



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
28 JUNE 2023**

Application Number	22/01071/OUT
Location	Land at The Old Rectory, East End Road, Bradwell-on-Sea, CM0 7PX.
Proposal	Outline planning application (with all matters of detail reserved) for a detached self-build dwelling.
Applicant	Mr & Mrs David and Christine Gould
Agent	Mr James Caan – Planning Direct
Target Decision Date	29.03.2023 (EOT to deadline)
Case Officer	Lisa Greenwood
Parish	BRADWELL-ON-SEA
Reason for Referral to the Committee / Council	The application was called in (11 January 2023) to be determined by the Planning Committee by Councillor R P F Dewick, on the grounds of Policy D1, design. It also represents a departure from the Local Plan.

1. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 8 of this report) and a signed Section 106 Agreement to secure a financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

2. SITE MAP

Please see below.

3. SUMMARY

3.1 Application site

- 3.1.1 The application site is located on the southern side of East End Road. The access to the site lies adjacent to the settlement boundary of Bradwell-on-Sea, but the site itself is outside of the settlement boundary. The site measures 0.26 hectares in area and is formed of extensive garden land located to the rear of a two-storey detached dwelling, The Old Rectory (the main dwelling). The Old Rectory forms a run of detached dwellings which front East End Road. The dwellings are typically arranged in a linear formation, however, one dwelling, The Grange, is located to the west of the application site, at the end of a shared private access which also serves The Old Rectory and its neighbour, Nevyn.
- 3.1.2 The application site is not readily visible at East End Road. The site is screened by two garages, located to the east of the main dwelling. There is a timber panel fence at the eastern boundary, which is also screened by a number of established trees. A low timber fence is present at the rear boundary, and this is again screened in part by established trees. The site is heavily vegetated, providing a block of woodland which contributes to the amenity of the local area and there is a Tree Preservation Order (TPO) on site. There are four ponds within 250 metres of the site.
- 3.1.3 Access to the site can be achieved via an existing access, which currently serves the main dwelling.
- 3.1.4 The site is neighboured to the north, north west and west (beyond the highway) by residential development. To the south is a historic park and garden. To the north east of the site, beyond the residential development, is a graveyard. The character at the site, when viewed at the street scene, is wholly residential.

Proposal and Background Information

- 3.1.5 Outline planning permission with all matters reserved is sought for the erection of a self-build detached dwelling located on land largely to the rear of The Old Rectory.
- 3.1.6 The application form submitted to support the proposal has identified that this application is to consider the principle of development only. Access, appearance, landscaping, layout and scale arrangements are to remain as reserved matters however, plans have been submitted with regard to these matters, and comments provided in the body of this report.
- 3.1.7 Should outline planning permission be forthcoming, the considerations of layout, access, scale, appearance and landscaping would form a subsequent reserved matters application(s). Nevertheless, all material planning considerations are relevant where applicable to this application including the impact on highways, ecology and trees.

3.2 Conclusion

- 3.2.1 The proposed development has been found to represent a sustainable form of development. The application site would be able to accommodate 1 no. dwelling and provide an extended vehicular access and car parking with adequate amenity space to meet the requirements of the Maldon District Design Guide (MDDG) (2017). It would also be possible to ensure that there would be no impact to the residential amenity of neighbouring properties, ecology and European designated sites. The

removal of category C trees can be mitigated through replanting, and protective measures to the remaining trees.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework (NPPF) 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
- 55 – 59 Planning conditions and obligations
- 60-80 Delivering a sufficient supply of new homes
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 173 Meeting the challenge of climate change, flooding and coastal change
- 174-183 Conserving and enhancing the natural environment
- 184 – 202 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure
- N2 Natural Environment
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG) (first released in 2014, but regularly updated)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Maldon District Local Housing Needs Assessment (2021)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990), and

Paragraph 47 of the National Planning Policy Framework (NPPF) (2021) requires that planning decisions are to be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029, The Local Development Plan (LDP).

