



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
21 MAY 2018**

Application Number	OUT/MAL/18/00277
Location	Land West Of Mill House, Mill End, Bradwell-On-Sea, Essex
Proposal	Rescinding of the lawful use of the single dwelling known as The Annexe and the construction of a replacement dwelling in relocated position.
Applicant	Mr Adrian Knight
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	02/05/18
Case Officer	Anna Tastsoglou TEL: 01621 875741
Parish	BRADWELL-ON-SEA
Reason for Referral to the Committee / Council	Member Call In The item has been called in by Cllr Dewick on the grounds of public interest.

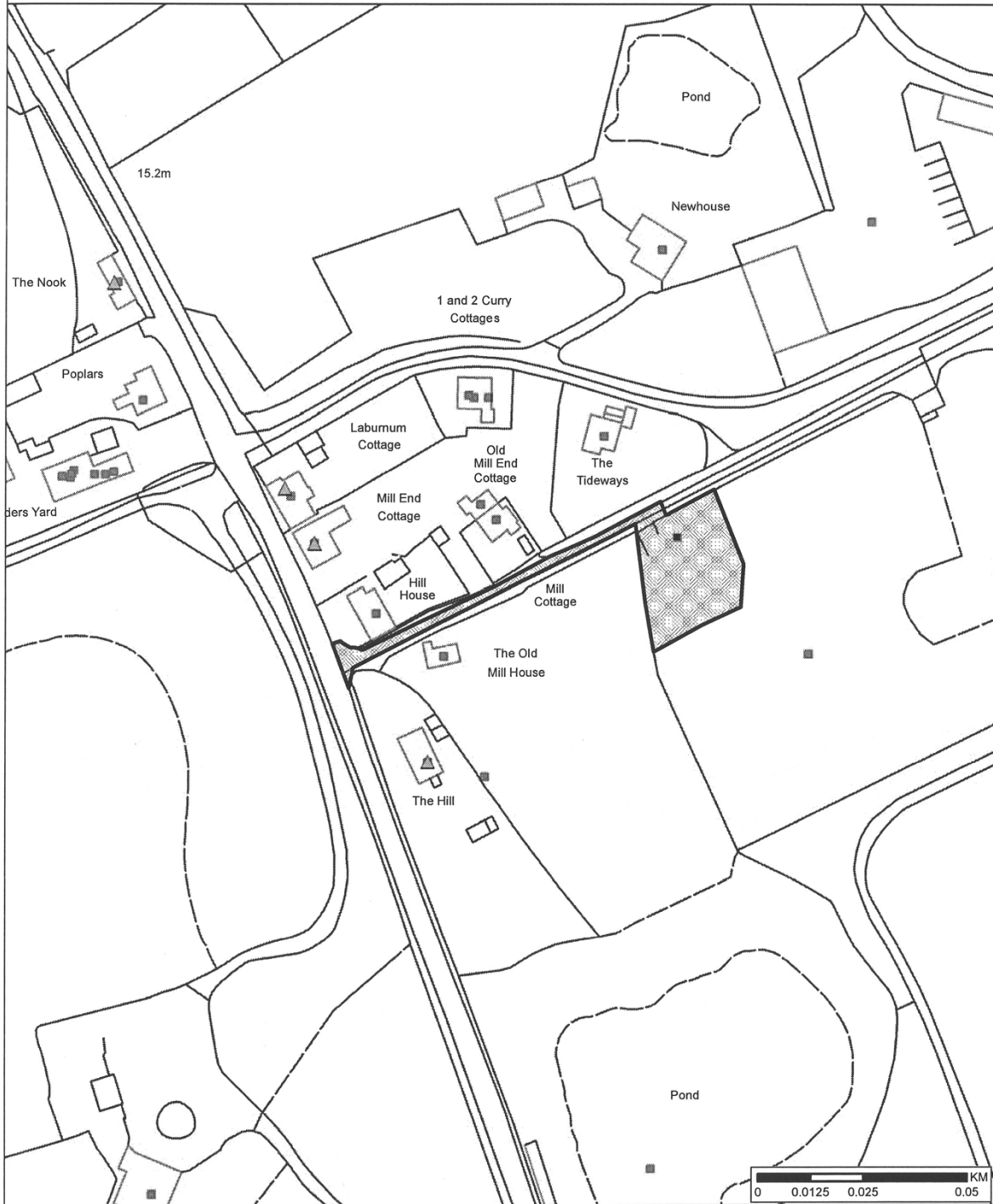
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see overleaf.

