



**REPORT of
DIRECTOR OF PLACE, PLANNING AND GROWTH**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
24 JUNE 2026**

Application Number	24/00813/FUL
Location	Maltings Storage Shed Station Road Burnham-On-Crouch
Proposal	Demolition of existing dilapidated Maltings Storage Sheds. Erection of Boat Storage Shed and 7no. two and three bedroom residential dwellings with rooftop solar photovoltaic panels, associated parking, amenity space and landscaping.
Applicant	R J Prior And Son (Burnham) Ltd
Agent	Kieron Lilley Smart Planning Ltd
Target Decision Date	29.05.2026 (Time Extension Agreed but an updated one has been requested)
Case Officer	Chris Purvis
Parish	Burnham on Crouch Town Council
Reason for Referral to the Committee / Council	Under Part 3 Terms of Reference – Area Planning Committee Part 1 (A) 4, which states: Where proposals which, in the opinion of the Director of Place, Planning and Growth in consultation with the Chairperson of the appropriate Area Committee or the Chairperson of the District Planning Committee are of significant public interest, would have a significant impact on the environment, or should otherwise be referred to Members.

1. RECOMMENDATION

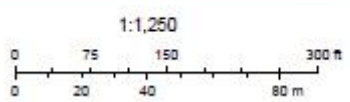
APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see below.



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3. SUMMARY

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

Site Description

- 3.1.1 The site is situated within the western part of the Quay, south of the High Street and it is accessed by a service road running along no's 1 and 173 High Street. The site lies within Burnham-on-crouch Conservation Area, which encloses the full length of development along the riverside. The site is 0.17 hectares in area.
- 3.1.2 To the south the site abuts the riverside walk, which follows the length of the Quay. Along this walk there a number of features of marine activates, including projecting wharfs, jetties, cranes, which are reminders of the history of the quay.
- 3.1.3 To the north of the site there is a collection of 18th and 19th-century houses, most of which have their principal elevations facing the High Street. Prior's dock sits to the east of the application site, as well as no.1 The Quay, known as Crooked Cottage, which is a grade II listed building. This building is timber-framed and clad in painted timber weatherboarding, it has a steeply pitched roof and red brick chimneys. The modern buildings to the west of the application site are sited outside the boundary of the conservation area. Their design is out of keeping with the rest of the conservation area and scale their scale is disproportionate in comparison to the surrounding buildings.
- 3.1.4 In terms of the application site, the current buildings on the application site were erected in 1954 following destruction of the previous buildings by the 1953 flood. The two largest buildings are timber framed with low, curved roofs and their walls are clad in corrugated iron sheets painted red. Whilst the buildings are not old, the Burnham-on-Crouch Conservation Area Review and Character Appraisal (BCARCA) consider that the existing buildings make an exceptionally positive contribution to the special character of the conservation area. In particular, it is stated that *"the solid, utilitarian character of the building of the boat building industry ... provides a sturdy and complementary contrast with the light-weight character of the yacht clubs."* The applicant has confirmed that the site is a winter boat store with craft delivered by road via the public highway and private roadway.
- 3.1.5 The site is within high-risk flood zones 2 and 3 and allocated as part of the Burnham-on-Crouch Town Centre Area but is not the subject of any other policy designations.

Description of the Proposal

- 3.1.6 Planning permission is sought for the demolition of the existing dilapidated Maltings Storage Sheds and replace them with the erection of boat storage shed and 7no. two- and three-bedroom residential dwellings with rooftop solar photovoltaic panels, associated parking, amenity space and landscaping.
- 3.1.7 The following details have been submitted regarding the proposed dwellings:
- 3.1.8 Units 1 to 4
- Three-bedroom dwellings measuring between 170.1sqm (units 1, 2 and 3) and 183.1sqm (unit 4).
 - The proposed terraced dwellings would have gable roofs with a flat roof dormer to one side, incorporating balconies at second floor. The dwellings by reason of the ground levels, would appear as two and a half storey properties; however, technically they would extend to three storeys providing an integral garage for

two vehicles, store and a bathroom at ground floor, three bedrooms (one en-suite) and a bathroom at first floor and an open plan kitchen/diner/lounge at second floor as well as a home office/study room.

- The properties would be of a contemporary design with high level of fenestration provided to all elevations and a corner glazed feature to the unit 4.
- Materials to be used to the external elevations would include slate, red facing brickwork, horizontal boarding, cladding and pre-weathered blue/ grey zinc.

3.1.9 Units 5 to 7

- Two bedroom dwellings measuring 99.1sqm.
- The proposed terraced dwellings would have gable roofs incorporating balconies at second floor. The dwellings would be sited lower than the terrace facing the river and they would mainly appear as two storey houses; however, similar to the three bedroom dwellings, they would have three storeys. The dwelling would accommodate integral garages for two vehicles, store and a WC at ground floor, two bedrooms (one en-suite) and a bathroom at first floor and an open plan kitchen/diner/lounge at second floor.
- The properties would be of a contemporary design with high level of fenestration.
- Materials to be used to the external elevations would include slate, red facing brickwork, horizontal boarding, cladding and pre-weathered blue/ grey zinc.

3.1.10 In terms of amenity space, a communal amenity area of approximately 181sqm is proposed to be provided to the rear of the northwest of the residential development instead of private gardens to each dwelling.

3.1.11 Vehicle access to the site would be gained via a private road off High Street. An additional three parking spaces are proposed to the northwest of the application site, which can be used as visitor parking and parking for the boatyard.

3.1.12 As an addition in comparison to the previous refused planning application (17/00845/FUL) a boat storage building is proposed to the western side of the site and would have space to accommodate 7 boats. The agent has advised that this would be owned by the owners of the properties in equal shares and run by a management service. Its eastern elevation would be open sided with the openings 2.8m in height. The elevations and the roof of the building would be finished in standing seam zinc cladding with a barrel-vaulted roof. The elevations would also have red facing brickwork below the zinc cladding to ground level.

3.1.13 Bin stores for the two terraces would be provided adjacent to the two developments. An additional bin store for the existing house boats is proposed to the northwest of the site, north of the additional parking spaces, and a bin collection point is proposed to the west of the entrance of the site.

3.2 Conclusion

3.2.1 The site's previous application was dismissed on appeal for multiple reasons. It is considered that those reasons have been addressed through this current application which also includes a boat storage building. From the appeal decision the impact upon the Conservation Area would result in 'less than substantial harm' to the Conservation Area, as identified by the Council's Conservation Officer. In accordance with the requirements of paragraph 215 of the 4.1 National Planning Policy Framework (NPPF) this level of 'less than substantial harm' needs to be weighed against the public benefits of the proposal including securing its optimum viable use. As explained the 'principle of development section' of this report, the tilted balance in presumption of sustainable development applies, with the previous application it didn't as back then the Council could demonstrate a five-year housing land supply

(5YHLS). As this is a sustainable location in the centre of Burnham on Crouch and would provide 7 dwellings to the Council's housing land supply requirements then this weighs heavily in favour of the development. The design of the development is considered acceptable and other considerations such as flood risk, ecological impacts, access and parking, impacts upon residential amenity and consideration of future living accommodation amenity provision are all considered acceptable and subject to planning conditions where identified below.

