



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

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
17 JUNE 2019**

Application Number	FUL/MAL/19/00458
Location	Land Adjacent 9 St Peters Court, Bradwell-on-Sea
Proposal	Erection of 2No. detached 4 bedroom dwellings
Applicant	Great Canney Developments Ltd
Agent	Raymond Stemp Associates
Target Decision Date	12.06.2019
Case Officer	Devan Lawson
Parish	BRADWELL-ON-SEA
Reason for Referral to the Committee / Council	Departure from the Local Plan 2017

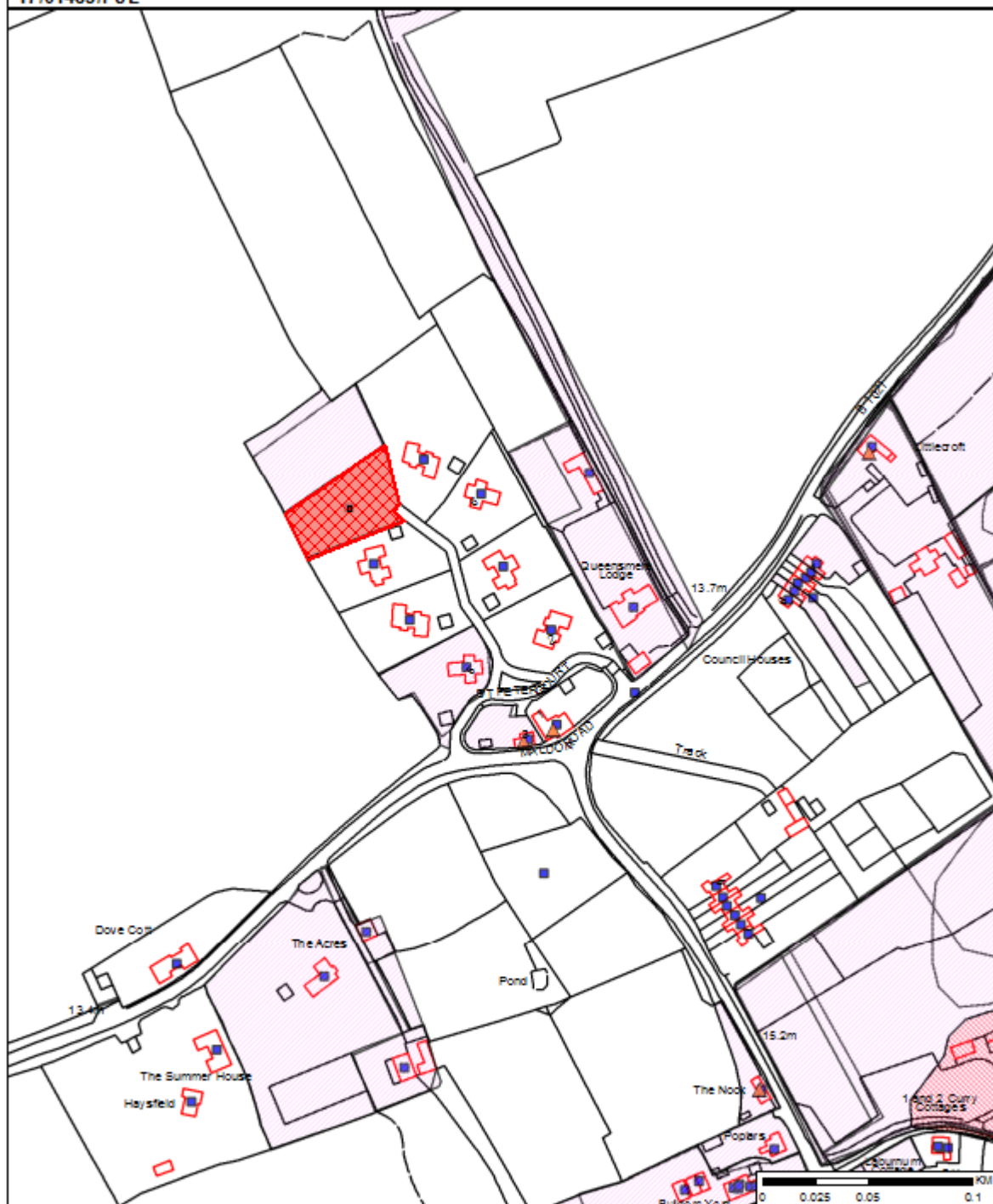
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Land Adjacent 9 St Peters Court 17/01483/FUL