Land West Of Mill House Mill End Bradwell On Sea
FUL/MAL/18/00277



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee
	Date:	08/05/2018
	MSA Number:	100018588
www.maldon.gov.uk		

3 Summary

3.1 Application Site

- 3.1.1 The application site is located in a rural setting on the southern side of Mill End which is a private road located outside of the settlement boundary of Bradwell-On-Sea.
- 3.1.2 The main part of the application site measures approximately 775 square metres in area, with a frontage width of 20 metres and a depth of 31 metres. This part of the application site currently forms part of the amenity space serving Mill House and is grassed with some tree coverage. The application site also includes the private road which extends to the west of the main part of the site and would provide access onto the public highway.
- 3.1.3 For reasons that will be set out below, it is relevant to note that the land edge blue (i.e. other land that is within the applicant's control) as shown on the Location Plan (Drawing Number 1117/01) includes Mill House and The Annex. Other plans have been submitted (1117/02 and 1117/03) which include The Annexe (spelt differently) with red hatching, but it is noted that these plans are both labelled as being 'Illustrative Only.' It is therefore the case that most weight is to be attached to the Location Plan (1117/0).
- 3.1.4 Mill House is a two storey dwelling that appears to have existed at the site for a substantial period of time. The Annexe is a part two storey, part single storey building that benefits from a Certificate of Lawfulness for its existing use as a dwellinghouse due to the approval of application LDE/MAL/16/01491.

3.2 Proposal

- 3.2.1 Outline planning permission is sought, with all matters reserved, for the erection of a dwelling at the application site. The application form indicates that the dwelling would be a two bedroom dwelling, but as all matters are reserved, there are no details available in relation to the layout, scale, appearance or landscaping of the proposed development. The indicatively submitted plan shows a building with a footprint of approximately 150 square metres, a parking area to the north west that would provide parking and turning facilities and an amenity area to the south that would measure approximately 279 square metres.
- 3.2.2 Access is also a reserved matter, but due to the shape of the application site and its relationship to the public highway, the means of accessing the site can be assumed with some confidence.
- 3.2.3 The premise of the application is that the lawful use of the existing dwellinghouse known as The Annex would be rescinded in favour of the occupation of the proposed dwelling. It is however relevant to note that The Annexe is not within the relevant application site and that the proposal only relates to the rescinding of the use of that building, not its demolition. As the lawful use is now as a dwellinghouse, its use would not automatically revert to its previous use and originally approved use as cartlodge/storage building to be used in associated with the adjacent dwelling of Mill House. No permissions are in place to change the use of The Annexe.

- 3.2.4 The applicant has submitted the draft heads of terms for a potential Section 106 agreement which sets out that the lawful development certificate would be rescinded and The Annexe would be stripped of all facilities and returned to use as a cartlodge and storage building. However, as set out above, no permissions are in place to convert the established dwelling to a cartlodge.
- 3.2.5 This application follows the refusal of application 17/01090. That application appears to have been identical to this application and was refused for the following reasons:
- 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.

3.3. Conclusion

- 3.3.1 The proposed development would represent the erection of a new dwelling in the countryside which is considered to constitute an unsustainable form of development with an inherent visual impact on the countryside. The harm identified by the proposal is not mitigated by any other considerations and cannot be construed as a replacement dwelling. The proposal is therefore contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP) and the guidance contained within the National Planning Policy Framework (NPPF).