3.2.2 Therefore, in this instance, the 'less than substantial harm' to the Conservation Area is outweighed by the benefits of the proposal and the application is recommended for approval having regard to the relevant local plan, the neighbourhood plan and national planning policies.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework including paragraphs:

- 7 Sustainable development
- 11-14 Presumption in favour of sustainable development
- 39 Decision-making
- 48-51 Determining applications
- 56-59 Planning Conditions and Obligations
- 61-84 Delivering a sufficient supply of homes
- 85-89 Building a strong, competitive economy
- 108-117 Promoting sustainable transport
- 123-127 Making effective use of land
- 128-130 Achieving appropriate densities
- 131-141 Achieving well-designed places
- 157-175 Meeting the challenge of climate change, flooding, and coastal change
- 180-194 Conserving and enhancing the natural environment
- 202-221 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
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E1 Employment
- E2 Retail Provision
- E5 Tourism
- H1 Affordable Housing
- H2 Housing Mix

- H4 Effective Use of Land
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

1. National Planning Policy Guidance (NPPG)
2. Maldon District Vehicle Parking Standards Supplementary Planning Document (SPD) (2018)
3. Maldon District Design Guide (MDDG) (2017)
4. Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD

4.4 Burnham-on-Crouch Neighbourhood Development Plan (2017)

- EN.2 New Development and Flood Risk
- EN.2 Waste Bin Storage
- EC.2 River Related Trades
- RI.2 Design Sensitivity of Riverside Developments
- RI.3 Retention of Primary River Related Employment Uses
- HC.2 New Development Features
- HO.1 New Residential Development
- HO.2 Range and Type of New Residential Development
- HO.4 Affordable Market Housing
- HO.8 Housing Design Principles

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)).
- 5.1.2 The Local Development Plan (LDP) has been produced in light of the NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three dimensions identified in the NPPF.
- 5.1.3 Policy S8 of the LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that "*The Council will support sustainable developments within the defined settlement boundaries*", including main settlements such as the Burnham-on-Crouch. Whilst development within the boundaries of a settlement boundary is not objected to, the provision of the proposed residential development within the site should be assessed against other criteria, such as employment and flood risk, in order to identify whether it would be acceptable in principle
- 5.1.4 This needs to be considered along with the previous reasons of refusal from application reference 17/00845/FUL and the Inspector's decision in dismissing the appeal.
- 5.1.5 Before considering the loss of an employment site consideration needs to be given to the Council's current housing needs given the proposal is for residential development.

Housing Land Position

- 5.1.6 Currently the Council is unable to demonstrate a deliverable 5-year supply of housing land and, therefore, for planning purposes, the housing delivery Policies within the LDP, in particular policy S2, are out-of-date and so cannot be afforded material weight in the determination of this application. Therefore, with respect to housing delivery, the NPPF takes precedence over the LDP. When compared to the previous application that was dismissed on appeal this is a significant change because that application was determined along with the appeal decision when the Council had an up to date 5-year supply of housing land. As the Council cannot demonstrate 5-year supply of housing land the tilted balance of the presumption in favour of sustainable development as set out in paragraph 11d of the NPPF applies unless, *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'*.
- 5.1.7 Based on the above the 'tilted balance' is tipped in favour of the development as it would contribute seven dwellings to the Council's 5-year supply of housing land position in a suitable and sustainable location in the town centre area of Burnham on Crouch.

LDP Proposals Map Retail Allocation

- 5.1.8 LDP Proposal's Map shows that the site is within a retail provision demarcation, where policy E2 applies. The policy allows for development for 'residential' uses in town centre areas subject to certain criteria where 1) the scale and type of development is directly related to the role and function of the town centre and its catchment, and 2) there would be no significant adverse impact on the vitality and viability of the centre or other centres.
- 5.1.9 In response to the point 1) the scale and type of development is not directly related to the role and function of the town centre and its catchment, but neither is its current non-retail use. The proposal would introduce a use whereby residents would be within easy distance to access the town centre, and its facilities so future residents would provide a role and function for the town centre use more so than a winter boat storage building that is currently on site. In terms of point 2) there would be no significant adverse impact on the vitality and viability of the centre or other centres beyond Burnham as a result of this proposed development.

Loss of Employment

- 5.1.10 The site currently forms part of the existing boatyard and moorings business. It is occupied by a building which is used as boat storage shed. The previous application, reference 17/00845/FUL was refused planning permission for the following reason:
1. The development would result in an unjustifiable loss of employment land and part of a site that contributes to the tourist attraction of Burnham-on-Crouch to the detriment of the local community and local economic development objectives. The development would therefore be unacceptable and contrary to policies S1, E1 and E5 of the Maldon District LDP (2017), policy RI.3 of the Burnham-on-Crouch Neighbourhood Plan and Government advice contained within the NPPF (2012).

5.1.11 This was assessed through the appeal process and the Inspector's decision commented that he was *'not persuaded that the existing building significantly harms the character and amenity of the area as the building has been in situ for a long period of time and is essentially part of the Quayside's heritage'*, and he was *'not persuaded that the loss of the appeal site as a boat storage area for housing would have a greater benefit to the local community'*. Furthermore, on the marketing of the site the Inspector stated that *'I have no evidence before me that it cannot be sold as an ongoing concern for boat storage or other employment uses. Moreover, at the time of my visit, several boats were inside and outside of the building, indicating that it is still in active use'*. The Inspector also commented that he did not have any evidence to demonstrate the site was unviable but noted that structural state of the building and that works would be required to repair it.

5.1.12 The Inspector concluded that *'I consider that the proposal would result in an unacceptable loss of employment land which would be to the detriment of the local community and local development objectives. The development would be in conflict with Policies S1, E1 and E5 of the Local Plan, Policy RI.3 of the NDP and the National Planning Policy Framework (the Framework) which seek, amongst other things, to ensure the retention of existing businesses to enable sustainable economic growth'*.

5.1.13 In terms of the LDP, the site is not allocated for employment uses on the requirements of LDP policy E1 apply as the policy has criteria to consider for the loss of any existing employment uses. Therefore, the following criteria will apply:

"Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:

- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
- 2) The site would have a greater benefit to the local community if an alternative use were permitted; or*
- 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use."*

5.1.14 In response to the three requirements of policy E1 regarding the loss of employment land, the following comments are made:

- 1) The application site is used for is a winter boat store and has not recently been used as a working boatyard. The buildings are currently used to store boats and classic vehicles. There is no direct access for boats to the river. The new boatshed would be used to store day boats on road trailers up to 7m long. Whilst the boat shed is of functional appearance, this boat yard has been in existence for a considerable time and is a historic feature of the area. Its presence forms an important part of the character and history of the locality and as such, it cannot be argued that the existing building is unacceptably harmful to the amenity of the area. The comments from the Inspector's appeal decision reinforces this as he was not persuaded that the existing building significantly harms the character and amenity of the area. Therefore the present use and activity on site does not harm the character and amenity of the adjacent area.

- 2) Burnham on Crouch is synonymous with its maritime heritage and the site's existing and historic use for boat building is appropriate in this location adjacent to the River Crouch. Therefore, the boat building industry could be argued to be of greater benefit to the local community than an alternative use. The Inspector was not persuaded that the loss of the appeal site as a boat storage area for housing would have a greater benefit to the local community. This proposal includes a new purpose-built boat storage building to address part of the Inspector's decision. This new purpose-built boat storage building that would therefore help to retain part of the site's existing use and its connections with the riverside in this location but it is only for a boat storage rather than a working boatyard, which could of course be at odds with a residential use on the same site. Boats would also need to be towed from the site to a point on the riverside for their use.

However, since the appeal decision the planning position has changed as the Council does not have an update to date 5-year housing land supply so consideration has to be given to whether this alternative use would provide greater benefit to the community, alongside the retention of a boat storage use through the new boat store building proposed. This site represents a sustainable urban location, and it is recognised that the current access presents difficulties for moving boats into and out of the site. As an employment land use an alternative employment land use would also be faced with the same access issues. Therefore, the inclusion of a new boat storage building alongside the new residential units would provide a dual use approach that would help to retain part of the site's maritime traditions and would provide new housing which could also benefit to the local community in terms of the considerations for policy E1 (2).

