



**REPORT of  
CHIEF EXECUTIVE**

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**to  
NORTH WESTERN AREA PLANNING COMMITTEE  
27 NOVEMBER 2017**

<b>Application Number</b>	<b>OUT/MAL/17/01034</b>
<b>Location</b>	Land to the Rear of Strawberry Lane Tolleshunt Knights Essex
<b>Proposal</b>	Outline planning to erect up to 27 dwellings and form access road onto Brook Close
<b>Applicant</b>	Mr C Newenham - Wilkin & Sons Ltd
<b>Agent</b>	Mr Phillip McIntosh - Melville Dunbar Associates
<b>Target Decision Date</b>	12 December 2017
<b>Case Officer</b>	Yee Cheung, TEL: 01621 876220
<b>Parish</b>	<b>TOLLESHUNT KNIGHTS</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In Major Application

**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**Rear Of Strawberry Lane, Tolleshunt Knights**  
**OUT/MAL/17/01034**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	NW Committee 17/01034
	Date:	15/11/2017
	MSA Number:	100018588

### 3. SUMMARY

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

- 3.1.1 The application relates to an irregular shaped parcel of land of approximately 1.6 hectares located to the north of Brook Close. The land is bordered by residential properties to the Northeast and East (fronting onto D'Arcy Road) and to the South and Southwest where residential properties front onto Brook Close and Strawberry Lane. To the north of the site is a commercial garage which fronts onto Factory Hill. To the Northwest boundary of the site is a water course in the form of a stream, which runs in a Southwest to Northeast direction and is known as Layer Brook.
- 3.1.2 The gradient of the site slopes gently from Southeast to North direction. The boundary treatment of the site comprise of timber boarded fencing, trellis fencing and some trees, hedges and shrubs.
- 3.1.3 Outline planning permission was refused on 15 June 2017 (reference: OUT/MAL/17/00364) for the erect up to 27 dwellings and form access road onto Brook Close. The reasons for refusal is listed below:-

- 1 *At present, the application site prevents the coalescence of Tolleshunt Knights and Tiptree where it falls under the jurisdiction of Colchester Borough Council. It is considered that the proposed development would fundamentally alter the open character of the north western edge of the village of Tolleshunt Knights, contrary to policies BE1, CC6 of the adopted Maldon District Replacement Local Plan, policies S1, S8, D1 of the Maldon District Local Development Plan and Government advice as contained within the National Planning Policy Framework.*
- 2 *The application site is in a rural location outside of the defined settlement boundary for Tolleshunt Knights 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 Local Development Plan to meet the objectively assessed needs for housing in the District. If developed, the site would be disconnected and isolated from the existing settlement, which has limited access and connectivity with the existing village thus would represent an unsustainable form of development. The proposed development would fail to protect and enhance to the character and appearance of the rural area and the built form would have an urbanising effect resulting in an unwelcome visual intrusion into the undeveloped countryside, to the detriment of the character and appearance of the rural area. Further, the application site is not considered to be in a sustainable location. This is due to lack of footways, together with the distance to local services / facilities means that there would not be a safe or convenient pedestrian access to local services / facilities and it is likely that there would be greater reliance on the private car. The proposal would therefore be contrary to policies BE1 and T2 of the adopted Maldon District Replacement Local Plan; policies S1, S8, D1 and T2 of the Maldon District Local Development Plan; and the three dimensions to sustainable development as contained within the National Planning Policy Framework.*

- 3 *The application site is located in fluvial Flood Zone 3 which has the high probability of flooding. The Council can demonstrate a Five Year Housing Land Supply, as such residential development should be directed to areas of low risk of flooding. Furthermore, the submitted Flood Risk Assessment is unsatisfactory as it fails to demonstrate that the proposed development would be safe for prospective occupiers of the site. Therefore, the development is contrary to Government guidance and advice contained in the National Planning Policy Framework, the National Planning Practice Guide, and policy D5 of the Maldon District Local Development Plan.*
- 4 *In the absence of a signed legal agreement the development makes no contribution for affordable housing, which would be required with respect to mitigating the wider impacts of the development on local infrastructure and townscape. As such the proposal is considered to be contrary to policy PUI of the adopted Maldon District Replacement Local Plan, policies H1 and I1 of the Maldon District Local Development Plan, and the National Planning Policy Framework.*

3.1.4 The current outline application is a resubmission following the above refusal. Outline planning permission is sought for a residential development comprising of 27 dwellings (11 dwellings would be affordable dwellings), garages and associated works on land to the rear of Strawberry Lane. The matters for consideration are the principle of the development and the access point to the site. The appearance, landscaping, layout and scale of development will form the Reserved Matters to be determined at a later stage.

