



**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
9 OCTOBER 2017**

Application Number	FUL/MAL/17/00921
Location	514 Moorhen Avenue St Lawrence
Proposal	Remove existing dilapidated dwelling & replace with 2x contemporary family homes with associated parking & gardens.
Applicant	Mr Paul Miller - P & G Miller Properties
Agent	Mr Craig Pallett - BDA
Target Decision Date	04.10.2017
Case Officer	Hannah Bowles
Parish	St Lawrence
Reason for Referral to the Committee / Council	Member Call In

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

514 Moorhen Avenue, St Lawrence
FUL/MAL/17/00921



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


MALDON DISTRICT COUNCIL

www.maldon.gov.uk

Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	SE Committee 17/008921/FUL
Date:	26/09/2017
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the southeast side of Moorhen Avenue which is a private road within the settlement boundary of St Lawrence. The application site amounts to 1,254.55m² (0.12Ha) and is currently occupied by a detached bungalow with an attached garage. The surrounding area is made up of a mix of dwellings which vary in scale and bulk, house type, architectural design and finish materials. The application site is located within Flood Zone 3a.
- 3.1.2 Planning permission is sought to demolish the existing dwelling on site and construct two detached, two storey dwellings.
- 3.1.3 The application site would be split to provide two separate plots. The proposed dwellings would be located towards the front of the plots set back around 12m from the public highway. Access for one dwelling is proposed to be taken from the existing access point from Moorhen Avenue (house A as per submitted plans). A proposed new vehicular crossover is proposed from Moorhen Avenue to serve the second dwelling (house B).
- 3.1.4 The proposed dwellings would have a maximum depth of around 10m, a maximum width of 11m and a maximum height of 6.5m.
- 3.1.5 The application represents a resubmission following a refusal, the previous reason for refusal is as follows:

The proposed development is located within Flood Zone 3a which seeks to direct and intensify residential development, classified as "more vulnerable" as per the Flood Risk Vulnerability Classification, in an area with a high probability of flooding contrary to paragraphs 101 and 102 of the National Planning Policy Framework and the aspirations of the Maldon District Replacement Local Plan and submitted Maldon District Local Development Plan. Furthermore, the proposal is considered to fail both the Sequential Test and the Exception Test given that the Council can demonstrate a five year housing land supply on sites which have been subject of Sequential Testing; the wider sustainability benefits to the community do not outweigh the flood risk posed and because it is not considered that that the proposed development will be safe for its lifetime taking account of the vulnerability of its users due to the lack of a sufficient Flood Risk Assessment.

3.2 Conclusion

- 3.2.1 The application is a resubmission following a refusal. It is not considered that the previous reason for refusal has been overcome. The application site lies with flood zone 3; the proposed development fails the sequential and exception tests and it is not considered that that the proposed development will be safe for its lifetime, taking account of the vulnerability of its users and the insufficient Flood Risk Assessment.

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:

Government Guidance

The National Planning Policy Framework (NPPF), including paragraphs:

- Para 7: Sustainable development includes economic, social and environmental roles which require the use of natural resources prudently and minimizes waste and pollution.
- Para 17: Core principles – effective use of land that has been previously developed (brownfield land) provided not of high environmental quality. The role and character of different areas should be taken into account including the intrinsic character and beauty of the countryside.
- Para 47: There needs to be a significant boost to the supply of housing to provide high quality homes. Councils should demonstrate that they have a 5 year supply of deliverable housing land.
- Para 56: Good design is a key aspect of sustainable development.
- Para 103: Development does not increase flood risk elsewhere and development should satisfy the sequential and exception test.
- Para 109: Planning system should contribute to and enhance the natural and local environment by protecting and enhancing local landscapes.
- Para 118: Local authorities should aim to conserve and enhance biodiversity

4.2 Maldon District Local Development Plan approved by the Secretary of State:

- D1 - Design Quality and Built Environment
- H4 - Effective Use of Land
- H2 - Housing Mix
- T1 - Sustainable Transport
- T2 - Accessibility
- S1 - Sustainable Development
- S8 - Settlement Boundaries and the Countryside
- D5 - Flood Risk and Coastal Management

