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DIRECTOR OF STRATEGY,  
PERFORMANCE AND  
GOVERNANCE  
Paul Dodson

07 February 2023

Dear Councillor

You are summoned to attend the meeting of the;

**SOUTH EASTERN AREA PLANNING COMMITTEE**

on **WEDNESDAY 15 FEBRUARY 2023 at 7.30 pm**

in the **Burnham Town Council Offices, Chapel Road, Burnham-on-Crouch, Essex, CM0 8JA.**

Please Note: All meetings will be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. Public participants wishing to speak remotely at a meeting can do so via Microsoft Teams.

To register your request to speak please submit a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

CHAIRMAN	Councillor R P F Dewick
VICE-CHAIRMAN	Councillor A S Fluker
COUNCILLORS	M G Bassenger B S Beale MBE V J Bell R G Boyce MBE Mrs P A Channer M W Helm A L Hull N J Skeens W Stamp, CC





**AGENDA**  
**SOUTH EASTERN AREA PLANNING COMMITTEE**  
**WEDNESDAY 15 FEBRUARY 2023**

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1. **Chairman's notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 10)

To confirm the Minutes of the meeting of the Committee held on 18 January 2023, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **19/00929/FUL - Dock, The Quay, Burnham-On-Crouch, Essex** (Pages 11 - 40)

To consider the report of the Director of Service Delivery, (copy enclosed, Members' Update to be circulated)\*.

6. **22/00535/FUL - The Hawthorns, Scalby Road, Southminster, CM0 7BP** (Pages 41 - 56)

To consider the report of the Director of Service Delivery, (copy enclosed, Members' Update to be circulated)\*.

7. **22/01180/FUL - Mapledean Pig Farm, Mapledean Chase, Mundon** (Pages 57 - 78)

To consider the report of the Director of Service Delivery, (copy enclosed, Members' Update to be circulated)\*.

8. **Any other items of business that the Chairman of the Committee decides are urgent**

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**Note:**

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos. 5-7.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

\* Please note the list of related Background Papers attached to this agenda.

**NOTICES****Recording of Meeting**

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

**Fire**

In the event of a fire, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.

## **BACKGROUND PAPERS**

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

### **Development Plans**

- Maldon District Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-On-Crouch Neighbourhood Development Plan (2017)

### **Legislation**

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

### **Supplementary Planning Guidance and Other Advice**

- i) Government policy and guidance
  - National Planning Policy Framework (NPPF) - 2018
  - Planning Practice Guidance (PPG)
  - Planning policy for Traveller sites - 2015
  - Relevant government circulars
  - Relevant Ministerial Statements (as referred to in the report)
  - Essex and South Suffolk Shoreline Management Plan – October 2010

## **Supplementary Planning Guidance and Other Advice (continued)**

### **ii) Essex County Council**

- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

### **iii) Maldon District Council**

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework – 2014 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

All Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.

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**MINUTES of  
SOUTH EASTERN AREA PLANNING COMMITTEE  
18 JANUARY 2023**

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**PRESENT**

Chairman	Councillor R P F Dewick
Vice-Chairman	Councillor A S Fluker
Councillors	M G Bassenger, V J Bell, R G Boyce MBE, Mrs P A Channer, M W Helm, A L Hull and W Stamp, CC

**1. CHAIRMAN'S NOTICES**

The Chairman welcomed everyone present and went through some general housekeeping arrangements for the meeting.

**2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors B S Beale MBE and N J Skeens.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 7 December 2022 be approved and confirmed.

**4. DISCLOSURE OF INTEREST**

Councillor R P F Dewick declared an interest in Agenda Item 6 – 22/01141/HOUSE The Wheat Barn, Keelings Road, Southminster, Essex, CM0 7US as he knew the applicant. The Chairman noted that all Members had a similar interest in this item business.

Councillor A S Fluker declared a disclosable pecuniary interest Agenda Item 6 – 22/01141/HOUSE The Wheat Barn, Keelings Road, Southminster, Essex, CM0 7US as he was the applicant and advised that he would leave the chamber for this item of business.