3.1.5 Based on the Site Layout Plan submitted (1459-PS.002.C dated 22.11.2016), the position of the proposed dwellings appears to back or flank onto existing dwellings along D'Arcy Road, Brook Close and Strawberry Lane. The vehicular and pedestrian access point would be via Brook Close and onto Strawberry Lane. The application also refers to the provision of a pedestrian / cycle bridge over Layer Brook and linking onto Factory Hill.

## **3.2 Conclusion**

3.2.1 The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development.

3.2.2 The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in Paragraphs 18 to 219 taken as a whole. At the heart of the Framework in paragraph 14 is a presumption in favour of sustainable development. The Framework further identifies economic, social and environmental dimensions to sustainable development.

3.2.3 With regard to the environmental aspect of the National Planning Policy Framework (NPPF), it is considered that the impact of the development on the character and appearance of the application site and the locality, and with particular regard to its location and scale and its poor connectivity to its immediate surroundings, would be an unsustainable form of development. The development would fail to meet the three strands of sustainable development as contained in the NPPF when viewed as a

whole. The proposal would also be contrary to policies S1, S8, D1, H4, N2 and T2 of the Maldon District Local Development Plan approved by the Secretary of State.

#### **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, 18, 14, 14, 17, 39, 49, 50, 56, 57, 60, 64, 100, 101, 102, 109

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

- 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 D5 – Flood Risk and Coastal Management
- Policy H1 – Affordable Housing
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy N2 – Natural Environmental and Biodiversity
- Policy T2 – Accessibility

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

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

#### **5. MAIN CONSIDERATIONS**

##### **5.1 Principle of Development**

5.1.1 Outline planning permission is sought for a residential development comprising of 27 dwellings (11 dwellings would be affordable dwellings), garages and associated works on land to the rear of Strawberry Lane. The matters for consideration are the principle of the development and the access point to the site. The appearance, landscaping, layout and scale of development will form the reserved matters to be determined at a later stage.

5.1.2 Policies S1, S2 and S8 of the Maldon District Local Development Plan approved by the Secretary of State seek 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.

- 5.1.3 The application site lies outside, but next to the defined settlement boundary of Tolleshunt Knights. The proposal is therefore, contrary to the objectives of Policy S8 of the LDP. Therefore, the impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as the whether the development constitutes sustainable development.
- 5.1.4 The application site lies to the north of Brook Close and Strawberry Lane just outside the defined settlement boundary of Tolleshunt Knights. Tolleshunt Knights is a small residential village with no shops, services or local facilities other than a village hall. The village therefore has very poor sustainability credentials from an accessibility perspective. More extensive facilities are available in Tiptree centre, around 2000 metres / 1.2 miles from the application site. An informal bus stop is located some 0.2 miles metres from the access point of the site which would provide a link to larger centres at Tollesbury, Tiptree and Witham. However, this service is very limited. Further, there are no footpaths that links the application to the informal bus stop, however it is noted that there is a footpath on the opposite side of D'Arcy Road. Although, services and facilities in Tiptree would be within reasonably convenient cycling distance, the route would be unlikely to be attractive to pedestrians due to poor connectivity due to the lack of footpaths. Consequently, it is likely that future occupiers of the proposed dwellings on this site would be reliant on trips by private car for most of their day to day needs.
- 5.1.5 Whilst Tiptree offers access to a local town, schools and everyday facilities, there is limited opportunity for future occupiers to access these facilities without the use of private cars. As mentioned above, there is an informal bus stop in close proximity of the site and as this is not clearly marked, it is not clear whether buses stop in this locality thus further encouraging the use of private cars.
- 5.1.6 The site would have limited safe and attractive connections to the existing community and the wider area by walking and cycling with the evitable heavy reliance on the motor vehicle for short journeys and to access services and facilities not within the village. It is noted that in this current application, the Applicant has proposed a footpath / cycle bridge across Layer Brook to link with Factory Hill which would reduce the walking distance to Tiptree (Paragraph 4.26 of the Applicant's Planning Statement). The Applicant suggests that this footpath / cycle bridge can be secured through a Section 106 agreement.
- 5.1.7 It is important to note that the proposed footpath / cycle bridge is outside the application site edged in red and outside the area edged in blue which is also under the Applicant's ownership. As such this footpath / cycle bridge cannot be secured through a Section 106 agreement. While it is noted that the footpath / cycle path links onto Factory Hill, it does not show how this would be implemented or benefit the future occupiers of the site.
- 5.1.8 Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 17 of the NPPF which sets out a core planning principle as part of the 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". The proposal would also fail to accord with Policy T2 of the LDP.

