

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

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
7 OCTOBER 2019**

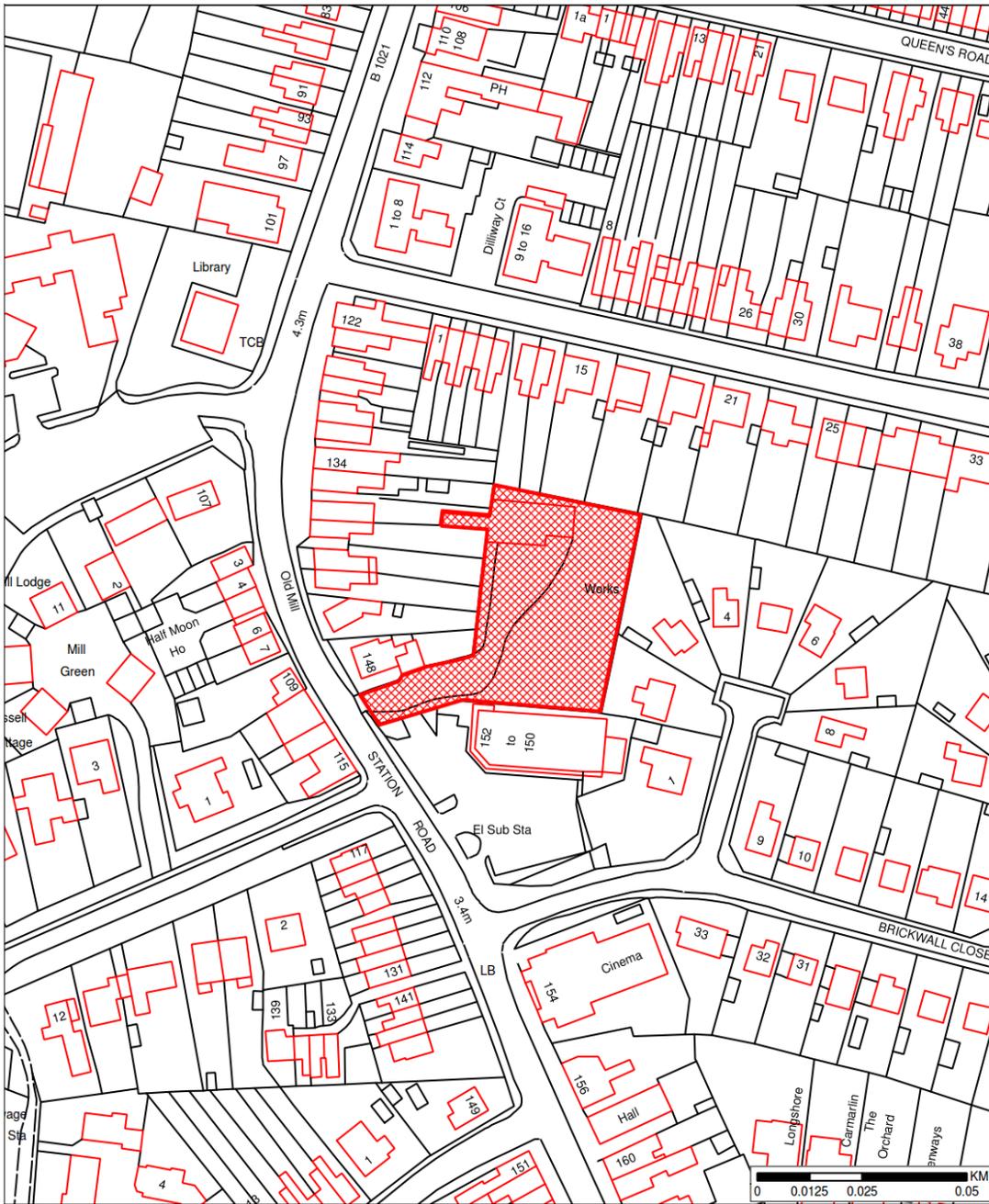
Application Number	FUL/MAL/19/00841
Location	Land Rear Of 148 Station Road, Burnham-On-Crouch, Essex
Proposal	Proposed change of use from Class B1 and B2 to Class C3, demolition of existing industrial building and erection of 5 new residential dwelling houses, ancillary development and landscaping
Applicant	Mr Levy - Countryside Style Ltd
Agent	Chris Wragg - Arcady Architects Ltd
Target Decision Date	27.09.2019 (EoT agreed: 11.10.2019)
Case Officer	Anna Tastsoglou
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Previous Committee decision