 MALDON DISTRICT COUNCIL www.maldon.gov.uk	Copyright <small>For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 1 000 18588 2014</small>	Scale: 1:2,500
	Organisation: Maldon District Council	Scale: 1:2,500
	Department: Department	Organisation: Maldon District Council
	Comments: SEAC	Department: Department
	Date: 21/05/2019	Comments: SEAC
	MSA Number: 100018588	Date: 21/05/2019

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Application Site

- 3.1.1 The application site is located to the northwest of St Peters Court, Bradwell-On-Sea. The site is partially laid to grass and free from any built form or development. The site appears to be flat to the southeast but the site gradient gently raises to the north and north west. There is a low boundary fence on the eastern boundary of the site shared with No. 9 and a close boarded fence of approximately 1.8 metres in height to the southern boundary shared with No. 8.
- 3.1.2 The surrounding area is generally rural, with sporadic dwellings fronting the highway. The cul-de-sac which serves the application site is unusual in this sense and is accessed off of Maldon Road. The dwellings within St Peter's Court are sizeable with spacious plots and generous gardens.

Proposal

- 3.1.3 Planning permission is sought to erect two, four bedroom dwellings within the site. The proposed dwellings would be handed versions of each other and would be 'T' shapes, with gable projections to the front and rear. The main part of the dwellings would have an eaves height of 4.7m and a ridge height of 9.7m. They would have a width of 6m and a depth of 16m, inclusive of the chimney. The front gable projection would have a bay window at ground floor and would measure 4m in depth, 5.1m in width, 4.7m to the eaves and 8.4m to the ridge. The rear gable projection would measure 3.1m in depth and 5.1m in width, with a bay window at both ground and first floor.
- 3.1.4 The dwelling situated within the southwest of the site would be set 8m from the southern boundary, 19.4m from the western boundary and 18.3m from the site entrance. There would be a separation distance of 9.2m between the proposed dwellings and the dwelling to the northeast would be located 8.5m from the eastern boundary, 22.6m from the northern boundary and 25.5m from the site entrance.
- 3.1.5 The proposal also includes a driveway and an area of hardstanding to the side of each dwelling for the parking of vehicles. An area of soft landscaping is shown on the proposed block plan around the boundaries of the site, which would consist of 5m wide planting of native hedgerow.
- 3.1.6 The proposed dwellings would be constructed from brick and render.

Background

- 3.1.7 There is an extensive planning history at the site. In 2001 planning permission was granted for 7 dwellings at the site (FUL/MAL/00/00003 and S106 legal agreement) and then in 2002, an application to re-site 3 of the dwellings (Ref: FUL/MAL/02/00301) was refused by the Council but a subsequent appeal was upheld. In considering the appeal the Planning Inspector noted that the proposal for new housing on this site was contrary to the Council's countryside protection policies.

However, he noted that the Council had secured, by granting the 2001 permission, the removal of unsightly development at the southern end of the site, the revocation of various consents and resources directed to the repair and refurbishment of the Grade II listed building to the south of the site (former Queens Head Public House). At the time it was considered that these benefits outweighed the harm resulting from additional development in the countryside.

3.1.8 In allowing the appeal, the Planning Inspector approved a new layout plan (Munday and Cramer Plan No C989/01 dated: March 02). This showed the new position of plots 4, 5, and 6 together with their residential curtilages. In addition, a strip of land 30 metres wide across the northern end of the site was excluded from residential development. Furthermore, it was indicated as a landscaped area in the submitted landscaping scheme for the whole development. The development that has actually taken place does not conform to this plan. The dwellings are in the approved positions but the residential curtilage for Plot 4 has been substantially increased to include about half of the landscape area and the curtilage for Plot 3 reduced. It would appear that the landscaping scheme for the northern part of the site was not implemented.