- 5.1.2 Policy S1 of the LDP states that “When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF” and apply a number of key principles in policy and decision making set out in the Policy.
- 5.1.3 Policy S8 of the LDP steers new development towards the existing urban areas. This Policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general use residential properties but does allow at (m) of S8, development which complies with other policies of the LDP. As such, although there is conflict with Policy S8, as the site is outside of a defined settlement boundary, this needs to be balanced against other material considerations which are discussed further in the report. Of relevance to this consideration are: Policy I2 which states that suitable types of residential development which cater for the ageing population and support healthy and independent lives will be provided; and Policy H3 which supports the provision of housing for ‘specialist’ needs.
- 5.1.4 As per Paragraph 74 of the NPPF, the Council as the Local Planning Authority (LPA) for the Maldon District is expected to “identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.” To this end, Maldon District Council (MDC) prepares and publishes a Five Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.5 Work has recently been carried out by the Council in reviewing the suitability of the Five Year Housing Land Supply (5YHLS) methodology through its 5YHLS Working Group established in August 2022. The work has now assessed the current 5YHLS figure as 6.35 years. At its statutory annual committee meeting on the 18 May 2023 the Council subsequently confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021/2022 of 3.66 years. This means that the Council’s presumption in favour of sustainable development position against paragraph 11 (d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the Local Plan), the provision of the most suitable types of housing for the District, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.
- 5.1.6 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. As stated, the LDP through Policy S1 re-iterates the requirements of the NPPF Policy S1 allows for new

development within the defined development boundaries. Paragraph 79 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.”

- 5.1.7 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that “development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.” This is supported by the update of the Government’s Policy Paper, ‘Strategic road network and the delivery of sustainable development’ (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that “new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable.”
- 5.1.8 The access to the application site is located adjacent to the defined settlement boundary of Bradwell-on-Sea, which is classified as a “smaller village” which has limited access to services and facilities. A well-lit footway is located at the front of the site’s access, and this links the site to the settlement. There are facilities that could be accessed via this footpath, including a community shop, pub and primary school. Bus stops are located to north east and south west of the site at East End Road at Bate-Dudley Drive and the Kings Head. Both are within safe walking distance.
- 5.1.9 Whilst it is acknowledged that the location of the site would fail to discourage the use of private cars entirely, the site is well located adjacent to the settlement boundary and residential development has previously been permitted at the neighbouring sites Nevyn and The Grange, which are also located outside of the settlement boundary. In addition, planning permission has recently been granted at Allotment Gardens, South Street (planning reference 22/00770/FUL) and the application site is not of a dissimilar distance from the facilities available within the settlement than the application site. No objection is therefore raised with regard to the accessibility of the site. The particular location of these developments and their context is a material consideration in this case to which significant weight is afforded and in terms of accessibility, the location of the application site is found to be acceptable.
- 5.1.10 In accordance with Policy H4 of the LDP, backland and infill development will be considered on a site-by-site basis, taking into account local circumstances, context and the overall merits of the proposal. Backland and infill development will be permitted if all 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;

- 4) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.”

5.1.11 The proposal is supported by a Planning Statement, setting out a justification for the aforementioned criteria. With regard to criterion 1), the site currently forms part of the private amenity space (garden land) associated with The Old Rectory. The Statement makes reference to planning application reference 97/00234/FUL, which granted planning permission at an adjacent site, The Grange, for the erection of a detached house. Whilst the proposal would result in the reduction in size of the amenity space serving The Old Rectory, the site would still benefit from in excess of 100m² of private amenity space to the rear, and a space much larger than the private amenity space serving The Grange and its neighbour, Nevyn. Owing to the close proximity of the site to The Grange, and the area of private amenity space still provided to The Old Rectory, the proposal would make more effective use of the site.

5.1.12 With regard to criterion 2), there would be no material impact upon the living conditions and amenity of nearby properties, and this is discussed further at Paragraph 5.5 of this report.

