



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
19 MAY 2022**

Application Number	22/00071/FUL
Location	Sunnyside, Stoney Hills, Essex, CM0 8QA
Proposal	Demolition of existing house and ancillary structures and the erection two new dwellings
Applicant	Mr and Mrs Kevin Levins
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	18.03.2022
Case Officer	Nicola Ward
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Not Delegated to Officers as Departure from Local Plan

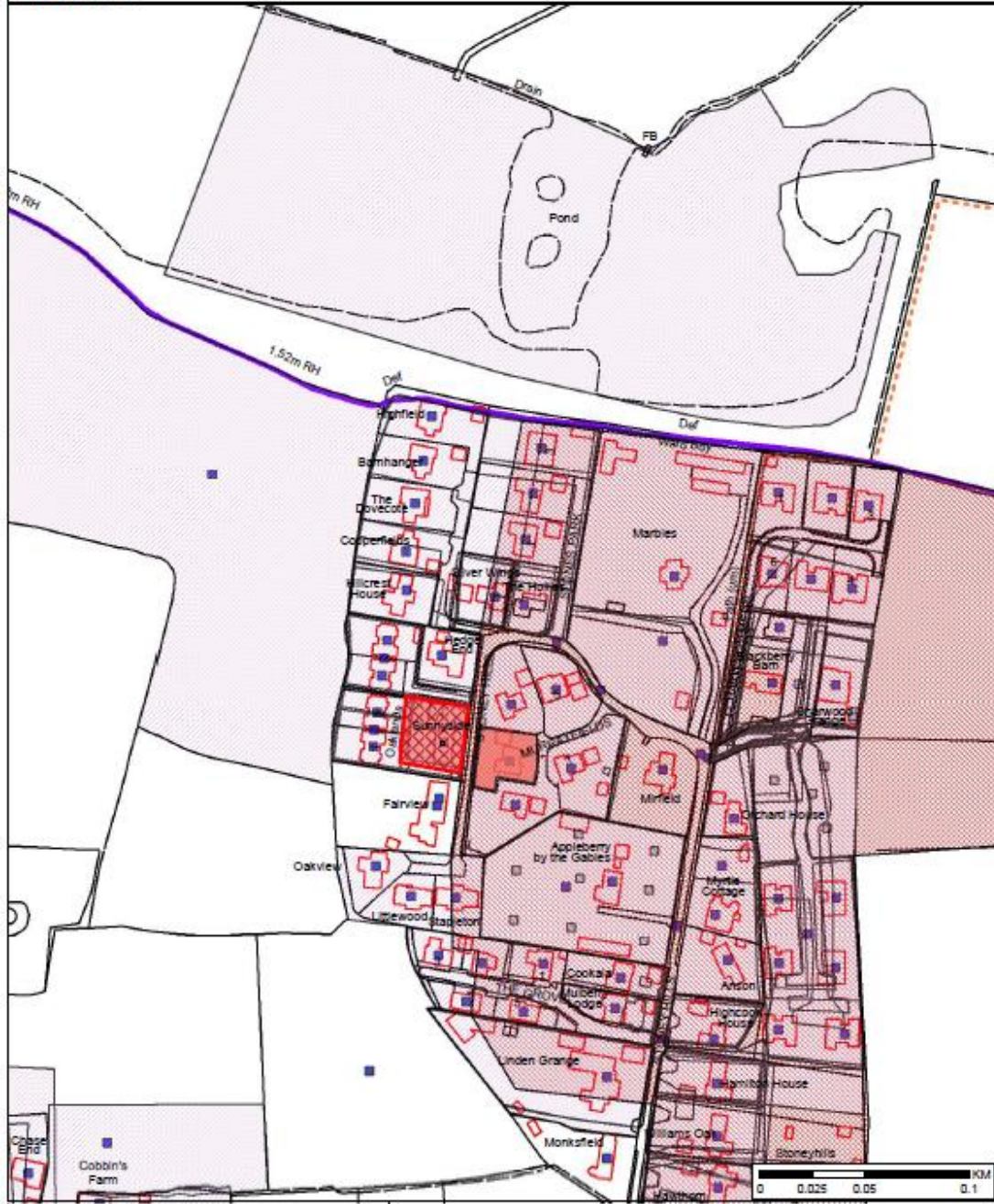
1. RECOMMENDATION


APPROVE subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and subject to conditions as detailed in Section 9.