## **5.2 Five Year Housing Land Supply**

5.2.1 The Council published its latest Policy Advice Note regarding the Council's current status on the Five-Year Housing Land Supply 2016 / 2017 in September 2017 which demonstrates that a five year housing land supply is available and it is noted that the housing policies of the Local Development Plan are up-to-date.

## **5.3 Affordable Housing**

5.3.1 Paragraph 50 of the NPPF provides support for boosting the supply of all types of housing, including affordable housing. Policy H1 of the Local Development Plan (LDP) provide the thresholds for the provision for both on and off site affordable housing.

5.3.2 Policy H1 of the LDP is based upon an evidence base which requires Affordable Housing provision on - *"All housing developments of more than 10 units or 1,000sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing"*.

5.3.3 The affordable housing requirement for Tolleshunt Knights is 40% as the village falls under 'Northern Rural' in accordance with Policy H1 of the LDP. As the development proposal is for the construction of 27 houses, the Council therefore seeks to implement the affordable housing requirements contained with the LDP where in this instance would equate to 11 Affordable Housing units. The Applicant has liaised with the Housing Department and the following housing mix has been proposed:-

- 2 x 1 bed 2 person apartments
- 6 x 2 bed 4 person apartments
- 2 x 1 bed 2 person bungalows
- 1 x 3 bed 5 person bungalow

5.3.4 It was noted that in the previous outline planning application (17/00364/OUT) the following housing mix was proposed: -

- 4 x 1 bed 2 person units
- 5 x 2 bed 4 person units
- 2 x 3 bed 5 person units.

Although that outline planning application had proposed 11 affordable units which met the requirement of Policy H1 of the LDP, the size of the units did not meet the recommendations of the Council's Strategic Housing Market Assessment (SHMA) where the following was required:-

*"80% smaller - 35% 1 bed 2 person, 45% 2 bed 4 person 20% larger - 20% 3 bed 5 person, 4 bed 7 person as required 20% all affordable should be suited to meet needs of older people 1 and 2 bed may be increased to 90% where required and viable in*

*cases where this enables the provision of homes for older people and is consistent with identified need. The recommendation on tenure mix is 80% Social/Affordable Rented and 20% Intermediate (Shared Ownership)”*

- 5.3.5 The new housing mix proposed as contained in Paragraph 5.2.3 is now considered to be acceptable. The Housing Department is in support of this application which is now providing affordable housing that assists in meeting the affordable housing need of the District. The provision of affordable housing for this site would need to be secured by a legal agreement. In this resubmission, it appears that no signed legal agreement has been submitted to accompany the application and therefore the reason for refusal in the previous outline planning application 17/00364/OUT would still stand for this current development proposal.

