



**REPORT of  
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
15 AUGUST 2016**

<b>Application Number</b>	<b>FUL/MAL/16/00445</b>
<b>Location</b>	Land Adjacent Whispering Trees, Mayland Green, Mayland
<b>Proposal</b>	Construction of a one bedroom bungalow
<b>Applicant</b>	Miss Tessa Ford
<b>Agent</b>	Mr Matthew Letten - Spectrum Town Planning Consultants
<b>Target Decision Date</b>	12.09.2016
<b>Case Officer</b>	Kara Elliott
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Previous Committee Decision

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

# Land Adjacent Whispering Trees, Mayland Green, Mayland



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Maldon District Council 100018588 2014



MALDON DISTRICT COUNCIL

[www.maldon.gov.uk](http://www.maldon.gov.uk)

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 16/00445/FUL

Date: 03/08/2016

MSA Number: 100018588

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 Planning permission is sought to construct a detached single storey dwelling, together with associated parking and landscaping.
- 3.1.2 The site, measuring approximately 0.1 hectare, is located on the south corner of the junction of Mayland Green with Nipsells Chase. It comprises an area of land associated with the donor property Whispering Trees and is within the settlement boundary of Mayland. The site is irregular in shape and there is a brook running through the site close to its rear boundary. It is currently in use for open storage and is occupied by dilapidated sheds, equipment and a shipping container.
- 3.1.2 The application site has an extensive history of refused and withdrawn applications for planning permission for a dwelling on the application site. The most recent application was refused and dismissed at appeal in 15 February 2016 for a two storey dwelling.
- 3.1.3 The proposed dwelling measures 57m<sup>2</sup>, is 10m wide and has a maximum length of 7m. It is single storey and measures 4.3m to its highest point. The design is a hipped roof, brick construction bungalow with a simple arrangement of fenestration limited to the front and rear elevations.
- 3.1.4 The dwelling would have a usable and private amenity space of approximately 66sqm to the rear. Two parking spaces are proposed for the dwelling to the east of the proposed dwelling.
- 3.1.3 A distance of 1m would be provided between the flank of the proposed dwelling and the new common boundary with Whispering Trees. Whispering Trees is an irregular, modern dwelling sited immediately to the south west in Mayland Green. The garden of this property has extensive tree coverage. In the immediate locality there is a wide range of dwelling types sited within the settlement limits of Mayland. To the south, on the opposite side of Steeple Road, is open countryside.
- 3.1.4 Approximately two thirds of the site falls within Flood Zone 3.

#### **3.2 Conclusion**

- 3.2.1 The proposed dwelling, by reason of its design, scale, bulk and siting would represent a contrived development within this small, irregular shaped plot out of character with the prevailing pattern of development within the area and the street scene and would therefore be detrimental to the visual amenity of the street scene and the surrounding area, as well as the spacious setting of Whispering Trees. As such the proposal is contrary to policy BE1 of the adopted Maldon District Replacement Local Plan, policy D1 of the submission Local Development Plan, and Government guidance contained within the National Planning Policy Framework.

### **4. MAIN RELEVANT POLICIES**

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

**4.1 National Planning Policy Framework 2012 including paragraphs:**

- 11, 12, 13, 14, 30, 34, 49, 56, 64, 69, 100, 101, 103

**4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- S1 - Development Boundaries and New Development
- H1 - Location of New Housing
- BE1 - Design of New Development and Landscaping
- T2 - Transport Infrastructure in New Developments
- T8 - Vehicle Parking Standards

**4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:**

- S1 - Sustainable Development
- S8 - Settlement Boundaries and the Countryside
- D1 - Design Quality and Built Environment
- D2 - Climate Change and Environmental Impact of New Development
- D5 - Flood Risk and coastal management
- H2 - Housing Mix
- H4 - Effective Use of Land
- N2 - Natural Environment and Biodiversity
- T1 - Sustainable Transport
- T2 - Accessibility

**4.4 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Essex Design Guide
- Car Parking Standards

**5. MAIN CONSIDERATIONS**

**5.1 Principle of Development**

- 5.1.1 This application site is located within the settlement of Mayland and represents land associated with the donor property, Whispering Trees. Whilst the principle of development is acceptable within the settlement boundary of Mayland, this is subject to subsequent material considerations.