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee
	Date:	29/08/2018
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The site is almost a rectangular parcel of land located to the rear of Tesco Express on Station Road, abutting the rear gardens of dwellings along Western Road, Station Road and Brickwall Close. Access to the site is gained via a service road off of Station Road.
- 3.1.2 The site currently contains a single storey part flat, part pitched roof building, which according to the Design and Access Statement submitted was used as a rubber factory. A large part of the site is currently covered by overgrown grass and shrubs, whilst there are parts that are hard surfaced.
- 3.1.3 The site abuts the Burnham-on-Crouch conservation area to the southwest. The site is adjacent the historic town and historic buildings are sited opposite the site. The site is accessed by Station Road, a main historic route that is part of the historic High Street and route to the mid Victorian Railway Station.
- 3.1.4 Station Road is mixed in character, comprising a variety of residential and commercial uses, mainly at ground floor . Although the dwelling adjacent to the site access is a chalet style dwelling, the majority of the properties along this section of Station Road are three storey properties. The Tesco store on the other side of the site's entrance has been designed with a low level flat roof.
- 3.1.5 Western Road is characterised by a mixture of house types and community buildings fronting the street, with small front gardens including bungalows, some with roof accommodation, two and three storey dwellings. The buildings are representative of the Victorian, Edwardian, inter-war and post-war eras.
- 3.1.6 Brickwall Crescent is a fairly modern cul-de-sac development with mainly chalet style dwellings set centrally in large plots with deep front gardens.
- 3.1.7 The access of the site and the southernmost part of the site lie within Flood Zone 3. Flood Zone 2 extends further towards the north, but the majority of the application site sits within Flood Zone 1.

Description of proposal

- 3.1.8 Planning permission is sought for the change of use of the site from rubber factory (B2/B1 use class) to residential (C3 use class), the demolition of the existing industrial building and the erection of five two-storey dwellings, with associated off-street parking, amenity areas, cycle and bin stores and landscaping.

3.1.9 The application is a resubmission following the dismissal of an appeal (application reference FUL/MAL/17/01480, appeal reference: APP/X1545/W18/3216601) for a similar development that sought permission for erection of a two-storey block of ten flats. The appeal was refused due to the unacceptable impact of the development on the character and appearance of the area.

3.1.10 Although the principle of the current proposal remains the same, which is for the residential development, it has been amended in terms of the number and types of residential units proposed, the details of which are as follows:

- Plots 1 and 2 would form a pair of semi-detached dwellings, with a front projecting gable running in a north-south direction linked vertically with a gabled roof running in an east-west direction. The properties would have front open porches and fenestration incorporating lintel detailing. The properties would have a maximum width of 10.1m and depth of 9.8m. The eaves height would be at 5.3m and the maximum height would be 8.6m. The dwelling at Plot 1 would be a three-bedroom dwelling, with an internal floor area of around 94.8sqm and an amenity space measuring 180sqm. The dwelling at Plot 2 would be a two-bedroom dwelling, having an internal floor area of 79sqm and amenity space measuring 99sqm.
- Plots 3 and 4 would also be a pair of semi-detached properties, with a main gabled room running in an east-west direction. The properties will be of a simple design with front open porches, fenestration incorporating lintel detailing and varying materials between first and ground floor. In terms of external dimensions, the dwellings would measure, 10.5m wide and 8.8m deep, with a maximum height of 8.2m and an eaves height of 5.3m. Both properties would be two-bedroom dwellings, measuring internally 79sqm and being provided with an open amenity space of 92sqm.
- Plot 5 would accommodate a detached two-storey, three-bedroom dwelling, with a hipped roof. The property would measure, 5.8m wide, 9.8m deep, 5.3m high to the eaves, with a maximum height of 8.6m. The site would benefit from a garden measuring around 177sqm.

3.1.11 Parking for the proposed dwellings would be provided in the form of a car park at the front of the properties along the southern boundary of the application site. Two parking spaces per dwelling are proposed to be provided, plus an additional visitor space. It appears from the submitted plans that all properties would have cycle stores.

3.2 Conclusion

3.2.1 The proposed development is a resubmission of an application for residential development, following the dismissal of an application for the erection of a block of ten flats. The current application although different in terms of type of mass form, design and residential development proposed, is not considered to overcome the reasons for the previous dismissal. The development is considered to result in an unacceptable design, adversely impacting on the character and appearance of the area. This is considered to be

also indicative of the overdevelopment of the site and its unsuitability to accommodate the proposed level of development. Furthermore, no details in relation to the provision of sufficient sustainable urban drainage systems has been submitted with the application and thus, it cannot be secured that the development would be safe in terms of flooding. It is considered that the proposal would be unacceptable and contrary to the aims of the development plan.

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
- 80-82 Building a strong competitive economy
- 59-66 Delivering a sufficient supply of homes
- 91-94 Promoting healthy and safe communities
- 102-111 Promoting sustainable transport
- 124-132 Achieving well-designed places
- 184 – 202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E1 Employment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

4.3 Burnham-on-Crouch Neighbourhood Development Plan (7th September 2017):

- Policy HO.1 – New Residential Development
- Policy EN.2 – New Development and flood Risk

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)
- Essex Design Guide (1997)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).

5.1.2 Along with policies S1 and S2, policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that *"The Council will support sustainable developments within the defined settlement boundaries"*.

