



**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
17 JULY 2017**

Application Number	FUL/MAL/17/00288
Location	Land At Remembrance Avenue Remembrance Avenue Burnham-On-Crouch Essex
Proposal	Development of 2 No. new dwelling houses arranged on 3 floors above ground on vacant land.
Applicant	Mike Lewis
Agent	N/A
Target Decision Date	29.05.2017
Case Officer	Yee Cheung, TEL: 01621 876220
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Council Owned Land

1 RECOMMENDATION

REFUSE for the reason as detailed in Section 8 of the agenda.

To the Council: This application falls to be considered by the Area Planning Committee, but under its terms of reference if the Committee is minded to refuse permission the application will need to be determined by the Council and the Committee will recommend accordingly.

2 SITE MAP

Please see overleaf.

Land At Remembrance Avenue **Burnham On Crouch FUL/MAL/17/00288**



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 Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:1,250

Organisation: Maldon District Council

Department: Planning Services

Comments: SE Committee

Date: 06/07/2017

MSA Number: 100018588

3 SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 Planning permission is sought to construct two dwellings. The proposed dwellings would be three-storey in height with a maximum ridge height of 11.4 metres when measured from ground level.
- 3.1.2 House 1 would measure approximately 7.9 metres in depth and 11.5 metres. At ground floor, there would be an internal garage, storeroom, a utility room, a coat room, lobby and an entrance hall with a stairwell to first floor. At first floor, there would be a sitting room, kitchen / dining room with a stairwell to second floor. Three bedrooms, a shower room and a family room are proposed on the second floor. On the third floor, there would be a bedroom, a study (which can also be used as a bedroom) and an internal terrace area.
- 3.1.3 In addition to House 1, a loggia is proposed. This loggia of approximately 2.1 metres height would connect the house and a proposed shed / summer house which would be located to the rear garden to the north eastern corner of the plot. This shed / summer house measures approximately 5.4 metres deep, 4.5 metres wide and with a ridge height of 5 metres. No details have been submitted regarding the external materials to be used in the construction of this proposed shed / summer house.
- 3.1.4 House 2 would measure approximately 7.9 metres in depth and 15.6 metres. At ground floor, there would be an internal garage, storeroom, and a utility room with a stairwell to first floor. At first floor, there would be a sitting room, kitchen / dining room with a stairwell to second floor. Three bedrooms, a shower room and a family room are proposed on the second floor. On the third floor, there would be a bedroom, a study (which can also be used as a bedroom) and a W.C / shower room.
- 3.1.5 Immediately to the north of the site is a pumping station. To the east is a ditch / drain where it runs parallel to the eastern boundary of the site and beyond this ditch / drain is a small cul-de-sac residential development known as Queens Court. To the south of the application site are new town houses and seven detached houses currently under construction. These dwellings were given planning permission on 18 December 2013 (planning reference: FUL/MAL/12/01062). The site fronts onto a large public open space with a playground.

3.2 Conclusion

- 3.2.1 The proposed development is for the construction of two detached dwellings within the defined settlement boundary for Burnham-on-Crouch. Such proposals are supported in principle within the adopted local plan, Local Development Plan and also in the light of the National Planning Policy Framework which promotes sustainable development as the site is within a residential area on vacant land and represents consolidation of both the settlement and the street scene. On this basis, there is no objection in principle to this proposed development. The proposal of two dwellings on this plot would be acceptable subject to conditions imposed.

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:

- 7, 8, 14, 17, 39, 49, 50, 56, 57, 60, 100, 103

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S1, CON5, CC11, H1, BE1, BE13, T2, T8

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

The Maldon District Local Development Plan 2014-2029 was found to be sound, with modifications, by the Inspector, Mr. Simon Berkeley, as set out in his Report dated 30th June 2017. The Inspector's Report will now be considered by the Secretary of State who will make the final decision on the LDP's approval.

- S1, S6, S8, D1, D2, D3, D5, H4, T2

4.4 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The proposed development is for the construction of two detached dwellings within the defined settlement boundary for Burnham-on-Crouch as shown on Maldon District Replacement Local Plan Proposals Map Inset 5A and the Maldon District Local Development Plan Map Number 4 of 4. Such proposals are supported in principle within the adopted local plan, Local Development Plan and also in the light of the National Planning Policy Framework which promotes sustainable development as the site is within a residential area on vacant land and represents consolidation of both the settlement and the street scene. On this basis, there is no objection in principle to this proposed development subject to other material considerations listed below.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The proposed two dwellings would be three-storey in height. The footprint of the development would be consistent with the prevailing pattern of development in the vicinity of the site. Whilst it is noted that the development proposal would be three-storey in height, both dwellings would be approximately 1.6 metres lower than the adjacent residential development to the south of the site (CEFAS, 2013). When

viewed in the street scene, the height of the development would cascade from south to north direction and therefore would not appear out of place or prominent when viewed from the locality or in the wider context.