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 - Three dimensions to sustainable development
- 8 - Roles of sustainable development
- 14 - Presumption in favour of sustainable development
- 17 - Core planning principles
- 28 - Supporting prosperous rural economy

- 29-41- Promoting sustainable transport
- 47-55 - Delivering a wide choice of high quality homes
- 56-68 - Requiring good design
- 109-125 - Conserving and enhancing the natural environment
- 196-197 - Determining applications

4.2 Approved Maldon District Local Development Plan (July 2017) Policies:

- 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 H4 – Effective Use of Land
- Policy N2 – Natural Environmental and Biodiversity
- Policy T1– Sustainable Transport
- Policy T2 – Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council is required to determine planning applications in accordance with its approved Development Plan unless material considerations indicate otherwise [Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990) and paragraph 196 of the NPPF].

5.1.2 The site lies well outside the defined settlement boundaries of Bradwell-on-Sea and is therefore considered to be in a countryside location for the purposes of planning policies.

5.1.3 Policy S1 of the MDLDP states that *“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, inter alia, the following key principles in policy and decision making:*

- 2) *Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations*
- 3) *Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*

- 4) *Support growth within the environmental limits of the District;*
- 5) *Emphasise the importance of high quality design in all developments;*
- 6) *Create sustainable communities by retaining and delivering local services and facilities;*
- 12) *Maintain the rural character of the District without compromising the identity of its individual settlements;*
- 13) *Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community”*

5.1.4 The requirement to focus strategic growth to the District’s main settlements is also reiterated in Policy S2. The reason for that is that these areas constitute the most suitable and accessible locations in the District. It is also noted that *“Strategic growth in the rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area.”*

5.1.5 Policies S1 and S2, Policy S8 of the approved MDLDP 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.

5.1.6 The abovementioned policies are in compliance with the NPPF which in order to promote sustainable development in rural areas, suggests that housing should be located where it will enhance or maintain the rural communities, such as small settlements. It is also stated that local authorities should avoid new isolated residential developments in the countryside, unless special circumstances indicate otherwise. None of the stated special circumstances are applicable to this case.

5.1.7 The applicant is proposing that if the proposed dwelling is approved, the residential use of The Annexe would be rescinded. However, as set out above, the applicant does not go as far as stating that the existing building would be demolished and as such it is not considered that the proposal can be construed as a replacement dwelling. It would be an alternative dwelling, with the existing dwelling being put to use as a cartlodge/storage building. However, the existing building would not be removed and it is therefore the case that the proposed dwelling would not be a replacement building. Two buildings would be retained at the site; therefore, the proposal would result in additional built form in the countryside.

5.1.8 As discussed above, it is considered relevant that The Annexe is spelt differently and excluded from certain plans. Whilst it is trusted that this is purely a matter of drafting, this would present issues about the drafting of conditions and require that particular care and attention is paid to secure the rescinding that is suggested.

5.1.9 It is also important to reiterate that rescinding the use of The Annexe would not automatically put the building to a new use. Planning permission is likely to be required for the change of use of that building and this cannot be granted through the imposition of a condition or a Section 106 agreement. As such the suggestion that the use would be rescinded represents a somewhat hollow offering.

5.1.10 Policy H4 allows for the erection of replacement dwellings subject to the following criteria:

- 1) The residential use of the original dwelling has not been abandoned;
- 2) The original dwelling is not a temporary or mobile structure;
- 3) The original dwelling is not worthy of retention because of its design and relationship to the surrounding area;
- 4) The proposed replacement dwelling is of an appropriate scale to the plot and its setting in the landscape;
- 5) The proposed replacement dwelling is of a design appropriate to its setting; and
- 6) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.

