



**REPORT of  
CHIEF EXECUTIVE**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
11 SEPTEMBER 2017**

<b>Application Number</b>	<b>FUL/MAL/17/00736</b>
<b>Location</b>	Land North Of Riversleigh Nipsells Chase Mayland Essex
<b>Proposal</b>	Proposed construction of a new detached single storey dwelling
<b>Applicant</b>	Mr Kenny Paton & Ms Sue White
<b>Agent</b>	Mr Anthony Cussen - Cussen Construction Consultants
<b>Target Decision Date</b>	25 August 2017 – EOT 15 September 2017
<b>Case Officer</b>	Ian Harrison, TEL: 01621 875751
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor / Member of Staff

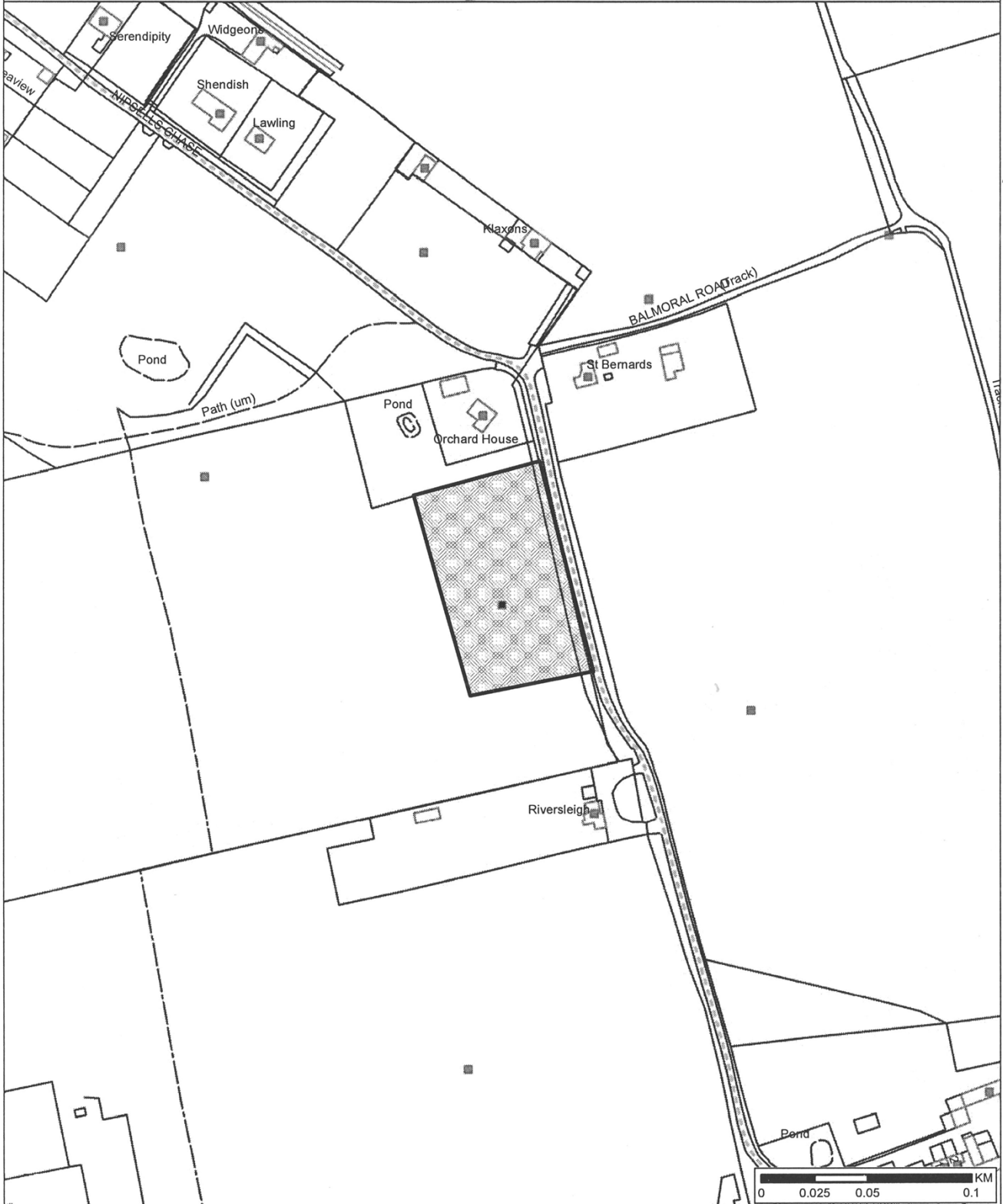
**1. RECOMMENDATION**


**REFUSE** for the reason as detailed in Section 8 of this report.

**2. SITE MAP**

Please see overleaf.

