



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
8 JULY 2020**

Application Number	20/00375/FUL
Location	Land Rear of 148 Station Road, Burnham-on-Crouch
Proposal	Proposed change of use from Class B1 and B2 to Class C3, demolition of existing dilapidated industrial building and erection of 4 new residential dwelling houses, ancillary development and landscaping
Applicant	Mr Levy - Countryside Style Ltd
Agent	Chris Wragg - Arcady Architects Ltd
Target Decision Date	17.06.2020 EOT 22.07.2020
Case Officer	Julia Sargeant
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Member call in by Councillor V J Bell. Reasons for call in: <ul style="list-style-type: none">• Maldon District Council (MDC) Local Development Plan (LDP) policies H2 and H4 (1,2,4,5 and 7)• Burnham Town Council (BTC) Neighbourhood Development Plan (NDP) policies HO1 and EN2• Strategic Housing Market Assessment (SHMA) – local need• MDC parking Supplementary Planning Document (SPD)

1. RECOMMENDATION

APPROVE subject to a signed Unilateral Undertaking to confirm that the developer will contribute to Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and the conditions as detailed in Section 8.

2. SITE MAP

Please see overleaf.



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 Planning permission is sought for the change of use of the site from Class B1 and B2 to Class C3 along with the demolition of the existing industrial building and the erection of 4 new residential dwelling houses with associated ancillary development and landscaping.
- 3.1.2 The existing vehicular and pedestrian access point to the application site would be used and four dwellings are proposed to be constructed centrally within the site facing south. Two detached dwellings are proposed as well as a pair of semi-detached dwellings. The dwellings would all be two storey and finished in a mixture of red facing brick, render and horizontal boarding with Clay Plain tiles to the roofs.
- 3.1.3 To the front of the dwellings the parking and access driveway is proposed, along with an area of soft landscaping as well as a bin store. Off road parking for two vehicles is proposed for each dwelling. Each dwelling would also have a private rear garden area containing cycle store.
- 3.1.4 The following housing mix is proposed:
- 2 x 2 bedroom dwellings
 - 2 x 3 bedroom dwellings
 - Total = 4 dwellings
- 3.1.5 Plots 1 and 2 comprise of two detached three-bedroom dwellings featuring hipped gable end front elevations with small porch canopies. Each would measure 5.7 metres wide by 9.8 metres deep with a pitched roof reaching a maximum height of 8.3 metres. Both dwellings would be finished in brickwork at the ground floor, with the dwelling on plot one having a rendered finish at first floor level and the dwelling on plot two having a weather boarded finish at first floor level.
- 3.1.6 Internally both dwellings on plots 1 and 2 would contain a kitchen/diner, living room and w.c. downstairs, with three bedrooms (one with an en-suite) and family bathroom at first floor level.
- 3.1.7 Plots 3 and 4 comprise a pair of semi-detached dwellings with plot 3 featuring a front hipped gable end elevation and plot 4 forming the corresponding cross section with a hipped gable side elevation. The dwelling on plot 3 would measure 5.7 metres wide by 9.8 metres deep and the dwelling on plot 4 would measure 5.1 metres wide by 8.8 metres deep. Both dwellings would feature pitched roofs with plot 3 reaching a maximum height of 8.3 metres and plot 4 having a maximum height of 7.7 metres. The dwelling on plot 3 would be finished in brickwork and the dwelling on plot 4 would be finished in a mixture of brickwork and weatherboarding.
- 3.1.8 Internally the dwelling on plot 3 would contain a kitchen/diner, living room and w.c. at ground floor level with two bedrooms, both with en-suites at first floor level. The dwelling on plot 4 would contain an open plan kitchen/diner/living room and a w.c. at ground floor with two bedrooms (one with en-suite) and a family bathroom at first floor level.

3.1.9 Site Description

- 3.1.10 The application site is located within the development boundary for Burnham-on-Crouch. 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.
- 3.1.11 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.
- 3.1.12 The site is located opposite the Burnham-on-Crouch conservation area to the southwest. The site is accessed by Station Road, which is a main historic route that links the historic High Street to the mid Victorian Railway Station.
- 3.1.13 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 appears as a bungalow, the majority of the properties along this section of the eastern side 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.
- 3.1.14 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.
- 3.1.15 Brickwall Crescent is a fairly modern cul-de-sac development with mainly chalet style dwellings set centrally in large plots with deep front gardens.
- 3.1.16 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.

