



**REPORT of
INTERIM HEAD OF PLANNING SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 MARCH 2017**

Application Number	FUL/MAL/16/01492
Location	Land south east of Harlow Sailing Club, Sea View Parade, Mayland
Proposal	Proposal for a replacement dwelling to re-establish the street frontage along Sea View Parade.
Applicant	Mrs Beverley Corcoran
Agent	Baca Architects
Target Decision Date	02/03/17
Case Officer	Nigel Hebden Tel 01621 875741
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In Departure from the Local Plan

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Land South East of Harlow Sailing Club, Sea View Parade, Mayland
FUL/MAL/16/01492



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 Maldon District Council: 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 16/01492/FUL

Date: 28/02/2017

MSA Number: 100018588



3. SUMMARY

3.1 Site Location

- 3.1.1 The application site comprises an area of 0.8 ha extending along the south side of Sea View Parade, an unmade unadopted road. The site is outside the settlement limits and is presently scrubland with some isolated trees and woodland to the south east. There is post and rail fencing around it and a gated access. To the north and south are dwellings fronting Sea View Parade and North Drive whilst to the north is the Harlow Sailing Club which fronts the foreshore of the Blackwater with a club house and dinghy park.

3.2 Proposal

- 3.2.1 It is proposed to erect a single 3 bedroom dwelling within the north-west corner of the site. The design of the dwelling is stated as being innovative and incorporating flood resilience measures. A new access would be formed from the north eastern corner of the site. A small formal garden would be formed to the west with the remainder of the site remaining managed scrubland.

3.3 Conclusion

- 3.3.1 The proposed development is located outside the settlement boundary for the village and normally there would be a policy objection to this proposal. However, as the development is considered to be of an outstanding and innovative design, incorporating features that will protect the structure and occupants from flooding it is considered that an exception to policy may be made on this occasion in accordance with paragraph 55 of the NPPF.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2012 including paragraphs:

- **Para 7:** Sustainable development includes an environmental role which requires the use of natural resources prudently and that waste and pollution is minimised.
- **Para 17:** Core principles – effective use of land that has been previously developed (brownfield land) provided not of high environmental quality. The role and character of different areas should be taken into account including the intrinsic character and beauty of the countryside.
- **Para 47:** There needs to be a significant boost to the supply of housing to provide high quality homes. Councils should demonstrate that they have a 5 year supply of deliverable housing land.
- **Para 55:** Isolated homes in the countryside should be avoided exception in exceptional circumstances including high quality and/or innovative design.
- **Para 56:** Good design is a key aspect of sustainable development.
- **Para 100:** Inappropriate development in areas at risk of flooding should be avoided.
- **Para 118:** Local authorities should aim to conserve and enhance biodiversity

- **Para 109:** Planning system should contribute to and enhance the natural and local environment by protecting and enhancing local landscapes

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S2 Development outside Development Boundaries
- CON5 Pollution Prevention
- CON6 Contaminated land
- CC1 Development Affecting an Internationally Designated Nature Conservation Site
- CC2 Development Affecting a National Designated Nature Conservation Site.
- CC3 Development Affecting a Local Designated Nature Site
- CC5 Protection of wildlife at risk on development sites
- CC6 Landscape Protection
- CC7 Special Landscape Area
- CC11 Coastal Zones
- CC22 Replacement dwellings
- H1 Location of new housing
- H6 Housing Density
- H9 Affordable Housing
- BE1 Design of Development and Landscaping
- BE8 Lighting
- T2 Transport infrastructure in new developments
- T8 Vehicle Parking Standards