**Land North Of Riversleigh, Nipsells Chase, Mayland**  
**FUL/MAL/17/00736**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	South East Committee
	Date:	29/08/2017
	MSA Number:	100018588

### **3. SUMMARY**

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

##### **3.1.1 Site description**

3.1.1.1 The application site is located to the west of Nipsells Chase to the north of the settlement boundary of Mayland. The site measures 110.5 metres wide and approximately 61.5 metres deep. The site is currently vacant with a vehicle entrance at the centre of the east boundary of the site which leads to a small area of hardstanding and a set of gates and fencing. These installations appear to be recent additions to the site. Within the site is a largely open area of grassed land with a number of young trees which are arranged in a line in accordance with the submitted plans. The edges of the site feature denser and more mature tree and hedgerow soft landscaping.

3.1.1.2 To the north of the site is the residential property of Orchard House and to the south is the residential property of Riversleigh.

##### **3.1.2 Description of proposal**

3.1.2.1 Planning permission is sought for the erection of a dwelling which would be located 26.7 metres from the east boundary of the site, 27.3 metres from the south boundary, 17 metres from the west boundary and 60 metres from the north boundary.

3.1.2.2 The proposed dwelling would have a 'H' shaped footprint with the roof of the main section of the dwelling measuring 23 metres wide and 10.5 metres deep with an eaves height of 2.5 metres and a maximum height of 8 metres with a recessed east elevation to create a covered verandah area to the east side of the dwelling. Two projections would be added to the rear with roofs that would measure 8.2 and 7.6 metres wide and 4.9 and 3.2 metres deep with maximum heights of 7 and 6.5 metres, the northernmost of which would not be enclosed and would therefore provide a covered verandah. At the front would be two further projections that would measure approximately 7 metres wide and 2 metres deep, each with additional minor projections to the front and side.

3.1.2.3 A gravel drive and parking area to the north of the dwelling would be provided that would lead from the access that is mentioned above for 26 metres before turning at a 90 degree angle to approach the north elevation of the dwelling. The drive would be aligned by the young trees that are described above. The remainder of the site would be used as gardens and amenity space.

3.1.2.4 The proposed dwelling would feature a garage and include ample space for the parking of cars to the north of the dwelling.

3.1.2.5 The materials to be used in the construction of the dwelling would include painted weatherboarding to the elevations and plain tiles or cedar shingles to the roof with timber framed doors and windows.

### **3.2 Conclusion**

- 3.2.1 Having taken all material planning considerations into account, an objection is raised to the principle of the proposed development, which by reason of the unsustainable location of the proposed development and the visual impact on the character, openness and intrinsic beauty of the countryside would be contrary to the National Planning Policy Framework and the policies of the Development Plan.

## **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 - Three dimensions to sustainable development
- 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

### **4.2 Approved Maldon District Local Development Plan (July 2012) Policies:**

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1– Design Quality and Built Environment
- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy N2 – Natural Environmental and Biodiversity
- Policy T1– Sustainable Transport
- Policy T2 – Accessibility

### **4.3 Relevant Planning Guidance / Documents:**

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

## 5. MAIN CONSIDERATIONS

### 5.1 Principle of Development

5.1.1 The site lies outside the settlement boundary of Mayland as defined by the approved Maldon District Local Development Plan (LDP) and therefore, the development is contrary to development plan policies.