3.1.17 Relevant Planning History

- 3.1.18 This application is a resubmission following the refusal of application 19/00841/FUL which sought consent for '*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.*' This application was considered at the South Eastern Area Planning Committee on 7th October 2019 and was refused for the following reasons:

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).'*

3.1.19 The above referenced refused application was also a resubmission following the dismissal of an appeal (application reference 17/01480/FUL, appeal reference: APP/X1545/W18/3216601) for a development on the site 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.

3.1.20 This application has been submitted with the aim of addressing the previous reasons for refusal. The main changes to the application are as follows:

- Reduction in number of dwellings proposed from 5 to 4;
- Revision in the design of the proposed dwelling;
- Submission of information in relation to the provision of a Sustainable Urban Drainage System on the site.

3.2 Conclusion

3.2.1 The proposed development is a re-submission of a previously refused scheme. The amendments made to this proposal, through a reduction in number of dwellings and to the design of the dwellings is considered to overcome the previous reasons for refusal in relation to the impact of the development upon the site and surrounding area. The application has also been supported by submission of information in relation to the provision of a Sustainable Urban Drainage System on the site which will ensure that the development does not increase the risk of flooding. Furthermore, there are no objections in relation to the principle of the development, impact on neighbouring occupiers, ecology, amenity space, or car parking provision. The development is therefore considered to represent sustainable development which would accord with 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
- 54-57 Planning Conditions and Obligations
- 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
- 117-123 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 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 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

- Maldon District Design Guide Supplementary Planning Document (SPD) (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

4.4 Burnham-on-Crouch Neighbourhood Development Plan (2017):

- Policy EN.2 – New Development and flood Risk
- Policy HO.1 – New Residential Development
- Policy HO.2 - Range and Type of New Residential Development
- Policy HO.8 – Housing Design Principles

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)).
- 5.1.2 The NPPF is clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three interdependent objectives that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental objectives. This requirement is carried through to local policies via policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.3 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*".
- 5.1.4 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.*"
- 5.1.5 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 predominantly residential location, which lies within the defined settlement boundaries, is considered acceptable in principle.

Employment

- 5.1.6 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.
- 5.1.7 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."*

5.1.8 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 (17/01480/FUL), the site has been vacant since 2013. It was advised, as part of the 2017 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 had 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.

5.1.9 The site is surrounded by mixed town centre uses and a large number of residential uses. An industrial use is considered to be 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 17/01480/FUL, 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.

5.1.10 The Inspector that assessed the appeal relating to 17/01480/FUL did not raise and 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 change of use of the site to residential (albeit of a different type). Hence, the proposal would still be policy compliant. Furthermore, no objection was raised in relation to the loss of the employment use in consideration of the most recent application (19/00841/FUL) and no material considerations have altered since the consideration of that application.

Effective use of land

5.1.11 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.*

5.1.12 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.

5.1.13 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.

5.1.14 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.

5.1.15 Although the Council can demonstrate housing supply in excess of five years, taking into account that the development would be located within the settlement boundary for Burnham-on-Crouch and that it would result in a development compatible with the adjacent land uses, no objection is considered reasonable to be raised in relation to the principle of residential development in this location. However, the development has to be considered as a whole, with all material considerations taken into account before a view can be reached as to whether the development would accord with the development plan.

5.2 Housing Need and Supply and Mix

- 5.2.1 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.2.2 On 19 February 2019 the Government published the results of the first Housing Delivery Test (HDT), which stated that the Maldon District had passed the HDT (101%) and as a result does not need either an Action Plan or 20% buffer. Consequently, the buffer in the 2018/19 Five Year Housing Land Supply Statement (5YHLS) has been amended to 5%. This change results in the Council being able to demonstrate 5.27 years' worth of housing supply against its identified housing target. As there is a sufficient supply of housing land in the District and the Council's housing provision policies are not out-of-date, NPPF paragraph 11d is not engaged in this case.
- 5.2.3 Whilst the Council can demonstrate 5.27 years' worth of housing supply this does not preclude the granting of further residential development as long as it is found to be sustainable development as per the NPPF and adopted LDP policies. It does however mean that the provision of additional housing does not weigh in favour of the development as much as if there was a housing supply shortage in the District and development that would otherwise be found unacceptable need not be approved due to housing supply shortages.
- 5.2.4 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"*.
- 5.2.5 LDP policy H2 on housing mix requires all development 'to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable section, particularly for the ageing population'. The Strategic Housing Market Assessment (SHMA) provides the evidence base to the policy. Paragraph 61 of the NPPF states that 'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies...'
- 5.2.6 The Council's updated SHMA, published in 2014, identifies that for all housing types one- and two-bedroom units are required to balance the District's housing stock, which currently provides an unbalanced number of large dwellings. The required

ratio is for 60% of new housing to be for one or two-bedroom units and 40% for three bedrooms plus units.

