



**REPORT of
CHIEF EXECUTIVE**

to
NORTH WESTERN AREA PLANNING COMMITTEE
30 October 2017

Application Number	FUL/MAL/17/01037
Location	Land Between 4 Oaktrees And Lee Cottages, The Street, Little Totham
Proposal	Three bed bungalow
Applicant	Mr. J Purdy
Agent	Mr. Peter Le Grys – Stanfords
Target Decision Date	08 November 2017
Case Officer	Hilary Baldwin
Parish	Little Totham
Reason for Referral to the Committee / Council	Departure from the Local Plan Parish Trigger

1. **RECOMMENDATION**


APPROVE subject to the conditions as detailed within Section 8 of this report.

2. **SITE MAP**

Please see overleaf.

Land Between 4 Oaktrees And Lee Cottages, The Street, Little Totham
FUL/MAL/17/01037



 <p>MALDON DISTRICT COUNCIL</p> <p>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 Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p>www.maldon.gov.uk</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 lies directly adjacent to the settlement boundary of Little Totham and forms a grassed area providing access to a field to the rear of dwellings which front the highway. It is located between existing properties, with a timber Grade II listed barn on the opposite (western) side of the highway. The Street comprises a mix of properties of varying designs with both single storey and two storey properties within the vicinity of the site.

3.2 Planning permission is sought to erect a single storey detached dwelling with off-road parking facilities and private amenity space.

3.3 The dwelling would have overall measurements of 18m deep by 10m wide and an overall ridge height of 5.6m. The design of the property would be that of a single storey property with a small hipped roof front (west) and southern side projection. At the rear (eastern end), there would be a further small pyramidal roof projection set at 45° to the main dwelling which would take advantage of the site shape and be for the benefit of a kitchen. The three projections would have overall heights of 4m.

3.4 In terms of external materials the property would have a brick plinth, weatherboard elevations and a red clay tile roof. At the front elevation, an over-sailing roof would provide a covered area for the front entrance.

3.5 A vehicle access would lead to off-street parking for two vehicles.

3.6 Conclusion

3.6.1 Having regard to the location of the proposed dwelling, it is considered on balance that the development would accord with the tripartite approach of sustainability as defined by the National Planning Policy Framework. As such the proposed dwelling would accord with the stipulations of policies S1, S8, H4 and D1 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:

- 14, 49 and 59

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

- D3 Conservation and Heritage Assets
- H4 Effective Use of Land
- T1 Sustainable Transport
- 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 Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).
- 5.1.2 The proposal is for a new dwelling outside of, but directly adjacent to, the settlement boundary of Little Totham as defined by the approved Local Development Plan and is, therefore, considered contrary to policy in principle.
- 5.1.3 Policies S1 and S8 of the Local Plan 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.
- 5.1.4 The Maldon District, outside of the defined settlement boundaries is predominantly rural in nature. However, in this instance, the site lies between properties within the settlement boundary and a crescent of four properties which are outside. The settlement boundary forms the southern side boundary of the site.
- 5.1.5 Therefore, whilst the principle of a new dwelling outside of a defined settlement boundary is contrary to the Council's spatial approach of locating new dwellings within the development boundaries of existing built up areas, in this application the particular location of the dwelling and the specific details of the proposal and site specific constraints and benefits must be assessed.
- 5.1.6 The planning and appeal history of the site is highly pertinent in the assessment of this current application. These are discussed in the next section of this report.

5.2 Relevant Planning History

- 5.2.1 The site has been subject to two previous applications for development of the site, OUT/MAL/14/00929 and FUL/MAL/16/00296 for a residential dwelling. Both

applications were refused permission by the Local Planning Authority and subsequently both were dismissed through the appeal process.

- 5.2.2 However, it is highly pertinent to refer to and note both the appeal Inspector's reports on these applications.
- 5.2.3 The initial application was outline in form with all matters reserved for consideration at the reserved matters stage. The appeal Inspector for this application concluded that the development of the site would not harm the character and appearance of the area, (subject to appropriate design) and that the Council's concern with regard to sustainability was not a valid reason for the scheme to fail. The main concern was with regard to the living conditions of occupiers of No's 1 & 2 Lee Cottages. As the submission was outline in form with no matters for consideration, the Inspector deemed that impact upon occupiers of those properties could not be ascertained and it could not be safely concluded that no harm would arise in respect of the living conditions at adjacent properties.
- 5.2.4 The secondary application was a full application and comprised a two storey property. The appeal Inspector for this application deemed that the mains issues were the effect on the living conditions of the occupiers of adjacent dwellings with regard to outlook, the character and appearance of the area and highway safety. The Inspector concurred with the findings of the first Inspector in that the proposal for development of the site for a residential dwelling would not harm the character and appearance of the area and that there would be a harmful effect on highway safety.
- 5.2.5 With regard to the impact upon adjacent residential occupiers, it was deemed that there would not a loss of daylight or sunlight for existing occupiers but that there would be substantial harm to the outlook and living conditions of neighbouring occupiers which would result in clear conflict with the development plan.
- 5.2.6 It is therefore considered that, notwithstanding the approval of the Local Development Plan since the determination of the previous two applications, comparisons and contrasts need to be drawn between all three applications. Furthermore, the second appeal Inspector was mindful of the then emerging Local Development Plan and the Council's position with regard to the Five Year Supply of Housing Land.