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 Policy S8 of the current Local Development Plan (LDP) provides the strategic position for the District through defined development boundaries for villages / urban areas within the District and seeks to protect areas outside of defined development boundaries from new development in the interests of protecting the countryside and coastal landscapes of the District. Any proposal should be assessed in accordance with policy D1 where the compatibility of a scheme to its surroundings and neighbouring residents is imperative to the acceptability of a development in any location.
- 5.1.2 Furthermore, the LDP has been produced in light of the NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three dimensions identified in the NPPF.
- 5.1.3 The Council is able to demonstrate a supply of specific deliverable sites sufficient to provide more than five years' worth (6.04 years) of housing against the Council's identified housing requirements - Source: Maldon District Council (MDC) Five Year Housing Land Supply Statement 2015/16 – August 2016.
- 5.1.4 Paragraph 17 of the NPPF sets out a core planning principle as part of its overriding sustainability agenda, stating that planning should, “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”. This is reflected in policy T2 of the Local Development Plan. The proposal would comply with this requirement.
- 5.1.5 The principle of a dwelling in this location is in accordance with policies S1 and S8 of the Local Development Plan as the site lies within the defined settlement boundary of St Lawrence.
- 5.1.6 It is also in accordance with the core principles of the NPPF which directs new dwellings to the defined development boundaries in order to protect the countryside. The material considerations defining the acceptability of the proposed development are assessed below.

5.2 Flood Risk

- 5.2.1 The site lies within Flood Zone 3a which is the highest risk flood zone. The proposal is for two dwellings, the site is currently occupied by one dwelling which is proposed to be demolished to make way for the proposed development.
- 5.2.2 New dwellings and residential uses are considered as being ‘more vulnerable’ based on the Flood Risk Vulnerability Classification (NPPG) and in accordance with National Planning Policy requires the Exception Test to be applied in addition to the Sequential Test.
- 5.2.3 The Sequential Test seeks to steer new development to areas at the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably

available appropriate sites in an area with a lower risk. The availability of such land, in accordance with the NPPF should be provided in the minimum of a “five year land supply”. The Council can now demonstrate more than five years’ worth of housing since publication of the latest Five Year Housing Land Supply Statement 2015 / 16 dated August 2016. Therefore, the application site is not needed for development at this current time; as the LDP allocates strategic sites for development on areas within the lowest probability of flooding and therefore these sites are available for development. The LDP allocated sites were Sequentially Tested during the LDP preparation.

- 5.2.4 Whilst the site is occupied by a single dwelling the proposal seeks to intensify the site by doubling the number of residential units within the site. On this basis an objection to the development is raised in respect of the failure of the Sequential Test and the as a result of intensification of the site for residential purposes.
- 5.2.5 For these reasons the site is considered to fail the Sequential Test. Paragraph 102 of the NPPF sets out that if it is not possible, or consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. In this instance it is considered that it is possible and consistent with wider sustainability objectives for residential development to be located in zones with a lower probability of flooding and the proposal is considered to fail the Sequential Test and therefore the outcome of the Exception Test is of reduced relevance.
- 5.2.6 In respect of the Exception Test, paragraph 102 sets out that it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment (FRA) where one has been prepared; and a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Where the Sequential Test has been passed, both elements of the Exception Test will have to be passed for development to be allocated or permitted.
- 5.2.7 An updated Flood Risk Assessment has been submitted to accompany this resubmission. The FRA has been assessed by the Environment Agency as part of the consultation. It is considered that the document still fails to comply with the requirements set out in the National Planning Practice Guidance. The submitted FRA does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In this instance the Environment Agency has issued a holding objection to the application. In particular, the submitted FRA fails to;
1. provide a topographic survey.
 2. provide finished floor levels for the proposed development.
 3. correctly calculate the expected flood depths on site and within the building.
 4. assess breach risk for the proposed development.
 5. assess safe access and egress for the proposed development.
 6. use the correct defence crest level.
 7. reassess whether the proposed development has safe refuge.

5.2.9 The proposed development is therefore considered to fail both the Sequential and Exception Tests, given that the Council can demonstrate a five year housing land supply on sites which have been subject of Sequential Testing; the wider sustainability benefits to the community do not outweigh the flood risk posed and it is not considered that that the proposed development will be safe for its lifetime, taking account of the vulnerability of its users and the insufficient Flood Risk Assessment.