2. SITE MAP

Please see below.

Sunnyside Stoney Hills Essex
22/00071/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	09/05/2022
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The application site is located outside of any defined settlement boundary, towards the western side of the area known as 'Stoney Hills'. The site is known as 'Sunnyside' and comprises of a detached bungalow. Stoney Hills is located outside of the settlement boundary of Burnham-on-Crouch. The wider area has been the subject of many redevelopment proposals over recent years which has changed its original character, from rural to a more suburban form. The properties within the wider area are a mixture of two storey chalet style dwellings and bungalows which vary in style, scale and form and as such there is no particular consistency. Although the positioning of the original houses would have been more linear in the past, following the redevelopment of the area, the front building line is no longer uniform, and a number of properties have been granted in backland locations off private roads. Overall, the general pattern is more suburban with dwellings sited in larger plots and others are located in cul-de-sacs off the main road through the area.

3.2 Conclusion

3.2.1 The proposed two chalet style dwellings are designed in a form that would be in keeping with the prevailing pattern of development within the street scene. The development is considered to be 'sustainable development' in line with the National Planning Policy Framework (NPPF). The proposal has been designed to provide adequate set-back from the public highway, car parking and adequate private amenity space in compliance with standards. The Planning Inspector, in dismissing application 16/00614/OUT, had no objections to the residential use of the site, nor raised concerns over means of accessibility of the site to facilities and services. Furthermore, a financial contribution has been secured in relation to Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and therefore the impact of the development on designated sites can be mitigated. The proposal is therefore in accordance with the policies set out within the Local Development Plan (LDP) and the guidance contained within the NPPF.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2021 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
- 54-58 Planning Conditions and Obligations
- 78-80 Rural Housing
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

4.3 **Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (2017) (MDDG) (SPD)
- Maldon District Vehicle Parking Standards (VPS)

5. **MAIN CONSIDERATIONS**

5.1 **Principle of Development**

- 5.1.1 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.
- 5.1.2 Policies S1, S2 and S8 of the LDP seek to support sustainable development within the defined settlement boundaries to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.3 The application site is located outside of the defined settlement boundary of Burnham-on-Crouch, a town that 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, and whether the development constitutes sustainable development is assessed below.
- 5.1.4 Burnham-on-Crouch is a main settlement which contains a range of services and opportunities for employment, retail and education and serves a wide catchment area, with good public transport links. It is noted that the site is within the Stoney Hills area which lies to the north of the main Burnham-on-Crouch settlement. The nearest bus stops lie along Southminster Road, which would take approximately 15 minutes to walk. These bus stops provide services to Maldon and into Chelmsford, where there is a wide range of facilities and trains to London. The 31X and 31B, which are the most frequent bus services between Burnham-on-Crouch and Chelmsford, run between 05:50 and 23:10, leaving Chelmsford at 05:58 and 20:23 leaving Burnham-on-Crouch, on weekdays, with similar hours on Saturdays and a reduced service on Sundays and public holidays. Burnham-on-Crouch train station is

located a half an hour walk away, which also provides services into Chelmsford and London. It is noted that the road leading to Stoney Hills is an unmade, unlit track, however a number of new dwellings that have been approved in the area in recent years, some on appeal (this is discussed further below) acknowledge that whilst the local highway is not adopted and provides no dedicated facilities for pedestrians, the area is considered to be in an accessible location and therefore supports the direction of the NPPF which aims to focus growth within sustainable locations offering a choice of transport modes (walking and cycling routes) to public transport facilities. It has also been acknowledged that the character of the area has evolved over time, so it is no longer an area of loose knit, scattered residential development but more akin to a suburban residential area.