5.1.13 There is no objection to the proposal with regard to ecology, and the Conservation Officer also raises no objection. The site is not of local, economic, or social significance, and the proposal is acceptable with regard to criteria 3) and 4).

5.1.14 Whilst it is acknowledged that the proposal does represent a form of backland development, by virtue of the reasons stated, it has been found to meet the requirements of Policy H4 of the LDP.

5.1.15 In respect of the above, when assessing the sustainability credentials of the site, the principle of residential housing within this location has been found to be acceptable.

5.2 Self-Build Housing

5.2.1 Paragraph 62 of the NPPF states that LPAs should plan for a mix of housing including ‘people wishing to commission or build their own homes.’

5.2.2 Footnote 28 to Paragraph 62 identifies that self and custom build properties can provide market housing, however, self-build housing does not normally seek to address local housing need.

5.2.3 Custom and self-build housing has gained legislative support through the self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). This legislation requires the Council to maintain a self-build register and to ‘give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority’s area arising in each base period’ i.e. to grant sufficient ‘development permissions’ to meet the demand for self-build.

5.2.4 Policy H2 of the LDP states ‘where appropriate, the Council will work with developers, registered providers, landowners and relevant individuals (or groups of individuals) to address identified local need for self-build housing.’ The Council’s self-build register has 16 individuals listed and 57 sites granted planning permission and therefore there is a surplus number of sites available for the construction of self-build dwellings meaning there is land available in suitable and sustainable locations for the number of individuals on the register.

- 5.2.5 There is no part of the self-build legislation that supports development which would be located within an unsuitable, unsustainable location, where market dwellings would also not be found acceptable.
- 5.2.6 The site is considered to be located in an accessible location. Information has been submitted to the LPA to confirm that the applicant wishes to acquire a serviced plot of land to build a house to occupy as their sole main residence. The principle of development at the site has been found to be acceptable, and the proposal is therefore considered to be acceptable in this regard.

5.3 Housing Mix

- 5.3.1 The NPPF is clear that housing should be provided to meet an identified need.
- 5.3.2 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF (2021) and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing 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. The LNHA 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.
- 5.3.3 Although outline in nature, the information submitted to support the proposal indicates it is the applicant's intention to seek planning permission at the reserved matters stage for a 3 bedroom dwelling. The proposal would therefore contribute to the District's housing mix.

5.4 Design and Impact on the Character of the Area

- 5.4.1 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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.
- 5.4.2 The basis of Policy D1 of the 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;
 - b) Height, size, scale, form, massing and proportion;
 - c) Landscape setting, townscape setting and skylines;
 - d) Layout, orientation, and density.”
- 5.4.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017). In addition, Policy H4 requires all development to be design led and to seek to optimise the use of land having regard,

among other things, 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 of the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the surrounding area and does not involve the loss of any important landscape, heritage features, or ecology interests.

- 5.4.4 Whilst it is acknowledged that the matter of appearance and scale has been reserved at this stage, indicative layout plans and elevations have been provided, and as such, comment is provided.
- 5.4.5 The application site is located to the rear of The Old Rectory and appears to sit slightly forward of the residential development to the west, The Grange. In order to provide access to the rear, the proposal seeks to demolish a wooden demountable garage (which would be relocated). The existing driveway, which was reinstated in 2017 following the granting of planning permission reference 17/00354/HOUSE, would be extended. The access would be shared by The Old Rectory and the application site.
- 5.4.6 The proposed dwelling would be located to the north west of the site. The dwelling would be arranged over two storeys and would measure approximately 7.3 metres in depth, 14.4 metres in width, with a maximum height of 8.7 metres. The indicative drawings show that the tiled roof would contain a PV array, with white render to the walls and white windows.
- 5.4.7 Living rooms including a wet room and plant room would be on the ground floor with a play area, bathroom and 3 bedrooms on the first floor.
- 5.4.8 With regard to the siting of the dwelling, this could be set back slightly further into the site to align with The Grange, and the plan form rotated to take design cues from this neighbour.
- 5.4.9 The indicative design of the proposed dwelling is simple, lacking architectural merit. There is no traditional fenestration hierarchy, and a distinct lack of glazing to the first-floor side elevations. Whilst the indicative dwelling appears modest in scale with regard to the size of the plot, it is excessive in height and should be reduced.
- 5.4.10 Furthermore, the proposal is somewhat out of keeping with the host dwelling and The Rectory, to which it is closely related. Any future planning application should aim to take design cues from built form in the locality and avoid introducing a modern form of development that appears at odds.
- 5.4.11 Notwithstanding this, as an outline application with all matters reserved the proposal cannot be refused with regard to design, however, the applicant is minded to revise the design at the reserved matters stage. Materials could be imposed by way of a condition on any consent.
- 5.4.12 The proposal has been reviewed by the Council's Conservation Officer, who notes that the proposal will not impact the setting or significance of any heritage assets.

