



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**26 MAY 2021**

<b>Application Number</b>	<b>21/00108/FUL</b>
<b>Location</b>	Rosemary, Mangapp Chase, Burnham-On-Crouch, Essex, CM0 8QQ
<b>Proposal</b>	Extension to existing brick plinth/timber framed barn to provide one bedroom ancillary/granny annexe for extended family
<b>Applicant</b>	Mrs Jane Taverner
<b>Agent</b>	N/A
<b>Target Decision Date</b>	22.04.2021
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor W Stamp – Policies S1 and H4

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

# Rosemary, Mangapp Chase, Bumham-on-Crouch

21/00108/FUL



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Maldon District Council 100018588 2018

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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: South East Area Committee

Date: 05/05/2021

MSA Number: 100018588

### **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 Mangapp Chase, outside the settlement boundary of Burnham-on-Crouch. The building on-site is a detached chalet style dwelling finished in cream render and red brick with a detached garage and outbuildings to the north and north west of the dwelling. The area to the north of the dwelling where the outbuildings are located appears to be separate to the land to the west of the dwelling. The surrounding area is residential and is characterised by two storey dwellings.
- 3.1.2 Planning permission is sought for extensions and alterations, including a single storey extension to the northern elevation and an increase in roof height, to facilitate the conversion of an existing detached outbuilding into annexe accommodation.
- 3.1.3 The existing outbuilding measures 7.4 metres in width and 3.7 metres in depth, with an eaves height of 2.2 metres and a ridge height of 4.2 metres. The proposed alterations would increase the width of the outbuilding by 2.6 metres and increase the depth by 1.5 metres resulting in the building measuring 9.9 metres in width and 5.2 metres in depth. The eaves of the outbuilding would remain unchanged at 2.2 metres however the roof height would increase by 0.8 metres to measure 5 metres in height.
- 3.1.4 The building would be finished in feather-edged weatherboarding on a brick plinth and roofing tiles to match the existing outbuilding.
- 3.1.5 This application follows the refusal of application 20/00887/FUL which was refused for the following reasons:
- 1 *The application fails to demonstrate that the proposal would amount to residential annexe accommodation ancillary to the main dwelling house by reason of its separation from the main house; design, which fails to integrate with the shared and communal garden area, and the division of the amenity space to the southern boundary. Furthermore, no evidence has been submitted as to the functional link of the proposed annexe to the main dwelling. In this respect the proposal is considered tantamount to a separate residential dwelling on a site which lies outside of the defined settlement boundaries and to which policies of restraint apply. The site has not been identified for development to meet future needs for the District within the Maldon District Local Development Plan and in this respect would be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.*
  - 2 *The Council considers that the development results in the provision of a new independent dwelling. The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council can demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for Growth, as identified within the Maldon District Local Development Plan, to meet the objectively assessed needs for housing in the District. The proposed development substantially alters the open character of the area and has an unacceptable visual impact on the countryside through the urbanisation and intensification of domestication of the site, detrimentally harming the character*

*and appearance of the locality, the public realm and the intrinsic beauty of the open countryside to the north and west of the site. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan, the guidance contained within the National Planning Policy Framework and the National Planning Practice Guidance.*

- 3 *In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.*

3.1.6 Amendments made to the application include an increase in width and height of the outbuilding and the inclusion of rooflights. However, a reduction in depth is proposed, altering the shape of the building and removing the previously proposed gable projection.