- 5.1.5 In a recent appeal decision in Stoney Hills, concerning the demolition of an existing dwelling and the erection of three dwellings (Stapleton, Stoney Hills, Burnham-on-Crouch CM0 8QA - Appeal Ref: APP/X1545/W/18/3207171, dated 8 May 2019) the Inspector in relation to the character of the area stated *“in recent years a number of planning permissions have been approved for new housing development within these large plots, built around shared access driveways. Examples of these include new housing developments at: Mirfield (Council Reference: 14/00224/OUT, allowed on appeal); the Hollies (Council References: 16/00408/FUL and 16/00849/OUT); Hilcrest (Council Reference: 16/00196/OUT); and Sunnyside (Council Reference: 17/00735/OUT). A number of these new developments have been carried out and I observed during my site visit that the character of the area has changed from a rural one to more suburban residential character. I also observed that house sizes, design and styles vary considerably within the area.”*
- 5.1.6 A similar approach was taken by another Inspector assessing a proposal for the erection of two dwellings at Hedge End (Appeal Ref: APP/X1545/W/18/3198533, dated 28 September 2018) where it was stated that *“The area’s character appears to have changed gradually from a more rural and scattered environment as a result of development of single dwellings or groups of dwellings. The existing pattern of development across Stoney Hills includes detached bungalows and two-storey houses, some of which are sited in larger plots and others are located in cul de sacs off the main road through the area. The design, size and appearance of houses and bungalows throughout Stoney Hills varies considerably”*
- 5.1.7 Two other relevant appeal decisions are 15/00445/OUT - APP/X1545/W/16/3147227 and 15/01082/OUT - APP/X1545/W/16/3147572. Within these, the Inspector states *‘Although the appeal sites are outside the development boundary of Burnham-on-Crouch I consider them to be within a residential area. Based on the evidence before me and my observations during my visit to the area I also agree with previous Inspectors that Stoney Hills is a sustainable location for development. Moreover, I have not identified any harm in respect of character and appearance arising from the proposed developments...however, as stated I conclude that the location of the proposed developments would be suitable and sustainable, and no harm has been identified in terms of character or appearance. Further, although providing only a small number of dwellings, the proposals would make a contribution to the supply of housing to which I attach significant weight. They would also provide small scale units which is also policy compliant in terms of mix. They would therefore conform with paragraph 54 of the Framework which requires local planning authorities to respond to local circumstances and for housing to reflect local needs. As such I consider the proposals would meet the three dimensions.’*
- 5.1.8 It is noted that a similar stance has been taken within the following appeal decisions in the area of Stoney Hills; 15/00108/FUL (APP/X1545/W/15/3134072), 15/00402/FUL (APP/X1545/W/15/3134076) and 15/00420/FUL

(APP/X1545/W/15/3134078), 15/00978/OUT - APP/X1545/W/16/3146160, 16/00196/OUT - APP/X1545/W/16/3157183, 16/00408/FUL - APP/X1545/W/16/3161178, 17/00752/OUT - APP/X1545/W/17/3187513, 17/01107/OUT - APP/X1545/W/17/3192426 and 18/00895/FUL - APP/X1545/W/18/3211805. Furthermore, it must be noted that costs were awarded against the Council for appeals APP/X1545/W/18/3211805, dated 2 May 2019 - 18/00895/FUL (Land North of Hillcrest) and APP/X1545/W/17/3187513, dated 28 September 2018 - 17/00752/OUT (Land South of Charwood, which is to the southeast of the application site), as it was considered that the refusal of the planning application was grounds for unreasonable behaviour.

- 5.1.9 More recently, an appeal against a refusal of planning permission for a detached bungalow was approved (20/01166/FUL). The Inspector considered the effect and design of the proposed dwelling on the character and appearance of the surrounding area and impact on the living conditions of neighbouring properties were acceptable.
- 5.1.10 It is clear therefore, that having regard to the abovementioned appeal, decisions and many others that have been previously allowed and some of them implemented, the principle of additional residential accommodation in the area of Stoney Hills has been established.
- 5.1.11 On the basis of the above the principle of two chalet style dwellings, following demolition of the existing dwelling, is acceptable.