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

- S1 Sustainable development
- S7 Prosperous Rural Communities
- S8 Settlement boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The application is described as “a replacement dwelling to re-establish the frontage along Sea View Parade”. At the present there is no dwelling on the site and examination of the Council’s aerial photograph records does not indicate the presence of a dwelling standing as far back as 2000. There is some evidence of a pad for some building in the south east corner of the site and, when visited, it was noted that that there was an overgrown pile of broken concrete present in this vicinity. However, in planning terms it has to be concluded that any residential use of the site has been abandoned and so it is not possible to consider the development under RLP policy CC22 (Replacement Dwelling).
- 5.1.2 The site is outside the settlement boundary for Mayland as are the dwellings to the north, although those to the south are within. Policies S2 and H1 seek to direct new housing development to within established settlements or allocations identified in the development plan and so there would normally be a policy objection to such proposals. However, the site is close to the settlement boundary and within relatively easy reach of the primary school and other facilities within the village. LDP policy S8 defines Mayland as being a “larger village” which may have a limited range of public service and public transport connections. Therefore, the site can be regarded as being in a sustainable location.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The application site is within the coastal zone and the northern part forms part of the Special Landscape Area of the Blackwater Estuary. Whilst there is established residential development to the north and south the site has been undeveloped for some years and supported scrub and other vegetation until this was cut back 2-3 years ago; the area to the south is also undeveloped. To the north is the seawall and recreational development associated with the foreshore. The site therefore sensitive visually and potentially from an ecological viewpoint (see below).
- 5.2.2 It is proposed that the dwelling will have a relatively small rhomboid shaped footprint of between 5.2 metres and 9.2metres deep and 11.6 metres wide. This would accommodate an integral double garage with entrance and service core. Above that at first floor level (also rhomboid in plan) would be the habitable accommodation comprising 3 bedrooms, an office, living room and kitchen/ dining area. This element would be between 9.6 metres and 13.5 metres deep and be 21 metres wide. In addition there would be an external deck skirting the north east, south west and south eastern sides of the accommodation giving overall dimensions for the first floor of 11.2 metres and 17.8 metres deep and 21.6 metres and 22.5 metres wide. This means that the first floor accommodation and deck cantilevers above the ground floor “stalk” which will support the whole structure. The roof structure comprises two low pitched elements, one of which is visually sliced along the southern elevation. The overall height would be 8 metres above the ground floor and lower than the existing 2 storey dwellings in Sea View Terrace. The plans indicate that to the south west of the dwelling will be protected by a bund 1 metre in height which will encompass a private garden area. The balance of the site is not to be developed.

5.2.3 The design of the proposed development is certainly contemporary and incorporates design features to address potential flooding issues. NPPF paragraph 55 states, amongst other things, that whilst isolated new homes in the countryside should be avoided, in special circumstances exceptions may be made including that the proposal is of exceptional quality or innovative design such that it:-

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards of architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.

5.2.4 The ground floor stalk will be overshadowed by the first floor element so it will be less visible making the building appear to float above the ground. The design and form of the first floor draws from local shoreline architectural references of boatsheds and the first floor will be clad in dark shiplap boarding (north elevation) with some exposed concrete elements with slate roofs. There would be extensive glazing on the east, west and south elevations. The ground floor will be concrete which will be specially treated to withstand immersion in water. The design includes a number of features that will make it resilient to flooding. The bund around the garden and the base of the house can be sealed with a flood gate so that the dwelling and garden are protected from lesser flood events. However, in a major flood, the ground floor (including the garage) can be sealed off with flood proof doors and the residents can resort to the living areas at first floor level which will be 0.5 metres above the level for a 1:1000 year flood.

5.2.5 The Urban Design officer has reviewed the design approach and notes that other innovative contemporary dwellings have been approved and built locally including the Salt House at St Lawrence. In her opinion the design is sensitive to the site and its surroundings and the quality of the architecture would warrant consideration as a Paragraph 55 design. It is claimed that this would be the first para 55 dwelling that would address flood resilience to the home, garden and garaging in such a holistic manner.

5.2.6 Part of the site lies within the Special Landscape Area and it is wholly within the Coastal Zone and RLP policies CC7 and CC11 seek to prevent inappropriate development that would harm the appearance or character of these areas. The site is presently open and provides a gap between the main part of Mayland and the residential outliers to the east. The proposed development is relatively small scale given the extent of the site and reflects the shoreside development. Subject to control of the setting of the building and the prevention of the spread of domestic paraphernalia the proposed design should complement the character of the area.