- 5.2.2 The two dwellings would be of contemporary design. External materials such as facing brickwork, rendering, vertical larch boarded finish for the walls and modern zinc roofs would create a distinctive development, its own identity, rather than a pastiche development reflecting on the local built form. The development of the site would also provide visual interest in the street scene.
- 5.2.3 The application site is currently vacant and the Council acknowledges that any development on this site would result in visual impact in the street scene. Having taken into account the design, siting and appearance of the development, and its relationship with other dwellings immediately next to this plot to the north, north east south east and south west, it is considered that the proposal would represent an infill development as well as forming a natural continuation of the built environment. The dwellings would also be set back from the highway to a distance in keeping with the prevailing pattern of development in the area and the wider street scene. On this basis, it is considered the proposal would not have a harmful visual impact in the locality to warrant refusal. The proposal would accord with policy BE1 of the adopted local plan and policy D1 of the Local Development Framework and advice contained in the NPPF where it seeks to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings.

5.3 Impact on Residential Amenity

- 5.3.1 The back-to-back distance between the new and existing dwellings at Queens Court would be approximately 28 metres. In the Essex Design Guide (EDG) it recommends a back-to-back distance of 25 metres, and in this instance the proposal would exceed this requirement and therefore complies with the EDG.
- 5.3.2 The two dwellings appear to have large window openings to the front and rear elevation of the building. These openings, serving the stairwell and bathrooms appear to have been strategically placed to minimise the impact on the amenity of the existing occupiers at Queens Court with regard to overlooking and loss of privacy. The window to the stairwell is a high level window which would provide natural light to the property. The windows to the bathrooms can be conditioned to be obscured glazed should the application be approved.
- 5.3.3 On the northern flank wall of House 1, a slim line window opening is proposed to serve the sitting room, Bedroom 1 and a study. Having considered the width and the position of the windows and the orientation of House 1, it is not considered that the development would have an impact on the amenity of the existing occupiers at No. 12 Remembrance Avenue with regard to overlooking, interlooking or loss of privacy to warrant refusal. On the southern flank wall of House 1, one slim line window is proposed to serve Bedroom 4. As there are no windows proposed on the northern flank wall of House 2, it is not considered that there would be any direct overlooking or loss of privacy between the future occupiers of these two dwellings.

- 5.3.4 No first, second or third floor window openings are proposed on the flank walls of House 2 and as such the development would not have an adverse impact on the amenity of the future occupiers to the south of the site.
- 5.3.5 Based on the elevational plans for House 1 and House 2 submitted, it is considered that the development would comply with policy BE1 of the adopted local plan, policy D1 of the Local Development Plan and Government advice contained within the NPPF.

5.4 Access, Parking and Highway Safety

- 5.4.1 The Maldon District Council Vehicle Parking Standards (VPS) states that residential dwellings comprising two/three bedrooms require a maximum of two, off-street parking spaces and dwellings with four or more bedrooms would require three off-street parking spaces. This policy is also reflected in policy T2 of the Local Development Plan.
- 5.4.2 For House 1, an internal garage space and two further parking spaces are provided to south in a tandem arrangement. For House 2, an internal garage is also provided as well as two further off-street parking spaces located to the front but perpendicular to the dwelling house.
- 5.4.3 Whilst the plans submitted indicate that each dwelling would provide accommodation in the form of four dwellings, in reality, each dwelling has the potential of accommodating five bedrooms. As three parking spaces have been provided for both dwellings, the proposal would accord with the VPS and Policy T8 of the adopted local plan and policy T2 of the Local Development Plan. In this respect, the proposal would comply with the aforementioned policy and guidance. The Highway Authority has been consulted and no comments have been raised regarding the proposal.

5.5 Private Amenity Space and Landscaping

- 5.5.1 The Essex Design Guidance (EDG) advises that for a three or more bedrooms dwelling house, a minimum private garden space should be 100 square metres. The private amenity space for House 1 would be approximately 365 square metres and for House 2 would be approximately 154 square metres. As both dwellings exceed the private garden space of 100 square metres, the development proposal would comply with policy BE1 of the adopted local plan, policy D1 of the Local Development Plan and guidance contained within the EDG.
- 5.5.2 It is noted that on the Site Plan (Drawing No: 1683-02 Revision B dated 10.02.1) it shows that the existing Poplar trees on the southern boundary of the site to be retained. No other details have been submitted with regard to boundary treatment or hard and soft landscaping. However, these can be dealt with by appropriately worded conditions should the application be approved.