5.1.2 Policy S1 of the Local Development Plan states that:

*“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, inter alia, the following key principles in policy and decision making:*

- 2) *Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations*
- 3) *Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*
- 4) *Support growth within the environmental limits of the District;*
- 5) *Emphasise the importance of high quality design in all developments;*
- 6) *Create sustainable communities by retaining and delivering local services and facilities;*
- 12) *Maintain the rural character of the District without compromising the identity of its individual settlements;*
- 13) *Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community”*

5.1.3 The requirement to focus strategic growth to the District’s main settlements is also reiterated in Policy S2. The reason for that is that these areas constitute the most suitable and accessible locations in the District. It is also noted that *“Strategic growth in the rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area”*.

5.1.4 In conjunction with policies S1 and S2, Policy S8 of the approved Maldon District Local Development Plan seeks to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.

5.1.5 The abovementioned policies are in compliance with the National Planning Policy Framework which in order to promote sustainable development in rural areas, suggests that housing should be located where it will enhance or maintain rural communities, such as small settlements. It is also stated that local authorities should avoid new isolated residential developments in the countryside, unless special circumstances indicate otherwise.

- 5.1.6 The site is located outside the settlement boundaries, with the entrance to the site being approximately 350 metres to the north of the settlement boundary of Mayland and the west edge of the site being approximately 150 metres from the east boundary of Mayland.
- 5.1.7 The site sits comfortably within the rural environment to the north east of Mayland with no built form on the site. The proposal would therefore represent the significant domestication of the countryside and result in the visual intrusion of built form into the countryside. The proposal, by reason of its location outside the settlement boundaries would, therefore, be harmful to the rural character of the area and contrary to the development plan policies. The visual impact of the proposal will be assessed fully below.
- 5.1.8 Recent appeal decision APP/X1545/W/16/3153141 which proposed 50 dwellings at land south of Riversleigh concluded that Mayland is a sustainable settlement with a reasonable range of day-to-day facilities and can accommodate some greenfield accommodation. However, as was stated those additional dwellings should be identified through neighbourhood planning. The Inspector concluded that the development would cause significant harm to the character and appearance of the area and fail to recognise the intrinsic character and beauty of this sensitive area of countryside. In reaching that conclusion it was noted that once a person has left the formal highway of Nipsells Chase and entered the rural unmade track, there is a change in character which makes the area distinctively rural. In that case, despite offering 40% affordable housing and a boost to the economy through the provision of 50 dwellings, it was concluded that the significant environmental harm of the development was not outweighed by the benefits of the development.
- 5.1.9 Similarly, in the case of earlier appeal decision (APP/X1545/W/15/3139154) on land east of Nipsells Chase, the Inspector concluded that the appeal site was viewed as part of the open countryside to the north and east of the settlement which extends from the village out to Lawling Creek and Mayland Creek.
- 5.1.10 It is noted that the proposal for a single dwelling would have a materially reduced visual impact than those proposals, but the development would also include fewer positive elements. A single dwelling would not make a significant contribution to housing provision within the District and would make no contribution towards the provision of affordable housing. Likewise, the erection of a single dwelling would not create substantial boosts to the local economy by way of supporting existing services or creating significant employment opportunities during the construction process.
- 5.1.11 In light of the above assessment and the previous conclusions of the Local Planning Authority and the Planning Inspectorate, it is considered that the location of the site should not be deemed to be unsustainable in terms of accessibility. However, it is considered that sustainability has to be assessed overall and in the round and in this case it is considered that the suitable accessibility of the site and the addition of one dwelling to the Council's housing land supply does not off-set the significant harm to the character and appearance of the countryside that is derived from the erection of a dwelling and the associated domestication of land in this location, which will be discussed fully below.

5.1.12 For the reasons stated above, an objection is raised to the principle of the proposed development. The development would be against the objectives of the relevant development plan policies and local and national planning guidance.

## **5.2 Design and Impact on the Character of the Area**

5.2.1 The planning system promotes high quality development through good inclusive design and layout and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design sought to create a high quality built environment for all types of development.

5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that “*The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*”.

5.2.3 Paragraph 64 also states that “*permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*”.

5.2.4 This principle of good quality design is reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
- b) *Height, size, scale, form, massing and proportion;*
- c) *Landscape setting, townscape setting and skylines;*
- d) *Layout, orientation, and density;*
- e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
- f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
- g) *Energy and resource efficiency.*

5.2.5 It should be also noted that policies S2 and S8 of the LDP seek to avoid new development outside defined development boundaries and LDP Policy D1 requires new development to be of a good standard of design and to contribute to and enhance local distinctiveness.

