



**REPORT of  
CHIEF EXECUTIVE**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
4 DECEMBER 2017**

<b>Application Number</b>	<b>FUL/MAL/17/01010</b>
<b>Location</b>	Land Adjacent Fiddlers Rest The Endway Althorne Essex
<b>Proposal</b>	Demolition of existing sheds with road side frontage and development of a new, separate dwelling within the existing garden curtilage.
<b>Applicant</b>	Mr & Mrs Acevedo
<b>Agent</b>	Mrs Lynne Fornieles - Febo Designs
<b>Target Decision Date</b>	14 November 2017
<b>Case Officer</b>	Hannah Bowles, TEL: 01621 875822
<b>Parish</b>	<b>ALTHORNE</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor / Member of Staff

1. **DEFERRAL**

This planning application was deferred from the South Eastern Area Planning Committee on 6 November 2017, in order for further information in relation to the sustainability and planning history of the area to be provided.

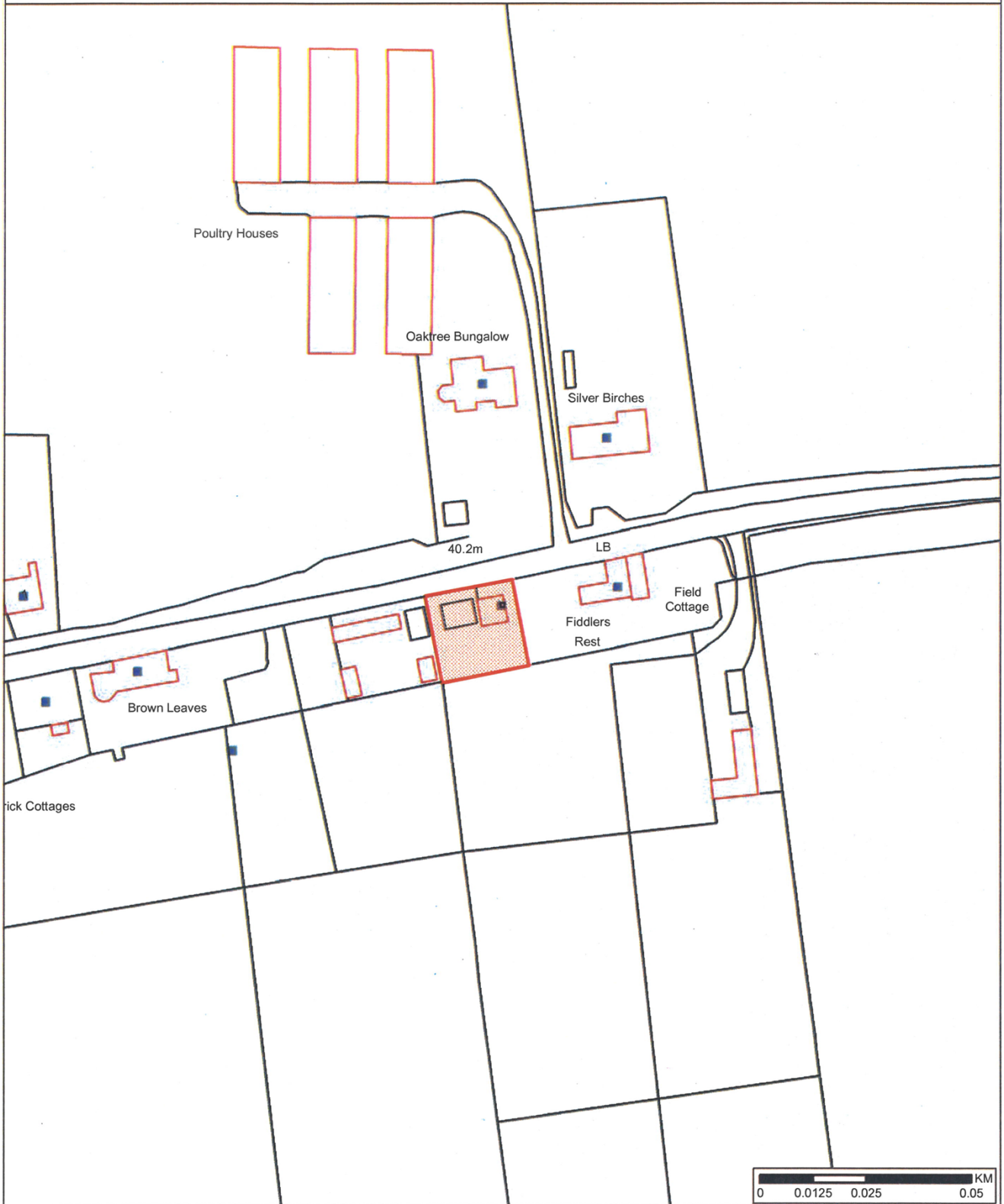
2. **RECOMMENDATION**

**REFUSE** for the reasons as detailed in Section 9 of this report.

3. **SITE MAP**

Please see overleaf.

**Land Adjacent Fiddlers Rest, The Endway, Althorne**  
**FUL/MAL/17/01010**



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 17/01010/FUL

Date: 21/11/2017

MSA Number: 100018588

## **4. SUMMARY**

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

- 4.1.1 The application site is located along the southern side of The Endway outside of the development boundary for Althorne. The site is located in a rural and open setting characterised by clusters of low density development along the road which forms a small developed area surrounded by open countryside at the application site.
- 4.1.2 The application site is located within the domestic curtilage of Fiddlers Rest which is a detached, two storey, white weatherboard dwelling. The host dwelling lies to the east of the application site. To the west is a residential dwelling Brownleas House, whose outbuildings are located adjacent to the western site boundary. A detached two storey dwelling known as Oaktree Bungalow is located opposite the application site. There is open and undeveloped land to the rear of the application site. Currently the site accommodates two outbuildings. The western boundary of the site is defined by a 1.8 metre high timber fence which screens the application site from Brownleas House. The southern boundary of the site is defined by post and rail fencing with the eastern boundary currently open and undefined. The front northern boundary is defined by a hedgerow.