3.1.7 It is also noted a history search shows there was a previous application for a new chalet style dwelling on the site submitted under application 15/00127/OUT was also refused for the following reason:

- 1 *The proposed development on undeveloped land represents an inappropriate form of ribbon development encroaching onto open countryside, and resulting in demonstrable harm to the predominantly rural character of this site and its immediate surroundings. This would be contrary to policies BE1 and CC6 of the Adopted Maldon District Replacement Local Plan and with guidance contained in the National Planning Policy Framework.*

### **3.2 Conclusion**

3.2.1 The proposed development would not meet the criteria of an annexe and therefore is considered as a new dwelling. Due to the position of the dwelling, set back from the main pattern of development, it would be considered as backland development that would result in the intensification of residential development that would substantially alter the character of the area, and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. Furthermore, the dwelling due to the windows and door in the southern elevation would result in direct overlooking of the dwelling to the south east, 'Rosemary' and due to a short fall in parking would potentially cause conditions of obstruction, congestion and inconvenience to residents and other road users. The development is therefore contrary to the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG), policies S1, S8, D1, H4 and T2 of the Maldon District Local Development Plan (MDLDP) and the Special Housing Needs SPD.

## **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

### **4.1 National Planning Policy Framework 2019 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development

- 38 Decision-making
- 47-50 Determining applications
- 54 – 57 Planning conditions and obligations
- 117 – 123 Making effective use of land
- 124 – 132 Achieving well-designed places

#### **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
- T1 Sustainable Transport
- T2 Accessibility

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

- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (VPS)
- Burnham-On-Crouch Neighbourhood Plan (BOCNP)
- Special Housing Needs SPD

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The principle of providing facilities and ancillary accommodation in association with the existing use of a site is considered acceptable, in compliance with policies D1 and H4 of the LDP.
- 5.1.2 The proposal relates to the creation of ancillary accommodation which involves the conversion and extension of an existing outbuilding into habitable accommodation. The floor plans show the annexe would include a kitchen/living area, a bedroom, bathroom and a storage area. The annexe would be separate from the main dwelling and would have its own entrance.
- 5.1.3 It is a conventional expectation that annexe accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities. It is also an expectation for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe.
- 5.1.4 In addition to the above, the Specialist Needs Housing SPD, which was adopted in September 2018, states that proposals for annexe accommodation will not only be required to meet the criteria in policy H4 but also the criteria within the SPD which is as follows:
- 1) Be subservient/subordinate to the main dwelling;
  - 2) Have a functional link with the main dwelling (i.e. the occupants' dependant relative(s) or be employed at the main dwelling);
  - 3) Be in the same ownership as the main dwelling;
  - 4) Be within the curtilage of the main dwelling and share its vehicular access;
  - 5) Be designed in such a manner to enable the annexe to be used at a later date as an integral part of the main dwelling;

- 6) Have no separate boundary or sub-division of garden areas between the annexe and the main dwelling; and
- 7) Have adequate parking and amenity facilities to meet the needs of those living in the annexe and the main dwelling.

5.1.5 Criteria 1 will be assessed in the design section below. In regard to criteria 2, an email submitted on 16.02.2021 states the proposed annexe would be occupied by the applicant's son and his wife. It is stated the applicant's daughter-in-law works for the NHS and therefore the annexe would allow for them to live separately in order to reduce the applicants chance of catching COVID. The wording of the email is considered to clearly indicate that the proposed development would not be used as ancillary accommodation but in fact as an independent dwelling. Furthermore, no evidence has been submitted to show the occupants of the annexe will be dependent on the main dwelling and therefore criteria 2 cannot be satisfied.

5.1.6 Due to criteria 2 not being satisfied it cannot be assumed that the annex would remain within the same ownership as the main dwelling and therefore criteria 3 cannot be satisfied. The annexe would be located to the north west of the existing dwelling on the site and whilst the Block Plan provided (drawing 210129-04) shows there is no separation of the site, this does not accord with aerial images from Google Maps (2020), as shown below, and therefore the proposal does not accord with criteria 4.



5.1.7 The existing outbuilding will form part of the annexe, whilst this building is detached from the main dwelling it is possible for the outbuilding to be used in relation to the dwelling if the use of the annexe ceased (i.e. for storage or a garden room). However, given the concerns related to its siting and separation boundary, there is concern that this is unlikely to occur in the future and therefore the proposal would not accord with criteria 5 or criteria 6.