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 Five Year Housing Land Supply (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.
- 5.2.3 The Maldon District Local Housing Needs Assessment (2021) (LHNA) is an assessment of the housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The HNA is wholly compliant with the latest NPPF and Planning Practice Guidance (PPG), and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.4 The LHNA (2021) concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings: specifically, 25-35% 2-beds and 40-50% 3-beds. The development is in line with the Council's housing need by providing 2 x 3 bedroom 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. 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 local design standards, style guides in plans or supplementary planning documents”.

5.3.3 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.

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

5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of 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.

5.3.6 Appendix 2 in conjunction with policy HO.8 of the Burnham-on-Crouch Neighbourhood Plan highlights the housing design principles. In particular, principle NHD.9 states that “The design of new homes in the area should reflect the materials, forms and scale of traditional local buildings. Sensitive modern interpretations of the local vernacular are encouraged, and the town centre conservation area provides many high-quality examples of local forms”.

- 5.3.7 The character of the area has evolved over recent years as planning permissions have been granted or appeals upheld, so that the area is no longer characterised by scattered development where infilling has taken place. This is something that has been noted and highlighted by a number of inspectors. The new level of urban development and the more suburban character of the area is a material consideration when determining this application. The proposal would result in the intensification of the built form on site; however, this would be reflective of the new urban grain of the area. As such the development would not be out of character with the immediate area and the countryside beyond would remain intact.
- 5.3.8 The properties within the streetscene are characterised by a mixture of dwellings consisting of larger two storey dwellings and smaller chalet style bungalows. It is considered that the scale and design of the proposed chalet style dwellings reference that of the existing dwellings in the vicinity, particularly in terms of the scale and external materials.
- 5.3.9 The proposed dwellings would host two pitched roof dormer windows within the front roof slope. The proposed dormer windows are typical of a residential development and would not appear out of place given other properties within the vicinity host pitched roof dormers of a similar style, in particular Hillcrest House and 2 and 5 Murrayfields. Whilst it is noted that the proposed dwellings would sit approximately 1.5m higher than the existing bungalow, due to the varying heights of the existing dwellings within the surrounding area, it is considered that the proposed dwellings would be proportionate when viewed in the streetscene. It is noted, that from the streetscene the dwellings would appear similar in design and this uniform approach, for properties facing the road is uncharacteristic of the area. However, whilst the design approach is unfortunate it is not considered that this would cause any harm to the wider character and appearance of the area to such a degree as to warrant a reason for refusal.
- 5.3.10 Based on the above and taking into consideration the evolved character of Stoney Hills, although the development would intensify the residential use of the site, it would be of an appropriate density which would be comparable to other development in the vicinity. It is therefore considered that the development would not represent an overdevelopment of the site and no objection would be reasonably raised in that respect.
- 5.3.11 It is considered that the proposed development would not appear out of place or detrimental to the character and appearance of the streetscene. Overall, it is considered that the development would sit comfortably within the application site and would be compatible with its surroundings.

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 boarded by 4 residential dwellings, Fairview to the South, Hedge End to the North and 3 and 4 Murrayfields.
- 5.4.3 The proposed dwellings would host two dormer windows within the roof slope fronting the rear boundary of 3 and 4 Murrayfields. The dormer windows would be located in excess of 11m to the rear boundaries of 3 and 4 Murrayfields which is a sufficient separation distance between the properties. To the rear there is in excess

of 9m between the rooflights proposed dwelling and the rear boundaries. It is considered that these distances will mitigate any undue impact from overlooking to the adjoining properties.