- 5.2.7 The clarification to policy H2 details that ‘An appropriate mix of housing in new developments will help to enable a better flow of the existing housing stock. The Council will require new development to incorporate a range of different housing types which contribute towards meeting the identified housing needs for different demographic groups in the District. As recommended by the latest SHMA update, the Council will encourage a greater proportion of one- and two-bedroom properties to be developed to meet the demand for owner occupied and intermediate housing in the District.’
- 5.2.8 The proposed development would result in 2 x 2 bedroom dwellings and 2 x 3 bedroom dwellings, which is a 50:50 split in terms of larger and smaller units. The housing mix proposed is considered to be, on balance, acceptable and given the small scale nature of the proposed development is broadly in line with policy H2 of the LDP. However, it is not considered that the limited number of dwellings or the 50:50 spit weighs in favour of the application to a demonstrable amount. Therefore, no objection is raised to the proposed development in terms of housing mix.

5.3 Design and Impact on the Character of the Area

- 5.3.1 Part of the environmental role of sustainable development as referred to in the NPPF, is that 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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.
- 5.3.2 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:
1. *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 2. *Height, size, scale, form, massing and proportion;*
 3. *Landscape setting, townscape setting and skylines;*
 4. *Layout, orientation, and density;*
 5. *Historic environment particularly in relation to designated and non-designated heritage assets;*
 6. *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
 7. *Energy and resource efficiency.*
- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017). Policy HO.8 – Housing Design

Principles of the Burnham-on-Crouch Neighbourhood Development Plan (2017) also has to be considered.

- 5.3.4 The application site is located on the opposite side of Station Road to the Burnham-on-Crouch Conservation Area and long views of the proposed development would be possible from 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.
- 5.3.5 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.
- 5.3.6 The surrounding area is predominantly residential in character and is mixed in terms of the size, style and design of the properties; however as previously noted by the Inspector assessing the appeal on 17/01480/FUL, a degree of uniformity and openness is achieved; *‘The area is mainly residential in character and comprises dwellings that are arranged predominantly in a linear manner with gardens to the rear that are largely undeveloped. The area contains a variety in style and size of dwellings that display a degree of uniformity and openness which, coupled with a range of roofscapes and mature landscaping, creates a pleasant suburban environment.’*
- 5.3.7 The application site is currently occupied by a single storey part pitched, part flat roof building which is in poor condition and it appears that it has been left vacant for a number of years. The building is located in the northwest corner of the site, whereas the proposed development would mainly use the central part of the site.
- 5.3.8 The most recent application at this site sought planning permission for 5 dwellings on the application site. This application has reduced the number of units from 5 to 4 and revised the design of the dwellings making more use of half hipped gable ends to reduce the bulk of the dwellings and their visual impact. The development now proposes two detached dwellings and a pair of semi-detached dwellings to create wider spaces between the dwellings.
- 5.3.9 In determining the previous application (19/00841/FUL) it was noted that the development 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.’ And that ‘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.’ A poor relationship between plots 4 and 5 was also noted and the application was

refused for 3 reasons, two of which related to design and layout considerations in relation to the character of the area as detailed in paragraph 3.1.19 of this report.