5.6 Flood Risk

- 5.6.1 The site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the development of 2 No. new 3 storey dwellings which is classified as

a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance.

- 5.6.2 The NPPG identifies that the Sequential Test aims to steer new development to areas with the lowest probability of flooding, with the aim to steer development towards Flood Zone 1. LPAs are required to take into account the vulnerability of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only when there is no reasonably available land within Flood Zone 1 or 2 that sites can be considered in Flood Zone 3, taking into account the vulnerability of the land use and applying the exceptions tests (where required).
- 5.6.3 In addition the Exceptions Test is also applicable and is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. This is a two part test requiring evidence to be submitted to show that the benefits of the development would outweigh the risk of flooding and that the development will be safe for its lifetime. This aspect of the test requires the submission of a Flood Risk Assessment (FRA).
- 5.6.4 As part of the application, a FRA (Phase 1 Flood Risk Assessment (FRA) dated February 2017 prepared by AMBIENTAL Technical Solutions Limited) has been submitted in support of the application. The Environment Agency has been consulted and has raised no objection to the proposal. However, this is providing that the Sequential Test and the Exception Tests are passed as set out in Paragraphs 101 and 102 of the NPPF and it is the responsibility of the Council to determine if these tests have been met.
- 5.6.5 In terms of the Sequential Test, as part of the FRA (Section 3 Page 9 of 40), no details have been submitted with regards to alternative sites for the proposed development, whether the alternative sites are suitable or reasonably available, as part of the application submission. As such, the details provided in the application are not considered to sufficiently demonstrate that there are no alternative suitable sites in the area which fall outside of Flood Zone 3a. The view is taken that there are sites available in the district as a whole where land falls outside of the highest risk Flood Zone and where permission could be obtained. In this respect, the applicant has failed to meet the requirements of the Sequential Test.
- 5.6.6 As the Sequential Test has not been passed it is necessary to undertake the Exceptions Test. The first part of the Exception Test requires the Council to be satisfied that the development provides wider sustainability benefits to the community that would outweigh flood risk. In this instance, and as noted above, the Council can demonstrate a 5 year housing land supply, and the benefits of the scheme in this instance are not considered to outweigh the harm of increased risk of flooding.
- 5.6.7 The second part of the Exception Test requires the submission of an FRA which demonstrates the development will be safe for its lifetime, without increasing flood risk elsewhere and will reduce the overall flood risk where possible. In this instance, the area benefits from flood defences such as the Shoreline Management Plan / Policy (this is explained in Section 4.7 of this report) and as such, the Environment Agency has raised no objection to the proposal.

- 5.6.8 In light of the above, the proposal would lie within Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the erection of four detached houses, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The Council can demonstrate a 5 year housing land supply, and on this basis, the benefits of the proposal would not consider to outweigh the harm of increased flooding as a result of the development.
- 5.6.9 As the Council can now demonstrate a 5 year housing land supply and this is a new material planning consideration in determining the current scheme whereas previously the CEFAS scheme to the south of the site was approved (2013) as the Council was unable to demonstrate a 5 year housing land supply at the time.
- 5.6.10 The above is further supported by a recent appeal decision at the Blackwater Marina, The Esplanade, Maylandsea, Essex (appeal reference: APP/X1545/W/17/3166607 dated 29 June 2017) where the Planning Inspector states that development proposals should be steered away from areas at the highest risk of flooding. As mentioned above, no details have been submitted to show that there are no reasonably available sites appropriate for the proposal in areas with a lower probability of flooding in the mainly rural District and therefore the proposal would fail to satisfied the Sequential Test, contrary to policy D5 of the Local Development Plan, the NPPF and the National Planning Practice Guidance.