5.1.3 Policy HO.1 of the Burnham Neighbourhood Plan states that *"Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan."*

5.1.4 The site is located within Burnham-on-Crouch settlement boundary and in light of the above, it is considered that the provision of additional residential accommodation within a residential location, which lies within the defined settlement boundaries, is considered acceptable in principle.

Employment

5.1.5 As noted in the Design and Access Statement, the site was last in use as a rubber factory and therefore, whilst no longer in use, it still falls within employment land uses.

5.1.6 Policy E1 of the LDP states that “*Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:*

- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
- 2) The site would have a greater benefit to the local community if an alternative use were permitted; or*
- 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site’s existing and potential long-term market demand for an employment use.”*

5.1.7 In order for a development to be compliant with policy E1 it should meet one of the above requirements. The site was last in use as a rubber factory and according to details submitted as part of the previous application (FUL/MAL/17/01480), the site has been vacant since 2013. It was advised, as part of the previous application that the site was marketed for almost three years until 2016 and before it was purchased by the current applicant no interest was raised to purchase the site and use it for B2 purposes. Whilst the information previously submitted in relation to the marketing period and the interest expressed (an online advert from an estate agent has been submitted, which includes information in relation to the marketing period and the asking price) was limited, it was accepted that the site was marketed for a reasonable price. It is also evident, following a site visit, that the site has not been in use for a very long period.

5.1.8 The site is surrounded by mixed town centre uses and a large number of residential uses. An industrial use is considered being incompatible with its surrounding residential uses. A letter was previously submitted by the applicant, which put forward an argument that the site, if developed as a general industrial unit, in accordance with its lawful use, would potentially increase unacceptable levels of noise, pollution, smells and vehicle movements to the detriment of the residential amenities of the neighbouring occupiers. On the basis of the information previously submitted, as part of application FUL/MAL/17/01480, it was accepted that the use of the site for purposes that falls under B2 uses would result in detrimental impacts on the amenities of the neighbouring occupiers and thus, it was accepted that the loss of the existing employment use at this location would not be objected to, as it would comply with the requirements of policy E1.

5.1.9 The Inspector that assessed the proposal did not raise an objection in relation to the use of the site for residential purposes. It is therefore considered that the previous assessment would still be relevant to the current proposal, which proposes the conversion of the currently employment site to residential (albeit of a different type). Hence, the proposal would still be policy compliant.

Effective use of land

- 5.1.10 Policy H4 of the LDP suggests that infill development will be permitted if all the following criteria are met:
- 1) There is a significant under-use of land and development would make more effective use of it;*
 - 2) There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;*
 - 3) There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and*
 - 4) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*
- 5.1.11 The proposed development would reuse an existing employment site for residential purposes. It is therefore considered that the proposed use would be equally an effective use of the land to provide housing with a settlement boundary. Whilst the amenities of the neighbouring occupiers are discussed in detail below, it is considered that in terms of noise and disturbance, the proposed use would be less harmful to the amenities of the nearby occupiers, as it would result in a development compatible with the existing surrounding uses. The site is not designated as a site of local social, economic, historic or environmental significance and it does not involve any important landscape, heritage or ecological features. It is therefore, considered that the development would be compliant with policy H4 of the LDP.
- 5.1.12 Paragraph 118 of the revised NPPF states that decisions should give weight to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. This is also supported by policy S1 of the LDP. It is therefore considered that taking into consideration that the development would comply with policy E1, in terms of the loss of the existing employment land, it is considered that the principle of development would be acceptable and in accordance with the guidance contained in the NPPF and the policies of the development plan.
- 5.1.13 Policy S2 and S6 of the LDP identifies that the infrastructure of Burnham-on-Crouch is limited and therefore development above the identified limit of 450 dwellings will not be supported. In this instance, taking into consideration that the site constitutes a brownfield site that complies with the development plan policies and also the limited number of the dwellings proposed, the development is not expected to impose an additional burden of existing infrastructure to an extent that would justify the refusal of the application.
- 5.1.14 Although the Council can demonstrate housing supply in excess of five years, taking into account that the development would be located within the boundaries of the settlement boundary and it would result in a development compatible with the existing uses on site, no objection is considered reasonable to be raised in relation to the principle of residential development in this location. Nonetheless, in order for a development to be acceptable, it should comply with the aims of the development plan and also be sustainable against all

three aspects of sustainability. Thus, the rest of the material considerations relating to flood risk, the impact of the development on the amenity of the neighbouring and future occupiers, highways issues and impact on the character of the area are assessed below.

5.2 Housing Need and Supply

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 of the NPPF where it requires local authorities *‘To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for’*. Paragraph 61 continues stating that *“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”*.
- 5.2.2 Following the publication of the February 2019 Government results of the Housing Delivery Test (HDT) the Council has revised the October 2018 Five Year Housing Land Supply (5YHLS) statement to apply a 5% buffer for choice and competition. On the basis of the March 2019 5YHLS results the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years’ (6.34) worth of housing against the Council’s identified housing requirements.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the Local Development Plan (LDP) contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner occupied properties having three or more bedrooms. 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.
- 5.2.5 On the basis of the above, it is evident that the Council can meet its housing needs and provide a supply of home in excess of five years. The development proposes the erection of five dwellings, of which three will be two-bedroom properties. It is therefore considered that the development would contribute towards the Council’s identified need, albeit limitedly. This is considered to have a limited weight in favour of the development.