- 5.1.2 It is also relevant to note here that the definition of previously developed land in the NPPF does not include garden land and so there is no automatic assumption that development will be acceptable and other material considerations must be fully examined.

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

- 5.2.1 Previous applications have been refused at the application site on the basis of unacceptable design and impact on the character and appearance of the area. The most recent application for a two storey dwelling of a similar appearance to that of the host dwelling was dismissed at appeal. This current application seeks to address the issues as part of this submission. Within the previous appeal decision, the Inspector considered that the dwelling (larger than that of the proposed development) would, *“...reduce the spaciousness which contributes positively to the setting of Whispering Trees and the junction as a whole.”* Whilst the proposed development is reduced in bulk, scale and height when compared to the dismissed appeal, the proposed development, due to the exceptionally small size of the site (0.1Ha) is still considered to dominate the site and reduce the spaciousness of the setting of Whispering Trees.
- 5.2.2 The single storey dwelling proposed lacks architectural merit and would compete with the design quality and individuality of the adjacent dwelling, which itself is unique in its setting. This would be exacerbated by the proximity of the proposed dwelling to Whispering Trees, at only 2m from its flank elevation. This dwelling currently sits comfortably on a large, well landscaped plot. Its spacious setting forms part of the character of that dwelling and this proposal would considerably detract from that as a result of its siting and the narrow, irregular shape of the plot. The proposal would create a cramped and contrived appearance to both this and the adjacent plot and this would not be considered to sufficiently overcome the previous reasons for refusal. This was a concern at the time of the recently dismissed appeal.
- 5.2.3 Whilst the NPPF advises that local planning authorities should not impose taste it is considered that part of the local distinctiveness of this area is the existing dwelling on its spacious and well landscaped plot, which departs from the traditional design and form of development in the wider area. The presence of a single storey bungalow of no architectural merit in such close proximity to the adjacent dwelling, this local distinctiveness would be compromised.
- 5.2.4 On this basis the proposal is not considered to comply with local policies BE1 of D1 or the NPPF guidance in respect of good design principles.

## **5.3 Impact on Residential Amenity**

- 5.3.1 To the rear of the application site are two dwellings in Mayland Green. There would be a distance of approximately 19m between the rear elevation of the closest dwelling in Mayland Green and the rear elevation of the proposed dwelling. It is therefore considered there is a reasonable distance between the dwellings to reduce the possibility of overlooking and loss of privacy to existing occupiers. Furthermore, existing boundary treatment (fencing and trees) provides further screening to prevent overlooking and loss of privacy.

- 5.3.2 In terms of Whispering Trees, there is a distance of only 2m between the existing and proposed dwelling. There are no windows proposed to the side elevation facing the adjacent dwelling. However, the position of the donor property in relation to the proposed dwelling is likely result in loss of light and overshadowing to the rear amenity space. This would reduce the amenity value of the site.

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

- 5.4.1 Two parking spaces are shown on the plans for the dwelling. No vehicle turning area is shown on site meaning that vehicles would have little option but to reverse onto or off of the public highway to enter and leave the site. Given the position of the dwelling in the highway and its relationship to the surrounding residential area, this is not considered to be of concern. Parking provision would accord with the adopted Vehicle Parking Standards SPD and policy T8 of the local plan.
- 5.4.2 Further assessment of the acceptability of the highway safety of the proposed development will be provided within the member's update following a consultation response from Essex Highways.