5.5 Impact on Residential Amenity

- 5.5.1 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).
- 5.5.2 Whilst it is acknowledged that the site is currently associated with The Old Rectory, the nearest neighbour is The Rectory. The dwelling at The Rectory is located in excess of 35 metres to the north of the dwelling associated with this application.
- 5.5.3 An established boundary treatment of existing trees and vegetation is present at the proposed boundary to be shared with this neighbour. Owing to the separation distance between the existing neighbouring dwelling and the siting of the proposed dwelling the amenity of the neighbours can be protected and should be considered when submitting any future planning application.

5.6 Access, Highway Safety

- 5.6.1 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.
- 5.6.2 In accordance with the Council's Vehicle Parking Standards (2018), dwellings with 3 bedrooms are required to provide for 2no. parking spaces. Parking bay sizes are required to measure 2.9m x 5.5m (as a minimum, and this will vary depending on the parking layout). A 1no. car garage is required to measure 3m x 7m. A 2no. car double garage is required to measure 6m x 7m.
- 5.6.3 The proposal has been reviewed by the Highways Authority, who note that the subdivision of the site and use of the existing access is acceptable, subject to the imposition of conditions regarding the surface treatment of the vehicular access, the reception and storage of materials, cycle parking and the provision of Residential Travel Information Packs.
- 5.6.4 With regard to the parking provision at the site, ample parking is available to serve a 3 bedroom dwelling. Any future planning application should include a parking layout, to ensure the parking bays / arrangement provided meets the space standards and will remain in perpetuity thereafter.

5.7 Nature Conservation and Biodiversity

- 5.7.1 Paragraph 170 of the NPPF states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'
- 5.7.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.7.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. LDP Policy N2 states that, any development which

could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

- 5.7.4 The proposal has been reviewed by the Council's Ecological Consultant, who initially raised an objection owing to a lack of information on designated sites. The Consultant notes that the Preliminary Ecological Appraisal (PEA) (The Landscape Partnership, December 2022) and Arboricultural Impact Assessment (Oakfield Arboricultural Services, September 2022) did not provide enough information to determine the application.
- 5.7.5 Four ponds were noted within 250m of the site. The Appraisal also noted that some trees may have "moderate to high bat roost potential." The proposal shows the removal of trees, and further clarification was required to demonstrate their potential to support roosting bats. Further information was also required to assess the impact on Great Crested Newts.
- 5.7.6 Furthermore, the site is located within the evidenced Zone of Influence of the Blackwater Estuary Ramsar and Special Protection Area (SPA). Therefore, the LPA is required to undertake a project level Habitat Regulation Assessment (HRA) Appropriate Assessment to secure a per dwelling tariff by legal agreement for the delivery of visitor management measures at the designated sites.
- 5.7.7 The Landscape Partnership has provided further information via email. The Council's Consultant is satisfied that the trees to be removed are considered to have "negligible" potential for roosting bats. Therefore, the LPA has certainty of the likely impacts on these European Protected Species. The response also provides reasonable justification that Great Crested Newts are absent from the site. However, should outline planning permission be forthcoming, it is required to ensure a precautionary non-licensed method statement is produced and secured by condition of consent.
- 5.7.8 The Consultant supports the reasonable biodiversity enhancements provided and such measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 5.7.9 In addition, as bats could be foraging / commuting within the site, a sensitive lighting scheme is advised, and this should also be secured via the imposition of a condition.
- 5.7.10 With regard to the fact that the 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 residential development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.7.11 The development of 1no. dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and standard advice an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from the 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 specified development types? Yes – The proposal is for 1no. dwelling