- 4.1.3 Planning permission is sought for the erection of a two storey dwelling on land to the west of Fiddlers Rest. The proposed dwelling would measure a maximum of 9.9 metres wide by 8.3 metres deep. It would be 6.3m in height to the ridge and 4.7m in height to the eaves. It would be finished with render and weatherboard walls, painted softwood windows and similar tiles to those used on the dwelling of Fiddlers Rest.
- 4.1.4 The proposed dwelling would provide an open plan kitchen / sitting room / dining room, hallway and WC at ground floor level and three bedrooms, one with an en-suite and a family bathroom at first floor level.
- 4.1.5 The dwelling would be positioned around 1.5 metres from the western boundary of the site around 5 metres from the eastern boundary and the front elevation of the dwelling would be positioned around 5 metres from the front boundary of the site.
- 4.1.6 It should be noted that an application for a similar scheme was refused on the application site in 2012 and the appeal dismissed in 2013 (ref: FUL/MAL/12/00016). This is a material consideration when determining this application.

### **4.2 Conclusion**

- 4.2.1 The application site lies outside the defined settlement boundary of Althorne wherein both Local Development Plan Policies and Government Guidance points towards the continued restraint of new development in the countryside, unless it would represent sustainable development or there would be overriding benefits. In this instance it is considered that the proposal would represent an unsustainable form of development contrary to both local plan policies and the principles of the National Planning Policy Framework (NPPF).

## **5. MAIN RELEVANT POLICIES**

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

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

- 8
- 14
- 17
- 29-41
- 47-55
- 56-68

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

- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- T1 Sustainable Transport
- E3 Community Services and Facilities
- H2 Housing Mix
- H4 Effective Use of Land
- T2 Accessibility
- N2 Natural Environment and Biodiversity

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

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

## **6. MAIN CONSIDERATIONS**

### **6.1 Principle of Development**

6.1.1 The Council is required to determine planning applications in accordance with its Local 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)).