3.1.9 Then in 2017 the Council refused an application (FUL/MAL/17/00409) for two dwellings at the site, which were refused for the following reason:

'The application site is in a rural location outside of the defined settlement boundary for Bradwell-on-Sea where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development, due to its internal road layout, scale, bulk and the elongated frontages coupled with the width of the detached garages would result in a cramped form of development, which would appear out of character with other residential properties in the vicinity which are set in expansive plots. Further, the application site is not considered to be in a sustainable location. This is due to the distance to local services / facilities means that there would not be a safe or convenient pedestrian access to local services / facilities and as such it is likely that there would be greater reliance on the use of private cars. The development proposal would therefore be contrary to policies S2, H1, BE1, CC6, T1, T2 of the adopted Maldon District Replacement Local Plan, S1, S8, D1, H4, T2 of the Maldon District Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.'

3.1.10 A further application was then submitted for one dwelling, which was refused by the Council, but granted on appeal (APP/X1545/W/18/3204574) on the 8th January 2019. In allowing that appeal the Inspector concluded that the appeal site is a suitable location for residential development.

3.1.11 The proposal is similar to that proposed as part of application (FUL/MAL/17/00409), which was refused by the Council as outlined above. The proposed dwellings in terms of their scale, bulk and design are identical. Although the dwellings have been 'flipped' within the site and are positioned marginally further forward within the site.

The proposal subject of this application also omits the previously proposed garages and includes landscaping as outlined above.

3.2 Conclusion

- 3.2.1 It is noted that the proposal is contrary to policy S8 of the Local Development Plan.(LDP) However, having taken all material planning considerations into account, including the extant planning permission (APP/X1545/W/18/3204574), it is found that the principle of erecting a dwellinghouse in this location has been established and therefore no objection should be raised to the principle of the proposed development for two dwellings. The impact of the development on the character of the area and the countryside has been assessed and having regard to the previous appeal decision, the proposal is not considered to result in material harm to the character and appearance of the area or the intrinsic character and beauty of the countryside. The development would not cause a detrimental impact on the amenity of the neighbouring occupiers and it would provide a suitable living environment for the future occupiers. Off-street parking could be provided in accordance with the Vehicle Parking Standards subject to a condition, and the local planning authority is satisfied that the development would not adversely impact on the public rights of way. Therefore, whilst the development would not wholly accord with the approved LDP and the guidance contained in the National Planning Policy Framework (NPPF) and the supplementary Maldon District Design Guide (MDDG), subject to conditions, it is considered that the proposed development cannot be deemed to be unsustainable and should not therefore be refused.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 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
- 77-79 Rural Housing
- 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
- H4 Effective Use of Land

- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.

5.1.2 In relation to the above, 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 dwellings 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 As outlined in section 3.1 there is an extant permission at the site for the construction of one dwelling (APP/X1545/W/18/3204574). When determining that appeal the Inspector stated:

'I accept that there would be some conflict with Policy S8 because the appeal site is outside of the defined development boundary. However, it would not compromise the general principle of preserving the intrinsic character and appearance of the countryside. Nor would it conflict with the overall key sustainable development principles set out in Policy S1, which reflect those in the Framework. As such, I consider the policy conflict would be minor, and the proposal would accord with the development plan as a whole. Thus, I conclude that the appeal site is a suitable location having regard to Policy S1 of the LDP and the Framework (2018).'

5.1.4 On the basis of the Inspector's findings and that there is an extant permission for one dwelling at the site, it is reasonable to consider that the application site is a suitable

location for residential accommodation, as it is not considered that an additional dwelling would provide any considerations which would alter this stance. Therefore, although the principle of development is contrary to Policy S8 of the LDP, having regard to the previous decision, which is a material consideration, it is considered that the principle of the erection of two dwellinghouses in this locality would be acceptable.

- 5.1.5 Other material planning considerations, including the acceptability of an additional dwelling at the site are discussed below.