5.1.8 The provision of parking could be shared with the main dwelling. Whilst conditions can be imposed when granting planning permission for an annexe to ensure the development remains as an annexe and that the main dwelling and the annexe remain as one planning unit this is only possible when the development can be considered as an annexe. As explained, significant concerns are raised regarding the primary intention of the development to be used in an ancillary nature to the main dwelling. The Local Planning Authority (LPA) considers that the development failed

the criteria of an annexe and therefore it is required for the proposal to be assessed below as a new dwelling.

### **New Dwelling**

- 5.1.9 Planning permission is sought for one new dwelling located outside of the defined settlement boundary of Burnham-on-Crouch.
- 5.1.10 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.11 Policy HO.1 of the BOCNP 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”.
- 5.1.12 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).
- 5.1.13 Where a LPA is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:
- “For decision taking this means:
- “(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- “(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- “(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”
- Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).
- 5.1.14 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5 year housing land supply cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).

5.1.15 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is *'absent, silent or relevant policies are out of date'*, planning permission should be granted *'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'*.

5.1.16 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.

5.1.17 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme

5.1.18 Paragraph 78 of the NPPF states that:

*'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'.*

5.1.19 The application site is located outside of the defined settlement boundary of Burnham-on-Crouch, which is classified as one of the *'main settlements'* within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.

5.1.20 Burnham-on-Crouch is a main settlement which contains a number of local facilities, including a primary school, convenience stores, other shops including an estate agent, public houses, village hall and public amenity area and has good public transport links. The application site is located to the west of Mangapp Chase, which is to the north of Green Lane and the to west of Southminster Road. The nearest bus stop to Mangapp Chase is located along Southminster Road and would take approximately 10 minutes to walk to. The bus service provides access to Maldon and Chelmsford, where there is a wide range of facilities. It is noted there is also a train station providing links to London within the main settlement of Burnham-on-Crouch. The 31X and 31B are the most frequent bus services between Burnham-on-Crouch and Chelmsford and runs between 05:50 and 23:10 on week days, with the bus leaving Chelmsford at 05:58 and leaving Burnham-on-Crouch at 20:23. Similar hours are provided on Saturdays with a reduced service on Sundays and public holidays.



5.1.21 Burnham-on-Crouch train station is located a half an hour walk away, which also provides services into Chelmsford and London, however Mangapp Chase and Green Lane, which provides access to the bus stop and the main footpath into Burnham-on-Crouch, are unlit roads with no footpaths. It is therefore considered, whilst the site is not completely isolated, occupiers of the dwelling are likely to be reliant on the use of private cars for the majority of journeys.

5.1.22 It is noted that Mangapp Chase and Green Lane, which lead to Southminster Road where bus stops are located, are unmade, unlit tracks with no footpath, however a number of new dwellings have been approved in the area in recent years namely 18/01227/OUT, 17/00692/FUL, 15/00733/FUL, 14/00059/FUL, where no objections have been raised in terms of the accessibility or location of Mangapp Chase. Applications 16/00591/FUL and 18/00698/FUL were refused however no objections were raised in terms of the locations of the sites. However, it is also noted application 15/00127/OUT for a new dwelling on the site subject of this application was refused due the development representing *'an inappropriate form of ribbon development encroaching onto open countryside, and resulting in demonstrable harm to the predominantly rural character of this site and its immediate surroundings'*.

5.1.23 Therefore, having regard to previous decisions and the history of the site and area, which is a material consideration, it is considered that the principle of the conversion and extension of an outbuilding to one dwelling would not be objected to on accessibility grounds but would be considered unacceptable due to the impact on the open countryside to the north and west. The site is located outside of the defined settlement boundary of Burnham-on-Crouch and therefore is considered to be within the countryside. Additionally, due to the position of the development, set back from the main streetscene it is considered the dwelling may be considered as backland development and therefore this will be assessed below.