5.3 Housing Need

- 5.3.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.3.2 Policy H2 of the LDP and its preamble, which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA), shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units, and around 71% of all owner occupied properties having three or more bedrooms.
- 5.3.3 The Council is, therefore, encouraged in policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal would result in

1, three bed dwelling. The proposal is considered to make a very limited contribution to the housing supply/ addressing the housing stock imbalance in the district.

5.4 Design and Impact on the Character of the Area

5.4.1 The NPPF is unequivocal in stating the importance of high quality and inclusive design both for individual buildings and within public spaces. Design should establish a strong sense of place to create attractive places to live.

5.4.2 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

The proposed dwelling would be positioned within the site with space to the front of the property and private amenity space to the rear. It would be set away from the boundaries by varying amounts and sits between the semi-detached properties known as Lee Cottages which back onto the site to the south and the side amenity space of the adjacent property in Oaktrees to the north. The area is characterised by a mix of dwellings with varying designs and ages forming a generally continuous frontage along The Street with off street parking and access points.

5.4.3 In terms of the second appeal (referenced subsequently in this report) the Inspector concurred with their colleague from the first appeal that the *“infilling of this gap within what is essentially a built up frontage would not fundamentally alter the character of the area to any significant extent.”*

5.4.4 It is noted that the second application was for a two storey dwelling whilst this current and third proposal is for a single storey dwelling which would not be significantly wider. The increase in width for the main bulk of the dwelling in this application is 0.9m, but the overall height has been reduced by 2.4m from 8m to 5.6m over the whole length of the building. Therefore refusal on the grounds of detrimental impact upon the character and appearance of the area and street scene is not considered sustainable at appeal.

5.4.5 The design of the dwelling is that of a bungalow with over-sailing roofs, a brick plinth and weatherboard elevations. The design also takes account of the site size at the rear with a kitchen projection set at 45° and with the overall length increased by 6m. Whilst these elements are considered contrived and are designed to maximize the site area, these facets of the overall design are not considered to warrant a reason for refusal.

5.4.6 Whilst the design of the dwelling and garden area of the proposal are considered to meet policy requirements in this instance, it is considered appropriate that further development for extensions and fenestration within the roof slope are restricted by way of a condition appended to any grant of permission.

5.4.7 As such it is considered that the proposal would comply with policies S1, S8, D1 and H4 of the Local Development Plan and the provision and guidance as contained within the NPPF.

5.5 Effect on amenity of neighbouring occupiers

5.5.1 The initial application was outline in nature with all matters reserved for further consideration. However, whilst the appeal Inspector dismissed that appeal, it was stated that this was due to the lack of evidence that no impact upon adjacent neighbouring occupiers could be demonstrated. The secondary application, which comprised full details of the scheme, could therefore be assessed and the Inspector for that appeal considered that the depth, combined with the height would obstruct the outlook from Lee Cottages by an imposing building of “*significant depth and height*” and would result in an overbearing effect with substantial harm to outlook.

5.5.2 Whilst the scheme subject of this third application has elongated the overall design of the property by 6m, its proximity to the common boundary with the gardens of Lee Cottages would be no closer and the eaves height would be restricted to 2.4m with the slack roof slope of 35° which slopes gently away from the site boundary to a height of 5.6m towards the centre of the site. The proposal is therefore considered to have overcome the previous Inspector’s concerns with regard to impact upon adjacent occupiers and their outlook. It is pertinent to note that the last appeal Inspector found that the two storey dwelling subject of that application would not result in loss of daylight or sunlight and would, therefore, only cause a loss of outlook, which has been substantially addressed by this application.

5.5.3 Furthermore, the elongated design of this proposal would result in the additional length of this scheme being set behind a garage within the garden of No 2 Lee Cottages and is not considered to result in exacerbated impact upon those occupiers.

5.5.4 The scheme is therefore considered to accord with the criteria of policies D1 and H4 of the Local Development Plan, the guidance and provision as contained within the NPPF and the guidance as contained within the Essex Design Guide which is an adopted Supplementary Planning Document.