5.3 Flood Risk

- 5.3.1 The site where the five dwellings are proposed to be located lies within Flood Zone 1; however, the access to the site, is within Flood Zones 2 and 3.
- 5.3.2 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.
- 5.3.3 Paragraph 158 states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”*
- 5.3.4 Policy D5 of the LDP states that the Council’s approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.
- 5.3.5 The proposed houses would be located in Flood Zone 1; however, consideration should be had to the ingress and egress point of the site, which sits in flood Zone 3. It is acknowledged that the residential development has been located in the part of the site that lies within the area of the lowest risk of flooding and for that reason, in this particular instance, it is considered unnecessary for the sequential test to be applied in a District wide level in terms of alternative sites in lower risk of flooding, given that the development (the dwellings) is located in such area.
- 5.3.6 Following the application of the Sequential Test, if not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. Whilst in this instance the development (the block of flats) would be located at Flood Zone 1, it is considered that all other considerations related to flood risk and the sustainability credentials and wider benefits of the proposal should be undertaken as part of the exception test.
- 5.3.7 In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:
- *it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*

- *a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

- 5.3.8 As discussed above the development would provide wider sustainability benefits to the community as it would contribute towards the District's identified need for smaller type of accommodation and a use that is compatible with its surroundings. The footprint of the buildings, as currently proposed, would be less than the previously submitted application, which was proposing the erection of a block of flats. A Flood Risk Assessment accompanies this application and although no response has yet been received by the Environment Agency or the Lead Local Flood Authority, it should be noted that no objection was previously raised for a larger application. Therefore, given that the development is located in the area with lower risk of flooding and for the reasons further discussed below with regard to safety of the development in its lifetime, it is considered that the Exception Test is passed.
- 5.3.9 The Environment Agency had previously raised no objection to the erection of a block of ten flats, considering that the site is currently defended by Shoreline Management Plan. The site is currently protected by flood defences with an effective crest level of 4.7m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.56m AOD. Therefore, the site is not at risk of flooding in the present-day. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change. The submitted FRA advises that the proposed dwelling would not be affected by floods up and including 1:1000 years plus climate change.
- 5.3.10 With regard to the access of the site, which lies within Flood Zone 3, a Flood Risk Assessment has been submitted including a Flood Risk Management Plan. A flood evacuation plan is recommended, which suggests that evacuation route should be formalised and agreed with the Emergency Services before being communicated to all residents. It is also recommended that residents are made aware of, and make use of, the Environment Agency flood warning service. In the event that escape is not possible, it is recommended that residents take refuge within the dwelling until such time that flood waters subside and they are instructed to leave by emergency services. The Flood Emergency Planner had previously requested that full details of the evacuation plan are submitted. This can be dealt with by condition.
- 5.3.11 The built-up and hard surfaced area would increase by the proposed development and therefore, to ensure that surface water is managed, a drainage strategy should be submitted.
- 5.3.12 It is noted that the Lead Local Flood Authority has been consulted for this application and an objection has been received for the following reasons:
- *No drainage information has been submitted therefore there may be an increased risk of flooding associated with the site*

- *Small sites should minimise the areas of hardstanding, where hard surfaces are necessary unlined permeable paving should be used.*
- *Discharge rates should be limited to the greenfield 1 in 1 year rate or 1l/s, whichever is greater, if it is deemed that is not achievable evidence must be provided before developers seek to achieve a 50% betterment minimum on existing run off rates for brownfield sites and the discharge rates should be limited close to greenfield 1 in 1 year rates.*
- *Where it is not possible to meet the greenfield 1 in 1 rate, rainwater re-use should be used to reduce the run off rate from the site, it should be demonstrated why this is not feasible if it is not proposed*
- *All areas of the site should receive sufficient water treatment and above ground features are preferable*
- *Maintenance plan - Prior to first occupation a maintenance plan detailing the maintenance arrangements should be submitted including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies*
- *Infiltration testing/ground investigation to assess the viability of using infiltration on site- there should be some ground testing for geology and then the worst case rates for that soil type should be used*
- *If the site is directing water to a single point of infiltration then we would need to see infiltration testing for that location. However if the water is being distributed evenly across the site as the rain lands on the ground then we do not require infiltration testing as it is mimicking natural processes.*
- *There is no drainage plan. A site layout, location of features, outfall location, conveyance should be included*
- *Exceedance flows should be considered to ensure potential off-site flooding is managed*
- *A 10% allowance for urban creep should be included within the storage calculations Engineering drawings should be provided detailing the SuDS components used within the drainage system*

5.3.13 In the absence of sufficient information to address the abovementioned matters, it is considered that it cannot be demonstrated that the site would be able to provide adequate ways of discharging surface water to avoid flood risk. Given that the site is located partially within flood zone 3 this is a matter that is pertinent to be addressed concurrently with the submission of an application rather than as part of a condition. Hence, an objection is raised in relation to the lack of sufficient information demonstrating that sustainable urban drainage systems are in place to avoid the risk of flooding.