5.1.24 Other material planning considerations, including design and impact on the character of the area, the impact on neighbouring occupiers and any traffic or transport issues are also discussed below.

### **Backland and Infill Development**

5.1.25 The development would be located to the north west of the existing dwelling and therefore would be set back from the main streetscene, behind the existing built form on the site. Policy H4 states that whilst backland and infill developments would be considered on a site-by-site basis, backland and infill development would be permitted if 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.

5.1.26 The development would be located within the rear garden of the existing dwelling on site and therefore the site is currently used as residential garden. No supporting information has been submitted with the application to demonstrate that the proposed site is significantly under used and therefore criteria 1 cannot be satisfied.

- 5.1.27 In regard to criteria 2 and 3, the dwelling would be located to the north west of the existing dwelling, however the existing dwelling would retain a large area of garden land to the west and therefore the development is unlikely to impact upon the living conditions of the current and future occupiers of the existing dwelling. Due to the location of the proposed dwelling and there being no neighbouring properties to the north, east or west it is unlikely to impact upon the living conditions of neighbouring occupiers. It is also considered the development would not impact upon land of local social, economic, historical or environmental significance and therefore criteria 2 and 3 are satisfied.
- 5.1.28 Due to the location of the proposed dwelling being set back from the existing build line of Mangapp Chase, the development would not be in keeping with the established pattern of development and therefore would result in residential development situated further into the countryside. As a result, the proposal would impact upon the intrinsic beauty of the countryside to the north and west and therefore criteria 4 cannot be satisfied.
- 5.1.29 Based on the above assessment, it is considered due to the position of the development and the nature of the surrounding area, the principle of the site being an acceptable location for backland development cannot be met.

## **5.2 Housing Need and Supply**

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need. The application is for a one bedroomed dwelling with a kitchen/dining/living area and a bathroom.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the LDP contains a policy and preamble which when read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner-occupied properties having three or more bedrooms. The Council therefore encourages in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.2.5 The proposed development would provide a one bedroomed dwelling and therefore, it would contribute towards the identified need for smaller dwellings.

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

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 and H4 of the LDP and is found within the MDDG (2017).
- 5.3.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.3.4 Policy H0.8 of the BOCNP states that proposals for housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.
- 5.3.5 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.
- 5.3.6 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.
- 5.3.7 As stated in paragraphs 3.1.5 and 3.1.7 this application follows the refusal of 15/00127/OUT and 20/00887/FUL, which amongst other reasons were refused for their impact on the countryside and the increase in urbanisation of the site. The proposed development involves the conversion, extension and increase in roof height of an existing outbuilding, located to the north west of the existing dwelling, into habitable accommodation. The proposed extension would extend from the south eastern and northern elevations, increasing the width and depth of the outbuilding to allow for the accommodation proposed. The building would comprise of primary accommodation including a kitchen/living area, a bathroom, bedroom and a store area.
- 5.3.8 In terms of design, the proposed extension would be a large addition to the dwelling however whilst the roof would be increased in height the building would remain single storey in nature and design cues would be taken from the existing building. The

plans show the dwelling would have bi-fold doors installed in the western elevation and rooflights. The proposed alterations to the existing building do not detrimentally impact upon the character of the building and it is considered the proposed extension would be in keeping with the appearance of the existing building. Furthermore, there are no objections raised to the use of weatherboarding.

- 5.3.9 Whilst it is noted to the east of the site a development of up to 80 dwellings was approved in 2017 at appeal (14/00845/OUT), the site is not subject to the same constraints as the proposed development in terms of its impact on the countryside to the west. It is also noted an application (18/01227/OUT) to demolish the stables to the north east of the application site and to the north of the abovementioned appeal site for the construction of two dwellings was approved at committee in 2018, however it was considered this development would be read alongside the development to the south and therefore would not detrimentally impact upon the open countryside.
- 5.3.10 The development subject of this application due its position being set back from the existing development pattern of Mangapp Chase, is considered to be backland development and therefore would be out of keeping with the existing pattern of built form. Additionally, due to its position the dwelling would be visible from the streetscene to the north of the site and from the public realm, including the PRoW to the north and west of the site. It is therefore considered the development would have a further urbanising impact upon the site and detrimentally impact upon the intrinsic beauty of the wider countryside to the north and west of the site. Furthermore, due to there being no physical link to the main dwelling, the development would appear as a new dwelling within the countryside, and detrimentally impact upon the character and appearance of the locality.

