



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**CENTRAL AREA PLANNING COMMITTEE
22 JANUARY 2020**

Application Number	19/01204/FUL
Location	Land adjacent 53 Orchard Road Maldon
Proposal	Construction of a pair of semi-detached dwellings, off street parking provision and ancillary works
Applicant	Mr Tony Church
Agent	Mr Derek Lawrence - Lawrence Planning Limited
Target Decision Date	31.01.2020
Case Officer	Kathryn Mathews
Parish	MALDON WEST
Reason for Referral to the Committee / Council	Member Call-in: Councillor C Mayes Reason: Policy D1, H1, H4, S1

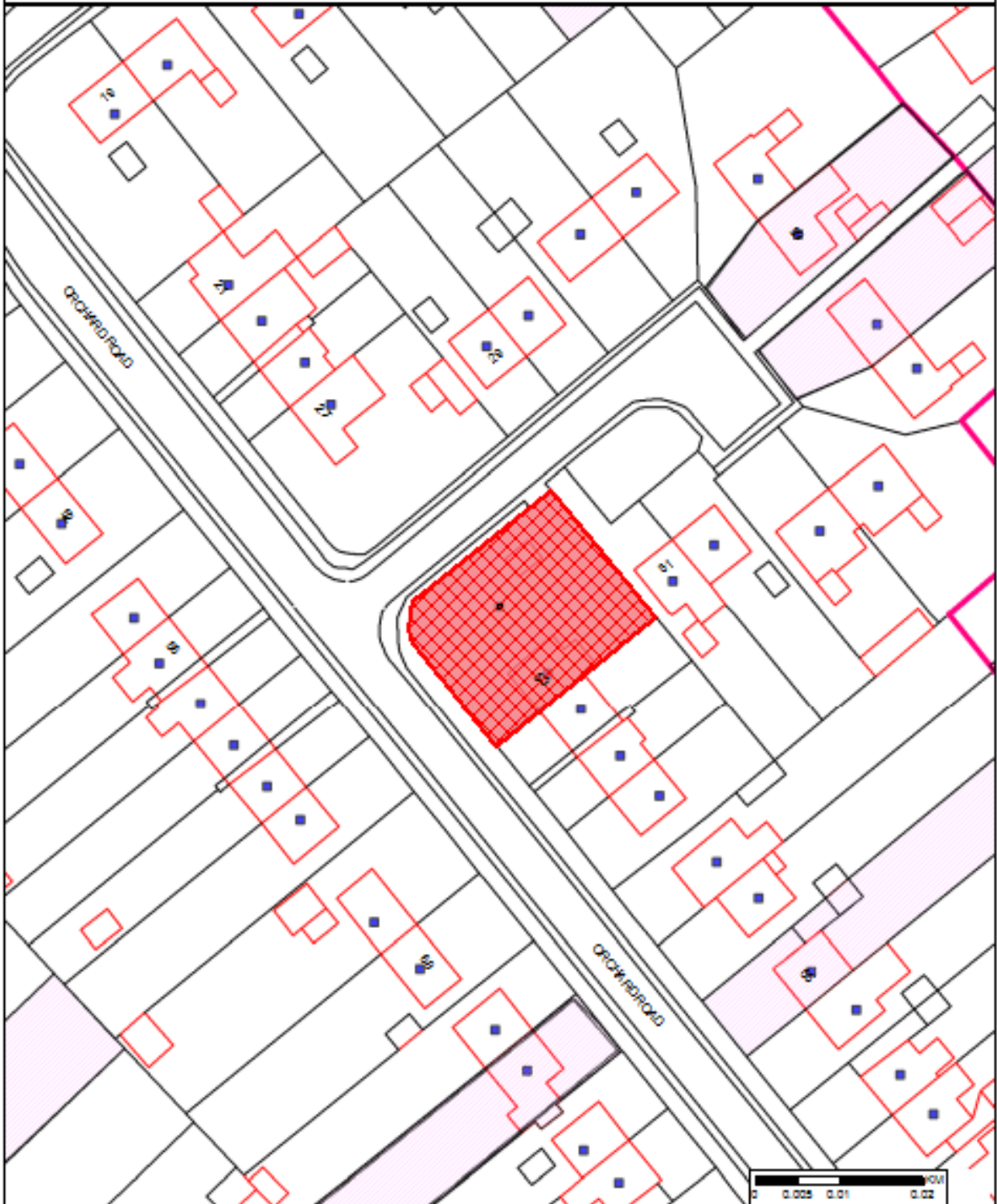
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Land adjacent to 53 Orchard Road, Maldon
19/01204/FUL