#### **5.5 Private Amenity Space and Landscaping**

- 5.5.1 The submitted plans demonstrate that the proposed development would provide over 200m<sup>2</sup> of amenity space over the whole site. This includes two front garden areas and areas behind the brook that runs through the site that are not considered to represent private amenity space. The land to the brook is sloped steeply on both sides and does not offer a useable, or safe, amenity space for the dwelling. Fencing would need to be provided to the brook in the interest of safety of future occupiers and this would further reduce the space available. A maintenance strip may also be required by the water board.
- 5.5.2 When taking into account the actual, usable private amenity space available to the rear of the dwelling, an area of approximately 66sqm (approx.) is available. This is considered to exceed the minimum standards required by the adopted Essex Design Guide of 50sqm for a one or two bedroom dwelling.
- 5.5.3 In terms of landscaping, new landscaping could be provided on site and dealt with through condition. Existing trees on site are considered to add to the amenity value of the area and so should be retained and protected as part of the development. This could also be conditioned to any positive decision

#### **5.6 Flood Risk**

- 5.6.1 The site is located partially within Flood Zones 3 and 2 with the highest associated risk of flooding. New dwellings and residential uses are considered to have high vulnerability as defined in the National Planning Practice Guidance (NPPG) and previously in the technical guidance to the NPPF.
- 5.6.2 The NPPG identifies that the Sequential Test aims to steer new development to areas with the lowest probability of flooding, with the aim to steer development towards Flood Zone 1. LPAs are required to take into account the vulnerability of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only

when there is no reasonably available land within Flood Zone 1 or 2 that sites can be considered in Flood Zone 3, taking into account the vulnerability of the land use and applying the exceptions tests (where required).

- 5.6.3 In addition the Exceptions Test is also applicable and is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. This is a two part test requiring evidence to be submitted to show that the benefits of the development would outweigh the risk of flooding and that the development will be safe for its lifetime. This aspect of the test requires the submission of a Flood Risk Assessment (FRA).
- 5.6.4 A flood risk assessment has been submitted with the application which has been submitted to the Environment Agency and the Council's Emergency Planner for consideration. Further assessment of the acceptability of the proposed development in relation to flood risk will be updated via the member's update.

## 6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/10/00774** - Construct two storey residential dwelling to side of main house within its own boundary. **Refused** 12 November 2010.
- **FUL/MAL/11/00445** – Construct two storey residential dwelling to side of main house within its own boundary. **Withdrawn** 08 August 2011.
- **FUL/MAL/11/00721** - Construct two storey residential dwelling to side of main house within its own boundary. **Withdrawn** 24 January 2012.
- **FUL/MAL/12/00616** – Construct new two storey residential dwelling to side of main house and the creation of its own curtilage. **Refused** 05 October 2012.
- **FUL/MAL/13/00254** – Construct two storey residential dwelling to side of main house within its own boundary. **Refused** 5 August 2013.
- **FUL/MAL/15/00256** - Construction of a detached two storey dwelling, together with associated parking and landscaping. **Refused** 06.07.2015.  
**Appeal Dismissed** 15.02.2016.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mayland	Not received at time of writing.	<i>To follow within Members' Update.</i>

## 7.2 Statutory Consultees and Other Organisations (*summarised*)

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex Highways	Not received at time of writing.	<i>To follow within Members' Update.</i>
Environment Agency	Not received at time of writing.	<i>To follow within Members' Update.</i>

## 7.3 Representations received from Interested Parties

7.3.1 None received at time of writing.

## 8. **REASON FOR REFUSAL**

- 1 The proposed dwelling, by reason of its design, scale, bulk and siting would represent a contrived development within this small, irregular shaped plot out of character with the prevailing pattern of development within the area and the street scene. The development would, due to the design and siting, visually conflict with Whispering Trees and its spacious setting. Therefore, the proposed development would be detrimental to the visual amenity of the street scene and the surrounding area, as well as the spacious setting of Whispering Trees. As such the proposal is contrary to policy BE1 of the adopted Maldon District Replacement Local Plan, policy D1 of the submission Local Development Plan, and Government guidance contained within the National Planning Policy Framework.

### **POSITIVE AND PROACTIVE STATEMENT**

Town and Country Planning (Development Management Procedure) (England) Order 2015 - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to consider the harm. The Local Planning Authority considers that options for development of the site for residential accommodation has been exhausted and therefore would not welcome future applications for a revised development.