



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

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
4 NOVEMBER 2019**

<b>Application Number</b>	<b>FUL/MAL/19/00955</b>
<b>Location</b>	Lime Tree Cottage, 30 North Street, Tillingham, Essex CM0 7ST
<b>Proposal</b>	S73A application for single storey extension to allow for ground floor bedrooms together with new parking arrangement including new access from the highway.
<b>Applicant</b>	Ms T Silcock
<b>Agent</b>	TMA Chartered Surveyors
<b>Target Decision Date</b>	11.11.2019
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>TILLINGHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor R P F Dewick Public interest Scale and bulk

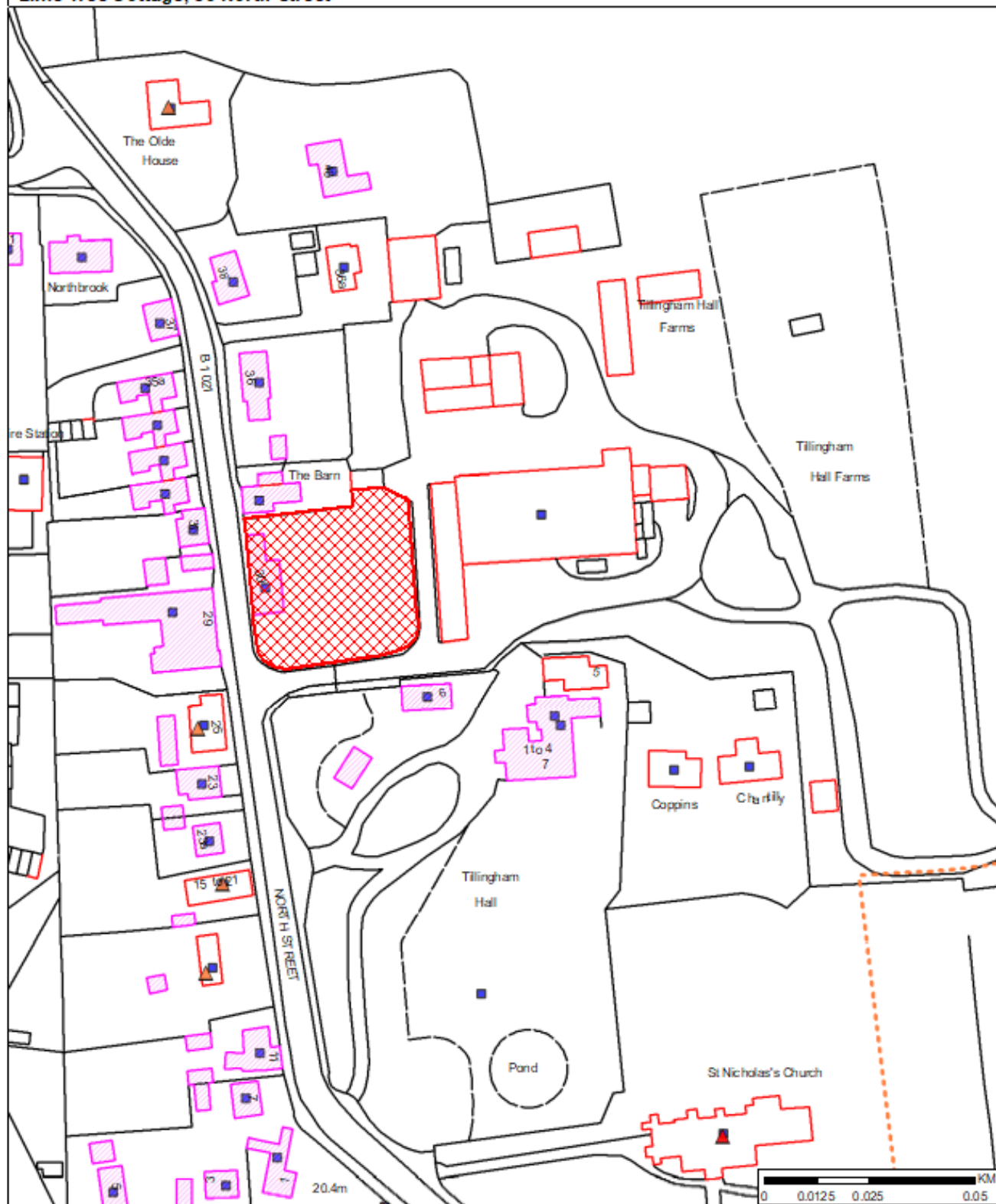
**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**19/00955/FUL**  
**Lime Tree Cottage, 30 North Street**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	South Eastern Area Com.
	Date:	24/09/2019
	MSA Number:	100018588

