



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**DISTRICT PLANNING COMMITTEE
9 JUNE 2021**

Application Number	20/01166/FUL
Location	Land South Of Charwood and East of Orchard House, Stoney Hills, Burnham-On-Crouch
Proposal	Construct cul-de-sac road with turning head and vehicular and pedestrian access off Stoney Hills, erect one detached bungalow and garage, lay out parking spaces and garden
Applicant	Mr Burrows - Virium Technology Limited
Agent	Mr Stewart Rowe - The Planning And Design Bureau Ltd
Target Decision Date	3 May 2021
Case Officer	Louise Staplehurst
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the Local Plan 2017

1. PURPOSE OF THE REPORT

- 1.1 To assist the Committee in the determination of planning application 20/01166/FUL for the construction of one detached bungalow, and associated works, at land south of Charwood and east of Orchard House Stoney Hill, Burnham-on-Crouch.

2. RECOMMENDATIONS

- (i) Grant Planning Permission subject to the following conditions:
- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
 - 2 The development hereby permitted shall be carried out in accordance with the following approved plans: 1150/10 rev A, 1150/18 rev A, 1150/19 rev A, 1150/20, 1150/21.
REASON: To ensure that the development is carried out in accordance with the details as approved.
 - 3 Prior to their use in the development hereby approved, written details and photographs of the external materials to be used in the development hereby approved shall be submitted to and approved by the Local Planning Authority. The development shall be undertaken in accordance with the details as approved.
REASON: In the interest of the character and appearance of the conservation area in accordance with policy D1 of the approved Local

Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

- 4 Prior to works above ground level, 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, for example:
- i. Proposes finished levels contours;
 - ii. Means of enclosure;
 - iii. Car parking layouts;
 - iv. Other vehicle and pedestrian access and circulation areas;
 - v. Hard surfacing materials;
 - vi. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting);
 - vii. Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);
 - viii. Retained historic landscape features and proposals for restoration, where relevant.

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: To secure appropriate landscaping of the site in the interests of visual amenity and the character of the area, in accordance with policy D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

- 5 Details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.
- REASON: To ensure the use of appropriate details to safeguard the character and appearance of the area, in accordance with policy D1 of the approved Local Development Plan and the guidance contained in

the Maldon District Design Guide (2017) and the National Planning Policy Framework.

- 6 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 garages, extensions or separate buildings (other than incidental outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

REASON: In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

- 7 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 building hereby permitted without planning permission having been obtained from the local planning authority.

REASON: To protect the visual amenity of the rural area and the amenities of the neighbouring occupiers in accordance with Policies D1 and H4 of the Maldon District Local Development Plan and the Maldon District Design Guide.

- 8 No development shall take place, including any works of demolition, until a Construction Method Statement 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:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities
- Measures to control the emission of dust and dirt during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 9 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 report of the findings must include:

- i. A preliminary risk assessment to include historical information of how each part of the site has been used in the past;
- ii. A survey of the extent, scale and nature of contamination;
- iii. an assessment of the potential risks to:
 - a. Human health,
 - b. Property (existing or proposed) including buildings, crops, livestock, etc, woodland and service lines and pipes,
 - c. Adjoining land,
 - d. Groundwaters and surface waters,
 - e. Ecological systems
 - f. Archaeological sites and ancient monuments;
- iv. An appraisal of remedial options, and proposal of the preferred option(s). This shall include timescales and phasing of remediation works

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 prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 10 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 conducted and submitted to and approved in writing by the local planning authority. The report of the findings must include:

- 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.
- This shall include an appraisal of remedial options, and proposal of the preferred option(s). This shall include timescales and phasing of remediation works.
- 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 prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 11 No development shall commence, other than where necessary to carry out additional investigation, 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, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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 prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 12 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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 submitted to the Local Planning Authority for approval.

The written verification shall include that:

- i. All contaminated material removed from the site is removed by an appropriate licensed contractor to a facility approved by the Environment Agency
- ii. All imported material is suitable for its intended use

- iii. All agreed remediation measures identified as necessary in the contaminated land assessment have been undertaken to render the site suitable for the use specified

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 prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan

- 13 No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented as approved prior to the first occupation of the development.

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan

- 14 An Air Source Heat Pump shall be installed at the site and shall be retained as such thereafter.