5.2.6 The proposed dwelling would be located outside the defined settlement boundary and by reason of its formal siting and more urban nature would appear entirely at odds and out of keeping with the rural character of the area. This would be harmful to the distinctive character of the area and it would have an unacceptable impact on its surrounding.

5.2.7 If considered in isolation and outside of its context the proposed large bungalow is considered to be of acceptable design and scale. Although taking up a significant

footprint and having a slightly top-heavy, roof dominated appearance, it is considered that the detailing of the dwelling and its architecture is inoffensive and would not be grounds to refuse an application, especially given that the NPPF discourages the Local Planning Authority from being overly prescriptive in terms of design.

5.2.8 Nevertheless, it is considered that this does not mitigate the harm that is caused by the domestication of the site and the erection of a dwelling within the countryside on land which is intended to be used for purposes akin to the countryside and not residential development.

5.2.9 On the basis of the above, it is considered that the proposed development, by reason of its siting, urban nature, plot size, layout, scale, proportions and design would result in a development out of keeping with the grain and character of the countryside.

### **5.3 Impact on Residential Amenity**

5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.

5.3.2 The proposed dwelling would be positioned centrally on a large plot, well away from the neighbouring dwellings to the north and south. The proposal would therefore have no impacts on the light, privacy or outlook of the neighbouring properties that could reasonably justify the refusal of the application.

### **5.4 Access, Parking and Highway Safety**

5.4.1 Policies D1 and T2 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.4.2 The Maldon District Council Vehicle Parking Standards (VPS) states that residential dwellings comprising four bedroom dwellings require a maximum of three parking spaces.

5.4.3 Ample car parking would be provided at the site and it is considered that the proposed use of an existing access would not pose a threat to highway safety given the low speed of traffic using the unmade track.

### **5.5 Private Amenity Space and Landscaping**

5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms.

5.5.2 The site would be served by ample amenity space to serve the dwelling and it is considered that the retention of the boundary landscaping and the recent planting of

trees within the site would be appropriate in this location. However, the formal landscaping of the site, akin to the grounds to a dwelling rather than the informal nature of a countryside location, adds to the ‘domestic’ character of the site rather than mitigates the impact of the proposed development. If approved, conditions would also be imposed to require details of boundary enclosures to be submitted and agreed.

## 5.6 Other Material Considerations

### 5.6.1 Ecology

5.6.1.1 Although the site is surrounded by a landscape that is a potential habitat, it is considered that the manner in which the site is currently kept means that it is unlikely to have substantial ecological capacity. If the proposal was considered to be acceptable it is considered that a condition could be imposed to require the protection of great crested newts during the development process and a scheme for the enhancement of habitat potential at the site.

### 5.6.2 Drainage System

5.6.2.1 The Environmental Health Services team has requested that conditions are imposed to address matters of surface water drainage and foul water drainage.

## 6. ANY RELEVANT SITE HISTORY

6.1 None.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	Objection on the grounds that the development is outside the Village Envelope and not in accordance with the emerging Neighbourhood Plan.	Comment noted.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC) Highway Authority	No comment	

### 7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	The Environmental Health Services team have requested that conditions are imposed to address matters of surface water drainage and foul water drainage.	Please refer to relevant paragraphs 5.7.1 and 5.7.3 of the report
Leisure and Liveability Officer	<p>An arboriculture survey and assessment is likely to be required.</p> <p>The proposal would include hedgerow planting that would not complement the existing native hedgerow. Native hedges should be planted to integrate the proposals into the local landscape and enhance ecology. The proposals for this and other new planting should be conditioned in a detailed hard and soft landscape plan.</p> <p>Great Crested Newts are known to be in close proximity to the site. Small but linked areas of suitable habitat such as meadow and light scrub, enhanced by wood or rubble piles should be created inside the boundary hedges in order to provide enhanced terrestrial habitat. These areas should be detailed on the hard and soft landscape plan.</p>	