### **3. SUMMARY**

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

- 3.1.1 The application site located to the east of North Street within the settlement boundary and conservation area of Tillingham.
- 3.1.2 The building on-site is a detached two storey dwelling with a single storey shop attached to the northern elevation. The application site is subject to an Article 4 direction which restricts the alterations to any part of the front roof slope and alterations to windows, doors and other openings including the insertion of dormers, other windows within the roof or change of roof materials. The Article 4 direction also places restrictions on the erection of porches, fences, walls, gates and other forms of enclosure to the front of dwellings, vehicle hardstanding's, the exterior painting of dwellings and the erection or removal of chimneys.
- 3.1.3 The application is a retrospective application seeking permission for the construction of a single storey side and rear extension located to the north of the existing building and also seeks permission for the creation of a vehicular access and driveway to the south of the building.
- 3.1.4 The side and rear extension measures a total of 7.8 metres in width and 8 metres in depth. The extension's gable roof measures 4.8 metres in height to the ridge and 2.3 metres in height to the eaves on the southern elevation and 2.2 metres in height to the eaves on the northern elevation. The plans also show an area of steps to the eastern elevation measuring 2.2 metres in width and 1.7 metres in depth. The external materials used in the construction of the side and rear extension are white timber weatherboarding with a slate roof.
- 3.1.5 The proposed vehicle access and parking area to the south of the dwelling would measure 25 metres in depth and 13.3 metres in width with an entrance measuring 6 metres in width. The submitted plans show the provision of gates at the entrance, although no details of these gates have been provided. The materials proposed for the construction of the driveway access and parking area would be a white picket fence with grass pavers.
- 3.1.6 Justification for the need for additional living accommodation has been supplied in the form of a doctor's letter stating the applicant has difficulty with stairs due to a long-standing knee problem and arthritis.
- 3.1.7 This application is a resubmission of the previously refused application FUL/MAL/18/01448, which was refused due to the following:

- 1 The proposed extension by virtue of its design, scale and bulk, would represent a dominant and disproportionate addition to the site, which would be detrimental to the character and appearance of the application site, the streetscene and the Conservation Area. The development is therefore unacceptable and contrary to policies D1, D3 and H4 of the Maldon District Local Development Plan and the guidance contained within the Maldon District Design Guide and the National Planning Policy Framework.*

2. *It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would be served by visibility that would be adequate or that the proximity of the proposed gates to the public highway would not detract from highway and pedestrian safety or the free-flow of traffic. Therefore, taking a suitably precautionary stance, it has not been demonstrated that the proposal is acceptable and therefore the proposal is deemed to be contrary to policies D1 and T2 of the Local Development Plan (LDP).*

3.1.8 Minor alterations have been made to the proposed development in contrast to the previous application (FUL/MAL/18/01448). The proposed plans show the ridge height of the roof has been reduced and a gable style roof with a slack pitch to the northern roof slope has been proposed. All other aspects of the development remain unchanged.