5.2 Housing Need

- 5.2.1 The Council has undertaken a full assessment of the Five Year Housing Land Supply in the District and it is concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements.
- 5.2.2 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.
- 5.2.3 Policy H2 of LDP contains a policy and preamble (paragraph 5.2.2) which read alongside the evidence base from the 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, with around 71% of all owner occupied properties having three or more bedrooms.
- 5.2.4 The Council is therefore encouraged in the policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. In this respect, the proposal would not meet this policy requirement and therefore, is of negligible benefit in terms of improving the Council's housing stock in terms of dwelling size.

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:

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way

it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

5.3.3 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.

5.3.4 The above policy should also be read in conjunction with Policy H4 of the LDP in relation to Backland and Infill Development. The policy states that backland and infill development will be permitted if the relevant criteria are met.

5.3.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.3.6 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.

5.3.7 It is noted that the proposal refused under application FUL/MAL/17/00409 is similar to this application and it was deemed by the Council that the proposal would result in a cramped form of development, which would appear out of character with other residential properties in the vicinity, which are set within expansive plots. However, there are slight variations to the proposal as outlined in section 3.1 and since the determination of application FUL/MAL/17/00409 the appeal for one dwelling at the site has been decided. Given the changes to the scheme in comparison to FUL/MAL/17/00409 and that the appeal decision is the most recent planning history at the site and is therefore, considered of most relevance, it is considered that the appeal decision should be given greater weight than the decision relating to FUL/MAL/17/00409.

5.3.8 At paragraph 7 of the Inspectors decision he stated that *‘views of the proposed dwelling from the public domain would be restricted by mature hedgerows and other buildings. The most significant views would be from the southwest along Maldon Road. Whilst the proposed dwelling would be visible from this direction, it would be*

viewed against the existing dwellings of St Peter's Court and, given the position of the proposed dwelling between Nos 9 and 8, the effect of the appeal dwelling on the character and appearance of the countryside would not be significantly greater than the existing dwellings.'

- 5.3.9 Although the proposal would result in an additional dwelling at the site, it is considered that the Inspector's comments are still applicable. The dwellings would largely be seen as part of the backdrop of the other residential development within St Peter's Court. The only areas where this would not be applicable are to the northeast and the west/southwest. However, as noted by the Inspector views of the site would be restricted by hedgerows and the proposed landscaping would also help provide a soft edge to the site and the countryside beyond.
- 5.3.10 In terms of layout, it is noted that the proposed dwellings would not follow the radial pattern of the existing houses, as the proposed dwellings would be set further back than the neighbouring ones. Nevertheless, for the reasons outlined in the above paragraph it is not considered that this would result in material harm to the character and appearance of the area or the countryside.
- 5.3.11 It is also noted that the plot sizes of the proposed dwellings would be smaller than the dwelling to the east (No.8) (Table 1). However, as shown in the table below, plot 8 is uncharacteristically large and the proposed plot sizes would be proportionate to the other plots within St Peter's Court. Therefore, the proposed would not compromise the feeling of spaciousness, which was a characteristic that the previous Inspector considered important to the character and appearance of the area. Likewise, the distances to the site boundaries from the proposed dwellings would largely be greater than what has been achieved at the neighbouring properties. For instance, the proposed dwellings would be set between 8m and 8.5m from their closest side boundaries, whereas No.8 to the east is located approximately 5m from its western boundary and No.9 to the south is set 6.5m from the northern boundary. Having regard to this it is considered that the proposal is in keeping with the pattern of development within the area to a suitable degree and would not result in a cramped form of development.

Table 1: Plot sizes

House Number	Approximate Plot Size (m ²)
No.9	1652
No. 8	3416
No.7	1665
No.6	1556
No.5	1476
No.4	1505
No.2	1765
Plot 1	1479
Plot 2	1934

- 5.3.12 In terms of design the dwellings would be a similar design to the existing dwellings within St Peters Court; particularly Nos. 5 and 6 which are also 'T' shaped properties, with bay windows and a chimney. The dwellings within St Peter's Court are also finished with brick and render and so the proposed materials would assimilate with the streetscene. Given that the proposed dwellings have been designed in a way

which references the existing architectural style of St Peter's Court it is considered that the design of the dwellings would be appropriate for the area.