- 5.3.10 The previous appeal decision in relation to the block of 10 flats proposed under 17/01480/FUL is also a material consideration, and in dismissing this appeal the Inspector considered 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.”*
- 5.3.11 In this current application 4 dwellings are proposed which would be spaced across the centre of the application site facing south with gaps of 2.9 metres between the detached dwellings and the pair of semi-detached dwellings. This increase in the gaps between the dwellings has enabled parking for two of the proposed dwellings to be positioned to the side of the dwellings (plots 2 and 3) and reduced the amount of parking to the front. The parking for plots 1 and 4 is proposed is the eastern and western ends of the access drive.
- 5.3.12 It is considered that each dwelling is well designed and has architectural merit with detailing to give interest and the use of appropriate materials. The proposed dwellings all sit well together in terms of the development as a whole and no objection is therefore raised to the development in terms of the design of the dwellings. The surrounding area is characterised by a variety of size, style and design of dwellings. There are use of gable elevations within the wider area and the design of the dwellings is considered to be acceptable within the wider context of the site.
- 5.3.13 The reduction in built form, revised design of the dwellings and the increase in gaps between the proposed dwellings is considered to address the previous concerns relating to the development appearing cramped and contrived and being detrimental to the character and appearance of the area. The current proposed development allows for breaks in the built form and would not result in a long continuous front building form. Whilst the dwellings are still two storeys, their design has been revised so that the two detached dwellings front gable on to the development, reducing their bulk and mass. Furthermore, the previously raised concerns in relation to the large expanse of hardstanding and parking layout is considered to be addressed as less parking spaces are required due to the decrease in plot numbers, and through the increased separation distances which as enabled some car parking to be placed to the sides of dwellings. Whilst there would still be hardstanding to the front for the access drive, there would now only be 4 car parking spaces to the frontage, along with a size 5 turning head to enable vehicles to turn around and leave the site in a forward gear. Each dwelling would benefit from a small area of soft landscaping to the front and it is considered that the previous reason for refusal number 1 has been addressed.
- 5.3.14 The second reason for refusal to 19/000841/FUL related to plot 5 and its poor design, including the large expanse of blank walls and relationship with the other dwellings. This dwelling has been omitted for this current application, which has resulted in the

ability to space the remaining 4 dwelling out further within the site. This reason for refusal has therefore been addressed.

- 5.3.15 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.
- 5.3.16 In light of the above assessment, it is considered that the development has addressed previous reasons for refusal 1 and 2 and would result in a new development that is visually attractive and responsive to local character. The development is therefore considered to comply with policies S1, D1 and H4 of the Local Development Plan.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. 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. Policy H4 also requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 The proposal is for change of use of previously commercial land and to erect four 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.
- 5.4.3 To the east of the application site are No's 2 and 3 Brickwall Close which are detached dwellings. No. 2 Brickwall Close backs onto the existing access road which will not alter as part of the proposal and the development will not result in any materially harmful impacts towards the occupiers of this dwelling.
- 5.4.4 Plot 4 of the proposed development would be sited between 3.4 and 4.7 metres from the shared eastern boundary of the site, and between 10.5 and 16 metres away from No. 3 Brickwall Close. There is a greater degree of separation between No. 3 Brickwall Close and the proposed development than in the previous scheme where plot 5 would have been 8.5 metres away from this dwelling. Whilst it is accepted that the proposed development would have some impact on the amenity of the occupiers of No. 3 in terms of outlook, this is not considered to be materially harmful to warrant refusal of the development. 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 4 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.

- 5.4.5 To the west of the application site are the dwellings fronting onto Station Road. With regard to these dwellings a minimum separation distance of 23m 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 4, the dwelling at Plot 1 would only have a first floor, bathroom window on the west elevation within the roofslope, which can be conditioned to be obscure glazed to protect the neighbour's privacy.
- 5.4.6 With regard to the properties to the north the current proposal would be set between 17 and 19 metres from the shared rear northern boundary and would have overall back to back distances of between 39 and 41 metres. On this basis no objection is raised in terms of overlooking, overshadowing or dominance towards occupiers of these dwellings.
- 5.4.7 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.
- 5.4.8 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.
- 5.4.9 In light of the above, it is considered that the development would not have a detrimental impact on the amenities of neighbouring residents subject to appropriate conditions in relation to obscure glazing. Furthermore, no objection was raised in relation to impact upon residential amenity in relation to the most recent refusal, and the Inspector found that subject to conditions the erection of a block of flats (17/01480/FUL) would not materially harm the living conditions of neighbouring occupiers (although the appeal was dismissed for other reasons).

5.5 Flood Risk

- 5.5.1 The site where the four dwellings are proposed to be located lies within Flood Zone 1; however, the access to the site, is within Flood Zones 2 and 3.
- 5.5.2 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.
- 5.5.3 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”.