- 3) The application is accompanied by marketing information demonstrating that the site has been marketed for a period over 24 months online, through a marketing board, and advertisements were placed in the Estate Gazette (October 21 and November 23) and the Maldon and Burnham Standard (November 2023). It was marketed for rental and sale purposes. As a sale option it was advertised for sale in the region of £700,000 to £750,000 and £1m as a potential development site. This identifies that site has attracted interested, given its location, but the marketing information demonstrates that no offers or consideration for leasehold occupation were made and only limited feedback has been given on the basis of the dated arrangements of the site, its basic facilities and the condition of the existing building.

5.1.15 In summary to the LDP policy E1 considerations, the proposal would address point 2 of the policy as the proposed housing would provide greater benefit to the local community given the Council's 5YHLS position.

5.1.16 In addition to the LDP, the Council's District Economic Prosperity Strategy (2013-2029) says that '*The District's strong links with its maritime past are further evident through the marinas, docks and boatyards, and a colourful calendar of traditional barge matches, regattas, races and festivals has put the area on the map as a destination for maritime leisure and water recreation*', which recognises the importance of this sector. Policy E5 of the LDP on Tourism seeks to protect tourism provision and change of uses from tourism will only be considered subject to certain criteria.

5.1.17 This site and its use are inevitably connected with the riverside and the tourism attractions of Burnham for riverside and boating uses. The applicant has stated that the lawful use of the site does not provide a tourism function and never has. However, to the previous application the Inspector found conflict with the previous

proposal and policy E5. Through this application more information has been provided about the boat storage use which suggests the boats and vehicles stored here do not contribute to any existing tourism use, and even if they do contribute to the existing tourism use, the proposal includes a new boatshed building that can accommodate 7 day boats based on the information provided by the applicant. Given this is the case, and unlike the previous application, there would be no conflict with policy E5 through the provision of an on site boat store, which retains some of the site's existing use.

5.1.18 The Burnham Neighbourhood Plan (BNP) policy RI.3 is also relevant and states:

“Land and buildings in primary or directly related river employment uses (and as shown in figure 8 and Appendix 1) will be safeguarded.

Insofar as planning permission is required their conversion to residential use will not be supported.”

5.1.19 The Burnham Neighbourhood Plan (BNP) policy RI.3 is also relevant and states:

5.1.20 Appendix 1 and figure 8 of the BNP identifies the site as a site for marine and river related land uses and thus, it is protected by the abovementioned. This was also supported by the Inspector who found conflict with the proposal and policy RI.3 of the BNP, however, as explained above the planning position has now changed and the information as assessed in policy E1 demonstrates that there is a need for housing in the District in sustainable locations like this and that despite marketing attempts there has been no interest in the site, which is also relevant in addressing BNP policy EC.2.

In conclusion to this section

5.1.21 Taking account of the Council's 5YHLS position and the changes to this application since the previous application was refused planning permission and dismissed on appeal, it is considered that the planning position has changed and having considered the LDP retail policy designation and the loss of employment from the site in regard to the LDP and BNP policies, it is considered, on balance, that the principle of the development is acceptable subject to consideration of all material planning considerations as set out below.

5.2 Housing Mix and Affordable Housing

5.2.1 Policy H2 requires the dwelling mix for new residential developments to be provided in accordance with the latest housing needs and demands for the District. The pre-ample to policy H2 identifies that there is a good existing supply of larger (3+ bedroom) dwellings but to create a better balanced stock to meet the needs of ageing population and the needs of young people there is a need for a higher proportion of smaller (1 or 2 bedroom) units in the District. The more up to date housing mix requirements is set out in the Maldon District Local Housing Needs Assessment. This, like the pre-ample to policy H2, identifies the need for 1, 2 and 3 bedroom units. In more detail, the need is for 2 and 3 bedroom market units, and a need for 1, 2 and 3 bedroom affordable units (affordable ownership and affordable rented). The proposal would provide 4 x 3 bedroom and 3 x 2 bedroom dwellings, which would therefore meet the housing mix requirements of policy H2 and that of the most up to date Local Housing Needs Assessment.

5.2.2 The proposed development would provide less than 10 dwellings and less than 1000sqm of floorspace so the Council's affordable housing policy H1 is not

applicable. The less than 1000sqm of floorspace criteria is out of date and can no longer be considered to be compliant with the requirements of the NPPF which does not base affordable housing triggers on floorspace.

5.3 Design and Impact on the Character of the Area and Heritage Assets

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'.

'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes'.

5.3.3 This principle has been reflected in the approved LDP. 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 The Maldon District Council Design Guide recognises that Burnham-on-Crouch has some aspects of port and riverside settlements, which *"have developed either as ports or as plotlands where large areas of farmland were split up into plots for cheap building land"*. It is also noted that these settlement *"have a less defined urban character"*.

5.3.5 Policy RI.3 of the Burnham-on-Crouch Neighbourhood Development Plan requires that *"Land and buildings in primary or directly related river employment uses (and as shown in figure 8 and Appendix 1) will be safeguarded"*. The site falls within the identified primary related river employment uses and therefore, in line with the requirements of the NDP it should be protected for its character.

5.3.6 The application site is located within the western part of the quay within the Burnham Conservation Area and is occupied by a large timber framed building, with a curved corrugated asbestos roof, finished in corrugated iron cladding. The section of the conservation area is described as *"a disparate group of yacht clubs, boatsheds,*

modern development, traditional rear facades and private gardens” within the Burnham-on-Crouch Conservation Area Review and Character Appraisal (BCARCA). In particular, for the boatyard it is stated that “the existing buildings on this site make an exceptionally positive contribution to the special character of the conservation area”. The solid, utilitarian character of the structures supports what the BCARCA describes as a “strong aesthetic and clear functionalism which provides contrast and variety”.

- 5.3.7 In leading to the reason of refusal (below) it was noted through the previous application that the buildings had aged and were not exceptionally attractive in design terms, but their presence enhances the historic water-related character of the area..
- 5.3.8 The previous application was refused planning permission for the following reason:
- 1) The proposed development, by reason of its residential nature and associated paraphernalia and activity would substantially alter the distinct character of the conservation area, which is associated with maritime activities and it would detrimentally impact upon the setting of the neighbouring listed building. The development would be therefore unacceptable and contrary to policies S1, D1, D3 and H4 of the Maldon District LDP (2017), policy RI.3 of the Burnham-on-Crouch Neighbourhood Plan, the guidance contained within the Maldon District Council Design Guide and Government advice contained within the NPPF (2012).
- 5.3.9 From the appeal decision the Inspector found that the appeal building has a positive contribution towards the character and appearance of the Conservation Area (BoCCA) as a result of its historic links to the boating industry in the area. The Inspector went to state that *‘I find the appearance of the proposed dwellings and the materials to be acceptable and to be of a high standard. However, the development would result in the loss of the boat shed and would introduce further residential uses along this part of the riverfront, resulting in the erosion of the historic maritime uses that form part of the significance of the BoCCA. This would be to the detriment to its character and appearance which would fail to preserve or enhance the BoCCA’.*
- 5.3.10 The Inspector found the harm to be ‘less than substantial’ and therefore this needs to be weighed against the public benefits of the proposal including securing its optimum viable use, as required through paragraph 215 of the NPPF.
- 5.3.11 In concluding on the impact upon the Conservation Area the Inspector took the view that the *‘harm is less than substantial it should not be treated as a less than substantial objection to the proposal. The appellant argues that the public benefit of the development would be in securing the long term future of the remainder of the boatyard. However, I do not consider the benefits would outweigh the harm that I have identified above or one that would outweigh the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets. Consequently, the development would not comply with (the then) paragraph 196 of the Framework’.*
- 5.3.12 For this current application Historic England were consulted and raise concerns as the loss of the boat buildings and their replacement with residential uses would erode the historic maritime uses that make an important contribution to the special character of the conservation area, harming its significance. However, following on the from the ‘less than substantial harm given by the Inspector, the Council’s Conservation Officer has also reached the conclusion that the proposal would result in ‘less than substantial harm’ to the Conservation Area. This needs to be weighed against the public benefits of the proposal in the overall planning balance, as

required through paragraph 215 of the NPPF, and the inclusion of a boat store into this application as a material difference when compared to previous application, along with the design changes to the scheme.