5.7 Shoreline Management Plan / Policy

- 5.7.1 It is understood that the site is currently defended and the Shoreline Management Policy (SMP) for this area has an aspiration for hold the line. The Shoreline Management Plan is the current defence to protect this area against a tidal flood with a 0.5% (1 in 200) annual probability of occurrence. However, the impacts of climate change on sea levels over the development's lifetime will gradually reduce the level of protection afforded by the defences if they are not raised within this timeline. Without the raising of the defence, the site could flood should a tide with a 0.5% (1 in 200) annual probability flood event plus climate change occur, which could be contrary to the advisory requirements of Paragraphs 059 and 060 of the National Planning Policy Framework's Planning Practice Guidance. These advise that there should be no internal flooding in 'more vulnerable' developments from a design flood. This could also present challenges to the safety of the users of the buildings and a future reliance on evacuation or emergency response.
- 5.7.2 The Essex and South Suffolk Shoreline Management Plan (SMP) has a policy of 'Hold the Line' until 2105 for Burnham on Crouch location, so it is possible that the flood defences may be raised in line with climate change to continue to protect against the future 1 in 200 annual probability flood event for the lifetime of the development. The SMP policy is aspirational rather than definitive, so whether the defences are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood defence improvements is currently evaluated though cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations. The Environment Agency advises that if the SMP policy is not taken forward the development would be unsafe in the future.

5.7.3 The Environment Agency has also commented on the Actual Risk and Residual Risk of the site and advises on the following:-

5.7.4 Actual Risk

“The site is currently protected by flood defences with an effective crest level of 4.7m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.56m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change, which is dependent on future funding”.

5.7.5 “If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate change flood level of 5.10m AOD, would overtop the existing defences”.

5.7.6 Residual Risk

“The site could experience breach flood levels of up to 5.36 m AOD during 0.5% (1 in 200) annual probability including climate change breach flood event and up to 5.66 m AOD during the 0.1% (1 in 1000) annual probability including climate change breach flood event”.

5.7.7 “Alternatively the Maldon Strategic Flood Risk Assessment (SFRA) shows the site could experience breach flood depths of up to 3 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event (up to the year 2107)”.

5.7.8 *“Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change”.*

5.7.9 *“Finished ground floor levels have been proposed at 2.17m AOD. This is below the 0.5% annual probability breach flood level including climate change of 5.36m AOD and therefore at risk of flooding by 3.19m depth in this event”.*

5.7.10 *“Finished first floor levels have been proposed at 5.40m AOD and second floor is proposed at 8.40m AOD therefore there is refuge above the 0.1% (1 in 1000) annual probability breach flood level of 4.51mAOD”.*

5.7.11 In the FRA submission, it is noted that flood resilience/resistance measures and a Flood Evacuation Plan have been proposed. The Emergency Planner is satisfied with the information provided and it is considered that an appropriately worded condition can be imposed to ensure that this plan is adhered to should the application be approved.

6. ANY RELEVANT SITE HISTORY

- No relevant planning history

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Burnham Town Council	Objects for the following reasons:- 1. Layout and density 2. Overshadowing 3. Design and Appearance 4. Effect on the character / appearance of the area / landscape quality	Noted and addressed in Section 5.2 of the report

7.2 **Statutory Consultees and Other Organisations** (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highway Authority	This section of Remembrance Avenue does not form part of the publicly maintainable highway; consequently, from a highway and transportation perspective, the Highway Authority has no comments to make on the proposal.	Noted in Section 5.4 of the report
Environment Agency	No objection subject to conditions	Noted in Section 5.6 of the report
Anglian Water	No comments to be provided	Noted
ECC SUDs Team	No comment received at the time of writing this report	Any comments received will be reported on the Members Update

7.3 **Internal Consultees** (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Emergency Planner	If the Flood water evacuation plan contained within the flood risk assessment document were to be shared with residents this would be suitable for this site.	Noted
Conservation Officer	No objection to the	Noted

Name of Internal Consultee	Comment	Officer Response
	proposal	

7.4 Representations received from Interested Parties (*summarised*)

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:

- Lyn Cronin 12 Remembrance Avenue, Burnham CM0 8HA
- Mr and Mrs P Hodgeson, 3 Queens Court, Burnham CM0 8HW
- Mr and Mrs Lewis, 2 Queens Court, Burnham CM0 8HW

Supporting Comment	Officer Response
<ul style="list-style-type: none"> • Having spoken to the architects and studied the plans the occupier's at No. 12 Remembrance Avenue have no objection to the two dwellings • The occupiers at No. 3 Queens Court are happy to support the application • The occupiers at No. 2 Queens Court are happy to support the application 	Noted

8 REASON FOR REFUSAL

- 1 The application site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the development of 2 No. new 3 storey dwellings which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The Council can demonstrate a Five Year Housing Land Supply and as such residential development should be directed to areas of low risk of flooding. The development would therefore be contrary to core planning principles and guidance contained in the National Planning Policy Framework, the National Planning Practice Guidance and policy D5 of the Maldon District Local Development Plan as it fails to pass the Sequential and Exception Tests.