advises that the countryside will be protected for its own sake, particularly for its values, including landscape. The application site is located within the rural countryside although there are dwellings within the vicinity of the site; they are surrounded by open countryside.

- 5.2.9 An indicative site plan has been submitted, it shows a two-storey dwelling 14.2m by 10m situated centrally within the plot. An access point would be located along the front boundary of the site with an access track leading to a car parking and turning area to the front of the dwelling. The dwelling would be surrounded by amenity space to the north, east and south.
- 5.2.10 All matters are reserved with the exception of access and therefore scale, layout and appearance are not able to be considered at this stage. However, the broad impacts of erecting a dwelling here can be considered.
- 5.2.11 Notwithstanding the fact that the proposed development would introduce a new detached dwelling into a rural area outside and beyond a defined settlement boundary, the Inspector for the appeal found that the proposal would ‘not have an adverse impact on the character and appearance of the area’. This was due to the close proximity to the western settlement boundary of Wickham Bishops which is approximately 230m in a south east direction. There are also existing residential dwellings to the north and south of the site and due to the land currently being developed the proposal would not result in an intrusion of built form into the countryside nor the urbanisation of land that at present is, or appears to be, open countryside.
- 5.2.12 It is noted that a recent appeal at ‘The Old Rectory’ (reference OUT/MAL/17/00910), which is located on Church Street, Wickham Bishops was dismissed for a similar proposal; a dwelling within the garden area of an existing dwelling. The Inspector for that appeal concluded that the proposal was in conflict with policies S1, S8, D1 and H4 of MDLDP due to its location outside of the districts settlement boundaries and the impact on the character and appearance of the area. In this respect it is considered pertinent to note that each case should be determined on its own planning merits. Therefore, continued support of this scheme is not undermining the appeal decision at ‘The Old Rectory’.
- 5.2.13 There are no material changes to the site or surrounding area that would justify a change in the stance taken by the Planning Inspector. Therefore, it is considered that the proposed development would be in compliance with policy D1 of the MDLDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the Maldon District Design Guide (2017).
- 5.3.2 The application site has two adjacent neighbouring properties; Little Hill Farm, the host dwelling to the north and ‘The Rectory’ to the south.

5.3.3 No concerns, in terms of impact on the neighbouring occupiers, were raised by the LPA or the Planning Inspectorate at the time of the previous application and given the distance of 25m between 'Little Hill Farm' and the proposed dwelling and the distance in excess of 100m between the proposed dwelling and 'The Rectory' it is not considered that when the reserved matters are submitted it will be possible to provide a dwelling that would not have an adverse impact on the neighbouring occupiers by way of overlooking, a loss of light or domination. Therefore, the proposal is considered to comply with policy D1 of the MDLDP.

5.4 Access, Parking and Highway Safety

5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.4.2 The 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 is 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.

5.4.3 The number of proposed bedrooms to serve the dwelling has not been specified. However, the maximum recommended standard within the VPS is three off street car parking spaces and it is considered that there is ample suitable space within the site to fulfil this requirement.

5.4.4 The access point to the dwelling was considered acceptable at the time of the previous application. Whilst the Highways Authority have not responded to the application at the time of writing this report; it is not considered that there have been any material changes to Mope Lane or the site that would alter their previous stance. Therefore, it is considered unlikely that the Highways Authority would raise an objection. However, any response received from the Highways Authority will be included on the members update or an update will be given verbally at the meeting.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.5.2 The reserved matters application would be able to provide a dwelling that would have a private rear amenity space in excess of 100sq.m which would accord with the standard set out within the Essex Design Guide.
- 5.5.3 The existing dwelling Little Hill Farm would also retain sufficient private amenity Space to meet the requirements of its occupants.

5.6 Other Material Considerations

European Designated Sites

- 5.6.1 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.6.2 The development of a dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE’s requirements and standard advice an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes – The planning application relates to two dwellings.

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

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

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

As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered ‘in combination’ with other development. Natural England does not need to be re-consulted on this Appropriate Assessment.

It is understood that a County wide SPD is currently in preparation and has not been through public consultation. As such, the Council cannot request a proportionate financial contribution to be secured in line with the Essex Coast RAMS requirements in connection with development proposals at this stage. The application and the HRA must therefore be determined on the basis that no mitigation of the development is available. In this instance, it is considered that it would be disproportionate and unreasonable to require the developer to mitigate the impact of a dwelling on the protected habitats and in the context that it is not possible to establish what a proportionate contribution may be, it would be unreasonable to refuse the application on the grounds that the proposal has not mitigated the impacts of the development. Notwithstanding the guidance of Natural England, it is considered that the likely impact of a dwelling in this location would not be harmful in terms of additional residential activity to a degree that would justify the application being refused.

6. ANY RELEVANT SITE HISTORY

OUT/MAL/15/00636 - Outline application for one dwelling including determination of access. – APPLICATION REFUSED, SUBSEQUENTLY ALLOWED ON APPEAL

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops	<p>We recommend the refusal of planning permission, for the reasons listed below:</p> <p>No letters of comments had been received.</p> <p>It was noted that the application site lay outside the settlement boundary of Wickham Bishops and approval would be contrary to LDP Policy S8 - Settlement Boundaries and the Countryside.</p> <p>Councillors considered that the application would constitute sub-division of</p>	<p>Noted and issues addressed within the main body of the report.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>the plot and did not appear to be an in-fill development, and the proposed dwelling would have a material impact upon the amenity of the adjacent dwelling, Little Hill Farm. For these reasons the application was considered to contravene LDP Policy H4 - Effective Use of Land. It was suggested that the existing tennis court fencing had little impact upon the view along Mope Lane. Replacement of the court with a dwelling would therefore adversely affect the street-scene contrary to LDP Policy D1 - Design Quality and Built Environment. Finally, it was noted that a relevant nearby proposal had been refused for failing to meet the requirements of the National Planning Policy Framework and LDP Policy S1 - Sustainable Growth for its lack of sustainability credentials. The Planning Committee recommended REFUSAL</p>	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Cadent Gas Network	Informative required should the application be approved.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to a condition.	Noted.

8. PROPOSED CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
REASON The application as submitted does not give particulars sufficient for consideration of the reserved matters.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
REASON To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
REASON To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
4. The development hereby permitted shall be carried out in accordance with the following approved plan: 19.5669/P201 Rev A.
REASON To ensure the access details are carried out in accordance with the approved plan.
5. No development above ground level shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
REASON To ensure that appropriate surface and foul water drainage is available on site in accordance with Policy D2 of the Maldon District Local Development Plan.
6. No development including any site clearance or groundworks of any kind shall take place within the application site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority.
REASON To protect the site which is of archaeological interest in accordance with policy D3 of the Maldon District Local Development Plan.
7. The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.
REASON To ensure safe access and egress into the site in the interest of highway safety in accordance with policy T2 of the Maldon District Local Development Plan.

INFORMATIVE

1. Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.
2. If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.
3. If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.
4. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: plantprotection@cadentgas.com Tel: 0800 688 588