



**REPORT of  
CHIEF EXECUTIVE**

---

to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**30 October 2017**

<b>Application Number</b>	<b>FUL/MAL/17/00937</b>
<b>Location</b>	Claremont, Chelmsford Road, Woodham Mortimer
<b>Proposal</b>	Removal of conditions 3, 4, 5, 6 & 7 on approved planning permission FUL/MAL/16/00581 (Replacement dwelling - single storey extension, re-roofing with rooms in roof and detached cart lodge)
<b>Applicant</b>	Mr. & Mrs. W Prentice
<b>Agent</b>	Mr. Ashley Robinson (A.R.)
<b>Target Decision Date</b>	03 November 2017
<b>Case Officer</b>	Hilary Baldwin, TEL: 01621 875730
<b>Parish</b>	<b>WOODHAM MORTIMER</b>
<b>Reason for Referral to the Committee / Council</b>	Parish Trigger

1. **RECOMMENDATION**


**APPROVE** with no conditions.

2. **SITE MAP**

Please see overleaf.

**Claremont, Chelmsford Road, Woodham Mortimer**  
**FUL/MAL/17/00937**



 <p><b>MALDON DISTRICT COUNCIL</b></p> <p><b>Copyright</b>                  For reference purposes only.                  No further copies may be made.                  This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright.                  Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.                  Maldon District Council 100018588 2014</p> <p><a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a></p>	Scale:	1:1,250
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	North West Committee
	Date:	17/10/2017
	MSA Number:	100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located within the parish of Woodham Mortimer and within the settlement boundary located along Chelmsford Road, which is separate from the main settlement boundary of Woodham Mortimer. The site is on the northern side of Chelmsford Road which is a classified A-road connecting Maldon with Danbury.
- 3.1.2 The site comprises a new replacement dwelling with a detached cart lodge within the front amenity space and which benefits from a drop kerb vehicle crossing. The gradient of the site gently slopes towards the north with the dwelling set lower than the adjacent highway.
- 3.1.3 The property at the application site is a chalet style dwelling with rooms in the roof which benefit from front and rear elevation dormer windows. The property is finished in white render with grey fenestration, grey weatherboarding and a slate roof. The cartlodge within the front amenity space matches the dwelling in terms of elevational materials.
- 3.1.4 The dwelling subject of this report was granted conditional permission in 2016 with the works now complete. The proposal subject of this report seeks to remove conditions 3, 4, 5, 6 and 7 of the extant permission.

#### **3.2 Conclusion**

- 3.2.1 It is considered that the removal of conditions 3, 4, 5, 6 and 7 on approved planning permission FUL/MAL/16/00581 is acceptable having regard to the material considerations that are set out below.
- 3.2.2 It is considered that the proposed development is acceptable and compliant with policies S8, D1, H4 and T2 of the Local Development Plan and the guidance and provision as contained within the National Planning Policy Framework.

### **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

#### **4.1 National Planning Policy Framework 2012 including paragraphs:**

- 17, 7

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- T2 Accessibility

#### **4.3 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 lies within the settlement boundary of Woodham Mortimer as defined in the approved Maldon District Local Development Plan (LDP) and benefits from an extant permission for a replacement dwelling which has been implemented. Therefore the principle of a replacement dwelling on this site has already been established.
- 5.1.2 The approved LDP has been produced with cognizance of the NPPF's emphasis on sustainable development and Policy S8 seeks to direct development to within settlement boundaries to protect the intrinsic beauty of the countryside. As the site is already developed for residential use and within the new settlement boundary of Woodham Mortimer, the site is considered sustainable in this instance. Furthermore policy H4 supports the principle of replacement dwellings.
- 5.1.3 Due to the Secretary of State's determination of the LDP and its policies on 21st July 2017, full consideration must now be given to those policies contained therein. It is noted that the reasons for appending each condition to the extant permission refer to policies within the adopted Maldon District Replacement Local Plan. Whilst those policies have now fallen away with the approval of the LDP, in this instance the direction of travel of the now approved policies referenced in this report are analogous to the previous policies in determining this application.

#### **5.2 Relevant Planning History**

- 5.2.1 The site was granted conditional approval for a replacement dwelling in 2016 and the erection of a dwelling has now been completed. It is noted from the planning history that the cart lodge granted approval with the original scheme has been amended, but it is pertinent to note that the outside envelope of the structures in terms of scale, mass, bulk and height have been built in accordance with the relevant approved plans.
- 5.2.2 The application for the replacement dwelling was granted conditional approval with five of those conditions not complied with prior to commencement or during the construction phase and this current proposal seeks to remove those conditions which it is now stated are not relevant, or cannot now be conformed with. Section 73 of the Town and Country Planning Act 1990 (as amended), allows for the variation/removal of conditions and the Local Planning Authority may grant a new permission without the conditions. Assessment should be based on the development that has been undertaken.

5.2.3 The submission seeks to remove condition 3, 4, 5, 6 and 7 from the extant permission which relate to the following.

- **Condition 3** – External surfaces to be constructed of materials and finish which match the existing building
- **Condition 4** – The submission of a Construction Management Plan to cover the duration of the construction phase
- **Condition 5** – The process of assessment, mitigation and measures in the event that land contamination is found when carrying out the development.
- **Condition 6** – A foul drainage scheme to be submitted and approved in writing prior to the commencement of the development.
- **Condition 7** – A surface water drainage scheme to be submitted and approved in writing prior to the commencement of the development.