HRA Stage 2: Appropriate Assessment - Test 2 - the integrity test

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for one dwelling

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

Summary of Appropriate Assessment

5.7.12 As the answer is no, it is advised that should planning permission be forthcoming, 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 named European sites from recreational disturbance, when considered ‘in combination’ with other development.

5.7.13 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £156.76 (2022-2023 figure) and thus, the developer contribution should be calculated at this figure. The Council has requested a signed Unilateral Undertaking and subject to the receipt of this, the appropriate mitigation would be secured, in compliance with Policies S1, D1, N1 and N2 of the LDP and the policies and guidance contained in the NPPF (2021).

5.7.14 Subject to the imposition of appropriate conditions, it has been found that the appropriate mitigation measures could be put in place to mitigate the likely harm and the proposal is acceptable in this regard.

5.8 Landscaping and Tree Impact

5.8.1 Policy S1 of the LDP states that decision making should conserve and enhance the natural environment. Policy D1 of the same Plan advises that all development must respect and enhance the character and local context and make a positive contribution in terms of landscape, setting, townscape setting and skylines and in terms of the natural environment.

5.8.2 An Arboricultural Impact Assessment (Oakfield Arboricultural Services, September 2022) has been submitted to support the proposal.

5.8.3 The proposal was initially reviewed by the Council’s Arboricultural Consultant, who noted that the site is well vegetated and that the existing trees could cause some overshadowing to the new dwelling, meaning it would be in the shade for much of the day. An Internal Daylight and Sunlight Assessment has now been provided to support the proposal (Elmstead Energy Assessments and Building Services, May 2023) and this confirms that the British Research Establishment (BRE) Guidelines with regard to interior sunlight would be satisfied.

5.8.4 Additional comments from the Council’s Consultant confirm that the site is very heavily vegetated and provides a significant block of woodland to the amenity of the local area. The Assessment states that 3 trees and 2 groups are to be removed to facilitate the development. All are category C trees and not a material consideration

to development, although due to the number of trees being removed, this would be sought in the guise of replacement planting elsewhere on site.

- 5.8.5 Specific advice should be sought from a structural engineer regarding the depth of foundations. The Consultant recognises the possibility of increased pressures on the remaining trees on site in terms of tree work to alleviate issues such as shading, debris and to prevent interference with the buildings themselves as the trees grow. As this pressure may feasibly impact those retained trees, including category B trees, both on and adjacent to the site, it is recommended that the trees included in the Assessment that are not already under TPO protection should be made the subject of a TPO. It should be noted that shading on the proposed property is likely to be significant at this location.
- 5.8.6 The outline planning permission would require the removal of category C trees which can be mitigated through replanting, a landscaping plan showing replacement on a 1:1 basis should be conditioned as part of any decision notice. If the Assessment is followed, the proposed works should be able to be carried out without significant damage to the retained trees. It is reiterated that there is a need for specialist advice regarding foundations on site due to the close proximity of the trees and possibility of shrinkable soils. Trees not already assessed as to their suitability for a TPO should be assessed. An Arboricultural Method Statement will be required as a condition if outline planning permission is granted. The Consultant supports the scheme, subject to the imposition of conditions.
- 5.8.7 To further ensure that there is no greater degree of harm caused to the existing trees by way of additional development at the site, should planning permission be forthcoming, a condition is to be imposed to remove permitted development rights to ensure that no garages, extensions, or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) are erected within the site without planning permission having been obtained from the LPA.
- 5.8.8 The matters of landscaping would form a subsequent reserved matters application and are not for assessment at this stage.