5.3 Flood Risk

5.3.1 As discussed, the site is within Flood Zone 3(a) and is therefore at risk from tidal flooding. The Environment Agency (EA) confirms that the site is defended against tidal flooding and that the Shoreline Management Plan policy for this area is to “hold the line” that is to maintain the defences. Accordingly, the EA does not raise an objection to this application on flood risk grounds subject to certain conditions. The original response was predicated on the proposal being a replacement of an existing

dwelling. The EA was advised that the Council did not consider that to be the case and were asked to confirm their response and this has been confirmed.

- 5.3.2 A Flood Risk Assessment (FRA) supports the application. This confirms that the garden area will be protected against 1:100 year event (3 metres AOD) and the first floor 6.50 AOD which would be 0.5 metres above the 1:1000 year level. In addition flood resilience measures would be incorporated into the construction including use of water resistant materials routing of services and other measures already mentioned. It is considered that the proposed development meets the Exceptions Test.
- 5.3.3 The EA had submitted a holding objection in respect of the original proposal to use a treatment package plant for the disposal of foul sewage. The application has amended to as it has proved possible to connect to the public foul sewer; the EA has withdrawn its objection. A condition requiring this as well as details of surface water disposal will be required.

5.4 Ecology

- 5.4.1 The site is close to the Blackwater estuary which is the subject of a variety of international and national natural conservation designations (SPA, SAC, Ramsar, SSSI). The main nature conservation interest relates to overwintering birds that resort to the mudflats and saltings. The shoreline is 80 metres from the site and Natural England has not raised an object given the existing level of human activity present in the area. However, there are concerns that additional disturbance will be caused during the construction period and they have asked that this be conditioned to avoid the overwintering season.
- 5.4.2 The site itself has been unoccupied for some time and part was included within the Nipsells Chase Scrub Local Wildlife Site. A Phase 1 Habitat Survey (Ecological Survey) has been undertaken and concludes that there are no protected species present on site. It is noted that the site has been cleared of ground vegetation (2015) but some trees remain. The report recommends that there be further planting on site and that this provides an opportunity for habitat enhancement. The Countryside officer has some concerns about the timing of the survey but welcomes the more sensitive management of the undeveloped part of the site.

5.5 Impact on Residential Amenity

- 5.5.1 The site is some distance from other dwellings in the area and will not adversely affect the amenity of those properties.

5.6 Access, Parking and Highway Safety

- 5.6.1 A new access would be formed at the northern corner of the site with the driveway sweeping around the back of the dwelling. The road is private and unsurfaced so traffic speeds are relatively low. The existing access will be closed. Parking is provided within a double garage within the ground floor element and there is space for additional vehicles. The Council's parking standards are more than met.
- 5.6.2 The application makes reference to a permissive footpath being formed through the site as well as land controlled by the applicant to the south. There is evidence to

suggest that an informal path runs through the site but this is not a designated footpath; the applicant advises that this would connect to a public footpath to the south and east.

5.7 Private Amenity Space and Landscaping

- 5.7.1 The site extends to 0.8 hectare, however the plans submitted indicate that the formal garden area will be located to the south west of the house within a clay bund. This area more than meets the Council's standard for private amenity space. An arboricultural report has been submitted with the application which confirms that no trees need to be removed in order to facilitate the construction of the dwelling. Measures are suggested to protect existing trees during the construction works. Apart from the house and formal garden there are no proposals to develop the balance of the site which is to be left in a semi wild state. Given the contribution the site presently makes to the local landscape and setting it will provide for this exceptional proposal, it is important that the site is managed sensitively and that opportunities are taken to provide enhanced habitats for wildlife. Furthermore, as the residential curtilage covers the whole site it would be appropriate to require a landscaping and management plan as well as remove residential permitted development rights for the dwelling and the site.