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	Department:	Department
	Comments:	Central Area Committee
	Date:	05/01/2020
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The site is in a residential area which consists of predominantly two storey semi-detached or terraced dwellings. The application site is located on the inside of a right-angled bend in Orchard Road and currently accommodates an end-of-terrace dwelling (53 Orchard Road) and its curtilage. The north-western boundary of the site abuts part of Orchard Road which is a cul-de-sac serving 29-51 Orchard Road. Vehicular access to the site is in the northern corner of the site, to the rear of the dwelling.
- 3.1.2 The proposal is to construct two semi-detached dwellings to the side/north-west of the existing dwelling, along with two parking spaces for the existing dwelling and two parking spaces for one of the proposed dwellings along the site's frontage. Two parking spaces for the second dwelling proposed would be provided to the rear within part of the existing driveway.
- 3.1.3 Both new dwellings proposed would have two bedrooms and have a footprint measuring 8.7m in depth and 5.2m in width, with a height of 6.9m. The materials to be used to finish the external surfaces of the dwellings would consist of red multi facing brickwork for the walls and brown Marley concrete roof tiles for the roofs.
- 3.1.4 The site has been the subject of two previous applications for a pair of semi-detached dwellings which have been refused (see below). The applicant's agent has explained that the scheme has been amended since the most recent refusal through a change in the design of the roof proposed from hipped to gable and as fenestration has been added to match the existing dwelling. The agent goes on to state that boundary treatment adjacent to the highway and also to the return frontage to the cul-de-sac would be provided by 1m high picket fencing (although the submitted drawing still refers to a 1.8m high fence and gate along the north-western boundary of the site) and that there would also be soft landscaping adjacent to the highway to reinforce and enhance existing planting.

3.2 Conclusion

- 3.2.1 The proposed development would be within the development boundary for Maldon, in a residential area and would make a small, positive contribution to the housing stock in the District. The development would also not cause harm to the amenity of the occupiers of existing residential properties and a refusal of planning permission based on concerns relating to parking provision, highway safety or access would not be justified. However, the development would cause harm to the character and appearance of the area and, in the absence of a Unilateral Undertaking which secures a financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), the development would have an adverse impact on nature conservation interests. It is recommended that planning permission is refused on this basis.

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
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 The main issues which require consideration as part of the determination of this planning application are the principle of the development, the impact on the character and appearance of the area, any impact on the amenity of the occupiers of neighbouring residential properties, the quality of life for the occupiers of the existing and proposed dwellings, highways/parking considerations and nature conservation.

5.2 Principle of Development

5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk areas, the historic environment, local infrastructure and services, character and appearance, and minimising need to travel.

- 5.2.2 As the site is located within the development boundary for Maldon and within an existing residential area, it is considered that the principle of residential development would normally be acceptable, subject to an assessment of the proposal as set out below.
- 5.2.3 The proposal would contribute towards the District's housing supply, but this would only weigh slightly in favour of the proposal as the District can demonstrate a deliverable 5-year housing land supply and the proposal is only for two dwellings. However, the National Planning Policy Framework (NPPF) seeks to boost significantly the supply of housing, and it is acknowledged that the Council's housing requirement is not a ceiling to development.
- 5.2.4 The Council encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated Strategic Housing Market Assessment (SHMA), published in June 2014, identifies the same need requirements for 60% of new housing to be for one or two-bedroom units and 40% for three -bedroom plus units. As the units would be two-bedroomed, this would contribute positively to the identified housing need and be responsive to local circumstances.
- 5.2.5 It is also acknowledged that the site is in a sustainable location in terms of accessibility, being within walking distance of Maldon town centre and so close to services and facilities including medical services, education, employment and shops, offered within the urban area of Maldon. This would weigh in favour of the proposal.

5.3 Design and Impact on the Character of the Area

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

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

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.3.3 This principle has been reflected in the approved Local Development Plan (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.

5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).

5.3.5 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.

5.3.6 The application site is located in a visually prominent location, on the inside of a right-angled bend in Orchard Road. The proposed dwellings would be located within what is currently the side garden of 53 Orchard Road. Whilst the proposed dwellings would be in-line with the front elevation of the existing dwelling, the proposed building would be wholly forward of the front elevation of the existing dwelling to the north-east and only around 2.3m from the side boundary of the site with Orchard Road. The part of the site within which the proposed dwellings would be constructed is currently an open area of residential garden with soft landscaping, and there is a similar open area on the opposite side of Orchard Road adjacent to no.27 Orchard Road.

