



**REPORT of
CHIEF EXECUTIVE**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
19 JUNE 2017

Application Number	OUT/MAL/17/00383
Location	Land South Of Charwood Stoney Hills Burnham-On-Crouch Essex
Proposal	Proposed construction of two bungalows
Applicant	Think Green Energy Ltd
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	5 July 2017
Case Officer	Spyros Mouratidis, TEL: 01621 875841
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the Local Plan 2005 Parish Trigger

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Land South Of Charwood, Stoney Hills, Burnham On Crouch

OUT/MAL/17/00383



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Maldon District Council 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: South East Committee

Date: 06/06/2017

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 Charwood is a large detached house located within the north east corner of the Stoney Hills area. The application site shares the access point from the western side of Stoney Hills but is located more than 60m to the south. The application site abuts the rear boundaries of Myrtle Cottage and Anson. There are hedges to the north and east boundary of the site. Shrubs and grass is covering the rest of the site. Between Charwood and the application site there is a field. To the west is Stoney Hills. There is open land farther east. A public footpath runs from the access point of the site.
- 3.1.2 The proposal for two bungalows and has been submitted in outline with all matters reserved for future consideration. An indicative layout has been submitted as well as indicative access arrangements.

3.2 Conclusion

- 3.2.1 The proposed development is located outside the settlement boundary for Burnham-on-Crouch and so is in principle contrary to policies that seek to direct new residential development to established settlements. However, recent appeal decisions and approvals have resulted in new dwellings being permitted in the area which has resulted in a change to its character and appearance. As such, therefore, the proposal would not result in a detrimental harm the character of the area to such a degree as to warrant the refusal of the application. Other considerations would be fully examined at the reserved matters stage.

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:

- 8 - Roles of sustainable development
- 14 - Presumption in favour of sustainable development
- 17 - Core planning principles
- 29-41 - Promoting sustainable transport
- 47-55 - Delivering a wide choice of high quality homes
- 56-68 - Requiring good design
- 109-125 - Conserving and enhancing the natural environment
- 196-197 - Determining applications
- 216 - Weight of emerging plans

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S1 - Development Boundaries and New Development
- S2 - Development Outside Development Boundaries
- CON5 - Pollution Prevention

- CC6 - Landscape Protection
- H1 - Location of new development
- H6 - Housing Density
- 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 the Built Environment
- D2 - Climate Change & Environmental Impact of New Development
- H2 - Housing Mix
- H4 - Effective Use of Land
- T1 - Sustainable Transport
- T2 - Accessibility
- N2 - Natural Environment and Biodiversity

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 The application site is beyond the development boundaries for Burnham-on-Crouch and Stoney Hills forms a tongue of development extending into open countryside.
- 5.1.2 Replacement Local Plan (RLP) policies S2 and H1 would normally seek to direct development to within established settlements or development plan allocations and protect the appearance and character of the rural areas. However, the Committee will be aware that a number of new dwellings have been approved in the area in recent years, some on appeal. On each occasion it has been acknowledged that whilst the local highway is not adopted and provides no dedicated facilities for pedestrians, the area is considered to be in a sustainable location. It has also been acknowledged that the character of the area has evolved over time so it is no longer an area of scattered residential development.
- 5.1.3 In August 2016, an appeal against the refusal of planning permission for 4 x two bed bungalows on the land to the north of Charwood was allowed on appeal. In

determining the appeal the Inspector considered that the character of the site was residential curtilage and that the proposed development would not impinge on the character of the adjacent rural area. A similar line has been taken by inspectors who have recently allowed appeals against refusals for three dwellings to the rear of “The Hollies” (Ref. FUL/MAL14/00591) and a further three dwellings to the rear of “Hillcrest” (Ref. OUT/MAL/16/00196) which lie a short distance to the west. In addition, on 15 January 2015 the Council approved an application for a dwelling to the east of Charwood (Ref. OUT/MAL/14/01049). This final application has allowed the further expansion to the east of the urban grain.

- 5.1.4 Given the recent planning decisions that have been made in respect of the sites adjacent to the application site, the principle of developing the area around Stoney Hills for residential purposes is considered acceptable.
- 5.1.5 Whilst there is only indicative layout submitted, it is possible to conclude that given the size and configuration of the site that two small bungalows could be accommodated on it. The Council’s Strategic Housing Market Assessment identifies that there is a particular need for smaller units and so the form of this development is to be welcomed.
- 5.1.6 The proposed dwellings would be in line with the development located within the grounds of Charwoods. Therefore, the proposal would not result in the extension of built form or development out further than has already been granted by the permission. The principle of this is similar in nature to the conclusions come to by Inspectors at various sites through Stoney Hills including most recently at the rear of Sunnyside on the 5 June 2017.