5. **22/00882/FUL - THE RIDINGS, BURNHAM ROAD, LATCHINGDON, ESSEX, CM3 6EY**

<b>Application Number</b>	<b>22/00882/FUL</b>
<b>Location</b>	The Ridings Burnham Road Latchingdon Essex CM3 6EY
<b>Proposal</b>	Retention of dwelling as built, detached garage and associated works (further to 16/00968)
<b>Applicant</b>	Mr and Mrs Friend
<b>Agent</b>	Mr Ashley Wynn
<b>Target Decision Date</b>	
<b>Case Officer</b>	Vikki Bowles
<b>Parish</b>	<b>LATCHINGDON</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

Following the Officer's presentation a brief discussion ensued during which further information regarding the hardstanding and drainage at the site was provided. It was noted that the proposed condition would require the applicant to apply for the correct amount of and type of hardstanding deemed acceptable by the Council.

Councillor R G Boyce proposed that the application be approved as per the Officers' report. This proposal was duly seconded and agreed by the Committee.

**RESOLVED** that this application be **APPROVED** subject to the following condition:

- 1 The dwelling and associated development hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed from the site within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within three months of the date of this decision a scheme for hard and soft landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. The landscaping scheme shall include a boundary hedge to the eastern side of the site. For the avoidance of doubt, the large area of unauthorised hardstanding to the North, east, and southern sides of the site shall be substantially removed.
  - (ii) if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - (iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Following his earlier declaration, Councillor A S Fluker left the meeting at this point and did not return.



6. **22/01141/HOUSE - THE WHEAT BARN, KEELINGS ROAD, SOUTHMINSTER, ESSEX, CM0 7US**

<b>Application Number</b>	<b>22/01141/HOUSE</b>
<b>Location</b>	The Wheat Barn, Keelings Road, Southminster, Essex, CM0 7US
<b>Proposal</b>	Construction of garden produce and garden equipment store on existing concrete base.
<b>Applicant</b>	Mr & Mrs Adrian Fluker
<b>Agent</b>	Ms Sarah Threlfall
<b>Target Decision Date</b>	25.01.2023
<b>Case Officer</b>	Lisa Greenwood
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	The applicant is a Councillor.

Following the Officers' presentation, Councillor R G Boyce moved that the recommendations as set out in the report be approved. This was duly agreed by the Committee.

**RESOLVED** that this application be **APPROVED** subject to the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: TMA/907/05 B, TMA/907 10 Rev B, TMA/907 11.
3. High quality photographs of the black corrugated sheets to be used on the roof, and information on the product, shall be submitted to and approved in writing by the Local Planning Authority prior to their use.

There being no other items of business the Chairman closed the meeting at 7.56 pm.

R P F DEWICK  
CHAIRMAN

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
15 FEBRUARY 2023**

<b>Application Number</b>	<b>19/00929/FUL</b>
<b>Location</b>	Dock, The Quay, Burnham-On-Crouch, Essex
<b>Proposal</b>	Removal of various structures and construction of access deck, handrails and jetty to access new access bridge and floating pontoon with support piles to serve 4 no. new houseboat berths with associated mains services to shoreside.
<b>Applicant</b>	Maldon District Council
<b>Agent</b>	John James Associates
<b>Target Decision Date</b>	17.03.2020
<b>Case Officer</b>	Kathryn Mathews
<b>Parish</b>	<b>BURNHAM-ON-CROUCH</b>
<b>Reason for Referral to the Committee / Council</b>	Council application relating to Council owned land