5.4 Design and Impact on the Character of the Area

5.4.1 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.

5.4.2 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”.

5.4.3 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.*

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

5.4.5 The is located in close proximity to the Burnham-on- Crouch Conservation Area and long views of the proposed development would be maintained from within the conservation area. In accordance with policy D3 of the LDP, development proposals that affect a heritage asset (whether designated or non-designated) will be required to preserve or enhance its special character, appearance, setting – including its streetscape and landscape value - and any features and fabric of architectural or historic interest.

5.4.6 The proposed development is located in a backland location to the rear of properties along Station Road, Western Road and Brickwall Close. Access to the site would remain unaltered via a service road off of Station Road, as currently provided for the industrial building that was previously used as rubber factory. This is an existing access and thus, no objection is raised in terms of its impact on the character and appearance of the area.

- 5.4.7 The area is mixed in terms of the size, style and design of the properties; however, as previously noted by the Inspector assessing the previous application, a degree of uniformity and openness is achieved, *“which, coupled with a range of roofscapes and mature landscaping, creates a pleasant suburban environment.”*
- 5.4.8 The site is currently occupied by a single storey part pitched, part flat roof building which is in poor condition, as it appears that it has been left vacant for several years. The building is currently located on the northwest corner of the development, whilst the proposal would mainly utilise the central and southern part of the site to retain the dwellings away from the areas within the higher risk of flooding.
- 5.4.9 It is accepted that the current proposal is materially different from the previous development that was dismissed on appeal, in terms of type of residential development proposed and the overall mass, form and design. Nevertheless, the previous Inspector’s assessment in relation to the impact of the development on the character of the area is still considered relevant and it should form the starting point for the assessment of the current application.
- 5.4.10 The Inspector has given consideration to the scale, layout and design of the previously dismissed development. It was in particular stated that *“the layout of the proposal would create a discordant form of development that appears to be forced into the north-eastern corner of the site in order to accommodate a large expanse of hardstanding for parking and turning areas. Consequently, despite the level of communal garden area provided, the proposal would nonetheless cover the majority of the site with built development resulting in a proposal that would dominate the site, giving it a constrained and cramped appearance, which is further exacerbated by the large areas of hardstanding. The development would result in material harm to the area by eroding and failing to respond to the more open and spacious character of the area.”*
- 5.4.11 Although the footprint of the currently proposed development has been decreased, in terms of the proposed layout, it is noted that the proposed dwellings would expand almost along the full width of the site, with minimal gaps (1.5m and 2m wide) being maintained between the proposed dwellings. This combination taken together with the two-storey height of the proposed dwellings is considered to result in an inappropriate layout and a discordant visual impact. Although it is acknowledged that the ground coverage of the previous development in comparison to the current development was greater, it should be considered that the continuity of the front elevation and mass of the building was broken down. The current proposal would effectively result in a long continuous front building line and two storey mass, providing limited articulation and openness to the site. Furthermore, the previously raised concerns in relation to the large expanse of the hardstanding, is not considered to be overcome, given that the area to the south of the proposed dwellings would be car dominated, providing the almost same amount of parking spaces. It should also be noted that no direct access to Plots 2, 3 and 4 can be provided due to the position of the parking spaces blocking the access to these units. All the above matters result in an unacceptable impact on the character of the area and are also indicative of the overdevelopment of the site.

- 5.4.12 Moreover, in relation to the layout of the proposed development, a poor relationship is achieved between Plots 4 and 5. Whilst the reason behind this relationship is understood (it is to address the impact of the development on the amenities of the neighbouring site at 3 Brickwall Close), it is considered that the forward position of this housing in relation to Plot 5, in such close proximity is also indicative of the unsuitability of the site to accommodate the amount of development proposed.
- 5.4.13 Although the number of units proposed on site has been reduced, consideration should be had to the fact that the previous proposal was for eight one-bedroom flats and two, two-bedroom flats, whilst the current proposal is for a mixture of three and two-bedroom dwellings, of which size and scale is materially different to small flats.
- 5.4.14 In relation to the elevational design of the dwellings, it is considered that although of simple design, the dwellings at Plots 1 to 4 would have an appropriate roof design, that would correspond to the prevailing roof design of properties in the surrounding area. Sufficient level of fenestration is proposed to be incorporated to all elevations, there would be variation to the use of finishing material and provision of detailing around the windows and between the first and ground floor, which would help with providing visual interest to these properties. However, concerns are raised in relation to the design of the proposed dwelling at Plot 5, which due to its position and relationship with the neighbouring dwelling at Plot 4 would result in a large expanse of a blank wall on the west elevation. This property would not blend well with the design of the properties at Plots 1 to 4 and it is considered would result in a detrimental impact on the appearance of the dwelling itself and character of the area. It is considered that the design is reflective of a desire to provide a level of accommodation that can be reasonably provided within the site and to not reflect a design led approach.
- 5.4.15 With regard to the impact of the development on the nearby conservation area, it is noted that although it is acknowledged that the development would be visible from within the conservation area, given its two-storey height behind a single-storey building (Tesco), on balance due to distance being maintained and the backland position of the development, it is not considered that an objection would be reasonable to be raised in that respect. It is noted that the Inspector previously considered that the impact of the block of ten flats would have a neutral impact on the conservation area. It is not considered that the current proposal would have a greater impact on the Burnham-on-Crouch conservation area.
- 5.4.16 In light of the above, it is considered that the development would materially harm the character and appearance of the area and would be contrary to the Policies S1, D1 and H4 of the LDP.