- 5.3.13 It is noted that as part of application FUL/MAL/17/00409 that the Officer's report considered that the *'access point and internal U-shaped driveway and turning area into the site to serve the two dwellings would be out of character with the adjacent built form and prevailing pattern of development.'* The proposed driveway would result in an area of hardstanding 115m² greater than the area of hardstanding approved by the Inspector. However, given that it would serve two dwellings it is not considered that the level of hardstanding proposed is excessive. Furthermore, given that the design and layout of the proposal is considered acceptable in all other respects it would not be considered reasonable to refuse the application on the basis of the driveway layout alone. However, should the application be approved a condition should be imposed requiring the detailing of the materials proposed to be used.
- 5.3.14 Having regard to the above assessment and the previous Inspector's decision it is not considered that the proposal would result in material harm to the character and appearance of the site or the intrinsic character and beauty of the countryside to a degree which would warrant refusal of the application.

5.4 Impact on Residential Amenity

- 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 proposed dwellings would be sited between Nos 8 and 9 St Peters Court. Plot 1 would be set at a distance of 17.9m from the northwestern elevation of No. 8 and Plot 2 would be set 15m from the northern elevation of No. 9. The two dwellings would be set 9.2m from each other.
- 5.4.3 There are no windows proposed in the first floor side elevations of the proposed dwellings. Furthermore, given the orientation of the front and rear elevations and the separation distances between the proposed dwellings and the neighbouring properties it is not considered that the proposal would result in undue harm as a result of overlooking or a loss of privacy. In addition, it should be noted that the Inspector previously considered that it was not necessary to impose a condition for first floor windows in the northern elevation due to the orientation of the dwellings and the separation distance. Therefore, it is not considered that an obscure glazing condition would be required in this instance.
- 5.4.4 In addition to the above, given the orientation of the proposed dwellings and neighbouring properties and the separation distances, it is not considered that there will be a harmful increase in overlooking to the private amenity space of either neighbouring properties or that the dwellings would have an overbearing impact on the neighbouring occupiers. Furthermore, given the separation distance between the proposal and the neighbouring properties it is not considered that the proposal will result in a significant loss of light or overshadowing to the neighbouring properties. In this respect, the proposal would accord with the requirements contained in Policy D1 of the LDP.

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 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.
- 5.5.3 It should be noted that since the determination of the previous application the Council has adopted the Maldon District Council Vehicle Parking Standards SPD which include minimum parking requirements opposed to maximum and have increased the required dimensions for garages and bay sizes. These standards now form a material consideration.
- 5.5.4 The recommended parking provision standard for a four bedroom dwelling is a minimum of three car parking spaces, which should each measure 2.9mx5.5m. Having regard to this each dwelling would be provided with two parking spaces, which falls below the requirement of three spaces. Nevertheless, it is noted there is sufficient space within the long driveways to accommodate a further parking space per dwelling. Therefore, it is not considered reasonable to refuse the application on car parking provision alone.
- 5.5.5 The Local Highway Authority has not yet commented on the application. Nevertheless, given that they raised no objection to the previous application due to it being a private road, it is not considered that they would reach a different conclusion in respect of this application.
- 5.5.6 Given that there is suitable turning facilities provided at three points along the proposed driveway, it is considered that the proposal would be acceptable in terms of highway safety.

- 5.5.7 An objection has been received in relation to the adoption of the private road and also the completion of the road serving the cul-de-sac. However, these are matters which are outside of the application site and outside of the Local Planning Authorities control.
- 5.5.8 Having regard to the above assessment there is no objection to the application, on car parking or highway safety grounds.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted 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.
- 5.6.2 The proposal would provide each dwelling with amenity areas which measure well in excess of the required standards. Therefore, there is no objection in relation to amenity space.
- 5.6.3 The proposed area of hedgerow planting is considered a suitable addition to the site and provides a suitable amount of greenery to help soften the appearance of the dwellings. A condition would however be imposed, ensuring that the landscaping is implemented and to ensure that species and stock sizes were appropriate.