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

- 5.4.1 National planning policy places great importance on the design of the built environment and states that high quality design should ensure that new development is visually attractive, responsive to local character, helps to promote healthy communities, and creates buildings which are durable, adaptable, and function well within the surrounding area to create a safe and accessible environment. Good design should enable and encourage people to live healthy lifestyles, reduce the risk of crime, create accessible environments which are inclusive for all sectors of society, and increase opportunities for social interaction.
- 5.4.2 Policy D1 of the Local Development Plan states that all development must, amongst other things, respect and enhance the character and local context and make a positive contribution in terms of: (b) Height, size, scale, form, massing and proportion; (d) Layout, orientation, and density; (2) Provide sufficient and useable private and public amenity spaces; (4) Protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.3 The application site is located to the north side of Brook Close and to the rear of existing residential properties fronting onto Strawberry Lane and D’Arcy Road. The site is free from any built form of development and is rural in nature. The site is laid to grass and partially enclosed by trees, hedgerows and timber fencing. The proposed development would, due to the quantum of development proposed, unquestionably result in a demonstrable change to the character and appearance of the site from one of a rural nature to an urban form of development by moving the built form of development further northwest closer to the boundary of Colchester Borough.
- 5.4.4 Based on the Illustrative Site Layout Plan submitted (Drawing No: 1459-PS.002 Rev C dated September 2017), it shows that the development proposal is broadly consistent with the prevailing pattern of development in the immediate locality with a housing density of approximately 17 dwellings per hectare. However, the layout of the residential properties creates an exclusive inward looking development with public open space and play area which appears only accessible to the future occupiers of the site. The development proposal, if approved, would not integrate successfully with the natural and built environment as it appears to be an exclusive development, self-contained by its boundaries.

- 5.4.5 The development as a whole responds poorly to its existing context and fails to connect with the pattern of development and footpaths, both in and outside, of the site. The current proposal does not address the reason for refusal in the previous outline planning application 17/00364/OUT particularly in relation to connectivity of the site.
- 5.4.6 In addition to the above, the introduction of additional domestic paraphernalia, hard surfacing and off-street parking as a result of the 27 new dwellings would, on balance, cause unacceptable harm to the character and appearance of the area. The proposal would be contrary to the objective of the NPPF, as set out in Paragraph 58, of ensuring that development responds to local character and reflects the identity of its surroundings.
- 5.4.7 In the Applicant's Planning Statement (Paragraph 4.9), reference was made to a 1993 planning application for residential development on this site. That particular application was refused by the Council on 25 May 1993 and was subsequently dismissed on Appeal following a Public Inquiry dated 2 March 1994 (reference. T/APP/X1545/A/93/227836/P2). Whilst the Council is fully aware of that the appeal and its content stating that residential development on this site '*would not result in an unacceptable extension of the village into the countryside*', '*that the development might be visible from some view points on Factory Hill*', and '*that the proposal would not result in the visual coalescence of Tolleshunt Knights and Tiptree*', it is important to note that circumstances of the site, surrounding development and the policy environment and Government guidance have changed since 1993 and therefore, limited weight should be given to that appeal decision when determining this current application as this is not considered to outweigh the harm highlighted above.

## **5.5 Impact on Residential Amenity**

- 5.5.1 Policies D1 and H4 of the LDP advises that any development should protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight and that any backland / infill development should not result in unacceptable material impact upon the living conditions and amenity of nearby properties.
- 5.5.2 It is important to note that this is an outline planning application with the 'layout', 'appearance', 'landscaping' and 'scale' forming the reserved matters. Only the 'access' is to be considered at this stage. No details have been submitted at present regarding the design, appearance and the exact height of the dwellings or the position of the fenestration on each property. The Council is therefore unable to assess the impact regarding the loss of light or privacy to any of the existing residential properties fronting onto D'Arcy Road, Brook close and Strawberry Lane. However, it is considered possible for a development to be provided on site for the quantum proposed that would not have a detrimental impact on the amenity of adjoining residents.
- 5.5.3 On this basis it would be unreasonable for the Council to refuse outline planning permission regarding the loss of residential amenity as these issues can be addressed at the reserved matters stage through careful consideration and appropriate design and by imposing appropriate planning conditions.

## **5.6 Private Amenity Space and Landscaping**

- 5.6.1 With regard to the size of amenity spaces, the Essex Design Guide (EDG) advises that for dwellings with one or two bedrooms, at least 50sqm of amenity space should be provided. In circumstances such as one bed flats, the provision of amenity space could be provided in the form of communal garden area where 25spm would be the minimum for each dwelling. For three / four bedrooms or more, at least 100 square metres of amenity space should be provided. Policy D1 of the Local Development Plan indicates that the need for amenity space in new development and this must be useable.
- 5.6.2 Based on the illustrative Site Layout submitted (Drawing No: 1459-PS.002 Rev C dated September 2017), it appears that the garden sizes for each proposed dwelling would meet or would be in excess of the minimum standards in accordance with the EDG and Policy D1 of the LDP.
- 5.6.3 As part of this application, public open space and a play area is proposed to the north west of the site. This green wedge is considered an important part of the development due to its location and its relationship with the surrounding rural area to the north and Northwest where the land meets Layer Brook and open land beyond even though it is sited outside the Maldon District and within the jurisdiction of Colchester Borough Council (CBC). CBC has expressed that the development proposal would maintain a meaningful separation between the parishes of Tolleshunt Knights and Tiptree and therefore raises no objection to the application.