### **3.2 Conclusion**

3.2.1 It is considered that the extension by reason of design, scale and bulk would represent a dominant addition to the site and would cause harm to the appearance and character of the existing building, the streetscene and the Conservation Area. Furthermore, the position and design of the vehicle access would be detrimental to highway and pedestrian safety. Whilst medical justification has been supplied it is considered this was not enough to outweigh the demonstrable harm the development has caused to the host dwelling and the Tillingham Conservation Area and is consequently not in accordance with policies D1, D3, T2, S1 and H4 of the LDP.

## **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
- 54 - 57 Planning conditions and obligations
- 117 - 123 Making effective use of land
- 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
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment

- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E1 Employment
- H1 Affordable Housing
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

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

- Planning Practice Guidance (PPG)
- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) SPD (Supplementary Planning Document)
- Maldon District Vehicle Parking Standards SPD (VPS)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.1.2 It is noted that the building contains a mixture of commercial and residential floorspace. The principle of extending an existing building and of providing facilities to be used in association with existing accommodation within a settlement boundary is considered acceptable in line with policies S1 and H4 of the approved LDP.

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

5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.

5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

*“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.*

*“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”.*

- 5.2.3 This principle has been reflected to the approved LDP. 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.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.6 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.7 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, policy D3 of the approved Maldon District Local Development Plan states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a

designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

- 5.2.8 The proposed single storey development consists of a wet room, a bathroom, a living area and two bedrooms. The proposed extension would have a slack gable style roof linking to the eastern and northern elevations of the shop and projecting from the northern and eastern elevations of the dwelling. There would be windows and doors to the western elevation with a series of steps leading to the rear garden.
- 5.2.9 The extension projects 2.7 metres from the northern elevation of the shop and extends 8 metres in depth along the northern boundary. Due to the scale and proposed roofline of the extension, it is considered the design of the development is not in keeping with the existing style of the dwelling or the shop, resulting in a dominant and incongruous addition to the site. Furthermore, as a result of the position of the development, its close proximity to the boundary and the lower roofline of the neighbouring dwelling, the extension is highly visible from the streetscene and within the Tillingham Conservation Area. Whilst the materials help to blend the extension with the shop, its scale and bulk detrimentally impacts on the Tillingham Conservation Area and character of the host building.
- 5.2.10 With regards to the materials used, whilst the white weatherboarding and slate roof is in keeping with the external finish of the existing shop and the use of white boarding blends with the existing painted colour of the dwelling, the slate roof does not match that of the existing dwelling. A history search shows the slate roof tiles to the shop do not appear to benefit from planning permission, however slate tiles are not out of keeping within the streetscene due to the mixture of clay and slate roof tiles to the neighbouring dwelling. Therefore, it is considered that the materials do not detrimentally harm the appearance of the buildings or the conservation area.
- 5.2.11 Whilst planning permission has previously been granted for the refurbishment and extension of the shop under planning reference FUL/MAL/10/00174 this permission has since lapsed. Furthermore, there is a significant difference in size between the approved extension and what has been built, with the proposed use of the 2010 extension being to provide services to the shop, separate to the dwelling. However, the extension, once complete, would contain two bedrooms, an en-suite, a bathroom and a living area.
- 5.2.12 A consultation response from the Council's Conservation Officer objects to the proposed extension as it is considered the alterations to the roof form would not overcome the previous concerns raised in the original planning application. It is considered the proposed roofline would not work in this situation due to the low height of the eaves and therefore *'the resultant asymmetrical roof form would appear highly irregular without reducing the overall bulk to any significant degree. The way in which the extension overlaps the northern gable-end of the house, with its northern wall so close to The Barn, would still appear quite clumsy in views from the street'*. Furthermore, it is considered *'the scale, form and position of the extension are such that it has an awkward and cumbersome relationship with the house, the adjacent barn and the street-scene'*. It is therefore considered the proposal would detrimentally impact upon the conservation area.