5.7 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast RAMS

- 5.7.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zones of Influence' of these sites cover the whole of the Maldon District.
- 5.7.2 Natural England anticipate that, in the context of the Local Planning Authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zones of Influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) –Natural England have provided a HRA record template for use where recreational disturbance is the only HRA issue.

- 5.7.4 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 the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England would not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.7.6 To accord with Natural England’s requirements, a 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, as follows:

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 specified development types? Yes – The proposal is for two dwellings

HRA Stage 2: Appropriate Assessment - 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

Summary of Appropriate Assessment

- 5.7.7 As a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account that Natural England’s interim advice is guidance only, it is not considered that mitigation would, in the form of a financial contribution, be necessary in this case.

Conclusion

- 5.7.8 Notwithstanding the guidance of Natural England, it is considered that the likely impact of the development of the scale proposed, in this location would not be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission.

5.8 Other Matters

- 5.8.1 When considering the conditions proposed by the Council in relation to the previous appeal The Inspector concluded that:
- A condition relating to boundary treatments is not necessary as this would be covered by a landscaping condition
 - A condition removing the rights as permitted by Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, would not meet the test of necessity in the interests of the area, as such rights would already be controlled by the conditions set out within that schedule.
 - A condition requiring obscure glazing in the northeastern elevation would not be necessary due to the orientation and distance of the proposal from the neighbouring dwelling.
- 5.8.2 Having regard to the Inspector's findings, although the proposal is now for two dwellings, rather than one, it is not considered reasonable to reach a different stance on this matter, as the impacts of one extra dwelling would not result in the necessity for these conditions. Therefore, the abovementioned conditions have not been proposed and the suggested conditions have been sourced from the Inspector's decision. New conditions, which were not included previously, have been included in this instance as they relate directly to the development proposed and are now necessary where they were not for the provision of one dwelling.

5.9 Pre-Commencement Conditions

- 5.9.8 A pre-commencement condition requiring a construction method statement is recommended. The applicant's agent has been contacted for agreement to this condition and any response will be updated by Members' update.
- 5.9.9 It is considered that the pre-commencement condition is necessary on the grounds that the logistics of carrying out the construction works must be agreed prior to their commencement.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/17/01483** - Erection of a detached dwelling, **application refused, appeal allowed.**
- **FUL/MAL/17/00409** – Application for two dwellings **refused.**
- **FUL/MAL/02/00301** - Proposed re-siting of three dwellings, **application refused, appeal allowed.**
- **FUL/MAL/00/00003** - Proposed residential development of 7 no. detached houses and garages. **Approved.**

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Bradwell-on-Sea Parish Council	No response received at the time of writing this report	Any future response will be communicated by Members update.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No response received at the time of writing this report	Any future response will be communicated by Members update.
Natural England	A Habitats Regulation Assessment Should be undertaken	Noted and addressed at section 5.10

7.3 Internal Consultees

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environmental Health	No objection subject to conditions: <ul style="list-style-type: none">- Surface water drainage- Foul Drainage	It is considered that the conditions should be imposed to ensure that the increased built form doesn't create risks from surface water drainage, and to ensure that foul drainage is dealt with effectively.

7.4 Representations received from Interested Parties

- 7.4.1 **3** letters were received **objecting** to the application, the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
There is no plan of how the houses will occupy the site. Turnaround space will need to be made for large goods lorries. They currently have to reverse out.	The Block Plan (NDCM07JE_BP1.1) submitted with the application shows the proposed layout. A turning area has been provided within the southeast of the site