5.3.7 Whilst the proposed dwellings would be greater in height than the existing dwelling at 53 Orchard Road, this would only be around 0.6m and would be comparable to the existing staggered line of ridge heights up/down this part of Orchard Road. The fenestration proposed has been amended since the previous refusal and, whilst not identical to the existing dwellings, is not now so different to result in harm being caused to the character and appearance of the area. The external materials proposed would be in-keeping with the existing dwellings in the vicinity of the site.

5.3.8 However, there would be a 1.8m high close boarded fence along a significant length of the site's boundary with Orchard Road and the majority of the site's south-western frontage would become car parking to serve the existing and one of the proposed dwellings. The design of the proposed dwellings, as a result of the form and detailing of the roof, would also be at odds with the existing dwellings within the vicinity of the site. The roof proposed would have gabled rather than hipped ends unlike the previously refused scheme which would reflect the roof forms of the existing dwellings in the vicinity of the site but, due to the depth of the dwellings, the roof pitch would be noticeably less slack than the neighbouring, existing dwellings.

- 5.3.9 Reference is made in the supporting letter to comparable developments at 27 and 44 Wentworth Meadows and 28 Highlands Drive but there is no record of planning permission having been granted for additional dwellings at these properties since at least 1993.
- 5.3.10 As a result of the above, it is considered that the development proposed would be visually incongruous within the street scene to the detriment of the character and appearance of the area, contrary to Policies D1 and H4 of the LDP, the NPPF and the MDDG.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 requires that all development must protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. Policy H4 also requires that regard is had to the impact of a proposal on the amenity of neighbours.
- 5.4.2 As a result of the size, height and design of the dwellings proposed and the layout of the site, it is considered that the proposal would not result in material harm being caused to the occupiers of the existing, neighbouring residential properties due to privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.3 The proposed bedroom windows on the rear elevation of the properties would be around 9m from the neighbouring property to the north-east but would only overlook their front garden area and be at an angle from this neighbouring property's front elevation so as not to result in a material loss of privacy. The rear elevation of the proposed dwellings would be in line with the rear elevation of the existing dwelling and, therefore, should not cause harm to the occupiers of the existing dwelling at 53 Orchard Road, by reason of dominance, loss of outlook, loss of daylight or loss of sunlight. There would be the potential for a loss of privacy as a result of the two-bedroom windows proposed at first floor level on the side elevation of the unit closest to Orchard Road as these windows would be close enough to provide opportunities to overlook the garden of the property on the opposite side of Orchard Road (no.27). However, these windows are not the only windows serving these bedrooms and, therefore, this issue could be addressed through the imposition of a condition requiring them, along with the bathroom window proposed, to be fixed closed and obscure glazed below eyelevel.
- 5.4.4 Based on the above, no objection to the proposal is raised because of its impact on the amenity of the occupiers of any existing dwellings.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 of the LDP seeks to ensure that appropriate off-street parking is provided in conjunction with new development. Likewise, policy D1 seeks to ensure that safe and secure vehicle parking is provided in accordance with the Council's adopted parking standards.
- 5.5.2 The adopted parking standards for residential dwellings is a minimum of 2 spaces for two/three-bedroom dwellings. Cycle parking would also need to be provided at a rate

of two spaces per two-bedroom dwelling to comply with the adopted standard. The submitted site plan suggests that the existing dwelling and the two proposed dwellings would each be provided with two off-street parking spaces, all of which would be of dimensions which would comply with the minimum recommended in the adopted parking standards of 5.5m x 2.9m. Provision for cycle storage would be made for the existing and proposed dwellings in the form of a shed for each property.

- 5.5.3 The creation of two driveways along the south-western boundary of the site (a total width of 11.5m) would reduce the level of on-street parking currently available within Orchard Road, which would be undesirable, and has been a concern raised as part of the objections received. However, it is not considered that this issue, on its own, would be sufficient to justify a refusal of planning permission in this case due to the nature and scale of the development proposed, particularly during the construction period which would be temporary. A Construction Method Statement could be required by condition to minimise adverse impacts during the construction period.
- 5.5.4 The proposal also includes the creation of vehicular accesses along the south-western boundary of the site to provide access to parking for the existing and one of the proposed dwellings. No response has been received from the Highways Officer at the time of writing this report but no objection was raised to a very similar proposal, subject to the imposition of conditions, in response to the previous application reference 19/00825/FUL. Any comments received will be provided to Members as part of a Members' Update, if received.
- 5.5.5 On the basis of the above and in the absence of an objection from the Highways Officer, no objection to the proposal is raised in relation to parking, highway safety or access.