- 5.4.4 Whilst it is noted that the proposed dwelling closest to the neighbouring property Hedge End would be approximately 1.6m from the neighbouring boundary the proposed would be in excess of 18m from this neighbouring property itself. The proposed development would be located approximately 1.2m from the neighbouring boundary of Fairview, however the proposed would be in excess of 7m from the neighbouring property. The windows proposed within the ground floor side elevations of both proposed dwellings are not considered to result in any overlooking due to the location of the windows. Furthermore, it is considered that due to the degree of separation, the proposed dwellings would not result in demonstrable harm by way of dominance and overshadowing to these neighbouring occupiers.
- 5.4.5 It is noted that application 21/00691/FUL was approved on the 14.09.2021 for the construction of four dwellings to the rear of the application site. Whilst these dwellings have not been constructed there is no reason as to why they would not be forthcoming.
- 5.4.6 Therefore, subject to the above recommended conditions, the development would not represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of D1 of the LDP.

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 Within the Maldon District Parking Standards (VPS), properties with 2 and 3 bedrooms require a minimum of two off-street car parking spaces.
- 5.5.3 The proposed dwellings would provide two off-street parking to each property. One to the side of the dwellings and one to the front, all measuring 2.8m wide by 5.5m. Given the size and arrangement of the parking spaces, it is considered that sufficient parking provision and appropriate manoeuvring, at both properties are provided in accordance with the above standards.
- 5.5.4 Furthermore, Essex County Council (ECC) were consulted as part of this application and have not raised any objections to the proposal. It is therefore considered that the proposed parking arrangements are in accordance with policies T2 and D1 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 Maldon Design Guide 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.

- 5.6.2 The level of amenity space required for a three or more-bedroom dwelling is 100 square metres. The proposed dwellings would have in excess of 160 square metres of amenity space and therefore there are no concerns in relation to amenity space provision.
- 5.6.3 Limited information has been provided in relation to the hard and soft landscaping. It is therefore considered that a condition relating to landscaping would ensure adequate landscaping is implemented.
- 5.6.4 Based on the above it is considered that subject to the relevant landscaping condition, the private amenity space is acceptable and in accordance with policy D1 of the LDP.

5.7 Ecology and Impact on Designated Sites

- 5.7.1 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging RAMS. This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.7.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and standard advice on RAMS a Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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.

- 5.7.3 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.
- 5.7.4 It is noted that the Essex Coast RAMS is an adopted document. A flat rate tariff of £131.71 per new dwelling is identified within the submitted Coastal Recreational Avoidance and Mitigation Strategy as the contribution to mitigate the impact of a new

residential property. The agent has submitted a unilateral undertaking to secure the abovementioned contribution. Therefore, should this be forthcoming the impact of the development will be considered to be mitigated. An update in this respect will be provided within the Members' Update.

5.8 Planning Balance and Sustainability

- 5.8.1 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 5YHLS. The tilted balance is engaged in this case and hence the Local Planning Authority (LPA) 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.
- 5.8.2 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.
- 5.8.3 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.
- 5.8.4 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 unit may support local businesses within the settlement such as shops and services. This is considered to be limited due to the amount of dwellings proposed. 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.
- 5.8.5 In social terms the proposal would assist in supporting a strong vibrant and healthy community as the dwellings would be located in an area where there is good access to local services and facilities.
- 5.8.6 In environmental terms the accessible location of the site could offer some environmental benefits, again, by removing the unavoidable need to use private cars for access to everyday needs and services. The availability of public transport is also favourable in environmental terms. However, this would need to be balanced against the impact of the development on the surrounding area and any environmental impact that may be caused.
- 5.8.7 Overall, taking this into account, the development is considered to be sustainable, and subject to other considerations, the principle of development would therefore be acceptable.

6. OTHER MATTERS

- 6.1 The Council's Environmental Health department consultation response requests the following condition to be attached to the approval:

'No development shall take place, other than that required to carry out 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 by the local planning authority in writing. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site.