- 5.5.4 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.
- 5.5.5 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.
- 5.5.6 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 dwellings) would be located in 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.
- 5.5.7 In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:
- a) *the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
 - b) *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.’*
- 5.5.8 The development would provide wider sustainability benefits to the community as it would result in the re-use of a brownfield site for housing and would contribute towards the District’s identified need for smaller type of accommodation, with two 2-bedroom units proposed, and result in a use that is compatible with its surroundings.
- 5.5.9 The footprint of the buildings, as currently proposed, would be less than the previously submitted application for 5 dwellings, as well as the block of flats proposed under 17/01480/FUL. A Flood Risk Assessment accompanies this application and the Environment Agency has raised no objection to the development subject to appropriate conditions in relation to contamination (which is discussed later in this report).
- 5.5.10 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 (SMP). The site is currently protected by flood defences with an effective crest level of 4.7m AOD (Above Ordnance (Datum) 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 Flood Risk Assessment (FRA) advises that the proposed dwelling would not be affected by floods up and including 1:1000 years plus climate change.

- 5.5.11 With regard to the access of the site, which lies within Flood Zone 3 the FRA recommends that future occupiers sign up to 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 under earlier submissions that full details of the evacuation plan are submitted. This can be dealt with by condition.
- 5.5.12 The previous application at the site (19/00841/FUL) had a reason for refusal relating to insufficient information being submitted in relation to provision of adequate Sustainable Urban Drainage Systems (SUDS) on the site demonstrating that the development would not result in flood risk. In order to address this reason for refusal this application has been supported by a surface water drainage strategy including flow calculations. The Lead Local Flood Authority has been consulted on the application and advised that having reviewed the drainage strategy and the associated documents which accompanied the planning application for minor development, it does not object to the granting of planning permission.
- 5.5.13 The Lead Local Flood Authority further advise that the proposed development will only meet the requirements of the NPPF if the measures as detailed in the Drainage strategies and the documents submitted with this application are implemented. This can be controlled through an appropriate condition.
- 5.5.14 It is therefore considered that the previous reason for refusal in relation to insufficient information being submitted in relation to provision of adequate Sustainable Urban Drainage Systems on the site has been addressed as part of this submission.

5.6 Access, Parking and Highway Safety

- 5.6.1 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.
- 5.6.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than

average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objective 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.

- 5.6.3 In terms of the access to the application site, the proposed development would utilise an existing access. The Highways Authority raised no objection to the previous proposed development for the block of flats or the five dwellings. In particular it is stated in the previous response to 19/00841/FUL 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 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.
- 5.6.4 The proposed development would replace an existing rubber factory (B2 use class) with four residential properties. Taking into account the amount of development (a total of four 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 previously raised no objection in that respect, and this current application is for a smaller development.
- 5.6.5 With regard to off-street parking, a total of eight parking spaces are proposed to be provided, two for each dwelling. The development is to provide two 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 and would therefore exceed the parking requirements for the development in terms of spaces for each dwelling. Given that the parking standards are exceeded for each dwelling it is considered that it would be unreasonable to insist upon a visitor parking space as well as each dwelling has an extra parking space above and beyond what is required within the adopted parking standards. The provision of appropriate electric vehicle charging points can be controlled through condition.
- 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 stores for each dwelling have been submitted and can be 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. It is noted that a bin collection point has been shown to the front of the dwellings which was not shown on the previous submission. From assessing the application against the Planning and Waste Management Technical Document to MDDG it does not appear that this would meet the appropriate criteria. For a development such as this with a private access road the guide states that *'Where the proposed development incorporates a private road and / or gated access arrangement to one or more properties the collection point will be where the private road meets the public highway or on the outside of the gates.'* The guide advises that drop off or collection points can be set 10 metres from the rear of the collection vehicle where certain criteria are met. There would be space for the bin collection point to be located to the side of the access road and this detail could be controlled through a condition and this has been discussed with the agent.