5.5 Impact on Residential Amenity

- 5.5.1 The basis of Policy D1 of the 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). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

- 5.5.2 The proposal is to convert previously commercial land and erect five dwellings. Given the nature of the former use of the site, although the development would result in a level of activity from the future occupants of the dwellings, this would be likely to result in less activity and associated noise than the previous commercial use. Therefore, it would not result in a materially harmful impact on the residential amenity of the nearby neighbours, in terms of noise and disturbance and in some respect would represent an improvement.
- 5.5.3 The proposed development would be sited in close proximity to no. 3 Brickwall Close. Plot 5 would be sited around 8.5m away from this dwelling. The easternmost section of the dwelling would be positioned away from the outlook of the windows of no. 3 Brickwall Close. Although it is accepted that the development would have some impact on the amenity of the of the occupiers of no.3, in terms of dominance, on balance, it is not considered that the impact would be such to warrant refusal of the application. The development, given its arrangement and its position against the eastern boundary, would not result in an undue sense of enclosure to the occupiers of no. 3 Brickwall Close. With regards to overlooking, it is noted that the sole first floor window on the east elevation of the dwelling at Plot 5 would be a bathroom window, which will be glazed in obscure glass. Thus, the development would not result in loss of privacy or material increase in overlooking.
- 5.5.4 With regard to the properties to the north, unlike the previously dismissed development, the current proposal would maintain a minimum 25m separation distance to the northern boundary and thus, no objection is raised in terms of overlooking, overshadowing or dominance.
- 5.5.5 With regard to the properties to the west, a minimum of 23m separation distance would be maintained. This separation distance is considered sufficient to mitigate against any unacceptable loss of light or obtrusive impact. With regard to loss of privacy and overlooking, it is noted that similar to Plot 5, the dwelling at Plot 1 would only have an obscure glazed, first floor, bathroom window on the west elevation, which will protect the neighbour's privacy.
- 5.5.6 A single storey building is located up to the northwest boundary of the application site. This building is against the existing boundaries and therefore, it is unlikely that windows are located to its south, east and north elevations. Whilst the use of this building is unclear, due to its position, it is not considered that the proposed development would result in any adverse impact on this building, in terms of overshadowing or overlooking.
- 5.5.7 To the south the site abuts the Tesco store and as such, no further impacts on residential amenity are expected to be caused by the proposed development.

5.5.8 In light of the above, it is considered that the development would not have a detrimental impact on the character and appearance of the area and it would not detract from the character of the nearby conservation area.

5.6 Access, Parking and Highway Safety

5.6.1 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.

5.6.2 In terms of the access to the application site, the proposed development would utilise an existing access. The Highways Authority has been consulted and raised no objection to the proposed development. In particular it is stated that "*the Highway Authority is satisfied that the proposals will not represent an intensification in use of the site compared to its existing permitted use*". It is therefore considered that subject to conditions the proposed access to the site would be acceptable and it would not result in an adverse impact on highways safety. Whilst dual use, the access is considered being wide enough (around 8.8m wide) to be able to provide a safe access to vehicles and allow sufficient space for pedestrians to enter and egress the site safely.

5.6.3 The proposed development would replace an existing rubber factory (B2 use class) with five residential properties. Taking into account the amount of development (a total of five residential units), it is considered that traffic movements would not significantly increase. Furthermore, if the site is developed as a B1/B2 use, it can potentially attract a very high volume of traffic movements in comparison to those generated by a residential development of ten dwellings. No objection is therefore raised in relation to the impact caused to the highway network from the potential vehicle movements. The Highways authority has been consulted and raised no objection in that respect.

5.6.4 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.

