



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
29 JULY 2020**

Application Number	20/00490/FUL
Location	Land At The Summer House Back Lane Wickham Bishops
Proposal	Erection of 1No. dwelling (amendment to planning permission ref. RES/MAL/16/01475)
Applicant	Mr D Brown
Agent	Mr Jonathan Brown - Reeve Brown
Target Decision Date	14.07.2020 EOT requested
Case Officer	Hannah Bowles
Parish	WICKHAM BISHOPS
Reason for Referral to the Committee / Council	Member call in from Councillor Jarvis Reason: The proposed development looks far too large for the plot, appears to be back-garden development and is outside the LDP. I believe that's policies S1 and D1. This would merit debate, before one could conclude on a recommendation.

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the western side of Back Lane. The northmost tip of the site falls within the settlement boundary of Wickham Bishops, the remainder of the site lies outside of the defined settlement.
- 3.1.2 The site formed part of the residential garden of ‘The Summer House’, which is located to the north of the site. Further to the north, School Road and Grange Road are characterised by suburban development featuring predominantly detached dwellings with modest plot frontages within the built up area of Wickham Bishops. To the east there are a group of larger detached dwellings on Back Lane, which are within the development boundary. Open countryside lies to the south.
- 3.1.3 Planning permission is sought for the erection of a dwelling. It should be noted that a dwelling has been approved at the site under the terms of application reference 13/00118/OUT and 16/01465/RES and the construction of the approved dwelling has commenced on site. This current application seeks amendments to the original design, which will be detailed below.
- 3.1.4 The main body of the two storey dwelling would measure a maximum of 15.6m wide (including the chimney stacks), 9.95m deep with a maximum ridge height of 9.3m. An attached garage with a loft space is proposed along the northern elevation of the dwelling, the proposed garage would measure a maximum of 5.2m wide, 8.2m deep and 5.5m to the ridge. An open sided front porch measuring 2.5m wide, 1.45m deep and 3.1m to the top of the flat roof is proposed.
- 3.1.5 As stated above the site benefits from extant permission 13/00118/OUT and 16/01465/RES. This application proposes the following amendments to the approved dwelling:
- The maximum ridge height has been increased from 9.1m to 9.3m.
 - The width of the main body of the dwelling has been reduced by 1m.
 - The addition of a garage on the northern side elevation with a loft space, measuring 5.2m wide, 8.2m deep and 5.5m to the ridge.
 - Minor fenestration changes.
 - Change of design of front porch from pitched roof open sided porch to flat roof open sided porch.
 - Internal alterations at first floor to allow the addition of a fifth bedroom.

3.2 Conclusion

- 3.2.1 The proposed development is contrary to policies S1 and S8 of the Local Development Plan (LDP) due to the location of the application site outside of the settlement boundary of Wickham Bishops. However, the planning history of the site is a material consideration and given the extant permission approved under references 13/00118/OUT and 16/01465/RES a dwelling is lawfully under construction at this time. Therefore, the principle of a dwelling at the application site is established and not objected to. The proposed dwelling, when taking in to account the planning history of the site, is considered to have an acceptable impact on the character and appearance of the area, would not detrimentally impact the residential amenity of the

neighbouring occupiers and adequate parking provision and amenity space are provided. Therefore, the proposal is recommended for approval.

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
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Planning permission is sought for a new dwelling outside of the development boundary for Wickham Bishops.

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

5.1.3 The site is located in the countryside where policies of restraint apply. Policy S8 seeks to support sustainable development in settlement boundaries and to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy states that outside of the defined settlement

boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and the development is for one of the development types listed within that policy. The proposed residential dwelling would not fall within any of the categories listed within policy S8. Therefore, the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

- 5.1.4 In this instance a material consideration which weighs heavily in favour of the proposal is the planning history of the site. As stated above the site benefits from planning permission for the construction of a dwelling, approved under references 13/00118/OUT and 16/01465/RES, this permission is extant and the building works on site have commenced. The construction of a detached dwelling can be lawfully undertaken at the application site. Therefore, the principle of a detached dwelling on the application site is established and it would be unreasonable to object to this application on the grounds of the principle of the development.
- 5.1.5 The dwelling approved under references 13/00118/OUT and 16/01465/RES provides a fall-back position, which is relevant in the determination of this application. This application proposes amendments to the previous approved dwelling (as listed above in paragraph 3.1.5). The main consideration in the determination of this application is the impact the proposed amendments would have on the character and appearance of the area.