5.6 Access, Parking and Highway Safety

5.6.1 The Maldon District Council Supplementary Planning Document, Vehicle Parking Standards, states that residential dwellings comprising two to three bedrooms require a maximum of 2 spaces. Such provision could adequately be accommodated within the site.

5.6.2 Essex County Council Highway Authority has been formally consulted on the application in terms of highway safety but at the time of writing this report, a consultation response had not been received. Any response will be reported by way of the Member’s Update.

5.6.3 However, it is noted that the access point and visibility splay for this current scheme is very similar to that of the previous scheme. In that appeal assessment, the Inspector considered highway safety and noted that the scheme would utilise an existing field access and would include a turning area to allow vehicle to enter and exit in a forward

gear. The grounds for that appeal identified that visibility splays could be achieved for the site of 2.4m by 90m to the north and 2.4m by 60m to the south. This was taken into account and it was concluded that the new dwelling would not have a harmful effect on highway safety.

5.6.4 Therefore, should the Highway Authority return a similar opposition to the proposal for this submission, the differences in the scheme which relate to the dwelling only, are not considered to warrant a reason for refusal on highway safety.

5.6.5 The scheme is therefore considered to accord with the criteria of policy T2 of the Local Development Plan in terms of highway access and parking provision.

5.7 Private Amenity Space and Landscaping

5.7.1 The Essex Design Guide requires that three/four bedroom dwellings have a minimum of 100m² of private garden space. Such a provision would be met in this instance.

5.7.2 Conditions for the submission of boundary treatments and landscaping are considered appropriate to assist the assimilation of the proposal into the rural area are considered appropriate should permission be granted.

5.8 Other Considerations

The Council's Environmental Health Service has been consulted and there is no objection to the scheme subject to conditions for surface and foul water drainage scheme to be submitted prior to commencement. This accords with their response from the previous application which was deemed acceptable for this element of the scheme. Therefore, it is considered appropriate that similar conditions are appended to any grant of permission forthcoming from this recommendation

5.8.1 It is noted that the Parish Council has objected to the proposal on the grounds of a cramped and congested site, inappropriate design, unsustainability and impact upon adjacent neighbouring occupiers. These points have been addressed within the main body of this report.

5.8.2 It is noted that no Letters of Representation have been submitted at the time of writing this report. Should any letter be received, these will be addressed within the Member's Update.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/14/00929** - Outline planning application with all matters reserved for the construction of 1 dwelling with associated off-street parking. Refused 23 January 2015.
APP/X1545/W/15/3130608 - Appeal Dismissed 30 December 2015.
- **FUL/MAL/16/00296** – Three bed dwelling. Refused 16 May 2016.
APP/X1545/W/16/3163155 - Appeal Dismissed 07 March 2017

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Little Totham Parish Council	Object	The comments of the Parish Council are noted

7.2 Representations received from Interested Parties (*summarised*)

7.2.1 No letters were received at the time of writing this report

8. PROPOSED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall accord with that shown on drawings No's LOCATION PLAN, 1104/01A and 1104/02 and specifically referenced on this decision notice.
REASON: To ensure that the development is carried out in accordance with the details as approved.
3. Prior to the construction of the dwelling hereby approved written details and samples of the materials to be used in the construction of the external surfaces of the dwelling are to be 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 ensure that the development is carried out in accordance with the details as approved and in order to meet the requirements of policy D1 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
4. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.
REASON: In the interests of local amenity in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
5. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no dormer window or other form of addition or opening shall be constructed in the roof of the dwelling hereby

permitted without planning permission having been obtained from the local planning authority.

REASON: To protect the amenities of the occupants of neighbouring dwellings in accordance with policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

6. Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON: To ensure the incorporation of an appropriate drainage scheme in accordance with policy D2 of Maldon District Local Development Plan.

7. Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON: To ensure the incorporation of an appropriate drainage scheme in accordance with policy D2 of the Maldon District Local Development Plan.

8. The development hereby permitted shall not be first occupied/provided with connection to utility services until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area(s) shall be retained in this form at all times. The vehicle parking area(s) shall not be used for any purpose other than the parking of vehicles that are related to the use of the approved development.

REASON: To ensure appropriate parking is provided in accordance with policy T2 of the Maldon District Local Development Plan.

9. 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: In the interests of local amenity in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

10. Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include, for example:

- i. Proposes finished levels contours;
- ii. Means of enclosure;
- iii. Car parking layouts;
- iv. Other vehicle and pedestrian access and circulation areas;
- v. Hard surfacing materials;

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 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, uprooted, 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.

The hard landscape works shall be carried out as approved prior to the first use / occupation of the development hereby approved and retained and maintained as such thereafter.

REASON: In the interests of local amenity in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.