5.6 Quality of Life

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.6.2 The proposed rear garden areas for the existing and the proposed dwellings would comply with the recommended minimum standard of 50sq.m. for smaller dwellings. On this basis, no objection to the proposal is raised in relation to the quality of life for the occupiers of the existing or proposed dwellings.

5.7 Nature Conservation

- 5.7.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.7.2 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).

- 5.7.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.7.4 Policy N2 states that, any development which could have an adverse impact 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. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.7.5 In terms of off-site impacts, Natural England have advised that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. Natural England advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.7.6 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.7 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), Houses in Multiply Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.8 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 has provided an HRA record template for use where recreational disturbance is the only HRA issue.

- 5.7.9 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 and has currently been set at £122.30 per dwelling.
- 5.7.10 To accord with Natural England's requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

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

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

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

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

Summary of Appropriate Assessment – as a competent authority, the local planning authority concludes that the project will have a likely significant effect on the sensitive interest features of the European designated sites without mitigation and that, therefore, a financial contribution is necessary, in this case.

- 5.7.11 The applicant's agent has advised that their client would be willing to make such a financial contribution. However, a signed Unilateral Undertaking has not been received to secure the financial contribution required and, therefore, it is recommended below that planning permission is refused for this reasons as the likely impact of the development of the scale proposed, in this location would be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission.

6. ANY RELEVANT SITE HISTORY

- **19/00825/FUL** - Construction of a pair of 2 bedroom semi-detached dwellings, off street parking provision and ancillary works – Refused 23.09.2019

This proposal was refused planning permission for the following reason:-

1. The development proposed is located within a visually prominent location and, as a result of the size, height and design of the dwellings proposed, would be visually incongruous within the street scene to the detriment of the character and appearance of the area, contrary to Policies D1 and H4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.
- **19/00425/FUL** - Construction of a pair of 2 bedroom semi-detached dwellings, off street parking provision and ancillary works – Refused 28.06.2019

This proposal was refused for the following reasons:

- 1 The development proposed is located within a visually prominent location and, as a result of the size, height and design of the dwellings proposed, would be visually incongruous within the street scene to the detriment of the character and appearance of the area, contrary to Policies D1 and H4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.
- 2 The development would not provide two off-street parking spaces of sufficient size for the existing dwelling and one of the dwellings proposed and no cycle parking spaces are proposed. The development would, therefore, fail to accommodate the demand for car parking which, in turn, will lead to cars parking off-site in adjoining streets causing conditions of obstruction, congestion and danger to residents and other road users, contrary to Policies T2 and D1 of the Maldon District Approved Local Development Plan.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Recommends approval	Noted.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Officer	No response received but, in relation to the previous proposal reference 19/00825/FUL, no objection was raised subject to conditions: 1. the vehicular access for plots 53, 51a and 51b to be	Refer to section 5.5 of report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>constructed at right angles to the highway boundary and to the existing carriageway 2. The width of the access for plots 53 and 51b to be no wider than 9m and the width of the access for plot 51a is no wider than 4m at their junction with the highway and provided with an appropriate dropped kerb vehicular crossing of the highway verge and carriageway. 3. Any new or proposed boundary hedge is a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter. Further conditions are also recommended relating to the provision of the vehicular and cycle parking spaces proposed, no discharge of surface water from the development onto the Highway, no unbound material being used in the surface treatment of the car parking areas and all loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic being undertaken within the application site, clear of the public highway. An informative is also recommended.</p>	

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Cadent Gas	Recommends an informative.	Noted – an informative can be added if planning permission were to be granted.

7.3 Internal Consultees

None.

7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
Would add to existing on-street parking problems, particularly at the beginning and end of the school day, which restrict the width of the road and footpath and causes damage to the highway verges. Access for refuse and emergency vehicles would be further restricted. Highway safety issues during construction period.	Noted – refer to section 5.5 of report
Insufficient parking provided for dwellings proposed. Development too dense which will alter visual appearance of street and be out of keeping.	Noted – refer to sections 5.3 and 5.5 of report
Current broadband would not support additional demand	This is not a reason for refusal which could be sustained

8. **PROPOSED REASONS FOR REFUSAL,**

- 1 The development proposed is located within a visually prominent location and, as a result of the size and design of the dwellings proposed, would be visually incongruous within the street scene to the detriment of the character and appearance of the area, contrary to Policies D1 and H4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.
- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.