#### **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 (2017).
- 5.4.2 The application site is bordered by one dwelling to the south 'No.10 Mangapp Chase' and by the main dwelling on the site, 'Rosemary', which is located to the south east of the proposed dwelling.
- 5.4.3 The development would be situated 18.1 metres from the boundary to the south shared with No.10 Mangapp Chase and 19.8 metres from that same dwelling. Due to the separation distance and the single storey nature of the development it is considered the development would not detrimentally impact upon the neighbouring occupiers by way of overlooking, overshadowing or being unduly overbearing.
- 5.4.4 The development would be situated to the north west of the existing dwelling on the site with a separation distance of 5 metres from the south eastern corner of the proposed dwelling to the north western corner of the existing dwelling. The existing southern elevation contains three windows and a door, which whilst are acceptable at present the proposed use of the existing outbuilding as a dwelling would result in direct overlooking of the existing dwellings private amenity space. Whilst it has previously been suggested by the Applicant that a planning agreement could be implemented, it would not be reasonable to condition a new dwelling to only be used in association with the main dwelling on the site. Furthermore, due to the independence of the new dwelling it would also not be reasonable to condition the new dwelling to only be used in association with the main dwelling or for the use of a

personal permission. Therefore, it would be possible for the dwelling to be sold separately to the main dwelling and as a result the amenity of the existing and future occupiers of 'Rosemary' would be detrimentally impacted due to the direct overlooking of their private amenity space by the occupiers of the proposed dwelling. The development is not considered to result in overshadowing or be unduly overbearing.

- 5.4.5 There are no dwellings to the north or west of the site and therefore would not impact on any neighbouring occupiers to the north or west.

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

- 5.5.1 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.
- 5.5.2 The proposed development contains one bedroom and therefore one parking space is required. The Block Plan submitted shows there are two spaces to the front of the garage to the main dwelling and one space measuring the required width to the front of the dwelling. The application form states there would be no increase in car parking provision and the existing dwelling on site contains 5 bedrooms, therefore the existing dwelling is required to have three parking spaces, which would utilise the area to the front of the site.
- 5.5.3 The proposal states the application is for an annexe and therefore it would have been reasonable to assume the occupants would have shared the existing parking to the front of the site, however the proposal does not meet the criteria of an annexe and therefore is considered as a new dwelling. The dwelling would be required to have one parking space measuring 5.5 metres in depth and 2.9 metres in width, as stipulated in the Maldon District Vehicle Parking Standards SPD. It is unreasonable to assume the parking to the main dwelling would be shared with the proposed dwelling and whilst there is space to the north of the existing parking area the plans do not show this area is to be utilised for parking. As a result, the proposed dwelling would have a shortfall of one parking space which would potentially cause conditions of obstruction, congestion and inconvenience to residents and other road users, contrary to policies D1 and T2 of the LDP.

## **5.6 Private Amenity Space and Landscaping**

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.6.2 The garden area for the proposed dwelling will measure in excess of 50m<sup>2</sup> and the remaining garden area of the existing dwelling would remain in excess of 100m<sup>2</sup>, therefore there are no objections in this regard.