- 5.6.5 With regard to off-street parking, a total of eleven parking spaces are proposed to be provided, including one visitor parking space, to serve the development. The development is to provide three no. two-bedroom dwellings and two no. three-bedroom dwellings. A minimum of one parking space is required per new build dwelling in town centres and an additional visitor space for every four dwellings when communal car parking allocated to each dwelling is provided. The proposed development would provide two parking spaces per proposed dwelling, plus one visitor parking space. Plots 1 and 5 will benefit from an electric charging point adjacent to one of the designated parking bays. For communal residential parking areas, one charging point is required for every twenty spaces and thus, the development would be compliant with the requirements as set out within the vehicle parking standards. The proposed parking spaces would meet the standards as set out in the Vehicle Parking Standards SPD and a 6m distance between the parking spaces to allow adequate turning facilities within the site.
- 5.6.6 The proposal is also located in very close proximity to public transportation and local amenities. In particular it is noted that the closest bus stop is only 150m away from site and provides links with the surrounding towns and villages and the train station is only 0.4miles from the site. Many facilities are within walking distance of the site, including; school (950m), sports club(150m), supermarkets (10m), cinema (150m), library (150m), high street and river frontage with a variety of shops, pubs and restaurants and Yacht Club is around 350m away. It is therefore considered that the parking provision would be more than adequate and the development would not result in an increased demand in on-street parking.
- 5.6.7 Details of secure and covered cycle store have been submitted. Should permission be granted, the provision of cycle parking in accordance with the submitted details would have been secured by condition.
- 5.6.8 Each dwelling will have an allocated on plot storage for the discreet storage of waste and the details of the bin store have been submitted within the Design and Access Statement. Thus, no objection is raised in relation to the provision of refuse store.

5.7 Private Amenity Space and Living Conditions of the Future Occupiers

- 5.7.1 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.
- 5.7.2 The proposed dwelling would benefit from large enough rear gardens that meet the requirements as set out in Maldon Design Guide SPD. As such, no objection is raised in

terms of the provision of sufficient outdoor amenity space to meet the needs of the future residents.

- 5.7.3 Adequate light, outlook and ventilation will be provided to all habitable rooms of the proposed dwellings and as such, no objection is raised in terms of the living environment provided for the future occupiers.
- 5.7.4 The site is located to the north of the Tesco store and thus, higher levels of noise and disturbance are expected due to the commercial nature of the neighbouring site and the associated vehicle movements of customers and deliveries and noise generated by the necessary external plant and equipment. For that reason a noise assessment has been submitted to address these issues during the process of the application. Revised comments from the Environmental Health Department have been received and although there are some reservations about the approach the noise survey does still offer some reassurance over the conditions existing at the site. On that basis it is suggested that there are no grounds to recommend refusal of the application on these grounds. Officers are therefore satisfied that the neighbouring use would not materially harm the amenities of the future occupiers of the development.

5.8 Landscaping and Trees

- 5.8.1 As noted above the proposed development would increase the amount of built-up area and hardstanding on site and for that reason replacement soft landscaping is considered necessary to soften the appearance of the development.
- 5.8.2 With regard to the loss of trees, the Arboricultural Officer as part of the previous application stated that there is only one tree which is a Pine, adjacent to the site which could be considered worthy of retention. A tree report and a tree protection plan have been submitted in support of the application. The report states that the building will be located far enough away from T2 (Pine), the only tree to be retained, which would be able to be protected from construction pressures. Protection measures are suggested within the report, including the installation of hard fencing and ground protection to protect the tree. It is therefore considered that subject to conditions to secure the protection of the only valuable tree on site, no objection is raised to the loss of the other two trees to accommodate the proposed development.
- 5.8.3 To compensate the loss, replacement trees are proposed to be planted. Additional landscaping is also proposed including planting of hedges in the periphery of the amenity area and amenity grass over the part of the open areas at the south part of the application site and the outdoor amenity area. On balance, it is considered that the amount of soft landscaping would be sufficient to improve the visual amenity of the site. Nonetheless, further details and a plant management plan would be required to be submitted and agreed in writing by the Local Planning Authority (LPA).

5.9 Ecology

- 5.9.1 The NPPF (the Framework) states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- 5.9.2 Policy N2 of the LDP which states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”*
- 5.9.3 A Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (dated February 2018) accompanies the application, which states that the development is not expected to have an adverse impact upon statutory or non-statutory designated locations. Although no evidence of bats has been identified, it is probable that bats from nearby roosts will forage across the site and in the gardens of adjacent properties. This behaviour would be expected to continue after any building work has been completed and therefore it is considered that the planning proposal for this site will not have a detrimental effect on the local bat population. It is not considered reasonably likely that great crested newt or reptile species would be adversely affected by the development proposals given absence of potentially suitable habitats within the site. Furthermore, no evidence of badger activity was identified. Although it is not expected that the development would result in any adverse impacts on protected/priority species, it is considered that mitigation and enhancement should be adhered to.
- 5.9.4 A section including recommendations is included within the submitted Survey, including consultation of a pest control specialist prior to the commencement of the development, coverage of trenches overnight during construction, protection of nesting birds if identified during breeding season, provision of habitat boxes and relatively open boundaries in order to allow wildlife to radiate in the area. Subject to the development being implemented in accordance with these details, no objection is raised in relation to the impact of the development on protected or priority species or habitats.