## **5.7 Parking**

- 5.7.1 The Maldon District Council Vehicle Parking Standards (VPS) states that residential dwellings comprising one bedroom would require a maximum of one parking. For two/three bedrooms, a maximum of two, off-street parking spaces would be required and for four or more bedroom dwellings, three, off-street parking spaces would be required. The illustrative Site Layout Plan submitted (1459-PS.002 Revision C dated September 2017) has been provided in support of this outline planning application and it appears that each dwelling is able to accommodate the level of off-street parking required in accordance with the VPS and Policy T2 of the LDP. In the supporting Planning Statement, it states that 57 parking spaces for residents and 8 visitor spaces would be provided within the site. In this respect, the proposal would comply with the aforementioned Policy T2 and guidance.

## **5.8 Access and Highway Safety**

- 5.8.1 Letters of representation have been received concerning the access / egress point to the site and the lack of footpath connectivity from the site to bus stops and to Tiptree. In the supporting Planning Statement, the development proposes to deliver local highway improvements which include a pedestrian footpath along Brook Close, Strawberry Lane and onto D'Arcy Road. It appears a footpath can be provided along Strawberry Lane as ECC Highway has confirmed that it would be on highway land. However, the footpath is not clear along D'Arcy Road as there appears to be lack of space to accommodate a footpath to the existing residential properties fronting onto the road. While it is noted that there is a footpath on the north eastern side of D'Arcy Road, this footpath does not lead into Tiptree as it abruptly terminates at No. 3

D'Arcy Road. The footpath continues on the northern side of Brook Road, Factory Hill and beyond where pedestrians would have to cross over the road to continue their journey by foot.

5.8.2 The Highway Authority has been consulted and has raised no objection to the proposal subject to conditions and informative to be imposed should the application be approved.

5.8.3 In terms of accesses for emergency vehicles, the Essex County Fire and Rescue Service was consulted and has raised no objection to the proposal as the access / egress proposed is considered satisfactory.

## **5.9 Flood Risk**

5.9.1 The north western part of the application site is located in fluvial Flood Zones 2 and 3 which have the high probability of flooding. Towards the south eastern back of the site, the application site falls within Flood Zone 1. New dwellings and residential uses are considered to have high vulnerability as defined in the National Planning Practice Guidance (NPPG) and previously in the technical guidance to the NPPF when sited in Flood Zones 2 and 3.

5.9.2 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).

5.9.3 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).

5.9.4 In terms of the Sequential Test, as part of the FRA (Flood risk assessment and surface water Drainage/Suds Strategy Report ref: 1761/re/01-17/02 dated May 2017 Revision A prepared by Evans Rivers and Coastal Ltd), flood modeling reports have been submitted to demonstrate that the proposed dwellings can be accommodated on land within Flood Zone 1 and therefor satisfies the Sequential and Exception Tests. It is considered appropriate to take a pragmatic approach to the application of the sequential test as, although the site includes land within Flood Zones 2 and 3, no dwellings would be constructed on those flood risk zones.

5.9.5 The Environment Agency had previously raised an objection to this proposed scheme (17/00364/OUT) as there were deficiencies contained in the submitted Flood Risk Assessment that was submitted at that time in support of the development, contrary to Government advice contained within the National Planning Policy Framework and policy D5 of the Local Development Plan.

5.9.6 In this current application, the Environment Agency has reviewed the supporting FRA documents and now raises no objection to the proposal subject to conditions to be imposed should the application be approved. In this instance, the proposal would address the previous reason for refusal in relation to flood risk on this site (17/00364/OUT) in accordance with Government advice contained within the National Planning Policy Framework and policy D5 of the Local Development Plan.