6.1.2 Planning permission is sought for a new dwelling outside of the development boundary for Althorne.

6.1.3 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a

supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 6.1.4 In relation to the above, the site is located in the countryside where policies of restraint apply. Policy S8 seeks to support sustainable development in settlement boundaries and to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy states that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and the development is for one of the development types listed within that policy. The proposed residential dwelling would not fall within any of the categories listed within policy S8. Therefore the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.
- 6.1.5 Further to this, within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasises the need to plan positively for appropriate new development. In this regard, there are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the Local Development Plan (LDP) which emphasises the need for sustainable development.
- 6.1.6 In economic terms, it is reasonable to assume that there may be some support for local trade from the development. This would however be extremely limited given the scale of the proposal of one dwelling. Equally, there is no guarantee that the limited construction works required for this development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minor. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 6.1.7 In social terms, development should assist in supporting a strong vibrant and healthy community. The application site lies approximately 900 metres to the east of the defined development boundary of Althorne and does not have access to a bus stop or local services within the vicinity. Local services are very limited and bus services are infrequent. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the Local Development Plan.
- 6.1.8 As previously noted, a previous application for similar development was dismissed at appeal on 15 February 2013. The above stance in relation to sustainability is commensurate with the appeal decision. It was noted by the Inspector that in terms of sustainability, *'There are no shops or services immediately in The Endway. There is no bus stop directly outside the appeal site with a community bus stop (which runs a*

*limited service) about 200m from the appeal site and a stop for the main bus services about 600m from the appeal site on Fambridge Road. In addition there are no public footpaths or street lighting along the route to the closest community bus stop, which would promote car use at night. Footpaths do not begin until further west on Fambridge Road where the main bus stop is located. The frequency of the buses at the nearest stop would not be sufficient for future occupiers to use as a regular alternative to the car'.*

- 6.1.9 The bus stop which is located around 200m from the application site, still runs a limited service with five buses stopping at this bus stop between the hours of 07:24 and 17:27 and six buses stopping on the opposite side of the road between the hours of 6:36 and 16:44. Furthermore the buses only run on school days / term times. Therefore, the above position of the Inspectorate is still considered relevant for this application.
- 6.1.10 Although different policies of restraint apply since the determination of the previous scheme, the approved LDP reiterates the importance of protecting the character and appearance of rural localities, and encouraging new development in areas where there are alternative modes of transport available. Furthermore, there are no new services available in Althorne which would overcome the concerns and comments made by the Inspector and no new applications for new residential units have been approved in the immediate vicinity.
- 6.1.11 Weight is given to the appeal decision at Land Adjacent The Old Forge and Thornley Cottage Burnham Road which was dismissed at appeal (ref: OUT/MAL/16/01182). This appeal site is located around 900m west from the application site and is located adjacent to the settlement boundary of Althorne, within closer proximity to the services and facilities offered in the village. As such, the current site is considered to be more remote and unsustainable than the appeal which was dismissed on 31 May 2017.
- 6.1.12 A change of use of agricultural building to three dwellings was granted prior approval at Maythorne Mushrooms, The Endway, Althorne, in April 2016. However this is not a planning application assessed against the development plan, and as such would be given minimal weight in determining this current scheme.
- 6.1.13 As requested details of other applications within the vicinity of the site since the determination of the appeal at the application site are included at **APPENDICES 1 and 2**.
- 6.1.14 It must be noted that no comparable (in terms of polices position) planning applications for a new dwelling(s) have been granted by the Council or at appeal since the determination of the last appeal at this site. This weighs heavily against this application. Notwithstanding this, an application for a prior approval has been allowed (referenced above). This was approved under permitted development and is provided through the use of existing agricultural buildings. The policy requirements and government guidance are not material considerations when assessing and determining such applications. It has been evidenced at appeal that such decisions are of very limited weight when determining a planning application.