5.2 Design and Impact on the Character of the Area

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

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

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

- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - b) Height, size, scale, form, massing and proportion;
 - c) Landscape setting, townscape setting and skylines;
 - d) Layout, orientation, and density;
 - e) Historic environment particularly in relation to designated and non-designated heritage assets;
 - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - g) Energy and resource efficiency.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.6 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.7 The dwelling approved under applications references 13/00118/OUT and 16/01465/RES can be lawfully built and the works on site have commenced. Therefore, the previously approved dwelling provides a fall-back position in the determination of this application. Therefore, whilst the proposed development would alter the character and appearance of the site the principle of this cannot be objected to as a similar dwelling can be lawfully developed. Furthermore, as the dwelling is under construction it is reasonable to consider that the nature of the site will be materially altered irrespective of this application.
- 5.2.8 The changes to the approved dwelling, proposed under this application are a 0.2m increase in the maximum ridge height, a reduction in the width of the main body of the dwelling by 1m, the addition of an attached garage to the northern side elevation, fenestration changes, alteration to the proposed front porch and an internal amendment.
- 5.2.9 The most significant change when comparing this scheme to the previously approved scheme is the addition of a garage with loft space on the northern side elevation of the

dwelling. The proposed garage would measure 5.2m wide, 8.2m deep and 5.5m to the ridge, it would be finished with a gable roof form, with a front and rear facing gable end. A roll up garage door would be located within the front elevation of the garage and a window to serve the loft space, the side elevation would be blank. A doorway and window would be located on the rear elevation of the garage and a further window to serve the loft space.

- 5.2.10 It is noted that many of the dwellings within the area surrounding the site are served by detached or attached garages and therefore, it is not considered to form a development which is out of keeping with existing development within the area. In terms of appearance, it is traditional in form and design and references existing garages present within the area. In terms of scale, the proposed garage appears subservient to the main dwelling. Whilst the width of the main body of the dwelling would be reduced by 1m, the addition of the garage would result in an increase of 30sqm to the footprint of the dwelling, when compared to that previously approved. However, given the fairly generous plot size it is not considered to result in overdevelopment of the site. Therefore, this element of the proposed development is considered to be acceptable.
- 5.2.11 The proposed increase in the maximum ridge height of the dwelling, would result in the proposed dwelling being 0.2m higher than the approved dwelling. This change would have a minor visual impact and it is considered unreasonable to object to this element considering the height of approved dwelling.
- 5.2.12 The proposed change of the roof form of the front porch from a pitched roof to a flat roof, is considered to be a minor alteration that would not negatively impact the site or surrounding area.
- 5.2.13 The minor fenestration changes and the reconfiguration of the first floor to create a fifth bedroom are not considered to result in visual harm.
- 5.2.14 Given the previous approved applications 13/00118/OUT and 16/01465/RES a dwelling can lawfully be built at the application site. The proposed amendments to the previously approved dwelling are considered to be acceptable in terms of the visual impact on the site and surrounding area.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The application site has one immediately adjacent neighbouring residential property 'The Summer House' which is to the north of the site and within the same ownership as the application site. The neighbouring dwelling would be located around 19.9m from the proposed dwelling. Further north are a row of dwellings which front Grange Road, with the closest located in excess of 40m from the proposed dwelling. Given the separation distance and lack of windows on the northern elevation, it is not considered that the proposed dwelling would detrimentally impact the amenity of the

neighbouring occupiers to the north of the site by way of overlooking, a loss of light nor would the dwelling have an overbearing impact.

- 5.3.3 To the east are dwellings located along Back Lane, with the closest dwelling located in excess of 50m from the proposed dwelling, due to the siting of the proposed dwelling, which is accessed via a private drive, views of the dwelling would not be readily available to the dwellings to the east. Therefore, no concerns are raised in relation to overlooking, a loss of light nor would the dwelling have an overbearing impact.
- 5.3.4 To the west of the site is land which is in an equestrian use and believed (as historic applications would suggest) to be used in connection with no. 26 Grange Road and to the south is open countryside. Therefore, no concerns in relation to a loss of residential amenity to these sections of the adjoining land, is raised.
- 5.3.5 For the reasons outlined above it is considered that the proposal would not have an adverse impact on the amenity of the neighbouring occupants in relation to overlooking, overshadowing or domination.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted VPS SPD contains the parking standards which are expressed as minimum standards. The recommended standard for a four or more bedroomed dwelling is three car parking spaces. The proposed garage would provide space to park one car and the area to the front of the garage and dwelling is of a sufficient size to accommodate the remaining parking spaces required. Therefore, no concerns in terms of parking are raised.
- 5.4.3 The proposed access point has not been altered when compared to the extant permission. Therefore, no concerns in terms of the access or highway safety are raised.