5.7 Private Amenity Space and Landscaping

- 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 MDDG 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 25m² for flats.
- 5.7.2 The proposed dwellings 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. Comments from the Environmental Health Department have been received which echo those given in relation to the previous applications on the site that although there are some reservations about the approach taken with the noise survey it 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 the grounds of

likely noise impact. 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 The application has been supported by a tree report which identifies that there are 3 main trees on site. As part of the proposal one tree, T2 will be removed with the other two trees (T1 and T3) retained and protected during the course of the development. It is noted that in the consideration of the previous applications on the site only T3 was to be retained and no objection was raised on this basis. Protection measures for the retained trees are suggested within the report, including the installation of hard fencing and ground protection. It is therefore considered that subject to conditions to secure the protection of the trees to be retained, no objection is raised to the loss of the other tree to accommodate the proposed development.
- 5.8.2 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 Paragraph 170 of the NPPF states that ‘Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.’
- 5.9.2 Strategic LDP 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.
- 5.9.3 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”*.
- 5.9.4 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.

- 5.9.5 It is noted that at the time of submission of this application the ecological appraisal was two years old, however the report states that “if more than a year were to elapse before the start of the building work, it is considered unlikely, due to the lack of potential roosting places, that bats would colonise the site during the intervening period.” It is therefore considered that the submitted ecological appraisal is sufficient.
- 5.9.6 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.
- 5.9.7 It has been noted that the submitted ecological appraisal does not contain a botanical survey or a Phase 2 preconstruction survey for Japanese Knotweed. This has been raised with the agent who has confirmed acceptance of a pre-commencement condition to carry out a Phase 2 preconstruction survey for Japanese Knotweed to ensure that it is not present on the site. Should it be found present then the agreed condition requires full details of a scheme for its eradication and/or control to be submitted and agreed prior to any work commencing on site.

5.10 Ecology regarding development within the Zone of Influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

- 5.10.1 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 Special Protection Area (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.
- 5.10.2 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), Houses in Multiple 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.
- 5.10.3 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.

- 5.10.4 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 likely significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.10.5 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.
- 5.10.6 To accord with Natural England's requirements, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, 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 the erection of four dwellings

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

Test 2 – The Integrity Test

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

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

- 5.10.7 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.

5.10.8 The Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) SPD is now post consultation and constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure. However due to indexation this figure is now £125.58. A financial contribution of £502.38 should therefore be sought for this development through a unilateral undertaking. The agent has been sent the legal agreement to sign and submit to the Council, to secure the abovementioned contribution. Therefore, should this be forthcoming the impact of the development will be considered to be mitigated. An update in this respect will be provided on the Members Update.

5.11 Contamination

5.11.1 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, and in accordance with Environmental Health and the Environment Agency's comments it is considered that this can be dealt with by condition. On that basis, subject to the imposition of appropriate conditions 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.

5.12 Archaeology

5.12.1 The application site is sited on the outskirts of the historic core of Burnham-on-Crouch. Prehistoric activity in the vicinity of the town is indicated by several Iron Age burials to the west, and cropmark enclosures (presumed to be prehistoric or Roman) to the north and east. Recent excavations in and around Burnham have demonstrated widespread settlement of the Burnham area in the Iron Age. The application site therefore has the potential to contain archaeological remains.

5.12.2 Archaeological features and deposits are both fragile and irreplaceable. It is therefore recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent. This is in line with advice given the NPPF and well as Policy D3 of the LDP.

5.13 Pre-Commencement Conditions

5.13.1 Five prior to commencement conditions have been recommended (conditions 6, 7, 9, 10 and 11) and the agent has agreed to their imposition. Conditions 6 and 7 relate to contamination and as ground contamination is often disturbed by any ground works and can cause damage to the environment as well as pose a potential health risk it is therefore important to know if contamination is present prior to any work starting. Condition 9 relates to archaeology and is required as a pre-commencement condition as archaeological remains are often destroyed or lost through any commencement of works and therefore the archaeological assessment needs to be undertaken and agreed prior to any work commencing onsite. Condition 10 requires Phase 2 preconstruction survey for Japanese Knotweed. This is required as a pre-commencement condition as Japanese Knotweed is a highly invasive plant and disturbance can cause it to spread.