5.1.11 Through the recent granting of a Certificate of Lawfulness, it is considered that the proposal would comply with criteria 1) and 2). Moreover, the existing building is not worthy of retention and therefore the proposal would comply with criteria 3). Given the outline nature of the proposal, it is not possible to assess the proposal in relation to criteria 5)

5.1.12 An assessment in relation to criteria 4 and 6 will be undertaken below. However, this is a largely moot point as, for the reasons set out above, it is not considered that the proposal can be considered to be a replacement dwelling.

5.1.13 As it is not considered that policy H4 is applicable, the dwelling has to be assessed as a new dwelling in the countryside. As noted above the site is located outside the settlement boundaries, approximately 1.3 metres away from the settlement boundary of Bradwell-on-Sea, which is the nearest village to the application site. The nearest bus stop from the site is located in reasonably close proximity to the site being at St Peter's Court. However, the bus stop only has infrequent links with main employment opportunities areas or areas providing local services and amenities and is not accessible by footpath. It is therefore considered that the day-to-day requirements of occupants to use services and facilities which are only available within settlements would primarily be achieved through the use of private vehicle.

5.1.14 In light of the above assessment, it is considered that the location of the site would fail to discourage the use of private cars. Paragraph 17 of the NPPF 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*". This is reflected in policies T1 and T2 of the MDLDP. The proposal would therefore be contrary to the guidance contained within the NPPF as well as the aforementioned policies of the local development plan.

5.1.15 The Council has an up-to-date development plan which will generally deliver housing required. As part of its Five Year Housing Land Supply Statement (August 2016), the Council has published information on its potential housing supply (5 year supply of housing plus an additional 5% buffer as required by the NPPF). The statement provided evidence that the Council is able to demonstrate a 6.04 year housing land supply against its adopted targets and therefore, meets the requirements of the NPPF in terms of housing delivery. Thus the authority is able to meet its housing needs

targets without recourse to allowing development which would otherwise be unacceptable.

- 5.1.16 For the reasons stated above, an objection is raised to the principle of the proposed development. The development would be against the objectives of the relevant development plan policies and guidance.

5.2 Design and Impact on the Character of the Area

- 5.2.1 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 sought to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that *“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”*.
- 5.2.3 Paragraph 64 also states that *“permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”*.
- 5.2.4 This principle of good quality design is reflected in the approved MDLDP. The basis of policy D1 of the approved MDLDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - b) Height, size, scale, form, massing and proportion;
 - c) Landscape setting, townscape setting and skylines;
 - d) Layout, orientation, and density;
 - e) Historic environment particularly in relation to designated and non-designated heritage assets;
 - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - g) Energy and resource efficiency.
- 5.2.5 It should be also noted that policies S2 and S8 seek to avoid new development outside defined development boundaries, with policy S8 stating that development will only be approved *“where the intrinsic character and beauty of the countryside is not adversely impacted upon”*. Policy D1 requires new development to be of a good standard of design and to contribute to and enhance local distinctiveness.
- 5.2.6 The proposed dwelling would be located outside the defined settlement boundaries and by reason of its siting would appear entirely at odds and out of keeping with the rural and open character of the area. In terms of the siting and layout of the proposed

dwelling, it would appear remote from the four existing dwellings to the south. This would be harmful to the distinctive character of the area and it would have an unacceptable impact on its surrounding.