## **5.10 Ecology**

5.10.1 A Phase 1 ecological report was submitted as part of the application submission (Eco-Planning UK dated 14 February 2017). Since that submission, a Phase 2 ecological report (presence/absence) surveys dated 31 October 2017 has been submitted to support the proposal. The Coast and Countryside Officer has been consulted and no reply has been received at the time of writing this report. Irrespective of this, Natural England has raised no objection to the proposal as the proposal is unlikely to affect any statutorily protected sites or landscapes.

5.10.2 A letter of representation has been received from The North East Essex Badger Group (NEEBG) highlighting that there badgers setts that are located not far away from the application site. NEEBG have recently had sightings of badgers crossing the road, accessing the copse adjacent to the site. Therefore should the application be approved, consideration should be given to any digging / excavation works carried and that they should be covered at night to prevent badgers from falling into and unable to get out.

## **5.11 Other Material Considerations**

5.11.1 In accordance with Section 70A of the Town and Country Planning Act 1990, the Council is fully aware of the legislation and that the current application submitted could be construed as a repeated application where Councils can decline to determine a planning application similar to previous planning applications which were refused in March 1994 and June 2017. The Council has noted that there have been no changes to the illustrative Block Plan submitted when compared to the previous outline planning application 17/00364/OUT. However, the Applicant has submitted additional information for the Council to address the four reasons for refusal namely flood risk, access and connectivity to the site and its surroundings. Further, when the previous outline planning application 17/00364/OUT was determined, policies from the Maldon District Replacement Local Plan (2005) was considered and given more weight as the Maldon District Local Development Plan (LDP) was not approved by the Secretary of State at the time. Now that the LDP has been approved, this is also planning material consideration and carries significant weight when determining this current application.

5.11.2 As mentioned in the report above, the proposal includes the provision of a pedestrian / cycle bridge over Layer Brook. This bridge lies outside the application site edged in red and outside the Applicant's land edged in blue. As there are limited details of the works proposed, it is considered that any Grampian conditions imposed or legal agreements to be drafted would be imprecise and could potentially become unenforceable to an extent that would make it unreasonable to secure its provision.

5.11.3 It is has been brought to the Council’s attention that Japanese Knotweed has been found on site. The case officer has advised that the residents would need to contact Natural England and the Environment Agency as this falls outside the planning remit.

**6. ANY RELEVANT SITE HISTORY**

- 93/00134/OUT - Residential development. Refused: 25.05.1993 – Appeal Dismissed on: 02.03.1994
- 07/00161/FUL - Use of land for keeping and exercising horses for recreational purposes. Approved: 4 April 2007
- 17/00364/OUT - Outline planning to erect up to 27 dwellings and form access road onto Brook Close. Refused: 15 June 2017

**7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Tolleshunt Knight Parish Council	Object for the following reasons:- <ul style="list-style-type: none"> <li>• Coalescence between Tolleshunt Knights and Tiptree</li> <li>• Impact on the open character and appearance of the village</li> <li>• Outside of the settlement development</li> <li>• The Council can demonstrate a Five Year Housing Land Supply</li> <li>• The site is disconnected and isolated</li> <li>• Lack of footways / no safe pedestrian access to bus stop</li> <li>• Distant from local facilities and services</li> <li>• The site lies in Flood Zone 3 – High Flood Risk</li> <li>• No legal agreement signed regarding the provision of affordable housing</li> <li>• Increase in traffic onto Strawberry Lane</li> <li>• No details regarding the proposed footway / cycle track to the north of the site</li> <li>• The development would attract older people and young families and if they are reliant to public transport then they may become isolated</li> <li>• Impact on wildlife</li> <li>• Impact on drainage and increase in flood risk</li> </ul>	Noted