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

- (i) a survey of extent, scale and nature of contamination;*
- (ii) an assessment of the potential risks to:*

- human health,*
- properly (existing or proposed) including buildings, crops, livestock, pets,*
- woodland and service lines and pipes,*
- adjoining land,*
- groundwaters and surface waters*
- ecological systems*
- archaeological sites and ancient monuments;*

- (iii) an appraisal of remedial options, and proposal of the preferred option(s).*

This must be conducted by a competent person and in accordance with the Environment Agency's 'Land Contamination Risk Management' guidance and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers'

- 6.2 There is currently a bungalow on the application site, approved under application reference 79/00356/MAL. It is considered that as the established use of the site is residential and would appear to have been so for at least 40 years.
- 6.3 The PPG (use of Planning Conditions) states that conditions can enhance the quality of a development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The NPPF and PPG make it clear that planning conditions should satisfy the following six tests; (1) necessary, (2) relevant to planning, (3) relevant to the development, (4) enforceable, (5) precise and (6) reasonable in all other respects.
- 6.4 When assessing the current use of the application site and considering the above tests, it would appear that the argument is whether the condition fails the first and sixth test, e.g., whether it is necessary and reasonable or not. Given the above assessment, it has been demonstrated that the condition is not considered necessary or reasonable for the development to be acceptable and proceed. The condition is relevant to planning and to the development and therefore meets the second and third tests. The condition is enforceable, and therefore meets the fourth test. The condition is precise and, had the condition continued to be considered necessary, it is reasonable in all other respects.
- 6.5 Therefore, the condition fails the first and sixth tests in its current form, and it is considered that imposition of the above requested condition is not justified.

7. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
13/00143/FUL	Demolish existing detached garage construct detached 5 bedroom three storey dwelling.	Withdrawn
13/00499/FUL	Demolish existing detached garage construct detached 3 bedroom two storey dwelling.	Refused and Appeal Dismissed
14/00984/OUT	Retain existing house and construct 3 dwellings in grounds	Refused
15/00764/OUT	Demolish existing dwelling and detached garage and erection of two new chalet style dwellings.	Refused
16/00418/OUT	Demolition of existing garage and erection of two dwellings on land to the west of Sunnyside and associated access from Stoney Hills.	Refused and Appeal Dismissed
16/01063/LDP	Claim for Lawful Development Certificate for proposed use: Stationing of a mobile home for purposes ancillary to the residential dwelling.	Refused

8. CONSULTATIONS AND REPRESENTATIONS RECEIVED

8.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Recommend refusal – overdevelopment of the site and concerns regarding access road	Noted

8.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Ecology	Acceptable subject to relevant conditions.	Noted
Essex Highways	Acceptable subject to relevant conditions.	Noted

8.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to relevant conditions.	Noted

8.4 Representations received from Interested Parties

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

Objecting Comment	Officer Response
• Would be overshadowing and overlooking to 4 Murrayfields	Discussed within section 5.4 of the report above
• Overdevelopment of the area	Discussed within section 5.3 of the report above

8.4.2 **One** letter was received **commenting** on the application and summarised as set out in the table below:

Comment	Officer Response
<ul style="list-style-type: none"> • Can planners ensure that the developer uses smaller delivery vehicles and gives prior notice to residents so that disruptions can be reduced? • Restricted times in place for any deliveries or large vehicles. No access before 9.00am and no access between 3.15 - 4.14pm to allow the children to walk to and from school safely. • There is a 15mph speed limit in place in the lane, it is the duty of the developer to make sure all drivers that access his site are aware of this and adhere to it. • Address the access issues prior to the building works starting. • Ensuring mud and rubble 	<p>The planning department cannot control the size of the vehicles used in construction or require prior notification to be issued to residence or ensure that the development makes sure all the vehicles entering and existing the site are aware of the speed limit.</p>