Objection Comment	Officer Response
<p>There has been no reply from the Officer regarding the adoption of the half-moon road by the Council. This should be a stipulation that the road has not been adopted.</p> <p>The gravel road installed by the developer was not properly completed; this should be sought if permission is given.</p> <p>Thought needs to be given to the drainage capacity and sewage.</p>	<p>and a construction management plan could be obtained through a condition to ensure that the construction works do not cause obstruction.</p> <p>It is not the Local Planning Authority or the District Councils duty to adopt roads. This would need to be taken up with the Local Highway Authority at Essex County Council.</p> <p>The application can only be considered on what is proposed and that which relates to the application site.</p> <p>Environmental Health has been consulted and has requested surface water and foul drainage conditions which will sufficiently address drainage at the site.</p>
<p>Two dwellings would be out of keeping with the existing character of the cul-de-sac.</p> <p>This should not be considered as it was rejected previously.</p>	<p>Addressed at section 5.3 of the report.</p> <p>As outlined in sections 5.1 and 5.3 of the report, the previous Inspectors decision provides a new material consideration for assessing the application and the proposal is different in some ways. Through balancing the different material considerations it is not considered that the previous reason refusal alone would provide reasoning for refusing the application.</p>
<p>There is no need for more four bedroom houses.</p> <p>The surface of St Peter's Road is not disabled friendly and unusable for wheelchairs.</p> <p>The road is owned by the existing 7 houses and so there are no rights for the applicant/future occupiers to use the road.</p> <p>There should be a planted area to the</p>	<p>Housing mix is addressed at section 5.2.</p> <p>Given that the existing road already serves residential properties, that the road does not fall within the application site and that accessibility for disabled users is dealt with at the building regulations stage it is not considered this would amount to a reason for refusal.</p> <p>This is a civil matter that cannot be addressed through planning.</p> <p>As acknowledged by the Inspector as part</p>

Objection Comment	Officer Response
northern end of St Peter's Court which is protected by planning restrictions.	of the previous decision that the green buffer was not implemented and the area was incorporated into the garden of No.8.
The plot needs to be checked for size as it seems bigger on the plans.	The plans are all provided to the required scales.
No planning notice has been put up	A site notice was placed at the site on 7 th May 2019. Evidence of which can be found on the Council's website.

- 7.4.2 **1** letter of representation **commenting** on the application has been received, the comments have been summarised in the table below

Comment	
Would prefer to see one dwelling rather than two squeezed onto the plot.	The impacts of two dwellings are addressed at section 5.3
Proposal would obscure the view of the Blackwater Estuary which is disappointing.	This is not a planning consideration.
Condition should be included that the private road is maintained by residents should be made good by the developer.	The application can only be considered on what is proposed and that which relates to the application site.
Existing drainage may not be able to sustain two further properties.	Environmental Health has been consulted and has requested surface water and foul drainage conditions which will sufficiently address drainage at the site.
Contractors should not be allowed to park on St Peters Court.	Contractor parking can be dealt with through the construction management plan condition.

8. **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall begin no later than 3 years from the date of this decision.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: NDCM07JE_BP1.1, NDCM07JE_SP1.0, NDCM07JE_PSP1.0, 03, 04, 05, 06
REASON To ensure that the development is carried out in accordance with the details as approved
- 3 No works shall be carried out above ground level until written details or samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in

writing by the local planning authority. Development shall be carried out in accordance with the approved details.

REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: ATS/537/03, Illustrative Site Plan – LD, Illustrative Site Plan- WD, Proposed Reception/Spa Building Floor Plans & Elevations.

REASON To ensure that the development is carried out in accordance with the details as approved.

- 5 Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:

- i) Finished levels;
- ii) Means of enclosure, including gates;
- iii) Car parking layouts;
- iv) Vehicle and pedestrian access and circulation areas;
- v) Hard surfacing materials;
- vi) Indications of all existing trees and hedgerows on the land and identification of those to be retained; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.

The details set out in (i) to (v) above shall be implemented as approved prior to occupation of the dwelling and retained thereafter. Soft landscape works, as required by (vi) above, shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place.

REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 6 No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON To ensure that there is a sufficient surface water drainage scheme to protect future occupiers from flood risk in accordance with policy D5 of the LDP

- 7 Prior to any works above ground level details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON To ensure that adequate provision is made for foul water drainage in accordance with policies D1 and D5 of the Maldon District Local Development Plan

- 8 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

REASON In the interests of protecting the amenity of adjacent occupiers during construction in accordance with policy D1 of the LDP.