5.3 Design and Impact on the Character of the Area

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

5.3.2 No objection with regards to the design of the proposed development or impact on the character of the area was raised within the previous application; there are no material changes to the scheme that would alter this stance.

5.3.3 The application site is currently occupied by a single storey dwelling of limited architectural merit; simplistic in design with a gable end main pitched roof and flat roof rear and side extensions. The existing dwelling is commensurate with surrounding built form, consisting of an eclectic mix of single and two storey properties of varied styles and designs. The contribution of the existing dwelling to the character and appearance of the streetscene is considered to be limited. As a result of proposed development there would be a noticeable increase in the amount of built development on site due to the proposal of 2 two-storey dwellings.

5.3.4 The application site has a width of approximately 28 metres – the widest within Moorhen Avenue. Site widths within the streetscene typically range from around six metres to fifteen metres. The siting and layout of the proposed development, consisting of the subdivision of the existing site with the proposed dwellings located in-line with the existing linear pattern of development, is not considered to appear cramped or contrived due to the large application site.

5.3.5 A distance of approximately 1.7 metres is proposed between each of the properties, with an average distance of 1.4 metres between the side elevations of the properties adjacent to the north-east and south-west boundaries. These distances are also in accordance with those observed within the streetscene and would not appear out of keeping with the prevailing pattern of built form. In addition, a distance of 12 metres would exist between the principle elevation of the dwellings and the highway; also in line with existing dwellings.

5.3.6 The existing dwelling to be demolished totals approximately 5.5 metres in height. The proposed dwellings would have a maximum height of 6.5 metres; an additional one metre increase. The existing dwelling has a width of approximately 17 metres and a depth of approximately 11 metres. The proposed dwellings would have widths of 11 metres and depths of 10 metres. The application site is un-neighboured to the north-east, with a single storey dwelling located to the south-west. Further examination of any effect on the amenity of the neighbouring occupiers is explored below. It is considered that the siting, layout, size, scale and bulk of the proposed

development would be seen in context with the existing character and appearance of the area and would not appear cramped or contrived.

- 5.3.7 In terms of design, the proposed dwellings would consist of a main gable-end, pitched roof element with single storey, flat roof 'wrap-around' addition containing an attached garage and entrance porch. Flat roof front and rear dormers would dominate the roofscape at widths of 6.7 metres, projecting at a maximum of 3 metres. Fenestration would consist of a simple arrangement of asymmetric openings and large bi-fold doors to the rear ground floor. The proposed development is to be finished in a mixture of materials consisting of facing brickwork, render, cladding and slate tiles.
- 5.3.8 The immediate streetscene and the surrounding areas within St Lawrence consist of varied designs of dwellings, from traditional cottages to modern, contemporary homes. The proposed development would appear contemporary in the streetscene, due to its design including detailing of the large flat roof dormers and single storey flat roof elements. It is considered that the design of the proposed development would not result in demonstrable harm to the character and appearance of the area.

5.4 Impact on Residential Amenity

- 5.4.1 No objection with regards to the impact of the proposed development on the amenity of the neighbouring occupiers was raised within the previous application; there are no material changes to the scheme that would alter this stance.
- 5.4.2 517 Moorhen Avenue is located approximately 2.5 metres south-west of the proposed side elevation of the proposed dwelling A and has a number of windows facing the application site. Due to the only opening on the side elevation of proposed dwelling A being a kitchen window 5.5 metres from no.517, and containing no habitable accommodation, (kitchen is not considered a habitable room), no direct overlooking would occur to this property. The two-storey element of house A would be located at a distance of 5.7 metres from no.517 Moorhen Avenue. Due to this distance and as the proposed dwellings will not extend further than the neighbouring dwelling; it is considered that there would be not be a harmful loss of light, overshadowing or dominance to the detriment of the amenity of the neighbouring occupiers as a result of the proposed development. This consideration relates to the neighbouring dwelling itself as well as the private rear amenity space.
- 5.4.3 Furthermore, House B would only be neighboured by house A. The only opening facing each of the properties proposed is a first floor bathroom window, proposed to be obscurely glazed.
- 5.4.4 It is therefore considered that the proposed development would not result in any unacceptable overlooking, loss of privacy, dominance or overshadowing to the detriment of the amenity of the neighbouring occupiers.