6. ANY RELEVANT SITE HISTORY

No records identified.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish Council

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	No objection – planning officers have taken no account of the public footpath crossing the site	There is no defined public footpath crossing the site

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways Dept	Sea View Parade is a private road so no comment.	Noted
Natural England	No objection, subject to mitigation measures to mitigate disturbance to over-wintering birds	Condition suggested

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environment Agency	Holding objection re: disposal of foul sewerage. (Subsequently withdrawn) Site is within Flood Zone 3 (a) – no objection as the site is currently defended. Exceptions and sequential tests needed. Finished first floor levels would provide safe refuge.	See report

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Community Safety Officer	If to be approved need evacuation plan	See report
Countryside Officer	Forms part of Local Wildlife Site. Despite statements regarding past maintenance, evidence suggests that site only cleared in 2015 which has affected wildlife value. Walkover undertaken during very dry summer period so conclusions on reptiles not necessarily correct. Suggest condition to secure habitat enhancements on undeveloped part of site.	See report
Environmental Health	No objection subject to conditions	See report
Urban Design	Consider that the design meets the exception to general policy outlined in NPPF para 55. Design is innovative and responsive to flood resilience, integration within sensitive landscape and reference to local characteristics.	See report
Forestry Officer	The land that the proposed dwelling is to be built on, is subject of a current TPO number 8/91.	

Name of Internal Consultee	Comment	Officer Response
	<p>The land was cleared of all but the few remaining trees prior to the current application being submitted, therefore there are very few concerns regarding tree damage during development. The Arb report by Andrew Day consultancy (ref: 01312) provides for adequate protection for the few remaining trees.</p> <p>If this application is to be approved, a condition requiring full detail of a landscaping scheme to be approved, must be applied and the scheme should aim to replace a suitable number and species of trees.</p>	

7.4 Representations received from Interested Parties

7.4.1 Letters were received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

7.4.2

Mr K Paton: The Black Barn, Nipsells Farm, Nipsells Chase Mayland
Miss Sue White: The Lodge, Nipsells Farm, Nipsells Chase Mayland
Miss Anne-Marie Pharoah: Wayback Farm, St Stephens Road, Cold Norton
Miss Sonia Jardine: 1 Elm Avenue, Heybridge, Maldon,
Kay and Eddie Philips: 5&6 Sea View Parade, Mayland

Supporting Comment	Officer Response
This is for a flood proof house in a flood zone.	See report
Design is innovative	See report
Site previously occupied by holiday homes so is previously developed land.	Previous residential uses abandoned

8. **PROPOSED CONDITIONS**

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.
2. The development shall be carried out in accordance with the following approved plans and documents: - Drawing Nos 188-200-001B, 188-200-002A, 188-200-004A, 188-200-005A, 188-200-006A, 188-200-100E, 188-200-101E, 188-200-102C, 188-200-110D, 188-200-111D, 188-200-112D & 188-200-113D and application form.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and emerging policy D1 of the Submitted Local Development Plan.
3. Prior to the construction of the dwelling hereby approved details and samples of the materials to be used in the construction of the external surfaces of the dwelling shall have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and emerging policy D1 of the Submitted Local Development Plan.
4. No development shall commence until scale has been submitted to show all new window frames, external doors and door frames including sections through the head, jamb, cill and glazing bars. The details shall be submitted to and approved in writing by local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and emerging policy D1 of the Submitted Local Development Plan.
5. Construction works shall only take place outside the sensitive bird overwintering period (1st October to 31st March inclusive).
REASON: To minimise adverse environmental impacts on the designated sites, by minimising the risk of disturbance to SPA birds, thereby ensuring compliance with the Habitats Regulations (as amended) and policies CC1 and CC2 of the Maldon District Replacement Local Plan.
6. No development shall commence 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 constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.
REASON: To ensure that the details of development within this sensitive estuary location area acceptable and comply with the requirements of policies BE1, CC7 and CC11 of the Maldon District Replacement Local Plan.
7. No development shall take place until full details of the provision and subsequent retention of both hard and soft landscape works on the site have

been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities.
- (ii) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.
- (iii) Details of the aftercare and maintenance programme.
- (iv) The planting scheme and maintenance regime shall reflect the principles outlined in Section 5.2 and Annexe 5 of the Extended Phase 1 Habitat Survey (Preliminary Ecological Assessment) dated August 2016.

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 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.

Hard Landscape works.

- (i) Details of walls with brick types, construction design and dimensions.
- (ii) Details of paved surfacing, with materials finishing and edgings.