5.9 Flood Risk and Drainage

- 5.9.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximise opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.9.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.
- 5.9.3 With regard to drainage, the proposal has been reviewed by the Council's Environmental Health Officer, who has stated that should outline planning permission be forthcoming, conditions are to be imposed with regard to surface water and foul drainage.

6 ANY RELEVANT SITE HISTORY

The planning history for the wider site (The Old Rectory) is summarised below:

- **93/00318/OUTO** – Erection of 5no. detached four bedroom houses with private drive. Refused

- **93/00556/OUTO** – Proposed two no. four bedroom detached houses. Refused
- **16/01085/HOUSE** – New detached garage with PV Panels to the rear, reinstate previous existing vehicle entrance to the site to create new crossover, and extension of existing driveway. Approved
- **17/00354/HOUSE** – New detached garage, new PV panels, reinstate previous vehicle entrance to the site to create new crossover and extension of existing driveway. Approved

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish/Town Councils

Name of Parish / Town Council	Comment	Officer Response
Bradwell-on-Sea Parish Council	No comment.	Noted.

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	The proposal will have no impact on the setting or significance of any nearby designated heritage assets.	Noted, and discussed at Section 5.4 of this report.
Arboricultural Officer	No objection, subject to the imposition of a condition.	Noted, and discussed at Section 5.8 of this report.

7.3 External Consultees

Name of External Consultee	Comment	Officer Response
Ecology	No objection, subject to the imposition of conditions.	Noted, and discussed at Section 5.7 of this report.
Highways Authority	No objection, subject to the imposition of conditions.	Noted, and discussed at Section 5.6 of this report.

7.4 Representations received from Interested Parties

No letters of representation have been received from Interested Parties.

8 PROPOSED CONDITIONS

1. The development shall be carried out in accordance with plans and particulars relating to the appearance, landscaping, layout and scale of the site (hereinafter called “the reserved matters”), for which approval shall be obtained from the Local Planning Authority in accordance with the details as approved.
REASON The application as submitted does not give particulars sufficient for consideration of the reserved matters.

2. Application (s) for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
REASON To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
3. The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.
REASON To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
4. The development shall be carried out in accordance with drawing 03 Revision 6 as far as it relates to the access of the site.
REASON To ensure the development is carried out in accordance with the approved plans.
5. No works above ground level shall take place until written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials and details as approved.
REASON In the interest of protecting the character and appearance of the area in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).
6. The scheme to be submitted pursuant to the reserved matters shall make provision for car parking standards within the site in accordance with the Council's adopted Vehicle Parking Standards Supplementary Planning Document (2018). Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.
REASON To ensure appropriate parking is provided in accordance with the Council's adopted Vehicle Parking Standards Supplementary Planning Document (2018) and Policy T2 of the Maldon District Local Development Plan (2017).
7. The landscaping details referred to in Condition no.1 shall provide full details and specifications of both hard and soft landscaping works which shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used, together with details of the means of enclosure (fencing and boundaries), car parking layout, vehicle and pedestrian accesses. The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation, aftercare and maintenance programme.
The hard landscaping works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first planting season (October to March inclusive) following the commencement of the development, unless otherwise first 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 planted in its replacement is removed, 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.
REASON To ensure the adequate provision of landscaping to mitigate the impact of the development in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

8. Prior to the commencement of the development the applicant shall submit in writing a construction management plan to the local planning authority for approval. Within the construction management plan it must consider the following requirements:
The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:
- a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) no dust emissions should leave the boundary of the site;
 - c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store, treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is a requirement for dewatering the site the relevant consent must be sought from the Environment Agency

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

REASON In the interest of protecting residential amenity, in accordance with Policies D1, D2 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

9. No works above ground level shall take place until details of the foul drainage scheme to serve the development has been 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.

REASON To ensure adequate provision is made for foul water drainage in accordance with Policies D1 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

10. No works above ground level shall take place until details of the surface water drainage scheme to serve the development has been 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.