## **6.2 Housing Need**

- 6.2.1 The proposal would provide a one three bedroom dwelling.
- 6.2.2 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.
- 6.2.3 Policy H2 of the LDP and its preamble, which when read alongside the evidence base from the 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.
- 6.2.4 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 provides a three bedroom dwelling.
- 6.2.5 As the Council can now demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements, the provision of an additional dwelling which is not aligned with the Council's needs is considered to make a negligible contribution in respect of social sustainability.

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

- 6.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 6.3.2 The application site is located on the southern side of The Endway outside of the defined development boundary for Althorne. The Endway is characterised by low density development with soft landscaping with residential dwellings located sporadically along either side of the road following the road layout as a form of ribbon development. Policy S8 of the Local Development Plan advises that the countryside will be protected for its own sake, particularly for its values, including landscape. The application site is located within the rural countryside although there are dwellings to the north, east and west forming a small developed area surrounded by open countryside.
- 6.3.3 Although there are a limited number of dwellings within the immediate surrounding area they are all a mixture of different architectural styles and both two storey dwellings and bungalows are present. 'Oaktree Bungalow' opposite the application site is a two storey brick built dwelling on a 'H' shaped footprint, Fiddlers Rest is a two storey weather boarded dwelling, and 'Brownleas House' is a two storey rendered dwelling.
- 6.3.4 The proposal would result in the demolition of the existing single storey outbuildings and erection of a two storey dwelling. The replacement of these single storey

outbuildings with a two storey dwelling would significantly change the character and appearance of the site and its relationship with the existing dwelling and streetscene. At present these outbuildings appear as subservient buildings to the primary residence at the site. Therefore the proposed introduction of a residential dwelling would have a significant and harmful impact upon the rural character and appearance of the area.

- 6.3.5 The proposed dwelling would be set in a smaller plot than the surrounding dwellings which is considered to exacerbate the impact of the development on the open and rural nature of the site. Furthermore the proposed dwelling is two storey, which would have a significantly greater impact upon the rural character and appearance of this locality than the existing single storey outbuildings.
- 6.3.6 In terms of the design, of the proposed development it is considered to appear sympathetic to other built form evident along The Endway, the proposed dwelling would pick up architectural references from Fiddlers Rest which is a two storey detached dwelling with a staggered front elevation. In terms of scale, bulk and height it is not considered to appear as an overbearing or dominant form of development when viewed from the streetscene.
- 6.3.7 It is considered that the principle of the siting of a dwelling on a site, in a rural location, that is currently occupied by single storey outbuildings which appear subservient to Fiddlers Rest would result in an urbanisation of the site extending the urban and developed character of the settlement into the countryside, creating a form of development which would detract from the rural and open character, appearance and natural beauty of the locality. The intrusion of domestic paraphernalia would create urbanised clutter, harmful to the rural countryside setting. This would fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural locality.
- 6.3.8 The above position is commensurate with the view taken by the Inspector for the previously dismissed appeal. It was stated that *'The appeal site contains single storey outbuildings associated with Fiddlers Rest and sits adjacent to outbuildings for the nearby dwelling to the west. The site is firmly part of the rural setting of the main dwelling and is set behind a hedge (which had been reduced in height at the time of my visit). The existing outbuildings sit comfortably within and form part of the rural character of the area. The proposal would intrude into and compromise the space around the existing dwelling. The effect would be the creation of a form of development harmful to the open rural character of the area. This change would not safeguard the intrinsic rural character of The Endway'*.
- 6.3.9 Although different policies are in place and the appeal was determined in 2013. The stance taken by the Inspector at that time is considered relevant as no new residential dwellings have been approved within the immediate vicinity of the site. Therefore, the character of the area has not changed so significantly since the determination of the previous application on the site to overcome the concerns raised in terms of character and appearance.