5.5 Access, Parking and Highway Safety

- 5.5.1 No objection with regards to access, parking or highway safety was raised within the previous application; there are no material changes to the scheme that would alter this stance.

- 5.5.2 Access to the proposed dwellings would be taken from Moorhen Avenue to the front of the site. The existing unmade road with no kerb is currently open and with the removal of vegetation will allow for appropriate vehicular egress to the site for house B. House A is proposed to utilise the existing access point. It is not considered that the proposed vehicular accesses would be to the detriment of highway safety or the free flow of traffic due to suitable visibility splays and wide access and egress points. Each dwelling would have a front amenity space for the parking of vehicles which measures approximately 95m².
- 5.5.3 The Parking Standards are expressed as maximum standards and Government guidance encourages the reduction in the reliance on the car and promotes methods of sustainable transport. In order to comply with policy T2 (Vehicle Parking Standards), for dwellings of this size the provision of two parking spaces should be provided. The development proposes two parking spaces to the front of the new dwellings, each with a garage space for vehicular parking. Therefore, the off-street vehicular parking provision for the proposed development is in excess of the recommended standard.

5.6 Private Amenity Space and Landscaping

- 5.6.1 No objection with regards to the private amenity space or landscaping was raised within the previous application; there are no material changes to the scheme that would alter this stance.
- 5.6.2 Policy D1 requires that private amenity space is provided that is appropriate to the type of development. The Essex Design Guide advises a suitable garden size is commonly recognised as 100m². Each dwelling would accommodate a rear amenity area in excess of 300m², which is considered to meet the needs of the future occupiers.
- 5.6.3 Little detail has been submitted in relation to the landscaping of the site, with the proposed block plan stating the site will be hard and soft landscaped. It is considered the proposed landscaping of the site could be controlled through an appropriate condition requiring details to be submitted prior to commencement.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/16/00785** - Demolish existing dwelling and construct two dwellings. Refused – 16.09.2016.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
St Lawrence Parish Council	Support.	Noted.

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex Highways	Moorhen Avenue is a private road; consequently, from a highway and transportation perspective, the Highway Authority has no comments to make on the proposal.	Noted.
Environment Agency	Object – The FRA does not comply with the requirements set out in the PGG and therefore, does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.	Addressed within section 5.2 of the Officers report.

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions and informative.	Noted.

7.4 Representations received from Interested Parties

7.4.1 A letter has been received **commenting** on the application the main points are summarised in the table below:

- Claire & Andy Hailstone – Hawthorns Moorhen Avenue St Lawrence Essex CM0 7LT

Comment	Officer Response
It is very important that consideration and courtesy, by contractors/personnel/visitors etc involved in the development, are shown, in respect of keeping the road, Moorhen Avenue, free of parked vehicles, equipment, etc. This part of the road, where No.514 is located, is very narrow and there are at least 4 properties that have driveways opposite or adjacent to the proposed site, and any obstructions in the road would prevent/restrict access to and from these properties, especially when manoeuvring caravans etc, as many	Essex Highways have not suggested any conditions or informatives in relation to the highway. As Moorhen Avenue is a private road it would be a civil matter.

Comment	Officer Response
<p>residents do on a regular basis, in this road.</p> <p>Also this road is maintained and paid for by the residents themselves, therefore planning approval must include satisfactory re-instatement of the road.</p>	

8. REASON FOR REFUSAL

- 1 The proposed development is located within Flood Zone 3a which seeks to direct and intensify residential development, classified as "more vulnerable" as per the Flood Risk Vulnerability Classification, in an area with a high probability of flooding contrary to paragraphs 101 and 102 of the National Planning Policy Framework and the policy D5 of the Maldon District Local Development Plan. Furthermore, the proposal is considered to fail both the Sequential Test and the Exception Test given that the Council can demonstrate a five year housing land supply on sites which have been subject of Sequential Testing; the wider sustainability benefits to the community do not outweigh the flood risk posed and because it is not considered that that the proposed development will be safe for its lifetime taking account of the vulnerability of its users due to the lack of a sufficient Flood Risk Assessment.