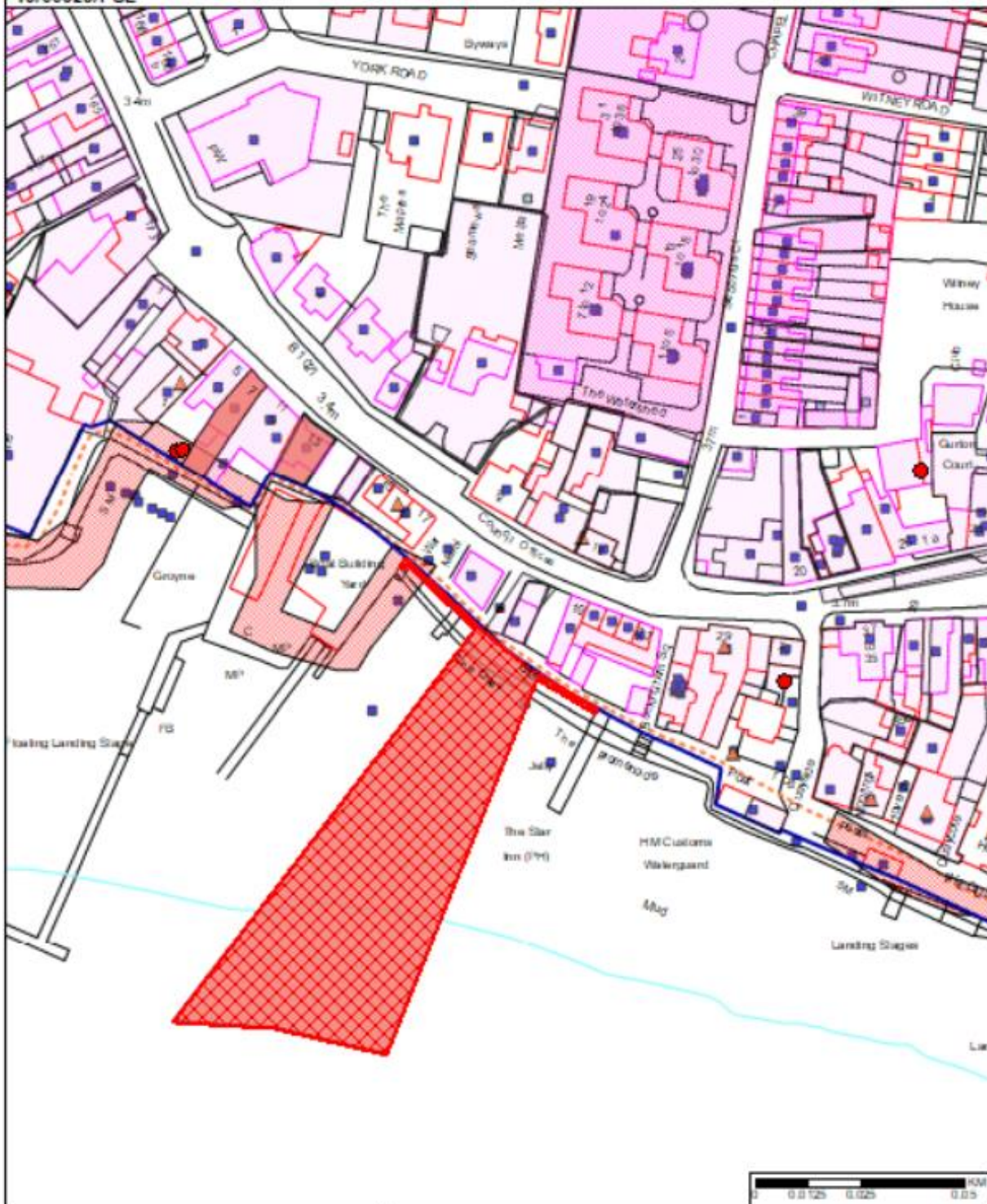
**1. RECOMMENDATION**

**APPROVE** subject to the conditions as detailed in Section 8.

**2. SITE MAP**

Please see below.

# The Quay, Burnham-on-Crouch 19/00929/FUL



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	<p>Organisation: Maldon District Council</p>
	<p>Department: Department</p>
	<p>Comments: South Eastern Area</p>
	<p>Date: 10/01/2023</p>
	<p>MSA Number: 100018588</p>