5.2.4 Unless conditions still comply with the following 6 tests, they should be removed if not consistent. The six tests require that conditions are:

- Necessary
- Relevant to planning
- Relevant to the development to be permitted
- Enforceable
- Precise
- Reasonable in all other respects

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

5.3.1 The requirement to ensure high quality development and inclusive design is seen as being of great importance in the NPPF. It is seen as being a key aspect of sustainable development and should establish a strong sense of place to create attractive places to live. It is seen as being;

*“indivisible from good planning and should contribute positively to making places better for people.”*

5.3.2 Approved policy D1 also states that development must respect and enhance the character and local context and make a positive contribution in terms of:

- Architectural style, including materials, design features and innovative design
- Scale, height, massing and proportion
- Landscape setting
- Historic environment particularly in relation to designated assets and:
- The natural environment

5.3.3 In relation to Condition 3 of the extant permission, it is noted that whilst that application was considered a replacement dwelling, the condition stated that the materials should match the existing building. As such, compliance with the plans could not be undertaken as the original building was a brick bungalow whilst the submitted and approved submission stated that the replacement would comprise of face brickwork and weatherboard with concrete interlocking roof tiles. For clarification the applicant has stated that the external materials are as follows:

- Marley Eternit Weatherboard – Grey
- Rendered walls – White

- Stoneleaf Slates Interlocking Roof Tiles - Charcoal

5.3.4 The dwelling as built now comprises white render elevations and composite weatherboard in a different configuration as that originally approved, together with a slate tile roof and powder coated aluminium fenestration. However, the external elevations are considered to complement the scheme and do not detract from the character and appearance of this part of Woodham Mortimer, which encompasses an eclectic mix of dwellings which utilize a variety and palette of materials.

5.3.5 As such, as the dwelling is now complete, and the elevational materials utilised accord with policy D1 there is no objection to the removal of condition 3 of the extant permission on the grounds that the retention of the condition is unnecessary.

#### **5.4 Impact on Residential Amenity**

5.4.1 The site is set within a ribbon style development along the northern side of Chelmsford Road. As such, there is residential development to either side of the dwelling. However as previously stated, the application subject of this report is for the removal of conditions for elevational materials, a Construction Management Plan, details of foul and surface water drainage and potential land contamination during construction.

5.4.2 As the development is now complete and the built form per se is in accordance with the extant permission, there would be no additional impacts upon adjacent neighbouring occupiers should this submission be granted permission. Furthermore, the change in elevational materials is considered acceptable and no letters of representation have been submitted by adjacent neighbouring occupiers.

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

5.5.1 There would be no change to the highway access to the site or off-site parking provision. However, as the submission proposes to remove the requirement for the submission of a Construction Management Plan, the Highway Authority has been consulted.

5.5.2 There is no objection from the Highway Authority for the removal of condition 4. Furthermore, as the construction phase is now complete, it is not considered appropriate or necessary to require adherence to this condition. The condition can therefore be removed on the grounds that its retention would be unnecessary.

#### **5.6 Other Considerations**

5.6.1 The remaining three conditions that it is proposed to remove relate to surface water drainage, foul drainage and a condition related to the process to be undertaken should land contamination be found during the construction phase.

5.6.2 As such the Council's Environmental Health Service (EHS) has been consulted. There is no objection for the removal of condition 7 for surface water drainage as the works undertaken are acceptable and, therefore, it is not necessary to retain this condition.

- 5.6.3 Whilst there is concern with the removal of condition 5 which relates to land contamination, it is noted that this condition only required submissions and procedural undertakings to the local planning authority in the event that land contamination was found to be present during the construction of the replacement dwelling. In this instance, the applicant has confirmed in writing that no such contamination was found and subsequently no action was required. There is, therefore, no objection to the removal of this condition, as the onus lies with the applicant in this instance to undertake notification. If contamination should subsequently be found at the site, this would be addressed by other legislation and therefore the condition is now unnecessary.
- 5.6.4 The Environmental Health Service initially objected to the removal of condition 6 which required the submission of a foul drainage scheme to serve the development prior to commencement of the works. However, from the Council's own records there is compliance and sign off for the Building Regulations for this element and no further information has been required by that service. It can, therefore, be surmised that this requirement has been assessed and found satisfactory. Furthermore, the applicant has stated that compliance with Building Regulation Ref: FP/16/0224/2 and drawings references 2 Rev G, and 4 Rev B has received approval and a completion certificate for the property granted. The condition can therefore be removed on the grounds that its retention would be unnecessary.
- 5.6.5 It is noted that the Parish Council has objected to the proposal and stated that in their opinion the "valid conditions imposed on the approved application FUL/MAL/16/00581 provided an element of development control and should not be removed.". Whilst this comment is noted, as assessed within this report, in this instance the retention of the conditions and requirement for compliance post construction are not now necessary. Enforcement of the breach of conditions is not necessary and it is considered sensible to resolve the matter by granting a varied permission.

## 6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/16/00581** –Replacement dwelling – single storey extension, re-roofing with rooms in roof and detached cart lodge.  
Approved – 29 July 2016
- **FUL/MAL/17/00223** – Proposed detached cart lodge  
Approved – 25 April 2017

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer Parish Council	Object	The comments of the Town Council are noted in

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
		section 5.6 of this report.

## 7.2 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health Service	<p>Condition 6 – The foul drains were to be connected to a Klargester Can the applicant confirm that a package treatment plans was installed</p> <p>Condition 7 – Building Control have confirmed that soakaway’s were inspected there is no further comment</p>	The comments of the EHO are noted

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

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Highways	No objection	The comments of the Highway Authority are Noted

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

7.3.1 None received at the time of writing this report.

## 8. **PROPOSED CONDITIONS**

Approve with No Conditions.