## 7.2 Statutory Consultees and Other Organisations (summarised)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Fire and Rescue Service	The distance is considered to be excessive to the nearest statutory fire hydrant No: 23/118. An additional fire hydrant would be required should the application be approved	Noted
Essex County Fire and Rescue Service (Water)	No objection in principle subject to informative to be imposed should the application be approved	Noted
Environment Agency	No objection to the proposal subject to conditions	Noted. This has addressed Reason for Refusal 3 of outline planning application 17/00364/OUT
Natural England	Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.	Noted
Essex and Suffolk Waters	ESW records show that there is no apparatus located in the proposed development	Noted
Colchester Borough Council	CBC does not oppose the broad principle of this development provided it maintains a meaningful separation between the parishes of Tolleshunt Knights and Tiptree.	Noted. This is covered in Section 5.5 of the report.
ECC Highway	No objection subject to conditions and informative to be imposed should the application be approved	Noted. This is covered in Section 5.7 of the report.
ECC Education Department	No comments received at the time of writing this report	No comments received at the time of writing this report. Any comments received will be reported on the Members Update
ECC SUDs Team	No comments received at the time of writing this report	No comments received at the time of writing this report. Any comments

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
		received will be reported on the Members Update
Anglian Water Services	No comments received at the time of writing this report	No comments received at the time of writing this report. Any comments received will be reported on the Members Update

### 7.3 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Planning Policy Department	<ul style="list-style-type: none"> <li>• There is a sufficient supply of housing land in the District, and there is no shortage of land with planning permission for housing within the area local to this site. It should also be noted that a site becomes windfall on completion rather than at application stage.</li> <li>• The proposal is contrary to policy S8 of the LDP.</li> </ul>	Noted
Environmental Health Services	No objection subject to conditions in relation to foul drainage, air quality, and contamination to be submitted and approved by the Council.	Noted
Conservation Officer	No objection as it does not appear the development would affect No. 4 D'Arcy Road (Grade II Listed)	Noted
Housing Department	Support - This application which is providing affordable housing that assists in meeting the affordable housing need of the District.	Noted. This is covered in Section 5.3 of the report.

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

7.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

- Mr Mark Myers 40a Strawberry lane Tollushunt knights Maldon
- Mrs Glenda Russell 22 D'Arcy Road Tiptree Colchester
- Kenneth James 21 Strawberry Lane Tiptree Colchester
- Mr Winger & Ms Johnson 2 Brook Close Tolleshunt Knights Maldon
- Mr & Mrs Gibbs 5 Strawberry Lane Tiptree Colchester
- Liz Mann 29 Strawberry Lane Tolleshunt Knights Essex
- Teresa & Steve Whiting 2 The Folly Tiptree Colchester
- Mr Steven Cookson 38 strawberry lane Tolleshunt knights Co5 0rx
- Robert J S Long Forge Cottage 12 D'Arcy Road Tiptree
- N Sutton & D Burgess 32 Strawberry Lane Tiptree Colchester
- Nind Family 22 Strawberry Lane Tiptree Colchester
- Dale Jewitt 1 Brook Close Tiptree Essex
- Mrs Michelle Colclough 8 Darcy Road Tolleshunt Knights Tiptree
- Mr & Mrs Whybrow 34a Strawberry Lane Tolleshunt Knights Colchester
- Mr Wayne Bennett 36 strawberry lane tiptree co5 0rx
- Mr J A Carruthers 11 The Folly Tiptree Colchester
- Brian & Anne Knight 52 Strawberry Lane Tiptree Colchester
- Mrs Jill M Ellis 3 Brook Close Tiptree Essex
- Frances & Phil Smith 62 Strawberry Lane Tiptree Essex
- Danielle Jewitt 1 Brook Close Tiptree Essex
- Leanda Kent 15 Strawberry Lane Tiptree Essex
- Mrs Joanne Wray 14 Strawberry Lane Tolleshunt Knights Tiptree
- Mrs R Ellis 34 Strawberry Lane Tiptree Colchester
- Mrs Karen Pearse 28 Strawberry Lane Tolleshunt Knights CO5 0RX
- Mr & Mrs M L Wagerfield Broadway 26 Strawberry Lane Tiptree
- Susan Parnwell 21A Strawberry Lane Tiptree Colchester
- George Parnwell 21A Strawberry Lane Tiptree Colchester
- Richard Wright 6 Strawberry Lane Tiptree Colchester
- Tom Scott & Beth Sorrell 6 D'Arcy Road Tiptree Colchester
- Robert Hadley 2 Mary Wright Way Tiptree Colchester
- Shirley Taylor 44 Strawberry Lane Tiptree Colchester
- Mrs Carolyn Mcsweeney On Behalf Of Tiptree PC Mynott Court Church Road
- Mr David Baverstock 18 D'Arcy Road Tolleshunt Knights Essex
- Mr And Mrs Hood 27 Strawberry Lane Tiptree Colchester
- Mr Martin Colclough 8 Darcy Road Tolleshunt knights Tiptree
- Liz & George Pitman High Clere Tudwick Road Tiptree
- Stephen Ellis 3 Brook Close Tolleshunt Knights Tiptree
- Mr & Mrs Poyntz 8 Strawberry Lane Tiptree Colchester
- BJ & MA Harris 17 D'Arcy Road Tiptree CO5 0RR
- Constance Porter 10 D'Arcy Road Tolleshunt Knight CO5 0RP
- Simon Taylor 44 Strawberry Lane Tiptree Colchester
- Michelle & David Cox Westwood House Tudwick Road Tiptree