5.2 Design and Impact on the Character of the Area

- 5.2.1 This is an outline application and all matters are reserved for future consideration. All that is before the Council is a site plan and the application form that advises that two bungalows are proposed. Reserved matters would need to be submitted, if outline approval was to be granted, and detailed matters of layout and design would be dealt with at that stage.
- 5.2.2 As stated previously, the character of the area has evolved over recent years as planning permissions have been granted or appeals upheld, so that the area is no longer characterized by scattered development where infilling has taken place. This is something that has been noted and highlighted by a number of inspectors. Whilst the resultant change in character is unfortunate the new level of urban development and more urban character is a material consideration when determining this application. As such the development would not be out of character with the immediate area as the countryside beyond will remain intact.

5.3 Impact on Residential Amenity

- 5.3.1 Given that bungalows are proposed and taking into account the size of the site it is considered unlikely that there will be any demonstrable issues relating to overlooking or overshadowing that cannot be resolved at the detailed stage.

5.4 Access, Parking and Highway Safety

- 5.4.1 The principle of an access from Stoney Hills for the development of this land and that to the north has already been established and the issue of off street parking will be dealt with at the reserved matters stage; but it is considered that the site has the potential to accommodate an acceptable level of car parking. The Essex County Highways has requested a condition to ensure that there would be no obstruction to the public footpath that runs from the north part of the access point.

5.5 Private Amenity Space and Landscaping

- 5.5.1 These issues would be dealt with in detail by way of reserved matters submissions. However, the site is likely to be capable of accommodating an acceptable level of private amenity space.

5.6 Other Material Considerations

- 5.6.1 Concerns have been raised with regard to the presence of protected species and contamination of the land. Both issues at recent appeal decisions for comparable sites have not been considered to be appropriate reasons for refusal.

6. ANY RELEVANT SITE HISTORY

- 6.1.1 No relevant site history.

6.1.2 Wider Area:

- **OUT/MAL/15/00978** - Land Rear Of Charwood Stoney Hills - Outline planning permission for a proposed development of 4no. two bedroom bungalows. – REFUSED [22.12.2015] – APPEAL ALLOWED [19.10.2016].
- **RES/MAL/15/00718**– Land Adjacent Charwood Stoney Hills - Reserved Matters application for the approval of appearance, landscaping and layout for the erection of one new dwelling. Following Approved Outline Planning Permission OUT/MAL/14/01049 - APPROVED [18.09.2015].
- **OUT/MAL/14/01049**– Land Adjacent Charwood Stoney Hills - One new dwelling - APPROVED [16.01.2015].
- **OUT/MAL/13/00674**– Land Adjacent Charwood Stoney Hills - Erection of one new dwelling - REFUSED [01.10.2013].
- **OUT/MAL/17/00103**– Land Rear Of Charwood Stoney Hills - Proposed development of two bungalows - APPROVED [11.04.2017].
- **FUL/MAL/14/00610**– Land Adjacent Myrtle Cottage Stoney Hills - Proposed new dwelling house - APPROVED [22.09.2014].
- **FUL/MAL/12/00775**– Myrtle Cottage Stoney Hills – New dwelling house – APPROVED [08.11.2012].
- **OUT/MAL/14/01152**– Land South Of Anson Stoney Hills - Two storey dwelling of an area of 232 square metres or 2500 sq feet – APPROVED [12.02.2015].
- **RES/MAL/15/00839** - Land South Of Anson Stoney Hills - Reserved Matters application for the approval of appearance, landscaping, layout and scale for a

two storey dwelling of an area of 232 square metres or 2500 sq feet. Following approved outline planning permission OUT/MAL/14/01152 – APPROVED [12.10.2015].

- **FUL/MAL/14/00662**– Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – REFUSED [02.09.2014].
- **FUL/MAL/14/00956**– Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – APPROVED [12.02.2014].
- **OUT/MAL/12/01038**– Land Opposite Linden Lea Stoney Hills - Erection of Four Dwellings – APPROVED [12.03.2013].
- **OUT/MAL/15/00420**– Land Opposite Linden Lea Stoney Hills - Outline application for one dwelling including determination of access – REFUSED [02.09.2014] APPEAL ALLOWED [21.07.2016].
- **RES/MAL/16/01187**– Land Opposite Linden Lea Stoney Hills - Reserved matters application for the approval of appearance, landscaping, layout and scale OUT/MAL/15/00420 – APPROVED [22.12.2016].

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

(Summary of comments received which are only relevant planning matters that are to be taken into account).

* PLEASE DELETE BLANK BOXES AND ANY INTERNAL CONSULTATION RESPONSES NOT RECEIVED *

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Object - <ul style="list-style-type: none"> • Back land development; • Outside the defined; development envelope; • Loss of amenity; • Traffic generation/highway safety; • Design & appearance; and, • Effect on the character/ appearance of the area/ landscape quality. 	Comments noted – please see section 5 of the report

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	Stoney Hills is a private road; therefore, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to a requirement for the public's rights and ease of passage over public footpath no 5 (Burnham-on-Crouch parish) to be maintained free and unobstructed at all times.	Comment noted

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection in principle. Contaminated land conditions shall be applied along with conditions about surface and foul water drainage.	Comments noted. Please see section 5.6 of the report.
Ecology Officer	<p>Object on the basis of limited information - The application has the potential to impact on protected species. As a result the applicant needs to submit a Preliminary Ecological Appraisal carried out by a specialist ecologist. Surveys need to be carried out in advance of determination of the application in line with BS 4202 2013.</p> <p>In addition as the site is outside the settlement boundary a landscape baseline assessment is required.</p>	Comments have been noted.