5.5 Private Amenity Space, Landscaping and Trees

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDG 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.
- 5.5.2 The proposed rear amenity space would be excess of 500m², which is in excess of the recommended standard and the remaining amenity space for 'The Summer House'

would continue to be provided in excess of 100m2. Therefore, no concerns are raised in relation to private amenity space.

- 5.5.3 In respect of landscaping a Soft landscaping & Planting Specification and Landscape plan reference DB/SUM/02 prepared by Moore Partners Limited has been submitted. The plan shows the species and location of two replacement fruit trees and new hedge along the western boundary of the site. The details are considered sufficient and should the application be approved, a condition to ensure the development is carried out in accordance with the submitted details has been recommended.
- 5.5.4 In respect of the existing trees at the application site an Arboricultural Report and Arboricultural Implications Assessment and Tree protection plan reference DB/SUM/01 Rev A prepared by Moore Partners Ltd has been submitted with the application. This information was provided at the time of the previous application and the retention, replacement and protection measures were found to be acceptable. The amendments to the previously approved dwelling would not cause any additional impact the existing trees at the site. Therefore, the submitted information is considered to be acceptable and should the application be approved a condition to ensure the development is carried out in accordance with the details provided, has been recommended.

5.6 Other Material Considerations

Recent Planning Application

- 5.6.1 Whilst it is noted that a recent planning application, Reference 20/00300/RES, for a similar form of development which was refused planning permission this application was materially different in nature. The last application was for a variation to a condition and the Council considered that proposed alterations were so significant as to take the proposal outside of the limitations of the outline permission.

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

- 5.6.2 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 Maldon District Council (MDC) are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.6.3 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 sites 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.

- 5.6.4 Prior to the RAMS being adopted, Natural England advised 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.
- 5.6.5 The application site falls within the ZoI 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.
- 5.6.6 The proposal is for a new dwelling and Natural England's general advice is that an 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.
- 5.6.7 To accord with Natural England's requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

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

Does the planning application fall within the following development types? Yes - The planning application relates to one dwelling.

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

Test 2 – the integrity test

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

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

Summary of appropriate assessment

- 5.6.8 The application proposes the erection of a dwelling. Given that the site is located within a ZoI for the Essex Coast RAMS, it is expected that the development would have likely significant effects on identified European sites. An appropriate

assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.

- 5.6.9 The Essex Coastal RAMS is currently under preparation and it therefore, 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. As the proposal is for a single dwelling a fee of £122.30 would be required. The developer has been sent the legal agreement to sign and submit to the Council, to secure the abovementioned contribution. The developer has signed and submitted a legal agreement to secure the abovementioned contribution. Therefore, once checked and correct the impact of the development is considered to be mitigated.

Surface and Foul Water Drainage

- 5.6.10 The applicant has provided the results of a test which demonstrates the land is suitable for soakaways, which will be used to dispose of the surface water. The foul drainage will be disposed of via the sewer system, Anglian Water have agreed in principle to allow the connection to their sewer. Therefore, the submitted details are considered sufficient and should the application be approved, a condition to ensure the development is carried out in accordance with the submitted details has been recommended.

6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
13/00118/OUT	Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house.	Allowed on Appeal
16/01475/RES	Reserved matters application for the approval of appearance, landscaping and scale on outline planning application OUT/MAL/13/00118 allowed on appeal ref APP/X1545/A/13/2201061 (Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house)	Approved
18/05173/DET	Compliance of conditions notification of approved application RES/MAL/16/01475 Reserved matters application for the approval of appearance, landscaping and scale on outline planning application OUT/MAL/13/00118 allowed on appeal ref APP/X1545/A/13/2201061 (Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single	Conditions cleared

Application Number	Description	Decision
	dwelling house) Condition 6. Surface and foul water drainage. Condition 7. Landscape plan. Condition 8. Drainage	
19/05039/DET	Compliance with conditions notification of approved application OUT/MAL/13/00118 allowed on appeal APP/X1545/A/13/2201061 (Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house.) Condition 8 - Tree/hedges/shrub protection.	Conditions cleared
20/00300/RES	Variation of condition 2 on approved planning application RES/MAL/16/01475 (Reserved matters application for the approval of appearance, landscaping and scale on outline planning application OUT/MAL/13/00118 allowed on appeal ref APP/X1545/A/13/2201061 (Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house)) Variation: Addition of an attached garage.	Refuse