- 5.3.13 With regard to the impact upon the setting of the listed building known as the Crooked Cottage, to the east of the site, the Inspector was *'satisfied that a suitable gap would remain between the two developments to ensure that the setting of Crooked Cottage would not be affected to a significant degree'* concluding that *'I consider the development would have a neutral impact on the listed building, which would preserve its setting'*.
- 5.3.14 For this current application the differences include the inclusion of a new boat storage shed, the redesign of the terrace of three dwellings and changes to the overall layout of the site. The proposal would result in the demolition of the existing buildings on site to make way for the proposed residential development. Therefore, in heritage terms the points raised by the Inspector in regard to the impact upon the Conservation Area remain and shall need to be considered in the overall planning balance.
- 5.3.15 Turning to the detailed design considerations, the layout of the proposal would result in buildings facing the River Crouch, would be orientated in a way that would follow the existing build pattern and building line, setting back from the neighbouring Kings Wharf residential development to the west. To the northeast, the proposed two bedroom properties would be sited beyond the building line of the existing storage shed; however, their orientation and staggered pattern would be out of keeping with the grain of the development of the quayside. The inclusion of a boat storage building and the increased area of communal amenity space helps but this does not address the previous issues raised with the layout of the development.
- 5.3.16 The proposed development, by reason of its height it would appear larger but different to the existing boat shed. However, when viewed as part of the wider area, it would be set at a lower ground level than the existing residential development to the west creating continuity with the development, which is stepped lower from the development at the application site. The same would apply with the dwellings facing the Crooked Cottage (a grade II listed building), which would be lower than the proposed dwellings to the south and slightly higher than the existing listed building. The inclusion of a boat storage building would be a building of a less than height than the existing buildings and the proposed residential dwellings, its scale raises no objection.
- 5.3.17 In terms of their appearance, the approach takes a contemporary approach to appear like sail lofts and whilst no objection is raised to a contemporary design per se, the proposed dwellings, by reason of the type of their roof forms amount of glazing and finishing materials, they would appear different to the character of the vernacular residential development in the surrounding area and in particular the historic part of the immediate area.
- 5.3.18 Whilst it is accepted that an attempt has been made to draw reference to the industrial existing building, in terms of the scale and selection of materials, it is considered that the proposed development would impact upon existing character of the site but there are other residential properties in close proximity of this site.
- 5.3.19 Similar to the reasons set out above, the proposed residential type of landscaping would be also in contrast with the hard landscaping currently related with the functional/operational type of the application site. It is noted that consideration has been given to the landscaping and that appropriate boundary treatment (railings)

would be provided to the front elevations of the dwellings where they front onto the promenade. The position of the off-street parking and bin store are considered acceptable, as they are mainly hidden from the key public views.

5.3.20 It is acknowledged that the development, when taken individually, would be of some architectural merit. Overall, the changes to the proposal has resulted in improvements when compared to the previous application and whilst it is recognised that the proposal would lead to a significant change to this location and the Conservation Area. It is considered that the 'less than substantial harm' to the Conservation Area needs to be considered in the overall planning balance and whether the public benefits outweigh the harm.

5.4 Living Conditions and Amenity Space

5.4.1 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 SPD advises a suitable garden size for each type of dwellinghouse, namely 50sq.m. of private amenity space for dwellings with two or less bedrooms, and 100sqm for dwellings with three bedrooms.

5.4.2 The previous application included the following reason of refusal:

1) The proposed development by reason of the inadequacy of the private outdoor amenity space would be detrimental to the residential environment and living conditions of future occupiers contrary to Policies S1, H4 and D1 of the Maldon District LDP (2017), the guidance contained within the Maldon District Council Design Guide and Government advice contained within the NPPF (2012).

5.4.3 From the appeal decision the Inspector recognised that the development fell short of the SPD requirement as stated above, however, he also recognised the need to re-use previously developed land and the fact that this site is in a town centre location with the Riverside Park being only a few minutes away via a short walk along the promenade. The Inspector was *'not persuaded that such a rigid adherence to open space standards makes the best use of land within a sustainable town centre location such as the appeal site'*. In conclusion the Inspector stated *'while there would be a technical conflict with the aims of the SPD which seeks to secure private areas of garden for dwellings, the living conditions of the occupiers would not be compromised as access to a large public open space is available very close to the site'*. Therefore, there was no conflict the relevant local plan policies.

5.4.4 This current application proposes a useable communal amenity space in located in the north west corner of the site. Balconies are also provided as additional amenity space for each dwelling. The site is located on the riverfront which in itself is an amenity area for walking and as stated the main riverside park is a 5/10 minute walk along the riverfront to the west of the site. This proposal is a unique type of development given its close knit arrangement and a typical private garden layout to meet the guidelines of Maldon Design Guide SPD would not be in character with the appearance of this location. For these reasons there are no objections raised to the application amenity space grounds.

5.4.5 The size of the proposed dwellings would be large enough to provide a good level of accommodation. Furthermore, adequate light, ventilation and outlook would be provided to all habitable rooms of the proposed dwellings.

5.4.6 The site would be located in close proximity to Prior's boatyard to the east and therefore, noise and disturbance during operation of the boatyard could occur. To assess the impact a Noise Impact Assessment has been submitted, concluding that the noise generated would have a very low impact on the new proposed development. The Environmental Health Team has been consulted and based on the findings of the report they have no objection to the impact of the development on the living conditions of the future occupiers of the dwellings.

5.5 Access, Parking and Highway Safety

5.5.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.5.2 The proposal would re-use the existing private main access onto the High Street which is between existing buildings and could be considered narrow for manoeuvring boats in and out of the site, however, the proposal would only involve a boat store for seven smaller boats in comparison to those existing boat storage buildings on site. For residential purposes the access would be workable for the number of associated vehicle movements that would be expected from seven dwellings. A second access, a pedestrian access, connects to Riverside Walk from the east of the site and this would remain as existing. Essex County Council (ECC) Highways have no objection to the access arrangements that can serve pedestrians, cyclist and vehicles.

5.5.3 The Council's adopted Vehicle Parking Standards SPD (2018) contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.

5.5.4 Two off-street parking spaces are proposed to be provided per dwelling in the form of an integral garage and an additional three parking spaces are proposed to be provided for visitor parking and parking related to the boatyard. The proposed level of parking provision would meet the parking requirements of the development.

5.5.5 For cycle parking communal parking is proposed within the communal amenity space and within the ground level of each dwelling a store room would be located that can accommodate cycle parking. There are no objections to the application in regard to cycle parking provision.

5.5.6 In addition to planning conditions for the parking arrangements ECC Highways require the provision of residential travel information packs, which can also be secured through planning conditions.

5.5.7 On the basis of the above, it is considered that the proposal is acceptable with respect to access, parking and highway safety, in compliance with Policies T1 and T2 of the LDP.

5.6 Flood Risk and Drainage

5.6.1 The previous application was refused planning permission for the following reason:

1) The proposed development is located within a high risk flood zone (flood zone 3a) and the development would result in a more vulnerable use. The Council can demonstrate a housing land supply in excess of five years and there are numerous sites within the district in areas with lower risk of flooding that can accommodate the proposed development. Thus, the development is considered to fail the sequential test and therefore the proposal is unacceptable and contrary to policies S1 and D5 of the Maldon District LDP (2017), policy EN.2 of the Burnham-on-Crouch Neighbourhood Plan and Government advice contained within the NPPF (2012). The proposal is also contrary to these policies as it would fail the exception test.