- 5.2.7 This is an outline application and all matters are reserved for future consideration. All that is before the Council is an indicative site plan which shows the footprint and siting of the proposed dwelling, with a parking area to the front and area of private amenity space to the rear. Reserved matters would need to be submitted, if outline approval was to be granted, and detailed matters of layout, design and access would be dealt with at that stage.
- 5.2.8 Mill End accommodates a handful of dwellings, set within varying sized plots. It is a heavily vegetated and well treed area which adds to the rural setting. The application site currently forms part of the private amenity space for Mill House, it is considered to add to the rural countryside setting as it is bounded by trees and vegetation along the front boundary and accommodates no structures or residential paraphernalia.
- 5.2.9 The proposal would result in an encroachment and visual intrusion of built form into the open landscape which currently contributes to the rural character and appearance of the streetscene. The proposed development is considered to result in consolidation of the urban form eroding the rural character of the locality.
- 5.2.10 Whilst it is noted that it is proposed to rescind the lawful use of the single dwellinghouse 'The Annexe' and notwithstanding the fact this building is outside of the application site and therefore the proposal cannot represent a replacement dwelling; it not considered that the buildings would be comparable in terms of visual impact. 'The Annexe' is set within close proximity to the 'Mill House' and is considered to appear as an ancillary building. However, the proposed dwelling would be set around 100m from the 'Mill House' appearing isolated in comparison. Therefore, even if it is considered as a replacement dwelling, it is considered that the positioning of the dwelling would have a materially greater impact on the countryside contrary to criteria 4) of policy H4 of the approved MDLDP.
- 5.2.11 The proposed development is therefore considered contrary to adopted policies S1, S8 and D1 of the MDLDP and guidance contained within the NPPF which protect the rural landscape of the district and require new development to positively enhance the amenity and landscape character of the area.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved MDLDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 Limited detail has been submitted in respect of this proposal, given its outline nature. Therefore it is not possible to fully assess the impact of the development on neighbouring amenity and this would be considered at the reserved matters stage should the application be approved. However, the closest neighbouring dwelling is located opposite the site in excess of 20m from the front boundary of the application site. Therefore, it is not considered that the proposed development is likely to result in

a significant impact on the residential amenity of the occupiers of the neighbouring properties.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policies D1, H4 and T2 of the approved MDLDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise 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.
- 5.4.2 The Maldon District Council Vehicle Parking Standards (VPS) states that residential dwellings comprising three bedrooms require a maximum of two off-street parking spaces.
- 5.4.3 The Highway Authority have assessed the proposal and raised no objection subject to a number of conditions. It is considered that these conditions would be able to be complied with and therefore imposing those restrictions on an outline permission would not be unreasonable. From this basis, noting that the matter of access is reserved, it is considered that no objection should be raised to the application on the grounds of highway safety, access or parking provision.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved MDLDP 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 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.
- 5.5.2 These issues would be dealt with in detail by way of reserved matters submissions should the application be approved. However, the indicative site plan shows a private amenity area of 279m², which is in excess of the recommended standard.

5.6 Other Material Considerations

- 5.6.1 If approved, matters relating to surface and foul water drainage could be addressed through the imposition of conditions.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/17/01090** - Rescinding of the lawful use of the single dwelling known as The Annexe and the construction of a replacement dwelling in relocated position. Refused.
- **LDE/MAL/16/01491** - Claim for lawful development certificate for existing use for the continued use of "The Annexe" as a single dwelling unit separate from the main house at Mill House, Mill End, Bradwell on Sea, Essex, CM0 7HL. Approved.

- **FUL/MAL/06/00429** - Change of use of land to residential dog training/behavioural centre and erection of kennel building in connection with dog training centre. Approved.
- **FUL/MAL/05/01036** - Change of use of land to residential dog training/behavioural centre and erection of kennel building in connection with dog training centre. Withdrawn.
- **FUL/MAL/04/00305** - Demolition of two storey dwelling house and erection of a detached bungalow. Refused.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Bradwell-on-Sea Parish Council	Objection on the grounds of overdevelopment, no sustainable reason for demolishing the existing dwelling, the new character of the building and the contrast with the existing buildings.	Comments Noted and discussed where relevant above.

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highway Authority	No objection subject to the imposition of conditions.	Noted and discussed above.

7.3 **Internal Consultees (*summarised*)**

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Please refer to relevant paragraphs 5.6.1 of the report

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

7.4.1 No representations have been received by the Local Planning Authority.

8. 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.