REASON To ensure adequate provision is made for surface water drainage in accordance with Policies D1 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

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 Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON In the interests of the impact on the character and appearance of the streetscene and the amenity of neighbouring occupiers, in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

12. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (The Landscape Partnership, December 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

13. Concurrent with reserved matters and prior to commencement a Great Crested Newt Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase. The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

REASON To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

14. Concurrently with reserved matters prior to any works above slab level a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

REASON To enhance protected and Priority species and allow the LPA to discharge its duties under s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

15. Concurrently with reserved matters and prior to occupation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning

authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, x drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

16. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policy DM1 of the County Highway's Development Management Policies Supplementary Planning Document (February 2011), Policy T2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

17. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

REASON To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with Policy DM1 of the County Highway's Development Management Policies Supplementary Planning Document (February 2011), Policy T2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

18. Prior to first occupation of the development, the cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.

REASON To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the County Highway's Development Management Policies Supplementary Planning Document (February 2011), Policy T2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

19. Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Policy DM9 and DM10 of the County Highway's Development Management Policies Supplementary Planning Document (February 2011), Policy T2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

20. Concurrently with reserved matters and prior to the commencement of development an Arboricultural Method Statement (including any demolition, groundworks and site clearance) shall be submitted to and approved in writing by the Local Planning Authority. The Statement should include details of the following:

- a. Measures for the protection of those trees and hedges on the application site that are to be retained,
- b. Details of all construction measures within the 'Root Protection Area' (defined by a radius of dbh x 12 where dbh is the diameter of the trunk measured at a height of 1.5m above ground level) of those trees on the application site which are to be retained specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstandings, roads and footpaths,
- c. A schedule of proposed surgery works to be undertaken to those trees and hedges on the application site which are to be retained.

The development shall be carried out in accordance with the approved Method Statement unless agreed in writing by the Local Planning Authority.

REASON To ensure the protection of and continued well being of trees in the interest of the amenity and environmental quality of the locality in accordance with Policies S1 and D1 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2021).

21. Concurrently with reserved matters and prior to the commencement of development a scheme for the protection during construction of the trees on the site, in accordance with BS 5837:2012 - Trees in relation to construction - Recommendations, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the extent of root protection areas and details of ground protection measures and fencing to be erected around the trees, including the type and position of these. The protective measures contained with the scheme shall be implemented prior to commencement of any development, site works or clearance in accordance with the approved details and shall be maintained and retained until the development is completed. Within the root protection areas, the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas, they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

REASON To ensure the protection of and continued well being of trees in the interest of the amenity and environmental quality of the locality in accordance with Policies S1 and D1 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2021).

22. Concurrently with reserved matters no development above ground level shall take place until a scheme of soft landscaping for the site drawn to a scale of not less than 1:200, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include accurate indications of the position, species, girth, canopy spread and height of all existing trees and hedgerows on and adjacent to the site and details of any to be retained, together with measures for their protection during the course of development. Any retained trees removed, dying or becoming seriously damaged or diseased within five years of commencement shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation. The works shall be completed in accordance with the approved plans and in accordance with a timetable to be agreed with the Local Planning Authority.

REASON To ensure the protection of and continued well being of trees in the interest of the amenity and environmental quality of the locality in accordance with Policies S1 and D1 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2021).

23. Notwithstanding the provisions of Article 3 of the Town and 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 ancillary 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 To ensure the protection of and continued well being of trees in the interest of the amenity and environmental quality of the locality in accordance with Policies S1 and D1 of the Maldon District Local Development Plan (2017), and the policies and guidance contained in the National Planning Policy Framework (2021).

INFORMATIVES

- The requirements above shall be imposed by way of negative planning condition or planning obligation with associated legal framework as appropriate.
- There shall be no discharge of surface water from the development onto the highway.
- All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org
- There is a need for specialist advice regarding foundations on site due to the close proximity of the trees and possibility of shrinkable soils.
- Trees not already assessed as to their suitability for a Tree Preservation Order should be assessed.