- 5.6.2 The Inspector, on the flood risk considerations, assessed that the Sequential Test fails and concluded that the previous proposal *'would be contrary to Policies S1 and D5 of the Local Plan, Policy EN.2 of the NDP and the Framework which seek, amongst other things, that development proposals should seek to minimise the risk of flooding and should adopt a sequential approach to flood risk from all forms of flooding'*.
- 5.6.3 The site is located within the highest risk flood zone, Flood Zone 3a, and the proposed dwellings would fall within the 'more vulnerable' category and the proposed boat storage building in the 'less vulnerable' category. Therefore, the Sequential Test and the Exception Test (for proposed dwellings) need to be applied.
- 5.6.4 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.

The Sequential Test

- 5.6.5 Paragraph 173 of the NPPF requires a sequential risk based approach to individual applications and paragraph 174 of the NPPF identifies that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The PPG on Flood Risk and Coastal Change also provides guidance for consideration.
- 5.6.6 As required by the PPG consideration needs to be given to the catchment area of the type of development proposed. The catchment area for residential development is considered to be the town of Burnham on Crouch for Sequential Test purposes. The inclusion of the boat storage building within the proposed development adds another use for consideration.
- 5.6.7 In terms of 'reasonably available sites' as identified in the PPG, the residential allocations in the LDP for Burnham on Crouch are located in a lower risk flood zones and have either been built out and occupied, or are subject of ongoing construction purposes. Therefore, there are no available LDP allocated sites for residential in this area and work on a new local plan is at the early stages and has yet to reach a stage of looking at other future sites for development for Burnham on Crouch. This development therefore needs to be considered as a windfall development. The applicant's Flood Risk Assessment (FRA) had originally not identified any other 'reasonably available sites' but following discussions with the agent updated information was provided to consider any other 'reasonably available sites' in the

Burnham on Crouch area, which in accordance with the PPG would be the 'catchment area...for the settlement it is proposed for'. The information provides a list of properties for sale on the property market which are mainly existing houses which would not meet the criteria for being 'reasonably available sites'. Two examples of commercial properties have been provided but would require redevelopment and their own planning permissions. One area of land to the west of and outside of the settlement is provided for sale but in comparison to the application site this would not be as sustainable site. In terms of the PPG's 'reasonably available sites' requirement it is considered that there is nothing available as an alternative site.

- 5.6.8 The PPG makes it clear that the 'absence of a 5-year land supply is not a relevant consideration for the sequential test for individual applications', so the Council's position in the absence of a 5YHLS is not justification for passing the Sequential Test.
- 5.6.9 The application site is located in a sustainable urban location on the riverfront but in close proximity of the Burnham on Crouch's town centre. The site is a brownfield site so the development would result in the re-use of previously developed land (a brownfield site), which is preferred to developing a greenfield site on the edge of Burnham on Crouch. Therefore, the proposal provides wider sustainability benefits. The existing access presents issues in terms of its narrowness for the exiting boatyard use but also in terms other employment generating uses as such as a B8 storage and distribution. The location amongst neighbouring residential properties makes it difficult for other B uses such as a B2 (general industrial) use and B8 (storage and distribution) due to the potential for noise and disturbance upon neighbouring residential amenity.
- 5.6.10 The aim of the sequential test is to steer new development to areas with the lowest risk of flooding and development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Based on the above assessment there is no reasonably available sites available, so consideration has to be given to the positive factors of re-using this site for an alternative development. For these reasons it is considered that the Sequential Test is passed.

The Exception Test

- 5.6.11 Following application of the Sequential Test and the outcome that there are no reasonably available alternative sites the next step is to consider the 'Exception Test'. For the Exception Test to be passed paragraph 178 of the NPPF requires that:
- a) *the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
 - b) *the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*
- 5.6.12 For part a) the reasons stated in the 'Sequential Test' assessment above demonstrate that the proposed development can provide '*wider sustainability benefits to the community that outweigh flood risk*' for this part of the Exception Test to be passed.
- 5.6.13 For part b) the Flood Risk Assessment (FRA) explains that all living accommodation would be provided at first floor level and would therefore be safe from flooding during a tidal flood event, which is the main potential source of flooding for this site, as well as a unnamed watercourse located 150m west of the site. The site's levels range

from 4.12m AOD to 2.01m AOD and is protected by the existing and maintained sea defences that form the flood wall along the riverside. It is stated in the FRA that the use of flood warnings systems and the implementation of the flood resilience measures would reduce the consequences of a flood event. The proposed building would have a smaller footprint than the existing storage sheds and would therefore not remove storage space from the floodplain. The Environment Agency raises no objections to the application. The FRA includes a Flood Warning and Evacuation Plan [FWEP] within Appendix 1 can be displayed at the site and this can be secured through a compliance style planning condition.

5.6.14 For the reasons stated above it is considered that the Exception Test is passed.

Surface Water Drainage

5.6.15 The site is occupied by buildings and hardstandings with the applicant's Drainage Strategy stating that existing the surface water drainage method is not known but the proposal would result in a reduction of hardstandings compared to the existing situation. The proposed drainage method would be into a 300mm public surface manhole west of the site within Kings Road at a discharge rate of 1l/s. An attenuation storage tank would be located beneath the shared access road and car park. The LLFA (ECC SUDS) have no objections subject to planning conditions requiring the development to be carried out in accordance with the FRA and its mitigation, details of future maintenance plan and arrangements for the surface water drainage system and the requirement to maintain yearly logs of maintenance.

Foul drainage

5.6.16 Foul drainage has been identified in the applicant's Drainage Strategy to flow into a 150mm public sewer in Kings Road.

Conclusion to this section

5.6.17 The proposal is considered acceptable with regard to the Sequential and Exception Tests and the proposed drainage is acceptable subject to planning conditions. This is considered therefore to address the Inspector's points raised from the appeal decision. On this basis the proposal in terms of flood risk and drainage is acceptable having regard to the requirements of policy D5 of the LDP and the policies and guidance in the NPPF/PPG.

5.7 Ecology and Biodiversity

5.7.1 The estuarine environment at Burnham is made up of various designations including representing a SSSI and two Natura 2000 sites; the Crouch and Roach Estuaries SPA and RAMSAR site; and the Essex Estuary SAC. The site is located in very close proximity to those nature conservation sites and thus, careful consideration should be had to conserve and protect nature conservation interests. These is reflected within policy N2 of the LDP which states that *"All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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."*

On site ecology/biodiversity and BNG

5.7.2 In support of the application an ecological assessment has been submitted stating that the site has no vegetation and has negligible ecological value with no evidence

of existing ecology. It has been identified as being exempt from the Biodiversity Net Gain requirement. The proposal includes biodiversity enhancement measures including box boxes and bat boxes to be mounted to the new buildings as part of the landscaping scheme. Exact details on this can be secured through a planning condition. Place Services Ecology raise no objection subject to securing biodiversity mitigation and enhancement measures through conditions as a Construction Management Plan and wildlife sensitive lighting.

European Designated Sites

- 5.7.3 The site falls within the evidenced recreational Zone of Influence (Zol) of the Essex Coast RAMS, which is an adopted SPD. It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.
- 5.7.4 The Local Planning Authority (LPA) is therefore required to prepare a project level Habitat Regulation Assessment (HRA) Appropriate Assessment to secure a per dwelling tariff by a legal agreement for the delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.
- 5.7.5 To accord with Natural England's (NE) 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

- 5.7.6 Is the development within the Zol for the Essex Coast RAMS with respect to the below sites? Yes
- 5.7.7 Does the planning application fall within the specified development types? Yes – The proposal is for 7no. dwellings

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

- 5.7.8 Is the proposal for 100 houses + (or equivalent)? No, the proposal is for 7no. dwellings
- 5.7.9 Is the proposal within or directly adjacent to one of the above European designated sites? Yes

Summary of Appropriate Assessment

- 5.7.10 As the answer is 'yes' to the majority of the tests then in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) the LPA, as the competent authority, has undertaken the HRA Appropriate Assessment.