## **6.4 Impact on Residential Amenity**

- 6.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, and loss of light to the main windows of the neighbouring dwellings.
- 6.4.2 The proposed dwelling would be located around 1.5 metres from the western boundary of the site and around 8 metres from the dwelling of Brownleas House. It would be around 5 metres from the eastern boundary of the site and 25 metres from the dwelling at Fiddlers Rest.
- 6.4.3 There are no side facing windows located at first floor level, there is one window proposed within eastern side elevation at ground floor level, which is proposed to be obscure glazed as it would serve as a toilet. Therefore, no concerns are raised in relation to a loss of privacy.
- 6.4.4 Given the distance between the site boundaries and the proposed dwelling and the relationship with nearby dwellings, it is not considered that the development would result in a loss of light to the main windows of the neighbouring properties or have an overbearing impact to the detriment of the neighbouring dwellings.

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

- 6.5.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximize connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 6.5.2 The recommended standard for a three bedroom dwelling is a maximum of two car parking spaces . There is a parking area shown on the proposed plans to the east of the proposed dwelling which would have sufficient space to park two vehicles. Furthermore, Fiddlers Rest would also retain sufficient car parking provision.
- 6.5.3 The proposed access point to the dwelling would be where the existing garage currently sits. Therefore, a new access point would not be created and it is considered that the proposed development would not represent a danger to highway safety.

## **6.6 Private Amenity Space and Landscaping**

- 6.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide Supplementary Planning Document (SPD) advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms.
- 6.6.2 The proposed dwelling would have a private rear amenity space in excess of 100sq.m. which would accord with the standard set out within the Essex Design Guide.
- 6.6.3 The existing dwelling at Fiddlers Rest would also retain sufficient private amenity space and off road parking to meet the requirements of its occupants.

## 7. ANY RELEVANT SITE HISTORY

- **FUL/MAL/99/00428** - Proposed erection of play equipment in rear garden (retrospective application) – approved No Conditions - 27.07.1999
- **FUL/MAL/99/00690** - Proposed enclosed swimming pool extension to dwelling – Approved - 03.11.1999
- **FUL/MAL/99/00778** - Proposed replacement of existing chain link fence with ranch style fence – Approved - 30.11.1999
- **FUL/MAL/12/00016** - Demolition of existing sheds with road side frontage and development of a new separate dwelling within the existing garden curtilage. – Refused - 05.04.2012 – Appeal Dismissed - 15.02.2013

## 8. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 8.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Althorne Parish Council	No response received at the time of writing.	

### 8.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections to the proposal subject to the inclusion of conditions and informatives.	Noted.

### 8.3 Representations received from Interested Parties

8.3.1 Letters were received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

- Ms Elizabeth Castle - 4 The Endway Althorne
- Mr J Castle - 3 The Endway Althorne
- Mrs L Castle - 3 The Endway Althorne
- Mr D Conn - 5 The Endway Althorne
- Mr L Conn - 5 The Endway Althorne
- Mr R Conn - 5 The Endway Althorne
- Mrs Samantha Conn - 5 The Endway Althorne
- Mr B Foreman - Silver Birches The Endway Althorne
- Mrs M Foreman - Silver Birches The Endway Althorne
- Andrew Powl - 1-3 Maythorne The Endway
- Mrs L Howard – Brownleaves The Endway Althorne

<b>Supporting Comment</b>	<b>Officer Response</b>
A house would be an improvement on the existing dilapidated buildings.	Noted.
The development would give a much improved view of the countryside beyond.	
The house is attractive and in keeping.	
There is ample parking and a good garden size.	

**9. REASONS FOR REFUSAL**

- 1 The development of this site for housing is remote from essential support facilities, community services, is inaccessible by a range of transport and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development. Furthermore, the poor sustainability credentials of the site and its locality in combination with the fact that the location of the site would not encourage sustainable travel patterns would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Maldon District Local Development Plan policies S1, S8, D1, H4, T1 and T2 of the and guidance contained within the National Planning Policy Framework.
  
- 2 The introduction of a residential dwelling and associated paraphernalia on the site would represent the inappropriate urbanisation of the site and would have a harmful impact on the rural and open character of the area. The proposal is therefore considered to result in demonstrable harm to the character and appearance of the locality contrary to policies S8, D1 and H4 of the Maldon District Local Development Plan as well as the principles and guidance contained within the National Planning Policy Framework.