5.10 Contamination

- 5.10.1 Given the nature of the former use of the site as a rubber factory the potential of land contamination should be considered. To address that a Phase 1 Geo-Environmental Desk Study Report has been submitted with the application. This report identifies the need for further investigation, which according to the Environmental Health Department’s comments it is considered that it can be dealt with by condition. On that basis, subject to the imposition of a condition for the carrying out of a phase 2 intrusive investigation prior to the commencement of the development, no objection is raised to the impact of the development on the future or neighbouring occupiers and other receptors, in terms of the undue contamination of the site.

5.11 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

- 5.11.1 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.
- 5.11.2 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.
- 5.11.3 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.
- 5.11.4 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast 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.
- 5.11.5 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 does 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.
- 5.11.6 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 following development types? Yes - The planning application relates to one dwelling

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.

5.11.7 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.

5.11.8 It is noted that the Coastal Recreational Avoidance and Mitigation Strategy is currently on consultation and it therefore, constitutes an emerging document for the Council. Given the current preliminary stage of the document and low amount of development proposed (five residential units), in this instance, it is considered that it would be disproportionate and unreasonable to require the developer to mitigate the impact of the five dwelling on the protected habitats and thus, 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 three additional dwellings in this location would not be harmful in terms of additional residential activity to a degree that would justify the application being refused.

5.12 Pre-Commencement Conditions

5.12.1 No pre-commencement conditions are proposed.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/17/01480** - Application for the change of use from Class B1 and B2 to Class C3, the demolition of the existing dilapidated industrial building and the erection of 10 new residential flats, ancillary development and landscaping on land to the rear of 148 Station Road, Burnham on Crouch. Dismissed on appeal.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	<p>Object to the development for the following reasons:</p> <ul style="list-style-type: none"> • Inappropriate design • Overdevelopment • Poor relationship to surroundings • Loss of Privacy • Flooding issues • Parking issues • Cumulative effects of “windfall developments” • Loss of employment • Bats reside on site 	Noted and discussed within the main body of the report.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection subject to conditions.	Noted.
Lead Local Flood Authority	An objection has been raised and the details are discussed in section 5.3 of the report.	Noted and addressed in section 5.3 of the report.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection in principle.	Comments noted.

Name of Internal Consultee	Comment	Officer Response
	Contaminated land conditions shall be applied.	
Conservation Officer	No objection raised. The application site falls outside the Burnham-on-Crouch Conservation Area, but within the setting of this heritage asset. The site is some distance from the boundary of the conservation area, and is separated from it by intervening buildings and streets. Although the proposed development is likely to be visible from within the Conservation Area, and at the junction of Station Road and Brickwall Close, bearing in mind the separation distance, the new buildings would not harm the surroundings in which the heritage asset is experienced and as such, would have a neutral impact on the setting of the Conservation Area.	Noted and addressed in section 5.4.

7.4 Representations received from Interested Parties

7.4.1 Two letters were received at the time of writing the report **objecting** to the application and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
Adverse impact on the surrounding area	Noted and discussed in section 5.4 of the report.
Loss of light and privacy. Dominant and overbearing impact.	Noted and discussed in section 5.5 of the report.
Loss of value.	This is not a material planning consideration.

Objection Comment	Officer Response
Impact on wildlife.	Noted and discussed in section 5.9 of the report.
There is no need for further development in Burnham. Impact on the existing services.	Noted and addressed in section 5.1.
Loss of trees	This matter is addressed in section 5.8.
Insufficient parking provision	Addressed in section 5.6.

8. REASONS FOR REFUSAL

- 1 The proposed development by reason of its layout, mass, height, overall width, limited space between the built form and expanse of hardscaping would be detrimental to the character and appearance of the area. This is also indicative of the overdevelopment of the site and its unsuitability to accommodate the amount of development proposed. The development is therefore unacceptable and contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan (2017), Policy HO.1 of the Burnham-on-Crouch Neighbourhood Development Plan, the guidance contained in the Maldon District Design SPD and Government advice contained within the National Planning Policy Framework (2019).
- 2 Plot 5 by reason of its poor design, including the large expanse of blank walls and relationship with the other dwellings would result in an unacceptable and detrimental impact on the appearance of the proposed development itself and the character of the area, contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan (2017), Policy HO.1 of the Burnham-on-Crouch Neighbourhood Development Plan, the guidance contained in the Maldon District Design SPD and Government advice contained within the National Planning Policy Framework (2019).
- 3 Insufficient information has been submitted in relation to provision of adequate Sustainable Urban Drainage Systems on site demonstrating that the development would not result in flood risk. The development would therefore be unacceptable and contrary to Policies S1 and D5 of the Maldon District Local Development Plan (2017) Policy EN.2 of the Burnham-on-Crouch Neighbourhood Development Plan and Government advice contained within the National Planning Policy Framework (2019).