5.7.11 The site is located approximately 7.5m from the Essex Estuaries Special Area of Conservation (SAC) and the Crouch and Roach Estuaries Special Protection Area (SPA) Ramsar & Site of Special Scientific Interest (SSSI). The qualifying features of the SPA and Ramsar are over wintering birds and the impact from the construction phase of the development, disturbance from recreational activity, waste management and pollution requires mitigation that can be secured through planning conditions and in regard to recreational activity the Essex Coast RAMS payment is required. 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. NE have been informed of the results of the HRA Appropriate Assessment, but they have not provided an updated consultation response. NE's consultation response did leave this to the LPA to consider as the LPA are the competent authority for that assessment. NE's previous comments being that 'providing the appropriate assessment concludes that the measures can be secured, it is likely that NE will be satisfied that there will be no adverse effect on the integrity of the European Site(s) (habitats site(s)) in relation to recreational disturbance'.

5.7.12 The Essex Coastal RAMS has been adopted and the applicant paid this to the Council in March 2025 including the Unilateral Undertaking and this mitigates the impact of the development.

5.7.13 The conclusion of the HRA Appropriate Assessment is as follows:

'Having considered the proposed avoidance and mitigation measures above, LPA conclude that with mitigation the project will not have an Adverse Effect on the Integrity of the Essex Estuaries Special Area of Conservation (SAC) and the Crouch and Roach Estuaries Special Protection Area (SPA) and Ramsar site'.

'Having made this appropriate assessment of the implications of the plan or project for the Habitat sites, in view of sites' conservation objectives, Maldon District Council may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended)'.

Conclusion to this section

5.7.14 The mitigation measures as identified and the financial contribution towards the RAMS mitigation has been secured there are therefore no objections to the proposal with regard to ecology and biodiversity considerations having regard to policy N2 along with the guidance and paragraphs of the NPPF/PPG.

5.8 Impact on Neighbouring Amenity

5.8.1 The basis of policy D1 in 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.

5.8.2 The application site is surrounded by residential dwellings to the north and west, whilst to the southeast is the riverside walk and River Crouch.

5.8.3 The proposal is to demolish the existing building, hosting boat storage and erect seven residential dwellings and a new smaller boat storage building. Given the nature of the previous use of site the proposed development would result in a different but reduced level of activity the potential occupants of the dwellings. Therefore, the proposal would not result in a materially harmful impact on the

residential amenity of the nearby neighbours, in terms of noise and disturbance and in some respect could represent an improvement.

- 5.8.4 In terms of the impact of the development on the neighbouring property to the west (24 Regent Court), which is the most affected property, the proposed nearest dwelling would be sited 1.2m from the shared boundary and approximately 2.8m from the neighbouring property to the west. The new boat storage building would be located at the end of Kings Road and would result in a building of a less height than the existing building in this location, so that would result in an improvement for neighbouring amenity compared to the existing situation on site. The plans show that the existing brick wall located along the western boundary would remain. Although it is accepted that the development would have some impact, it is considered that by reason of the separation distance maintained, the set back from the neighbouring front building line and the secondary character of the window to the east elevation of the adjacent dwelling, the impact would not be such that to warrant refusal of the application on these grounds.
- 5.8.5 With regard to overlooking, no windows are proposed to be installed to the west elevation of the dwellings or boat storage building facing the river and thus there would no impact caused by overlooking or loss of privacy.
- 5.8.6 Due to the separation distance and limited depth of the proposed dwellings, when compared with the existing storage shed, it is considered that the relationship of the proposed development with other properties in Kings Road would be acceptable and lesser from that currently caused by the existing building. By reason of the orientation of the dwellings to the south and separation distance of the dwellings to the east, it is not considered that dwellings in Kings Road would be affected by overlooking from the proposed dwellings.
- 5.8.7 It is not considered that the development would result in a greater impact on any other nearby residential property, by reason of its position, scale and orientation of windows.
- 5.8.8 With regard to the interrelationship of the proposed two bedroom and three bedroom dwellings, it is considered likely that due to the limited separation distance and orientation of the windows to habitable rooms (bedrooms and living rooms) of properties no's 4 and 5, it is considered likely that the development would result in overlooking. However, it is considered that should permission be granted, the windows on the south elevation of no. 5 could be glazed in obscure glass, given that the habitable rooms are also served from windows on the east and west elevations such a condition would not be considered necessary.
- 5.8.9 In light of the above, it is considered that the impact of the development on the residential amenity of the neighbouring occupiers would be acceptable and would not materially harm the amenity of the occupiers of existing residential properties, in compliance with the NPPF and Policy D1 of the LDP.

5.9 Viability and Planning Obligations

- 5.9.1 Policy I1 of the LDP identifies that 'the Council will work with relevant partners and infrastructure providers to maintain and improve infrastructure provision in the District through delivering the infrastructure associated with development proposals in policies in this Plan'. The policy also states that 'developers will be required to contribute towards local and strategic infrastructure and services necessary to support the proposed development. Where the development may impact upon the

local area, a Section 106 contribution may be agreed between the Council and the developer to mitigate those impacts’.

- 5.9.2 Paragraph 58 of the NPPF states that ‘planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- 5.9.3 For this application the planning obligations identified include a financial contribution for £1,186.15 towards Essex RAMS, which meets the tests and is necessary to mitigate the impact of the development and has already been paid negating the need for a s106 legal agreement to be secured for this development.

5.10 Sustainability

- 5.10.1 As part of the planning balance consideration has to be given to the Environmental, Social and Economic objectives as outlined in paragraph 8 of the NPPF with all three needing to be satisfied to achieve sustainable development and for the ‘presumption in favour of sustainable development’ to apply, as set out in paragraph 11 of the NPPF.
- 5.10.2 For the economic objective, the proposal would provide jobs for the construction phase of the development and bring in a new community that can contribute to the local economy being so close to the town centre.
- 5.10.3 For the social objective, the development would help create a new community at this site.
- 5.10.4 For the environmental objective, the proposed developments would deliver a carefully considered designed development. It would impact upon the Conservation Area and Listed Buildings. The development would be built to surface water management measures to reduce flooding, which is necessary given the site’s location close to the riverside. The application has assessed the impact upon nearby ecological designations and found the impact to be acceptable. As identified above the site is accessible by a range of transport modes.
- 5.10.5 It is therefore considered that the development can meet the Environmental, Social and Economic objectives as outlined in paragraph 8 of the NPPF.

5.11 Other Matters

Contamination

- 5.11.1 The site by reason of its current industrial use associated with a boatyard is considered to be potentially contaminated. For that reason a Phase I Contaminated Land Assessment has been submitted. The grounds of the site were tested for presence of petroleum hydrocarbons, Polycyclic Aromatic Hydrocarbons (PAHs), heavy metals, asbestos and total organic carbon (TOC). Due to several sources of ground gas identified and the likelihood of elevated carbon dioxide and methane gas protection measures are likely to be required. With regard to the demolition of the building, it is advised that the asbestos roof is first removed by a qualified contractor. For any off-site disposal of waste, soil results must be assessed in accordance with the Environment Agency’s Guidance.

5.11.2 The Environmental Health Team have no objections subject to conditions in relation to submission of a detailed remediation scheme and an additional assessment in case contamination not previously identified was found on site.