Name of Internal Consultee	Comment	Officer Response
Tree Officer	No objection subject to protection of existing tree and hedges during construction and retention of hedges on site	Comments have been noted.

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 summarised as set out in the table below:

- Lynn Ing Monksfield Stoney Hills Burnham-On-Crouch
- Pam Lacey Long Ranch Stoney Hills Burnham-On-Crouch
- Nicholas Wood Marbles Stoney Hills Burnham-On-Crouch
- Mr & Mrs Wiffen Myrtle Cottage Stoney Hills Burnham-On-Crouch

Objection Comment	Officer Response
Excessive construction traffic in the area due to other permissions.	Not a material planning consideration.
Health and safety issues during construction of other sites.	Not a material planning consideration – Health and Safety Issues shall be reported to the Health and Safety Commissioner.
Trees and hedgerows are removed during breeding season.	The hedgerows and trees are not currently protected. Any illegal activities with regard to wildlife shall be reported to the police and Natural England.
The description of the location is misleading.	The description is sufficient enough and should be read in conjunction with the location plan. Irrespective this is not a material planning consideration.
Contrived development due to access arrangements	See section 5 of the report.
Undesirable form of backland development of unsatisfactory layout	See section 5 of the report.
The development will impact the amenities of neighbouring properties in terms of overpowering, noise from car movements and other activities of the residents and light pollution.	See section 5 of the report.
The site is outside the development boundary.	See section 5 of the report.
Wildlife habitats will be affected by the development.	See section 5 of the report.
The plans are ambiguous and the access shown on them is not within the ownership of the applicant.	This matter has been resolved with amended plans and ownership notices being submitted to the Council.

8. PROPOSED CONDITIONS

Conditions:

- 1 Details of the access, appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.

The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

REASON: To comply with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 No development shall take place including any demolition or clearance works, until a comprehensive ecological survey of the site has been undertaken to ascertain if any protected species are present. The results of the survey shall be submitted to and approved in writing by the local planning authority along with details of the provision and implementation of ecological mitigation to protect any protected species if found to be present. The development shall be carried out and completed in accordance with the approved mitigation scheme.

REASON: To ensure that protected species are not harmed during the course of development and that appropriate mitigation measures are in place to protect any species found to be present on site in accordance with Policy CC5 of the adopted Maldon District Replacement Local Plan, Policy N2 of the Maldon District Local Development Plan as submitted, and Government guidance as contained within The National Planning Policy Framework.

- 3 As part of the reserved matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be 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 the development are satisfactory in accordance with policy BE1 of the Maldon District Replacement Local Plan.

- 4 Unless otherwise shown to be removed on the approved plan all of the hedgerow boundaries shall be retained and maintained at all times thereafter.

REASON: To ensure that protected species are not harmed during the course of development and in the interest of the visual amenity of the area in accordance with policy BE1 and CC5 of the adopted Maldon District Replacement Local Plan, policy D1 and N2 of the Maldon District Local Development Plan as submitted, and Government guidance as contained within The National Planning Policy Framework.

- 5 The public’s rights and ease of passage over public footpath no 5 (Burnham-on-Crouch parish) shall be maintained free and unobstructed at all times.

REASON: To secure continued public access to the designated public right of way in accordance with policy T2 of the Maldon District Replacement Local Plan.

- 6 The landscaping details referred to in Condition1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority.

The soft landscape works shall be carried out as approved within the first 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, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON: To ensure that the details of the development are satisfactory in accordance with policy BE1 of the Maldon District Replacement Local Plan.

- 7 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.

REASON: To ensure appropriate parking is provided in accordance with the Council's adopted parking standards.

- 8 No development shall commence until details of existing ground levels and proposed finished ground, and its relation to the adjoining land, and floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 9 The development shall be single storey only comprising of one floor of accommodation.

REASON: To ensure that the development is as applied for.

- 10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a

remediation scheme must be prepared. This must be conducted in accordance with the Department for Environmental Food and Rural Affairs (DEFRA) and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON: To prevent the undue contamination of the site in accordance with policy CON6 of the adopted Maldon District Replacement Local Plan.

- 11 Development shall not commence until a scheme for the provision and implementation of surface water drainage incorporating Sustainable Urban Drainage Schemes (SUDs) and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the development.

REASON: To avoid the risk of surface water flooding of adjacent land in accordance with policy D5 of the Maldon District Local Development Plan.

- 12 Development shall not commence until details of foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the development.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan.

INFORMATIVES

- 1 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
 - a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) No dust emissions should leave the boundary of the site;
 - c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.
- 2 Waste Management
The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
- 3 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO2 - Essex Highways,
Springfield Highways Depot,
Colchester Road,
Chelmsford.
CM2 5PU.