It is therefore important to confirm whether it is present on the site before any works start, and if it is to then have an agreed scheme for its eradication and/or control. Condition 11 relates to a Construction Method Statement and is to ensure that on-street parking of construction vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

6. ANY RELEVANT SITE HISTORY

6.1 The relevant planning history is set out below:

- **17/01480/FUL** - 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. – Refused – 12/09/2018 - Dismissed on appeal.
- **19/00841/FUL** - 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 – Refused – 10/10/2019

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>This application does not conform to MDC policies H2 and H4 (1,2,4,5 and 7), BTC policy HO1, SHMA – local need for 1/2 - bedroom properties, Flood zone 3 (BTC EN2), Contravenes MDC parking SPD. 1 visitor space per 4 dwellings required. No allocated visitor parking (4.4 residential parking standards).</p> <p>Overdevelopment and this is further windfall housing. Bin collection – access too narrow for bin lorry and no works possible to amend as developer does not own the land.</p>	Noted and addressed within sections 5.1, 5.2, 5.3, 5.5, and 5.6

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Archaeology	Archaeological features and deposits are both fragile and irreplaceable. It is therefore recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent. This is in line with advice given the National Planning Policy Framework,	Noted and addressed in section 5.12
Environment Agency	Consider that planning permission could be granted to the proposed development as submitted subject to conditions relating to groundwater and contaminated land. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.	Noted and addressed in section 5.11
ECC Sustainable Drainage Systems (SuDS)	Having reviewed the drainage strategy and the associated documents which accompanied the planning application for minor development, we do not object to the granting of planning permission reference 20/00375/FUL.	Noted and addressed in section 5.5

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	<p>This is a submission of a revised proposal for the site. The noise assessment and phase 1 contaminated land report remain the same and have been resubmitted. Echoes the comments my colleague made in respect of application FUL/MAL/19/00841 and recommend additional conditions required for further investigation in terms of land contamination.</p>	<p>Noted and addressed in sections 5.7 and 5.11</p>
Conservation Officer	<p>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. 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. This view reflects the assessment of the appeal decision for the previous scheme (ref. 17/01480). I therefore raise no objection to this application.</p>	<p>Noted.</p>

7.4 Representations received from Interested Parties

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

Objection Comment	Officer Response
The building of these houses will be a blight on the landscape and totally out of keeping with the surrounding area.	Addressed in section 5.3 of the report.
The reasons for refusal for the previous applications should still stand.	It is considered that the amendments made to the application have addressed the previous reasons for refusal.
Burnham has enough developments already.	Addressed in section 5.2 of the report.
This piece of land has lain dormant for many years and attracts many forms of wildlife.	Addressed in section 5.9 of the report.
Plot 3/4 is too close and dominant with regards to 3 Brickwall Close.	Addressed in section 5.4 of the report.
The long-established trees to the Eastern boundary should be retained.	Addressed in section 5.8 of the report.
The car parking area at the Southern end of the development will generate noise and be obtrusive.	Addressed in section 5.4 of the report.

8. **PROPOSED CONDITIONS AND SUBJECT TO A SIGNED UNILATERAL UNDERTAKING**

- 1 The development hereby permitted shall begin no later than three years from the date of this decision.
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development shall be carried out and retained in accordance with the following approved plans and documents: 16/17/01, 16/17/02, 16/17/03, 16/17/10 Rev B, 16/17/17 Rev A, 16/17/18, Tree Protection Plan Rev 2, 49157-PP-001 Rev C
REASON To ensure the development is carried out in accordance with the details as approved.
- 3 Prior to their inclusion in the development hereby approved, written details or samples of all external facing materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 4 Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:
- i) boundary treatments;
 - ii) hard surfacing, including materials and finishes;
 - iii) soft landscaping, including planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation and maintenance.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

The hard landscape works shall be carried out as approved prior to the first use / occupation of the development hereby approved and retained and maintained as such thereafter.

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

- 5 The trees and/or hedges identified for retention on the approved plan drawing number 16/17/10 Rev B shall be protected during the course of the development. The trees and/or hedges shall be protected by measures which accord with British Standard 5837:2012 (Trees in Relation to Construction). The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless otherwise first agreed in writing by the local planning authority. If within five years from the completion of the development a tree or hedge shown to be retained is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shall be planted within the site of such species and size, and shall be planted at such time, as specified in writing by the local planning authority.

REASON To ensure the appropriate protection for the trees to be retained on site in the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 6 Notwithstanding the details submitted with this application, no development shall commence, (other than that required to carry out additional necessary investigation), which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site.

The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

REASON To ensure any contamination found present on the land is remediated in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.

- 7 Where identified as necessary in accordance with the requirements of condition 6, no development shall commence, other than that required to carry out remediation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the approved scheme have been implemented must be given two weeks written notification of commencement of the remediation scheme work.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

REASON To ensure any contamination found present on the land is remediated in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.