Archaeology

5.11.3 The proposed development is located in the historic town of Burnham-on-Crouch and has the potential to impact on archaeological remains. Place Services Archaeology Advisor has no objection subject to conditions requiring an archaeological assessment and implementation of a archaeological fieldwork programme.

6. ANY RELEVANT SITE HISTORY

6.1 Relevant planning history.

Reference	Description	Decision
17/00845/FUL	Demolition of existing dilapidated maltings boat storage sheds. Construction of 7no. 2 & 3 bedroom residential dwellings with associated parking, amenity space & landscaping.	Refused on 12.01.2018 Appeal lodged 28.06.2018 Appeal dismissed on 24.05.2019

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham Town Council	Recommend refusal on the following grounds: Over development of site/Heart of Conservation Area/non sympathetic design/Narrow access/congestion on exit onto High Street/proximity to listed building	See the 'Main Considerations' section of this report

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environment Agency	No objection	No response required
Essex County Council Highways	No objection subject to conditions regarding cycle parking to be secured and the provision of residential travel information packs	See 'Main Considerations' section 5.6

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council SUDS team	No objection subject to conditions requiring the development to be carried out in accordance with the FRA and its mitigation, details of future maintenance plan and arrangements for the surface water drainage system and the reequipment to maintain yearly logs of maintenance	See 'Main Considerations' section 5.6
Historic England	Raise concerns as the loss of the boat buildings and their replacement with residential uses would erode the historic maritime uses that make an important contribution to the special character of the conservation area, harming its significance.	See 'Main Considerations' section 5.3
Natural England	Having considered the HRA assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures specified in the AA are appropriately secured by conditions in any planning permission given	See 'Main Considerations' section 5.7
Place Services – Archaeology	No objection subject to conditions requiring an archaeological assessment and implementation of a archaeological fieldwork programme	These requirements can be included as planning conditions. See 'Main Considerations' section 5.11
Place Services - Ecology	No objection subject to securing biodiversity mitigation and enhancement measures through conditions as a Construction Management Plan and wildlife sensitive lighting	See 'Main Considerations' section 5.7

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	Less than substantial harm posed to the significance of the Conservation Area. This	See 'Main Considerations' section 5.3

Name of Internal Consultee	Comment	Officer Response
	needs to be weighed against the public benefits from the scheme	
Environmental Health	No objection subject to a condition regarding contamination and remediation	See 'Main Considerations' section 5.11
Housing	No response as this falls below the policy requirements for affordable housing	Proposal does not meet criteria for affordable housing

7.4 Site Notice/Advertisement

- 7.4.1 The application was advertised by way of a site notice posted on the 22 October 2024 (with expiry date for comments set at 12 November 2024).
- 7.4.2 Notice was also given by way of newspaper advertisement posted in the Maldon and Burnham Standard, published on the 24 October 2024 (with expiry date for comments set at 14 November 2024).

7.5 Representations received from Interested Parties (*summarised*)

- 7.5.1 Six objections received and a summary of other representations are summarised in the table below:

Subject	Comment Summary	Officer Response
Overdevelopment and visual impact	The existing curved roofs of the Maltings Sheds contribute interest and distinctiveness to the skyline, harmonising with Burnham's historic riverside. In contrast, the proposed taller, repetitive rooflines would dominate the skyline, creating an imposing and homogenous effect that would exacerbate the area's congestion. This approach conflicts with Policy EN.3 of the NDP and LDP policies S1 and D1. Not in keeping with period properties in the immediate area	See 'Main Considerations' section 5.3
Lack of Adequate Private and Communal Space	The current proposal lacks any meaningful private gardens or shared outdoor spaces, providing instead only a landscaped car park. Such limited outdoor space will undermine the mental and physical health benefits of having access to personal or communal green spaces	See 'Main Considerations' section 5.4
Access and Traffic Concerns	The addition of seven houses would likely bring at least 14 more vehicles into an already narrow	See 'Main Considerations' section 5.5

	and congested area, exacerbating risks to pedestrians and increasing traffic hazards. Current access poses risks to safety of road users	
Loss of Historic Public Access and Community Amenities	Would seal off a long established pedestrian access from the High St to the Riverside Path. Blocking off the pathway would undermine accessibility. Needed for policy E3 of the NDP.	See 'Main Considerations' section 5.3
Threat to Burnham-on-Crouch's Riverside Character and Heritage	The river is essential not only to local businesses and river-related crafts but also to leisure activities enjoyed by both residents and visitors. Any development that compromises this relationship detracts from Burnham's character and sense of place through policies EN.1 and EN.3 of the NDP	See 'Main Considerations' section 5.3
Impact on Heritage and Environmental Assets	The construction and potential demolition activities associated with this proposal present a risk to nearby historic buildings, particularly given the heavy machinery likely required in regard to LDP policy D3	See 'Main Considerations' section 5.3
Impact on cultural, historical and conservation factors	The plans make little effort in design that is sympathetic to the traditional aesthetics of the area, town or coastal/ river towns in general and would be detrimental to the areas cultural, historical and conservation factors	See 'Main Considerations' section 5.3
Land use and Design	Inefficient land use. Bad design and doesn't make good use of it's location and one of the knock on effects is more houses elsewhere on green spaces.	See 'Main Considerations' section 5.3
Access	No improvements to vehicle access or pedestrian access or safety. Construction could lead to issues close to existing buildings in High Street	See 'Main Considerations' section 5.5
5 Year Housing Land Supply	Council has enough housing supply	See 'Main Considerations' section 5.1
Flood risk	Sequential test for building in flood zone 3A fails	See 'Main Considerations' section 5.6
Marketing	Not seriously offered for sale in its current use	See 'Main Considerations' section 5.1
Heritage impacts	From the residential nature and	See 'Main

	paraphernalia would impact upon the Conservation Area and setting of neighbouring listed building	Considerations' section 5.3
Demolition	Development could be better managed through riverside or Kings Road	If approved a Construction Management Plan can be secured through a planning condition
Height of buildings and loss of light	The proposed development is also going to be significantly taller than the current sheds which will block light to the rear of our property.	See 'Main Considerations' section 5.3
Need to preserve character	The democratically mandated Neighbourhood Plan clearly emphasises the importance of preserving the unique maritime character of Burnham-on-Crouch, which is intricately tied to its river-related activities and employment uses. This is explicitly stated in Policy RI.3, which seeks to ensure that the riverside continues to contribute to the economic base and vibrancy of the town through its maritime-related employment functions	See 'Main Considerations' section 5.3

7.5.2 One comment in support as summarised in the table below:

Subject	Comment Summary	Officer Response
Appearance	Current building is an ugly relic of times gone by and no longer serves a purpose	See 'Main Considerations' section 5.3
Design	This would be visually stunning new development admired from land and river.	See 'Main Considerations' section 5.3
Economic	Would provide jobs and homes for people in Burnham	See 'Main Considerations' section 5.1

8. **PROPOSED CONDITIONS**

Time Limit

1. The development hereby permitted shall begin no later than three years from the date of this decision.
Reason: To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

In accordance with the approved plans

2. The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the details as approved with regard to policies D1 and D3 of the adopted Maldon District Local Development Plan.

Materials

3. No development shall commence until written details or samples of all materials to be used in the construction of the external surfaces of 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 interests of visual amenity, the character and appearance of the Burnham on Crouch Conservation Area and the impact of the development upon nearby listed buildings in accordance with policies D1 and D3 of the adopted Maldon District Local Development Plan.

Boundary Treatments

4. No development shall take place until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be completed prior to the first use/occupation of the development and shall be retained and maintained as such thereafter.

Reason: To safeguard the amenities of neighbouring amenity and in the interests of visual amenity, the character and appearance of the Burnham on Crouch Conservation Area and the impact of the development upon nearby listed buildings in accordance with policies D1 and D3 of the adopted Maldon District Local Development Plan.