### 3. **SUMMARY**

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

- 3.1.1 The site is located in an area of intertidal mudflats and foreshore on The Quay on the seaward side of the seawall within Burnham-on-Crouch Conservation Area, opposite the Grade II listed War Memorial. The Quay forms part of a National Cycle route and accommodates a public right of way (No.11 Burnham-on-Crouch). The site extends down to Low Water Level of the River Crouch and is tidal.
- 3.1.2 Land either side of the site is understood to form part of Priors Boatyard which is used by residential houseboats with associated decks and jetties.
- 3.1.3 The application site was, until recently, occupied by a capsized, deteriorating former houseboat.
- 3.1.4 The site measures 18.5m along the northern boundary and 38.2m at the southern boundary.
- 3.1.5 The proposal includes the demolition of the existing structures within the tidal foreshore and on the riverside of the seawall. It is also suggested that the existing houseboats moored / berthed on the adjacent sites owned by Priors Boatyard are to be removed but these are not included within the application site.
- 3.1.6 It is proposed to install a new floating pontoon with steel supported access deck consisting of the following elements:
- **Access deck:** 1.5m wide surfaced in timber (Yellow Balau or similar) with a handrail (steel tubular uprights with galvanized steel cables and hardwood handrail). The new access deck would extend along the river side of the existing seawall and gateways beyond the main eastern and western boundaries of the site (for a distance of 15m to the east and 21m to the west to link with the Priors Boatyard building). At the western end of the access deck would be a bin storage facility adjacent to flood gate 1 which would serve the existing and proposed houseboats.
  - **Access bridge:** 10m long x 1.5m wide (zinc spray painted structural steel frame with hardwood (Yellow Balau or similar) decking). The pontoon for the access bridge would measure 7.5m long x 2.5m wide.
  - **Floating pontoon:** 53.5m long x 2.5m wide (floats would be fibre reinforced concrete covering expanded polystyrene; the pontoon would have a galvanized steel frame with hard wood (Yellow Balau or similar) decking and three support piles)
- 3.1.7 The development would accommodate four permanent berths for residential houseboats (which would be leased from Maldon District Council) which could be approximately 21m x 6m in size. The houseboats would be provided with mains electricity, mains fresh water and facilities for foul drainage which would all terminate in the Priors Boatyard building to the west of the site.
- 3.1.8 Surface water drainage would be to the existing watercourse. The existing means of foul drainage is directly into the River but, as part of the development proposed, a new gravity foul drain is to be installed which would run below the proposed access deck and into the existing foul drain in the Priors Boatyard building to the west from where the existing foul drain extends northwards into the public sewer located below the High Street. The proposed and existing houseboats will be able to utilize this foul

drainage system provided that the necessary equipment is installed in the houseboats to store and pump the foul drainage into the new foul drain.

3.1.9 It is stated that the seawall and flood-resisting access gateways (1, 2 and 3) which are owned and maintained by the Environment Agency would be retained and be unaffected by the development. Whilst the application form submitted suggests that a new or altered access is proposed to or from the public highway and the proposal would require the diversion/extinguishment and /or creation of rights of way, the existing gateways 1, 2 and 3 would be used to gain access to the new access deck which would also provide improved access to the existing houseboats on adjacent sites. Wheelchair users would gain access via the wider, gateway 3. However, there is no existing or proposed car parking to serve the houseboats.

3.1.10 The application is accompanied by supporting documents as follows:

- Planning, Design and Access Statement as part of which it is noted that consent from Marine Management Organisation and Crouch Harbour Authority would also be required.
- Updated Preliminary Ecological Appraisal Report (December 2021)
- Habitat Regulations Assessment Screening Report (October 2021)
- Ecological Statement (July 2022)
- Outline Method Statement (November 2021)
- Flood Risk Assessment (December 2019)

3.1.11 The application was advertised as a departure to the Local Development Plan (LDP), but it is now considered this was unnecessary as Policy H8 of the LDP does allow for the provision of houseboats.

## **3.2 Conclusion**

3.2.1 It is considered that the principle of the development is acceptable, and no objections are raised in relation to the impact of the proposal on the character or appearance of the area (which is a Conservation Area and includes a Grade II listed building), the amenity of local residents, highway safety/access/parking, flood risk or nature conservation.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 2021 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligations
- 81-85 Building a strong, competitive economy
- 92-103 Promoting healthy and safe communities
- 104-109 Promoting sustainable transport
- 119-123 Making effective use of land
- 124-125 Achieving appropriate densities

- 126-135 Achieving well-designed places
- 152-173 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

#### **4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- Policy S1 - Sustainable Development
- Policy S8 - Settlement Boundaries and the Countryside
- Policy H8 – Provision for Houseboats
- Policy D1 - Design Quality and Built Environment
- Policy D2 - Climate Change & Environmental Impact of New Development
- Policy D3 – Conservation and Heritage Assets
- Policy D5 - Flood Risk and Coastal Management
- Policy N1 - Green Infrastructure Network
- Policy N2 - Natural Environment, Geodiversity and Biodiversity
- Policy N3 - Open Space, Sports and Leisure
- Policy T1 - Sustainable Transport
- Policy T2 – Accessibility
- Policy I1 – Infrastructure and Services

#### **4.3 Adopted Burnham-on-Crouch Neighbourhood Plan (BOCNP) (relevant even though the site lies outside the area covered by the BOCNP):**

- Policy S1 – Strategic Housing Growth
- