



**REPORT of
CHIEF EXECUTIV E**

to
CENTRAL AREA PLANNING COMMITTEE
31 May 2017

Application Number	OUT/MAL/17/00359
Location	Land Rear Of 183 Fambridge Road, Maldon
Proposal	Outline planning permission with all matters reserved for a single storey dwelling
Applicant	Mr. Nigel Harmer
Agent	-
Target Decision Date	16 June 2017
Case Officer	Hilary Baldwin, TEL: 01621 875730
Parish	MALDON SOUTH
Reason for Referral to the Committee / Council	Councillor / Member of Staff

1. **RECOMMENDATION**


REFUSE subject to the reasons as detailed within Section 8 of this report.

2. **SITE MAP**

Please see overleaf.

Land Rear Of 183 Fambridge Road, Maldon
OUT/MAL/17/00359



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p>www.maldon.gov.uk</p>	Scale:	1:1,250
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Committee 17/00359
	Date:	18/05/2017
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the rear of properties fronting onto Fambridge Road and forms part of the private rear garden of the host property. It lies within the settlement of Maldon. The area is urban in nature with an eclectic mix of dwellings adjacent to the site.
- 3.1.2 The only access to the site is by way of a private pathway which serves the rear gardens of dwellings within Spencer Close.
- 3.1.3 The proposal seeks outline planning consent for the principle of a dwelling in this location. The outline application procedure allows for applicants to identify specific matters for consideration which include the principle of the development, access, layout, scale, appearance and landscaping. The applicant has identified that this application is to consider the principle of the development only. The considerations of access, layout, appearance, landscaping and scale will form the subsequent reserved matters application should outline planning permission be granted for this proposal. Nevertheless all material planning considerations are relevant, where applicable, to this application.

3.2 Conclusion

- 3.2.1 The erection of a dwelling in this location by reason of its backland siting, lack of highway access, parking and detrimental impact upon adjacent neighbouring occupiers is considered to represent a contrived form of development with an awkward configuration and poor relationship with other properties nearby that would not complement the positive qualities of the locality but would significantly detract from its surroundings. It would fail to meet the aims of the National Planning Policy Framework (NPPF) which at paragraphs 17 and 55 seeks to achieve high quality design and good standards of amenity.

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:

- 17, 53 and 55

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S1 Development Boundaries and New Development
- H1 Location of New Housing
- BE1 Design of New Development and Landscaping
- T1 Sustainable Transport and Location of New Development
- T2 Transport Infrastructure in New Developments
- T8 Vehicle Parking Standards

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services

4.4 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Policy S1 of the Replacement Local Plan recognises that new development will be directed to those sites within the development boundaries which are not constrained by the local plan. The application site lies within the settlement confines of Maldon, surrounded by an established residential area; and there is therefore no policy objection to the principle of the development. Nonetheless, there must be compliance with other policies in the Replacement Local Plan, and the National Planning Policy Framework, which seeks to ensure that new residential development, does not take place at the expense of other material planning considerations.

5.1.2 The NPPF states that ‘Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.’ (Paragraph 53). Therefore, whilst housing development is acceptable in principle within a specified settlement location, considerable weight must be given to the impact on the character of the existing settlement and the cumulative impact of such development on the character and amenity of an area in order for the proposal to comply with the requirements of the adopted development plan.

5.2 Design and Impact on the Character of the Area

5.2.1 The NPPF is unequivocal in stating the importance of high quality and inclusive design both for individual buildings and within public spaces. Design should establish a strong sense of place to create attractive places to live.

5.2.2 Policy BE1 also states that development will only be permitted if it is compatible with its surroundings and/or improves the surrounding location in terms of (a)(ii) Site

Coverage, (iv) Scale Bulk and Height, (vi) Visual Impact, and (b) that within defined development boundaries they harmonize with the general character of the area in which they are set.

- 5.2.3 Policy BE1 (a) of the adopted local plan relates to design and seeks to ensure that new development is reflective of its setting in terms of architectural style, scale / bulk / height, materials and visual impact (among other factors) and improves the surrounding location in terms of effect on the safety and amenity of neighbouring properties and their occupiers. BE1 (b) states that inside defined development boundaries, developments should harmonize with the general character of the area in which they are set.
- 5.2.4 Albeit the proposal is outline in nature and no indicative plans have been submitted, the submission states that the proposal would comprise a detached, single storey, two bedroom property, with private amenity space.
- 5.2.5 Adopted Policy BE1 (b) states that development should harmonize with the general character of the area. A well-designed building should appear as a self-contained form which complements and enhances its location and surroundings. Whilst it is acknowledged that a well designed building per se could be achieved through any subsequent reserved matters stage, the contrived location of this plot to the rear of existing dwellings in Fambridge Road to the west and Spencer Close to the east is emphasized by the lack of access to the site, which would be solely by way of a narrow, private, right of way footpath to the rear of the dwellings in Spencer Close.
- 5.2.6 Comparisons need to be made between the site subject of this report, and those to the north of the site. It is clear from the site assessment undertaken, that those sites have direct and easy access to the highway and footpath network within the local area and benefit from open frontages onto the highway known as Wordsworth Avenue. The access point to the site subject of this report is in stark contrast and would be restricted to a narrow footpath which serves as a private right of way to the rear gardens of properties within Spencer Close. Whilst boundary treatments could be removed within the section of the garden of No 183 Fambridge Road, the section which passes between the gardens of the adjacent dwelling to the north and the rear gardens of the properties in Spencer Close, would be out of the control of the applicant, serves as the only access point to the site and is bounded by 2m high walls.
- 5.2.7 As such, it is considered that the proposal would fail to comply with policies BE1 of the local plan which states that all development must enhance the character and local context, emerging policy D1 of the LDP and the provision and guidance as contained within the NPPF.

5.3 Impact on Residential Amenity

- 5.3.1 Policy BE1 (a) (vii) of the replacement local plan seeks to protect neighbouring occupiers from unacceptable development which results in a loss of amenity. Policy D1 of the emerging local development plan seeks to protect the amenity of surrounding areas and local context.
- 5.3.2 It is considered that a single storey property would have limited impact upon adjacent neighbouring occupiers in terms of overlooking and loss of privacy. Subject to a

condition to restrict the overall ridge height, this element is not considered to result in detrimental impact.

- 5.3.3 However, the only access point to the site would adjoin the rear boundary of the dwellings in Spencer Close. Whilst this would be limited to pedestrians only, this could be undertaken at will by the occupants and visitors of the proposed dwelling resulting in potential noise and disturbance to the small private rear gardens of those properties.
- 5.3.4 Therefore the proposal is considered to fail on the criterion of adopted Policy BE1(a) (vii), and BE6 of the replacement local plan and policies D1 and H4 of the submitted local development plan.
- 5.3.5 Due to the distance between the proposed site and the host dwelling, it is not considered that significant detrimental harm would result between occupiers of those dwellings, and subject to appropriate boundary treatments, minimal impact would result between future occupiers and those to the north of the site.
- 5.3.6 Overall, the proposed development, due to its relationship with the neighbouring properties to the east of the site, it is considered to give rise to demonstrable harm by way overlooking or overshadowing and is compliant with policy BE1 of the replacement local plan and policies D1 and H4 of the submitted local development plan and the guidance contained within the National Planning Policy Framework.

5.4 Access, Parking and Highway Safety

- 5.4.1 The Maldon District Council Supplementary Planning Document (SPD), states that residential dwellings comprising two to three bedrooms require a maximum of two parking spaces. Due to the restricted backland location of the plot, there would be no capability for parking within the site. The nearest parking provision would be within the public highway known as Wordsworth Avenue. It is acknowledged that the requirements of the SPD are stated as a maximum. These may be relaxed for town centre locations where occupiers are in very close proximity to community support facilities. However, the site is located some 1.5km to the south of the town centre and it is considered inevitable that occupants and their visitors would park close to the site within the surrounding area which would result in an increase in on-street parking, increasing pressure elsewhere and compromising highway and pedestrian safety.
- 5.4.2 Furthermore, the Council is committed to promoting an inclusive society that offers opportunities for everyone. New development must promote accessibility and make appropriate safe provision in terms of access, egress and parking. The restricted width access would limit access for those with mobility problems and young children and those with physical and sensory impairments. Easy access is part of good design. The NPPF at paragraph 57 states the importance to plan positively for “*inclusive design for all development, including individual buildings.*”
- 5.4.3 Essex County Council Highway Authority has been consulted on the application in terms of highway safety and there is an objection to the proposal due to the lack of parking provision on site which it is considered would lead to congestion, danger and obstruction contrary to the interests of highway safety.

5.4.4 The proposal is therefore considered to fail with the criteria of adopted LP policy T2 and emerging policy T1 of the submitted LDP.

5.5 Private Amenity Space, Landscaping and Nature Conservation

5.5.1 The Essex Design Guide requires that two bedroom dwellings have a minimum of 50m² of private garden space. Such a provision would be met in this instance.

5.5.2 The site already benefits from some existing boundary treatments and subject to conditions for appropriate boundary treatments to the west and eastern boundaries and landscaping, the proposal would accord with adopted and emerging policies for these elements.