## **5.7 Planning Balance and Sustainability**

- 5.7.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a FYHLS. The tilted balance is engaged in this case and hence the local planning authority must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.7.2 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.7.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.7.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.7.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional units may support local businesses within the settlement such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal.
- 5.7.6 In social terms the development would help to provide assistance in supporting a strong, vibrant and healthy community. Whilst the site is outside the settlement boundary there is access to local facilities and bus stops nearby, however this is limited and therefore the occupiers of the site would still be reliant on private cars due to the lack of a lit footpath to the nearby facilities, as mentioned in section 5.1.22. The proposed development would create one dwelling with 1No. bedrooms and therefore due to the policy requirement for smaller dwellings within the district this would weigh in favour of the development in social terms however the benefits would be limited.
- 5.7.7 In environmental terms, whilst there are public transport links along Southminster Road, due to the location of the site along an unlit road with no footpath, it is not likely that the use of private cars will be decreased significantly. In addition, whilst some residential development on the site could be found acceptable, such as the single storey extension approved under application 08/00858/FUL which would have allowed for a self-contained annexe attached to the main dwelling, the proposed development as a result of its location would cause material harm to the character and appearance of the area.

- 5.7.8 As outlined in section 5.1, previous applications along Mangapp Chase have found the area to be suitably accessible and a suitable area for new housing. However, as stated above, the proposed location of the dwelling would be considered as backland development resulting in an encroachment of housing into the countryside and an increased urbanisation of the area. Due to this an objection is raised regarding the impact of the development on the character and appearance of the area and the wider countryside.

## **5.8 Ecology regarding development within the zone of influence (Zol) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.8.1 Natural England (NE) has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.8.2 NE 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), 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.
- 5.8.3 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE has provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.8.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a 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.
- 5.8.6 To accord with NE's requirements, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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 (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

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

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

## Test 2 – the integrity test

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

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

- 5.8.7 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. NE does not need to be re-consulted on this Appropriate Assessment.
- 5.8.8 The Essex Coastal Recreational Avoidance and Mitigation Strategy document has been adopted. This document states that the flat rate for each new dwelling has been calculated at £125.58 and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

## 6. **ANY RELEVANT SITE HISTORY**

Application Number	Description	Decision
BUR/33/64	Bungalow and garage	Conditional
MAL/569/82	Agricultural dwelling	Conditional
MAL/777/85	Renovations and extensions	Conditional
08/00858/FUL	Single storey extension	Approved
09/00243/FUL	Conservatory to rear	Approved
10/00272/HOUSE	First floor extension	Approved
15/00127/OUT	Outline application for a new chalet dwelling (access and layout) all other matters reserved	Refused
20/00887/FUL	Extension to existing outbuilding and conversion to granny annexe	Refused

## 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	Support	Noted



## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Authority (ECC)	No objections	Noted

## 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections	Noted

## 7.4 Representations received from Interested Parties

7.4.1 No representations have been received.

## 8. REASONS FOR REFUSAL

- 1 The application fails to demonstrate that the proposal would amount to residential annexe accommodation ancillary to the main dwelling house by reason of its separation from the main house, its design which fails to integrate with the shared and communal garden area, and the division of the amenity space to the southern boundary. Furthermore, no evidence has been submitted as to the functional link of the proposed annexe to the main dwelling. In this respect the proposal is considered tantamount to a separate residential dwelling on a site which lies outside of the defined settlement boundaries and in this respect would be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan, the Special Housing Needs SPD and the guidance contained within the National Planning Policy Framework.
- 2 The proposed development, by reason of its location and the resultant intensification of residential development would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The locality of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012).
- 3 The development, due to its relationship to the existing dwelling on the site and the presence of windows and a door in the southern elevation, would result in direct overlooking of the private amenity space of the existing dwelling to the detriment of existing and future occupiers, contrary to policy D1 of the LDP.
- 4 The proposed development would result in a shortfall of one parking space and therefore could result in on-street parking which would potentially cause conditions of obstruction, congestion and inconvenience to residents and other road users, contrary to policies D1 and T2 of the Maldon District Local Development Plan.
- 5 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been

secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.