Background information

- 6.1 Although it is not directly relevant in the determination of this application, it is worth noting the background of application 16/01475/RES, which was initially presented to Members at the North Western Area Planning Committee on 6 March 2017 with a recommendation to approve the application subject to conditions. Contentious issues regarding the legality of the application were raised by a neighbouring resident and it was resolved that determination of this application be delegated to the Interim Head of Planning Services in consultation with the Chairman of the North Western Area Planning Committee together with the Ward Members. Following internal discussions and seeking advice from legal services, the Reserved Matters application was subsequently approved, and a decision notice was issued by the Council on 24 April 2017, subject to conditions.
- 6.2 This decision notice 16/01475/RES was challenged at the High Court. The High Court's decision on 9 February 2018 was to quash the decision notice and for the application to be reconsidered as the Judicial Review found that the manner in which the reports were prepared and made available to the Chief Executive was inadequate and the manner in which the final decision of the Chief Executive was recorded was also inadequate.
- 6.3 Following the High Court's decision the application was reconsidered and presented to Members at the North Western Area Planning Committee on 6 August 2018. The

Members resolved to approve the application subject to conditions and the decision notice, subject of this application, was issued on 20th August 2018.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops Parish Council.	Two letters recommending refusal of the application had been received by the Parish Council from residents. Councillors noted that the application was for a dwelling larger in footprint than that approved by the Planning Inspector on appeal. Condition 7 of the Inspector's decision sought to limit any increase in development of the site, specifically providing that there should be no garages or extensions. The increased footprint now includes a garage which, the Council noted, was in effect an extension to the originally approved dwelling. The site is outside the settlement boundary and further development would therefore be contrary to Policy S8 of the LDP, approved after the appeal decision. In addition, it was considered that the larger dwelling would be overbearing on the plot, contrary to Policy D1. The Parish Council recommended refusal of the application.	<p>The comments relating to the principle of the development and the impact on the character and appearance of the are dealt with in section 5.1 and 5.2 of this report.</p> <p>Please note that permitted development rights were removed from the property in relation to outbuildings, this precludes the owners of the dwelling utilising class E of the GPDO but does not prevent them applying for planning permission for an outbuilding/garage.</p>

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection.	Noted.

7.3 Representations received from Interested Parties

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

Objection Comment	Officer Response
Contrary to Policies S1, S8, H4, H5 and H7 of the MDLDP.	The conflict with policies S1, S8 and H4 are discussed in sections 5.1 and 5.2. Policies H5 and H7 are not directly relevant to this proposal.
The proposal will result in transforming the semi-rural area to urban.	It should be noted that there is an extant permission on the site for a dwelling. This is fully discussed within section 5.2 of this report.
Replacing garden land which sits adjacent to open countryside with a 5 bedroomed detached house is inappropriate.	Please see section 5.2 of this report.
The Council now has a five year housing land supply.	This does not outweigh the planning history of the site, as set out in section 5.1 of this report.
The principle of development does not endure through to a new full planning application for a materially larger property that is specifically not in accordance with the Outline permission originally granted.	There is an extant permission for a dwelling on the application site. Therefore, the principle of a dwelling on the application site has been established. This is fully discussed in section 5.1 of this report.
This is not an “amendment to planning permission RES/MAL/16/01475” it is a new full planning application for a larger building and should be assessed accordingly.	Please see section 5.1 and 5.2 of this report.
The Planning Inspector made a decision 6 years ago in very different circumstances.	The planning history of a site is a material planning consideration as well as the LDP. This is discussed in section 5.1 of this report.
Building this 5-bedroomed detached house here would be of no benefit to the village but would extend the built environment further south beyond the settlement boundary.	Noted.
The site is located outside the village	The principle of a dwelling on this site