### 7.4 Representations received from Interested Parties (*summarised*)

7.4.2 Eight letters of objection have been received from the following people which **object** to the application on the grounds listed below:

- Michelle Wright, 80 Bramley Way, Mayland, CM3 6ET
- James Marshall, 80 Bramley Way, Mayland, CM3 6ET
- Mr Keith and Mrs Meryl Scrivener, 37 North Drive, Mayland, Chelmsford, Essex, CM3 6AG
- John and Diane Rust, 37 Nipsells Chase, Mayland, CM3 6EH
- Simon and Carole Ash, 76 Nipsells Chase, Mayland, CM3 6EJ
- Lesley and Tony Hoyte, 43 Orchard Drive, Mayland, CM3 6EP
- Mrs HD Whiten, 22 Hillcrest, Mayland, Chelmsford, CM3 6AZ

Objection Comment	Officer Response
The recent removal of trees from the site has detracted from the appearance of the area and the erection of a dwelling would cause further visual harm.	Noted. Some of these issues are not considered to be material planning considerations. Where relevant to the application, these issues have been addressed above.
This proposal would be the first of many in this area.	
The track section of Nipsells Chase is becoming busy and dangerous.	
The metal gates that have been erected at the entrance to the site are visually intrusive.	
The infrastructure of Mayland cannot cope with additional development.	
The applicant has sold a local property.	
The proposal would be contrary to the village plan.	
The proposal is outside of the development plan boundary.	

7.4.1 12 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::

- Miss Tina Baker, 10 Princes Avenue, Mayland, Chelmsford, Essex, CM3 6BA
- Anne Pharoah, Wayback Farm, St. Stephens Road, Cold Norton, CM3 6NP
- Helen Theckston, 35a Katonia Avenue, Mayland, Essex, CM3 6AD
- Clare Armario, 14 Orchard Drive, Mayland, CM3 6EP
- Scott Sampson, 43 West Avenue, Maylandsea, CM3 6AE
- Lee Davis, 52 Bramley Way, Mayland, CM3 6ES
- Ms Anne Brown, 487 Beachy Drive, St Lawrence, Southminster, Essex, CM0 7NB
- Mr Dean Poulter, 8 Batts Road, Steeple, Southminster, Essex, CM0 7LE
- Mrs Frances White, Nipsells Farm Lodge, Nipsells Chase, Mayland, CM3 6EJ
- Mr and Mrs Phillips, 6 Sea View Parade, Mayland, CM3 6EL
- Ms Lesley Clark, Dekeia, 35 Promenade, Mayland, Chelmsford, Essex, CM3 6AR
- Mrs Beverly Corcoran, The Barn, Fambridge Road, Mundon, Essex, CM9 6NL

Supporting Comment	Officer Response
The development is much smaller than the site could accommodate and this therefore demonstrates that it is to be occupied by someone that wishes to live and enjoy the area.	Noted.
The proposal is in-keeping with the traditional 'plot' form and style of Mayland.	
The proposal will have little impact on landscaping and wildlife.	
The recent clearance of the site has approved the appearance of the site and makes it an attractive location.	
An exception to planning policy should be allowed on the grounds that there is a local need and affordable housing shortages.	
The application would support a person living in their home town.	
The proposal would have little impact on the countryside.	
If the applicant owns the land they should be allowed to build on it.	
The proposed bungalow will enhance the appearance of the site.	
There used to be a 'tumbledown' cottage at the site which is hereby being replaced.	
Little houses dotted along the street is preferable to housing estates.	
The bungalow is similar to the surrounding properties.	

7.4.3 One additional letter has been received from Julie Angus, Orchard House, Nipsells Chase which raised questions about various matters relating to the application and the Parish Council meeting in relation to this application.

**8. REASON FOR REFUSAL**

1 The application site lies within a rural location outside of the defined settlement boundary of Mayland where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development, by virtue of its urban nature and the siting, layout and design of the dwelling would fail to protect and enhance the

character and appearance of the rural area and the built form would result in an unwelcome visual intrusion into this undeveloped section of the countryside to the detriment of the character and appearance of the rural area. The development would therefore be unacceptable and contrary to policies S1, S2, S8 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).