- 5.2.13 The proposed vehicle access to the south of the dwelling would enable parking spaces for at least four vehicles; however, these parking spaces would be amongst two Lime trees which are statutorily protected. Arboricultural approved grass pavers would cover the parking areas and therefore prevent the need for digging; this would be a subtle addition to the conservation area and would not greatly impact upon the visual appearance of the area. Furthermore, the installation of electric gates in the same picket style as the existing fencing would provide ease of access to and from the highway whilst maintaining the appearance of the locality. It is therefore considered the proposed parking area and access would not detrimentally impact upon the appearance of the existing dwelling or the conservation area.
- 5.2.14 The Councils Conservation Officer does not object to the principle of a new access and parking area to the south of the dwelling.
- 5.2.15 Whilst it is considered the proposed access and parking would be acceptable, the extension by reason of its scale, design and appearance would result in demonstrable harm to the character and appearance of the existing building, the streetscene and the Tillingham Conservation Area contrary policies to policies D1, D3 and H4 of the LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 in 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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The neighbouring dwelling to the north of the development site, The Barn, North Street is situated 2.2 metres from the rear/side extension of Lime Tree Cottage. There is a window to the northern elevation of the development, however due to the nature of the development being single storey and the fence along the northern boundary, the development would not result in overlooking or overshadowing of the neighbouring dwelling and its occupiers. Furthermore, plans show the windows to the southern boundary of 'The Barn' service a hallway and a kitchen / dining area; therefore, whilst these are non-habitable rooms, due to the separation distance and position of the development any loss of light to the neighbouring dwelling would be minimal.
- 5.3.3 The neighbouring dwelling to the south of Lime Tree Cottage is 11.9 metres from the development site, due to the separation distance it is considered the development would not impact on the private amenity space of the neighbouring dwelling Coach House, Tillingham Hall, North Street.
- 5.3.4 The neighbouring property to the west of the development site, Swan Care Residential Home, would be located 8.3 metres from the proposed entrance. Due to the separation distance, the proposed development would not impact upon the functioning of the care home.



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

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted VPS contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The development to the north of the host building has impacted upon the current car parking provision of the shop and dwelling due to the development being located to the rear of where the car parking area was, whilst one space remains to the west of the extension this is inadequate due to the increase in the number of bedrooms. The proposed vehicle access and car parking to the south of the site would accommodate four or more parking spaces. This would be in accordance with the VPS and policy D1 and T2 of the LDP. The proposed parking location would impact upon the two Lime Trees which benefit from a TPO, but this matter is addressed elsewhere within this report.
- 5.4.4 A consultation response from the Highway Authority does not oppose the proposed access subject to conditions. These conditions would require the following:
- The access should be constructed at right angles to the highway boundary and no wider than 6 metres with a dropped kerb for vehicle crossing.
  - The proposed gates should be inward opening and set back a minimum of 6 metres from the highway boundary.
  - On-site parking provision shall be in accordance with current parking standards.
  - Visibility splays should be provided in the form of a 2.4 metres wide parallel band as measured from the nearside edge of the carriageway.
  - Surface water should not be discharged onto the highway.
  - No unbound materials shall be used within 6 metres of the highway.

- All construction activities should occur outside the public highway.
- 5.4.5 The 1st, 5th, 6th and 7th conditions could be imposed and are considered reasonable. Compliance with the 3rd condition is discussed above and need not be imposed as a condition.
- 5.4.6 However, in respect of both the 2<sup>nd</sup> and 4<sup>th</sup> conditions, it is noted that the conditions would directly conflict with the development proposed. Gates are shown to abut the public footpath and therefore for the gates to be opened by someone entering the site, a car would have to be left within the public highway. This is likely to pose a threat to highway and pedestrian safety as vehicles would be likely to obstruct the free-flow of traffic and the safe movement of pedestrians at times when the gates are being opened or closed by car whose driver is leaving the site. In this instance it is considered that the level of departure from the submitted plans is so substantial that it is not reasonable to impose the condition that is suggested as the resultant access would be wholly different and the enclosures of that access would have a materially different visual impact on the Conservation Area. The resultant development would be materially different to that which has been the subject of public consultation.
- 5.4.7 Furthermore, it would not be possible to achieve the parallel band visibility that is requested. It is noted that the applicant shows visibility splays on the submitted plans, but this does not comply with the stated requirement of the highway authority and in any event, it is noted that the fencing at the site would provide a visual obstruction within these splays to the detriment of highway safety.
- 5.4.8 It is therefore considered the proposed access would be contrary to policies D1 and T2 of the LDP.