Objection Comment	Officer Response
boundary on an elevated position overlooking open countryside.	has been established as discussed in section 5.1 of this report.
At the time of deciding the 2013 permission, the LDP has not been adopted.	Noted, however there is an extant permission for a dwelling.
The site is outside of the settlement boundary of Wickham Bishops.	Noted and discussed within section 5.1 of this report.
Planning approval was granted with the condition that the development stick to the approved plans for a small low-level house with no outbuildings or extensions – ‘ <i>in the interests of the character and appearance of the area</i> ’.	A condition requiring the development to be carried out in accordance with the approved plans is attached to the majority of approved decisions and does not prevent the applicant applying for further permissions or a revised design. Permitted development rights were removed from the property in relation to outbuildings, this precludes the owners of the dwelling utilising class E of the GPDO but does not prevent them applying for planning permission for an outbuilding/garage.
A principle of development does not exist with respect to the Application because this is not an outline/reserved planning application. Rather, it is a new, full and freestanding application for which a principle of development cannot be established by the Extant Permissions.	The extant permissions has been lawfully implemented and a single dwelling at the application site can be lawfully built. Therefore, the principle of a dwelling on the site is established regardless of the application type.
The Extant Permissions suggest refusal rather than support as the proposed changes contained in the Application were explicitly discussed and precluded during the proceedings of the Extant Permissions. The applicant had to amend his plans on a number of occasions; and the removal of the garage was explicitly shown.	The Officer report for the reserved matters application suggests the amended plans were submitted to ensure the development was in line with the Outline permission.
We submit that if the Application is granted by the Council, the existence of two overlapping planning permissions may preclude lawful implementation of the Application.	If this application is approved, it is up to the Applicant which permission to implement.
Pilkington (<i>Pilkington v Secretary of State for the Environment</i>) highlighted that while applications can be made for multiple planning permissions on the same piece of land, if an implemented permission prevents a subsequent permission being implemented, the second permission is likely to be	The works which have commenced on site are not considered to prevent this proposal being implemented instead.

Objection Comment	Officer Response
incapable of being implemented.	
The applicant has not provided any information which would confirm that the commencement of the Extant Permissions is compatible with the Application under the terms of <i>Pilkington</i> . Without this information, if the Application is granted, the Council could find itself in a position whereby an enforcement notice must immediately be served. Accordingly, before any grant is made, we would respectfully ask the Council to compel the applicant to provide this information to avoid the Council going through unnecessary expense.	As well as the applicant confirming the works have commenced and building control application being submitted to the Council. A site visit has been undertaken and groundworks have commenced. It is not considered necessary for the Applicant to confirm that the current application can be implemented for reasons discussed above.
The Application must be determined against the local plan policies as they stand in 2020 and cannot rely upon the policies relevant at the time of the determination of the Extant Permissions	A planning application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The current application has been assessed against relevant policies and taking in to account material planning considerations, such as the planning history of the site.
The officer's report for the refused section 73 application demonstrates how the Application's proposed design would be incongruous with Wickham Bishops environment, as well as encroaching for the public and neighbouring properties.	The section 73 application was refused as the proposed works were considered to exceed what could be considered a minor material amendment, the visual impact and impact upon the neighbouring occupiers did not form part of the reason for refusal. Therefore this comment is unfounded.

8. APPROVE SUBJECT TO A UNILATERAL UNDERTAKING AND PROPOSED CONDITIONS:

- 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.
- The development shall be carried out in accordance with the following approved plans and documents: SLP/SH/03.20, 20.02.03, DB/SUM/02, 20.02.02, 20.02.01 with dimensions, 20.02.01, DS1190P, 20.02.04 and MFA/SH01.
REASON: For the avoidance of doubt as to the extent of this permission.
- The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed below and retained as such thereafter:-
Roof Tiles: Barrow: 'Brindle Mix' by Wienerberger Ltd
Brickwork: Durham Red Multi by Wienerberger Ltd

Render: White painted finish

REASON: To ensure the external materials to be used in construction of the development is appropriate and in keeping with properties in the locality accordance with policy D1 of the Maldon District LDP.

4. The soft landscape works shall be carried out in complete accordance with the Soft landscaping & Planting Specification and Landscape plan reference DB/SUM/02, 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 that tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place.

REASON: In the interest of local visual amenity in accordance with policies D1 and S8 of the Maldon District Local Development Plan.

5. The Surface and Foul Water Drainage schemes shall be carried out in accordance with submitted details and completed before the building is occupied.

REASON: To ensure the appropriate drainage is provided at the site, in accordance with policy D5 of the Maldon District Local Development Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site.

REASON: To protect the character and appearance of the area in accordance with policy D1 of the Local Development Plan.

7. The development hereby approved shall be carried out in complete accordance with the Arboricultural Report and Arboricultural Implications Assessment and Tree protection plan reference DB/SUM/01 Rev A.

REASON: To ensure the protection, retention and replacement of trees and vegetation in the interest of the character and appearance of the area in accordance with policy D1 of the Local Development Plan.

8. 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 first floor windows or other form of opening shall be constructed on the northern flank wall of the dwellinghouse hereby permitted without planning permission having been obtained from the Local Planning Authority.

REASON: To protect the amenity of the neighbouring residential properties to the north of the site in accordance with policy D1 of the Maldon District Local Development Plan.