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

REASON: To ensure that the details of the development provide the appropriate setting for the development within the local landscape and provide opportunities for habitat enhancement in accordance with the requirements of policies CC3, CC7, CC11 and BE1 of the Maldon District Replacement Local Plan.

- 8. All trees shown as being retained on Appendix 5 (Tree Protection Plan) of the Arboricultural Report dated 15th August 2016 shall be retained. No development shall commence until fencing and tree protection measures to protect the trees and vegetation to be retained has been implemented in accordance with the details set out in the Method Statement for Tree Protection Measures as set out in the Arboricultural Report. The protective fencing shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site.

The protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone nothing shall be stored or placed, no fires lit, no vehicle shall gain access, ground levels shall not be altered, no excavation shall be made and no structure shall be erected. If within five years from the completion of the development a retained shrub or hedge is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or

defective, a replacement shrub or hedge shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the local planning authority.

REASON: To protect existing trees and vegetation on the site in accordance with policy BE1 of the Maldon District Replacement Local Plan.

9. Finished floor levels for the ground floor shall be at least 3.0 metres AOD and for the first floor no less than 6.5 metres AOD.

REASON: To provide a safe refuge in the event of a major flooding incident in accordance with policy D5 of the Maldon District Local Development Plan.

10. Prior to any development details of any ground raising including levels as compared to the surrounding land shall be submitted to and approved by the local planning authority and the development carried out in accordance with the details so agreed.

REASON: To ensure that the details of the proposal are acceptable and accord with policy BE1 of the Maldon District Replacement Local Plan.

11. Prior to the commencement of development details of the proposed connection to the public foul sewer shall be submitted to and approved by the local planning authority and the scheme shall be implemented in accordance with the details so approved.

REASON: To ensure that the scheme is acceptable and prevent potential pollution as required by policy CON5 of the Maldon District Replacement Local Plan.

12. Prior to the commencement of development details of the collection and disposal of surface water drainage shall be submitted to and approved by the local planning authority and the scheme implemented in accordance with the details so approved.

REASON: To ensure that the details of the proposal are acceptable and accord with policy BE1 of the Maldon District Replacement Local Plan.

13. Prior to the commencement of development details of the proposed vehicular access and the means of stopping up the existing vehicular access shall be submitted to and approved by the local planning authority and the scheme shall be implemented in accordance with the details so approved. The existing access shall be stopped up and cease to be used within 3 months of the new becoming available.

REASON: In the interests of highway safety and the requirements of policies BE1 and T2 of the Maldon District Replacement Local Plan.

14. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order)

I. no garages, extensions, separate buildings, other structures or swimming pools shall be erected within the site without planning permission having been obtained from the local planning authority.

II. no dormer window or other form of addition or opening shall be constructed in the roof or gable walls of the building.

III. no wall, fence, gate or other means of enclosure shall be erected within or around the site.

without the prior grant of planning permission by the local planning authority.

REASON: The development has been approved as an exception to general planning policy because of its innovative and outstanding design within a special landscape area. Inappropriate domestic additions could diminish the landscape quality and compromise the setting and architectural merit of the

building contrary to the requirements of policies BE1, CC7, CC11 of the Maldon District Replacement Local Plan.

15. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for but not necessarily be limited to the following:

- Designated areas for the parking of vehicles of site operatives and visit
- Designated areas for the loading and unloading of plant and materials
- Designated areas for the storage of plant and materials used in constructing the development
- The erection and maintenance of any security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities and protocol for their use
- Measures to control the emission of dust, noise and dirt during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

REASON: To protect the amenities of local residents and the area generally in accordance with policy BE1 of the Maldon District Replacement Local Plan.

16. Prior to the commencement of development details of flood resilience measures to be incorporated into the building, including but not necessarily limited to the measures set out in the Maylandsea Flood Risk Assessment dated December 2016 as well as a Flood Evacuation Plan shall be submitted to and approved by the local planning authority and the development shall be implemented in accordance with the measures so approved.

REASON: To mitigate against the risks of flooding in accordance with policy D5 of the Maldon District Local Development Plan.