REASON: In the interests of renewable energy and climate change, in accordance with policies D1 and D2 of the Maldon District Development Local Plan

- 15 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
- 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

You are advised that in order to satisfy the soakaway condition the following details will be required: - details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 16 No works related to the alteration of ground levels at the site and no works above ground level shall occur until details of existing ground levels and proposed finished ground levels, and their relationship to the adjoining land, and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
REASON: To ensure the development is in keeping with the character and appearance of the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.
- 17 The dwelling hereby approved shall not be occupied until two car parking spaces have been provided, one on the driveway and one in the garage, as shown on plan 1150/18. The car parking hereby approved shall be retained for the use of occupiers or visitors to the residential units in perpetuity.
REASON: To ensure appropriate parking at the site, in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the adopted Maldon District Vehicle Parking Standards.
- 18 The garage hereby approved shall not be used other than for the accommodation of private motor vehicles or for any other purpose incidental to the enjoyment of the dwelling house as such and shall not at any time be converted or used as habitable space / living accommodation.
REASON: To ensure appropriate parking at the site, in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the adopted Maldon District Vehicle Parking Standards.
- 19 The public's rights and ease of passage over footpath number 5 shall be maintained free and unobstructed at all times.
REASON: To ensure appropriate access to the public right of way in the interest of accessibility, in accordance with policy T2 of the Maldon District Local Development Plan
- 20 The trees and hedges identified for retention in the Arboricultural Impact Assessment & Method Statement, dated 28 June 2019, which is attached to and forms part of this permission shall be protected during the course of the development. The trees and 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 secure the retention of appropriate landscaping of the site in the interests of visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.

- 21 Notwithstanding condition 20, prior to the commencement of the development, further details in relation to the construction techniques to ensure retention and protection of the Oak tree T1 shall be submitted to and approved in writing by the Local Planning Authority.
REASON: To secure the retention of appropriate landscaping of the site in the interests of visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.

3. BACKGROUND

- 3.1 At the South Eastern Area Planning Committee (SEPC) held on 17 February 2021 Members considered a report assessing the above proposal. The Officer's report considered that the application resulted in no demonstrable harm and recommended that the application be granted planning permission.
- 3.2 A copy of the report and the subsequent Members Update' presented to the Committee meeting are attached as **APPENDIX 1** and **APPENDIX 2**.

4. SUMMARY OF KEY ISSUES

- 4.1 The Area Planning Committee, in carrying out the functions of the Local Planning Authority (LPA) (in this case, the determination of a planning application) are bound by the Town and Country Planning Act 1990 as amended, and any relevant subordinate legislation. Members of the Area Planning Committee:
- are required to make decisions having regard to the development plan for the area (the Maldon Local Development Plan 2017).
 - must have regard to the report of Officers submitted to that Area Planning Committee in carrying out their duty in making a decision on the recommendation in that report, having regard to the policies and any other matters considered material to that proposal and as set out in the report (the material considerations).
 - are, however, not bound to follow Officer's recommendations and can give different weight to different aspects as they understand the proposal, having regard to development plan policies and material considerations.
- 4.2 In this case Members chose not to support officer's recommendations and raised concerns regarding the impact on the character and appearance of the area and that the proposal would have a demonstrable harm to the residential amenity of the occupiers of Orchard House.
- 4.3 Whilst the Committee had resolved to refuse the application, at this time a formal decision of the Council in the form of a decision notice, has not been issued. The

decision will not be made, by the Council, until the decision notice has been prepared, signed and issued following due process.

- 4.4 Officer's do not consider that there are any new relevant material considerations present since the original officer's report was drafted and are opined that the report fully and robustly deals with assessment of the planning application and that there is no requirement to expand on these matters further.

5. **CONCLUSION**

- 5.1 All resolutions for planning application should be based on evidence. In this case the professional guidance of the LPA supports the grant of planning permission as it is not considered that the proposed development would result in any demonstrable harm to such a degree as to warrant a reason for refusal.

6. **IMPACT ON STRATEGIC THEMES**

- 6.1 None.

7. **IMPLICATIONS**

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – The Council could be at serious risk of High Court litigation with financial and reputational consequences.
- (iv) **Impact on Resources (financial)** – There is the potential for costs to be awarded against the Council if the application was to be refused.
- (v) **Impact on Resources (human)** – Office time in defending an appeal.
- (vi) **Impact on the Environment** – None.
- (vii) **Impact on Strengthening Communities** – None.

Background Papers: None.

Enquiries to: Matt Leigh, Lead Specialist Place.