- 8 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

REASON To ensure any contamination found present on the land is remediated in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.

- 9 (A) No demolition/development or groundworks shall commence until a Written Scheme of Investigation, in response to an archaeological brief, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions, and:
1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
- (B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

- (C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
REASON To safeguard any archaeological remains found present on the site in accordance with policy D3 of the Maldon District Local Development Plan, and the NPPF and PPG.
- 10 Notwithstanding the details submitted with this application, no development shall commence until a Phase 2 preconstruction survey for Japanese Knotweed has been submitted to and approved in writing by the local planning authority. The preconstruction survey for Japanese Knotweed shall include full details of a scheme for its eradication and/or control should Japanese Knotweed be found. The development shall be carried out in accordance with the approved survey.
REASON To ensure that any Japanese Knotweed present on the site is managed in the interests of the occupiers of the dwellings on this development as well as neighbouring land uses in accordance with policy D2 of the Approved Maldon District Local Development Plan, and the NPPF and PPG.
- 11 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel and under body washing facilities
- REASON To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the submitted Local Development Plan.
- 12 The development hereby permitted shall be carried out in accordance with the conclusions and recommendations contained within the Preliminary Ecological Appraisal dated February 2018.
REASON To minimise the impact of the development upon the biodiversity and ecology interest of the site in accordance with Policies D1 and N2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 13 No dwelling hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details (Flood Risk Assessment March 2020 updated by 49157-PP-001 Rev C and Flow Calcs Rev C). The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
REASON To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to ensure the effective operation of SuDS features over the lifetime of the development in accordance with policy D5 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.

- 14 Notwithstanding the details submitted with this application prior to any works occurring above ground level at the application site full details of a bin collection point shall be submitted to and agreed in writing by the local planning authority. The bin collection point shall be provided as per the agreed details prior to occupation of the development.
REASON To ensure that the bin collection point is appropriate in accordance with policies D1 and D2 of the approved Maldon District Local Development Plan as well as the Planning and Waste Management Technical Document to Maldon District Design Guide.
- 15 Prior to first occupation of the dwellings hereby permitted the glazing and trickle ventilation provided to the development shall meet the criteria contained within table 4 of the Environmental Noise Assessment produced by Robin Cross dated 14 November 2017.
REASON To protect the amenities of occupiers of the development in accordance with policy D1 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 16 No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no 16/17/10 Rev B for 8 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available for such purposes in perpetuity.
REASON To ensure the provision of appropriate parking and turning facilities for the development in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 17 The bicycle parking facilities as shown on the approved plans 16/17/17 Rev A and 16/17/10 Rev B shall be provided in accordance with the approved scheme prior to the first occupation of the development and retained for such purposes thereafter.
REASON To ensure the provision of appropriate bicycle parking facilities for the development in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 18 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
REASON To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 19 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
REASON To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety in accordance with policies T1 and T2 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.
- 20 Prior to the first occupation of the dwellings on plot 1 and 4 hereby permitted, the first floor window(s) in the west facing elevation of plot 1 and the east facing elevation of plot 4 shall be glazed with opaque glass and of a non-

openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.

REASON To ensure that the development does not result in a loss of privacy or amenity for neighbouring occupiers in accordance with policy D1 of the approved Maldon District Local Development Plan, the National Planning Policy Framework and Planning Policy Guidance.

- 21 The applicant/occupier is required to have in place a flood action plan to respond to any flood warnings issued by the Environment Agency. Details of the flood plan shall previously have been submitted to and agreed in writing by the local planning authority, prior to first occupation of the development hereby permitted.

REASON To ensure that an appropriate flood action plan is in place as the site access is located within Flood Zone 3 in accordance with policy D5 of the Maldon Local Development Plan as well as the NPPF and PPG.

- 22 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no dormer window or other form of addition or opening shall be constructed in the roof or gable walls of the buildings hereby permitted without planning permission having been obtained from the local planning authority.

REASON To ensure that the development does not result in harm to the character and appearance of the area or result in a loss of privacy or amenity for neighbouring occupiers in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework

- 23 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no further openings or windows at first floor level or above shall be inserted in the flank elevations of the dwellings on plots 1 and 4 hereby permitted without planning permission having been obtained from the local planning authority.

REASON To ensure that the development does not result in a loss of privacy or amenity for neighbouring occupiers in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.