Objection Comment	Officer Response
<ul style="list-style-type: none"> <li>• The current plans are no different to the plan submitted in 1993 and 2017</li> <li>• Increase on-street parking</li> <li>• Danger for vehicles pulling out of Strawberry Land onto D’Arcy Road</li> <li>• Poor visibility splays</li> <li>• The site is outside the settlement boundary and is backland development</li> <li>• Flooding on site and to the rear of properties at Strawberry Lane</li> <li>• Lack of street lighting in the area. The proposal would result in light pollution</li> <li>• Impact on local wildlife</li> <li>• Kelvedon Station is not within cycling distances</li> <li>• The proposed footpath through an ancient woodland is not acceptable and a lie</li> <li>• Devaluing properties</li> <li>• Tolleshunt Knights and Tiptree are merging</li> <li>• Japanese knotweed are found on site</li> <li>• Lack of services, facilities and medical care</li> <li>• No bus route through D’Arcy Road</li> <li>• Increase in traffic movement and congestion</li> <li>• Loss of light, privacy and overlooking</li> <li>• Lack of employment opportunities in Tiptree</li> <li>• Lack off width and pedestrian footway along Strawberry Lane and Factory Hill</li> <li>• Sewage overflow problems in Strawberry Lane</li> </ul>	<p style="text-align: center;">Noted in the report</p>

7.4.2 Letters were received **commenting** on the application from the following, summarised as set out in the table below:

- Mrs Judy Massie Elmfield Layer Breton Colchester

Comment	Officer Response
<p>The North East Essex Badger Group would make the following observation: Whilst NEEBG have no recording of a badger sett on this land, there is one not far away and NEEBG have recently had sightings of badgers crossing the road, accessing the copse adjacent to the site.</p>	

## **8. REASONS FOR REFUSAL**

- 1 At present, the application site prevents the coalescence of Tolleshunt Knights and Tiptree where it falls under the jurisdiction of Colchester Borough Council. It is considered that the proposed development would fundamentally alter the open character of the north western edge of the village of Tolleshunt Knights, contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government advice as contained within the National Planning Policy Framework.
  
- 2 The application site is in a rural location outside of the defined settlement boundary for Tolleshunt Knights 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 Local Development Plan to meet the objectively assessed needs for housing in the District. If developed, the site would be disconnected and isolated from the existing settlement, which has limited access and connectivity with the existing village thus would represent an unsustainable form of development. The proposed development would fail to protect and enhance to the character and appearance of the rural area and the built form would have an urbanising effect resulting in an unwelcome visual intrusion into the undeveloped countryside, to the detriment of the character and appearance of the rural area. Further, the application site is not considered to be in a sustainable location due to lack of footways, together with the distance to local services / facilities means that there would not be a safe or convenient pedestrian access to local services / facilities and it is likely that there would be greater reliance on the private car. The proposal would therefore be contrary to policies S1, S2, S8, D1, H4 and T2 of the Maldon District Local Development Plan; and the three dimensions to sustainable development as contained within the National Planning Policy Framework.
  
- 3 In the absence of a signed legal agreement the development makes no contribution for affordable housing, maintenance and management of the public open space and children's play area, footpath / cycle link and the provision of bus stops which would be required with respect to mitigating the wider impacts of the development on local infrastructure and townscape. As such the proposal is considered to be contrary to policies H1 and I1 of the Maldon District Local Development Plan and Government advice contained in the National Planning Policy Framework.