9. **PROPOSED 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 and documents: 1214/01, 1214/02, 1214/03, 1214/04, 1214/05, 1214/06, 1214/07, 1214/08, 1214/09 and 1214/010
REASON To ensure that the development is carried out in accordance with the details as approved.
- 3 The materials used the in the development hereby approved shall be as set out within the application form/plans hereby approved.
REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved LDP and guidance contained within the NPPF.
- 4 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 of the dwellings hereby permitted, nor shall any extensions be erected, without planning permission having been obtained from the LPA.
REASON To protect the amenity of the area and neighbouring sites, in accordance with policies D1 and H4 of the MDLDP and the guidance contained within the NPPF.
- 5 If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and measures for its remediation shall be submitted to and approved in writing by the LPA The remediation of the site shall incorporate the approved measures and a verification report for all the remediation works shall be submitted to the LPA within 14 days of the report being completed and shall be approved in writing by the LPA
REASON To prevent the undue contamination of the site in accordance with Policy D2 of the MDLDP.
- 6 The dwellings hereby approved shall not be occupied until two car parking spaces have been laid out for both dwellings, and sufficient space for vehicles to turn so that they may enter and leave the site in forward gear has been provided, the spaces provided shall thereafter be kept available for such purposes in perpetuity.

REASON To ensure appropriate parking is retained at the site in accordance with the VPS (SPD), policies D1 and T2 of the MDLDP and the guidance contained within the NPPF.

7 Prior to the first occupation of the dwellings hereby permitted, the rooflight windows within the western roof slopes of both the dwellings, as shown on drawing nos. 1214/08 and 1214/09, shall be glazed with opaque glass and of a non- openable design and shall be retained as such thereafter.

REASON To protect neighbouring amenity, in accordance with policy D1 of the MDLDP and the guidance contained within the NPPF

8 Prior to the occupation of the dwellings hereby permitted, details of the siting, height, design and materials of the treatment of all boundaries including existing hedging, gates, fences, walls, railings and piers shall be submitted to and approved in writing by the LPA and be retained as such thereafter.

REASON In the interest of local amenity and residential amenity in accordance with policy D1 of the approved Maldon District Local Development Plan.

9 No works work above ground level shall occur until a detailed Sustainable Urban Drainage Scheme as specified in the Essex Sustainable Drainage Systems Design Guide has been submitted in writing by the LPA. This must be conducted by a competent person and include written explanation of any data provided. The scheme shall subsequently be implemented prior to occupation of the development and should include and not be limited to:

- Discharge rates/location
- Storage volumes
- Treatment requirement
- Detailed drainage plan
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy

Where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests carried out upon the subsoil in accordance with DG 365 2016. 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 discharging to a watercourse the proposed scheme shall include details of the destination and discharge rates equivalent to "greenfield runoff" up to and including a 1 in 100 year rainfall event inclusive of climate change. This is typically achieved by installing some form of attenuation on site e.g. temporary storage. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s). If the land is designated as a Brownfield Site it should aim to limit run-off for a storm event that has a 100% chance of occurring each year (1 in 1 year event) OR demonstrate 50% betterment of the current rates.

It must demonstrate that the system is an appropriate point of discharge for the site. The discharge hierarchy should be used to determine discharge location. This is particularly important when considering greenfield development which may currently discharge to a sewer but may have the capacity to discharge to a watercourse or to the ground.

If not, then further information/assessment will be required to determine the suitability of the system to convey the proposed flows and volumes of water. Evidence will be required that the development will not increase risk to others. If

the proposed discharge point is outside the development site then the applicant will need to demonstrate that the necessary permissions and or agreements to achieve connection are possible.

Where the LPA 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 ensure the adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the NPPF, and policy D5 of the approved MDLDP.

10 Full details of both hard and soft landscape works shall be submitted to and approved in writing by the LPA 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 layout;
- iv. Hard surfacing materials;
- v. Minor artefacts and structures (e.g. furniture, refuse or other storage units, lighting);

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 LPD. 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 LPA, 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 LPA gives its written consent to any variation.

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

REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD and the National Planning Policy Framework.

11 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 LPA. The development shall be carried out in accordance with the approved details.

REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD and the National Planning Policy Framework.

12 There shall be no openings above ground floor level within the North and South flank elevations of both the dwellings hereby approved.

REASON To protect neighbouring amenity, in accordance with policy D1 of the MDLDP and the guidance contained within the NPPF.