## **5.5 Private Amenity Space and Landscaping**

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwelling house, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.5.2 The existing garden on the site is in excess of the standard contained within the Essex Design Guide of 100m<sup>2</sup>. The garden area will remain in excess of 100m<sup>2</sup> after the construction of the proposed development; therefore, the proposed extension is in compliance with policy D1 of the LDP.

## **5.6 Other Material Considerations**

- 5.6.1 It is noted there are two Lime trees within the proposed parking area. The Council's Tree Consultant raised no objections to the no dig surfacing proposed in the previous application (FUL/MAL/18/01448) and there are no alterations to the proposed parking area in the current application. The Council's Tree Consultant has been consulted regarding the current application, however, no response has been received at the time of writing. As no objections were raised previously it is likely that any possible harm arising from the development could be mitigated through conditions and therefore it is not considered to be necessary to refuse the application on this basis.

## 6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/94/00441** - Change of use from barn to residential – Approved.
- **FUL/MAL/97/00501** - Conversion of existing redundant barn to residential including erection of conservatory and installation of dormer windows – Approved.
- **FUL/MAL/08/01082** - Conversion of existing barn to form a new dwelling – Refused.
- **FUL/MAL/10/00174** - Shop refurbishment and single storey rear extension – Approved.
- **FUL/MAL/11/00009** - Change of use of redundant barn to residential with hall and conservatory extensions – Approved.
- **TCA/MAL/15/00455** - T1 Apple - Remove. T2, T3 & T4 Conifer - Remove. - Allowed to Proceed.
- **TCA/MAL/16/01429** - T1 & T2 Lime – Remove - TPO Served.
- **WTPO/MAL/17/01061** - T1 & T2 Lime - Remove. – Refused.
- **18/01151/WTPO** - TPO 1/17 - T1 & T2 Lime – Remove – Refused.
- **FUL/MAL/18/01448** - Section 73A - single storey extension together with new parking arrangements including new access from highway – Refused – 11.03.2019.
- **WTPO/MAL/19/00510** - Installation of root barrier between the protected lime trees and the damaged property – Approved.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tillingham Parish Council	Support	Noted

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection raised subject to conditions	Comment noted

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	Objection raised to the proposal as it has not overcome the harm identified in the previous application	Comments noted

### 7.4 External Consultees

Name of External Consultee	Comment	Officer Response
Tree Consultant	No response at time of writing	Noted

### 7.5 Representations received from Interested Parties

7.5.1 No letters of representation were received.

## 8. REASONS FOR REFUSAL

- 1 The proposed extension by virtue of its design, scale and bulk, would represent a dominant and disproportionate addition to the site, which would be detrimental to the character and appearance of the application site, the streetscene and the Conservation Area. The development is therefore unacceptable and contrary to policies D1, D3 and H4 of the Maldon District Local Development Plan and the guidance contained within the Maldon District Design Guide and the National Planning Policy Framework.
- 2 It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would be served by visibility that would be adequate or that the proximity of the proposed gates to the public highway would not detract from highway and pedestrian safety or the free-flow of traffic. Therefore, taking a suitably precautionary stance, it has not been demonstrated that the proposal is acceptable and therefore the proposal is deemed to be contrary to policies D1 and T2 of the LDP.