5.6 Other Considerations

5.6.1 The Parish Council has objected to the scheme on the grounds of backland development, lack of parking provision and lack of detail. The first two concerns have been noted and are addressed elsewhere in this report. The lack of detail is noted but the proposal is outline in form with all matters reserved. The proposal is therefore for the principle of development only.

5.6.2 The Council's Environmental Health Service has also recommended conditions for the submission of details of surface water drainage and foul drainage. Such conditions are considered appropriate and necessary in this instance and can be appended to any grant of permission. Furthermore, Informatives for the provision of waste and recycling collections are recommended as is an Informative for the control of noise and nuisance during construction. However, due to the location of the site and proximity to adjacent neighbouring occupiers and lack of highway access, should permission be granted, it is considered appropriate to append a condition to any grant of permission for a full Construction Management Plan.

5.6.3 Numerous letters of representation have made reference to the access to the site being a private right of way. Whilst this is acknowledged, the use of this pathway for access and egress from the site would form a private civil matter between the various land owners. The logistics in planning terms of this pathway forming the only entrance to the site have been addressed in previous sections of this report.

5.6.4 Letters of Representation have also made reference to the grant of permission through the appeal process for the dwelling adjacent to the north of the site. However, a history search on that property has found that the proposal for the dwelling was allowed on 18 March 1987. In view of the time lapse between the two proposals, it is not considered that the appeal decision, which was made prior to the time of the current plan period, adopted in 2005, is either pertinent or relevant to the scheme subject of this proposal.

6. ANY RELEVANT SITE HISTORY

None.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Object: The proposed development is a backland development with no parking. There is limited detail in the application	These points have been addressed within the report

7.2 External Consultees (*summarised*)

Name of External Consultee	Comment	Officer Response
ECC Highway Authority	Objection. The proposal fails to provide off road parking in accordance with current parking standards and would lead to additional vehicle being left parked in the adjacent highway causing congestions, danger and obstruction contrary to highway safety	The comments of the Highway Authority are noted and have been addressed in the report

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health Service	No Objection subject to conditions relating surface drainage and foul water details to be submitted and Informatives for waste collection and control of noise and nuisance during construction	The comments of the Environmental Health Service are noted and have been addressed in the report

7.4 Representations received from Interested Parties (*summarised*)

7.4.1 Letters were received objecting to the application from the following and the reasons for objection are summarized as set out in the table below:

- J. & D. Coombes, 2 Spencer Close, Maldon, CM9 6BX
- Ms. S. Cousins, 4 Spencer Close, Maldon, CM9 6BX
- Ms. K Hood, 6 Spencer Close, Maldon, CM9 6BX

- Mr. Sidgwick, 8 Spencer Close, Maldon, CM9 6BX
- W.G Nicholson, 10 Spencer Close, Maldon CM9 6BX
- Mrs. M Patient-Saunders, 18 Wordsworth Avenue, CM9 6BZ
- Ms. & Mrs. Dawson, 185 Fambridge Road,
- Poets Estate Residents Association, 18 Wordsworth Avenue, CM9 6BX
- Mrs. Shaughnessy, 1 Wordsworth Avenue, Maldon, CM9 6BY

Objection Comment	Officer Response
<p>Properties in Spencer Close only benefit from a 30ft garden. Development will result in a “boxed in” effect Impact on quality of life to those in Spencer Close Add to parking issues in Spencer Close Alleyway is for the benefit of No’s 2-8 Spencer Close, its use will continue Granting by way of appeal for adjacent dwelling throws into question the validity of this proposal. Backland development No vehicle access No right of way to footpath Right of Way does not belong to applicant it is for rear access for residents of Spencer Close The alleyway is private and only for residents of 2-8 Spencer Close</p>	<p>The comments have been noted and addressed within the report</p>

8. REASONS FOR REFUSAL

1. The principle of a dwelling in this location by way of its siting and location to the rear of No’s 2 – 8 Spencer Close would result in an incongruous and contrived development out of character with the prevailing pattern of development within the area. As such the proposal is contrary to adopted Maldon District Replacement Local Plan policy BE1 policies D1 and H4 of the submitted Local Development Plan and Government guidance contained within the National Planning Policy Framework.
2. The proposed development by way of the proximity of the access and intensification of its use would result in loss of amenity and detrimental impact upon the occupiers of the adjacent dwellings by way of noise and disturbance contrary to policies BE1 of the adopted Maldon District Replacement Local Plan as well as the principles of delivering sustainable development contained within the National Planning Policy Framework.
3. The proposed development by way of the restricted width of the access would result in the intensification of on-street parking to the detriment of detriment of highway and pedestrian safety resulting in an unacceptable degree of hazard

to potential future occupiers and existing road users, contrary to policy T2 of the adopted Maldon District Replacement Local Plan and policy T2 of the submission version of the Local Development Plan.