Landscaping

5. No development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including 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 landscape works shall be carried out as approved prior to first 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 available 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 or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

Reason: To secure appropriate landscaping of the site in the interests of visual amenity and the character and appearance of the Burnham on Crouch Conservation Area and the impact of the development upon nearby listed buildings in accordance with policies D1 and D3 of the adopted Maldon District Local Development Plan.

Vehicle Parking

6. The development hereby permitted shall not be first occupied until such time as the vehicle parking area shown on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out as shown on the approved plans/in parking bays. The vehicle parking area(s) shall be retained in this form at all times thereafter and shall only be used by users and visitors to the site. The vehicle parking area(s) shall not be used for any purpose other than the parking of vehicles that are related to the use of the approved development.

Reason: In the interests of highway safety and to ensure that adequate car parking provision is available in accordance with policy T2 of the adopted Maldon District Local Development Plan.

Cycle Parking

7. Prior to the occupation of the development hereby permitted details of the proposed cycle parking for the site shall be provided in accordance with Maldon District Council's Parking Standards and details shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be secure, conveniently located and covered. The approved cycle parking shall be maintained and retained at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with policy T1 of the adopted Maldon District Local Development Plan.

Residential Travel Information Pack

8. Prior to the occupation of the development hereby permitted, 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 upon first occupation of that dwelling.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policy T1 of the adopted Maldon District Local Development Plan.

Flood Mitigation Requirements

9. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and the following mitigation measures detailed within the FRA:
 - Limiting the discharge from the site to 1l/s.
 - Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of 45% climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- To ensure the effective treatment of surface water runoff to prevent pollution.
- In accordance with policy D5 of the adopted Maldon District Local Development Plan.

Surface Water Maintenance and Management Plan

10. Prior to the occupation of the development hereby permitted a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies shall be submitted to and approved, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The maintenance arrangements shall be undertaken in accordance with the details as approved at all times thereafter.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site. In accordance with policy D5 of the adopted Maldon District Local Development Plan.

Yearly logs

11. The applicant or any successor in title must maintain yearly logs of maintenance which shall be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a written request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk. In accordance with policy D5 of the adopted Maldon District Local Development Plan.

Flood Warning and Evacuation Plan

12. Prior to the occupation of the development hereby permitted the requirements of the Flood Warning and Evacuation Plan [FWEP] dated January 2025 which forms part of this planning permission shall be implemented, shall be made available for inspection by all users of the site and shall be displayed in a visible location all times thereafter.

Reason: To ensure that adequate flood warning and evacuation measures are available for all users of the development in accordance with policy D5 of the adopted Maldon District Local Development Plan.

Contamination Mitigation

13. Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The report of the findings must include:

- i) A preliminary risk assessment to include historical information of how each part of the site has been used in the past;
- ii) A survey of the extent, scale and nature of contamination;

- iii) an assessment of the potential risks to:
 - a) Human health,
 - b) Property (existing or proposed) including buildings, crops, livestock, etc, woodland and service lines and pipes,
 - c) Adjoining land,
 - d) Groundwaters and surface waters,
 - e) Ecological systems
 - f) Archaeological sites and ancient monuments;
- iv) An appraisal of remedial options, and proposal of the preferred option(s). This shall include timescales and phasing of remediation works
This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.
Reason: To ensure that risks from land contamination are minimised and to comply with policy D2 of the adopted Maldon District Local Development Plan.

Contamination Remediation Requirements

- 14. Where identified as necessary in accordance with the requirements of condition 13, no development shall take place, other than that required to enable or carry out remediation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved by the local planning authority in writing. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the remediation scheme have been implemented. Exceptions may apply where remediation is incorporated as part of the wider development and cannot be completed prior to commencement. Such circumstances shall be highlighted in the remediation scheme submitted for approval. This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.
Reason: To ensure that risks from land contamination are minimised and to comply with policy D2 of the adopted Maldon District Local Development Plan.

Contamination Verification Report

- 15. The measures set out in the approved remediation scheme shall be implemented in full and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the local planning authority within 28 days of completion of the remediation scheme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.
Reason: To ensure that risks from land contamination are minimised and to comply with policy D2 of the adopted Maldon District Local Development Plan.

Archaeology Assessment

16. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.

Reason: To safeguard the special architectural or historic interest, character, appearance and integrity of the heritage asset in accordance with policy D3 of the adopted Maldon District Local Development Plan.

Archaeology Programme of Works

17. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the

local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

Reason: To safeguard the special architectural or historic interest, character, appearance and integrity of the heritage asset in accordance with policy D3 of the adopted Maldon District Local Development Plan.

Boat Storage

18. The boat storage shed shall only be used for the storage of boats and shall not be used for any repair or maintenance work to the boats stored in the shed nor boats place outside of the shed.

Reason: To safeguard residential amenities of the occupiers of the site and neighbouring residential uses from any potential noise and disturbance issues that may arise in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Boat Storage Management

19. Prior to the first occupation of the development details of how the boat storage shed would be managed and maintained shall be submitted to and approved in writing by the local planning authority. The boat storage shed shall thereafter only be used in accordance with the management and maintenance arrangements as approved.

Reason: To safeguard residential amenities of the occupiers of the site and neighbouring residential uses from any potential noise and disturbance issues that may arise in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Solar/Photovoltaic Panels

20. No development shall commence until details of the solar/photovoltaic panels to be placed on the roof of the dwellings have been submitted to and approved in writing by the local planning authority. The solar/photovoltaic shall be of a design that is flush as possible with the roofslope. The solar/photovoltaic shall only be installed as approved and shall be retained in working order at all times thereafter.

Reason: In the interests of visual amenity, the character and appearance of the Burnham on Crouch Conservation Area and the impact of the development upon nearby listed buildings in accordance with policies D1 and D3 of the adopted Maldon District Local Development Plan.

Communal Garden

21. The communal garden amenity areas as shown upon the approved plan drawings shall be implemented, laid out and available for use as amenity space for the occupants of the dwellings hereby permitted prior to the first occupation of the development and shall thereafter be maintained and retained for such purposes at all times thereafter.

Reason: To secure appropriate open amenity space within the development in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Removal of Permitted Development Rights

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking or re-enacting that Order with or without modification, no development falling within Schedule 2, Part 1 or Part 2 of the Order shall be carried out to the dwellinghouse or within its curtilage unless planning permission has first been obtained from the Local Planning Authority

Reason: To safeguard the amenities of neighbouring amenity and in the interests of visual amenity, the character and appearance of the Burnham on Crouch Conservation Area and the impact of the development upon nearby listed buildings in accordance with policies D1 and D3 of the adopted Maldon District Local Development Plan

APPLICATION PLANS / DOCUMENTS:

Application plans:

- Proposed Site Block Plan — 0215 24E
- Site Location Plan — 0215 30A
- Proposed Site Layout Ground Floor Plan — 0215 21G
- Proposed Second Floor Plan — 0215 23C
- Proposed First Floor Plan — 0215 22C
- Proposed Storage Building — 0215 32A
- Proposed Roof Plan — 0215 26B
- Proposed River Elevations South — 0215 25E
- Bio-Diversity Site Layout Plan — 0215 33
- Proposed River Elevations SE and North — 0215 27D
- Existing Block Plan Elevations Section — 0215 31B
- Proposed Elevations Sections — 0215 29D

The application is accompanied by a number of supporting documents:

- Planning Statement
- Biodiversity Net Gain Statement
- Contamination Assessment
- Flood Risk Assessment and Drainage Strategy
- Heritage Statement
- Marketing Summary Report
- Noise Impact Assessment
- Preliminary Ecological Appraisal
- A Unilateral Undertaking as a s106 legal agreement for RAMS payment

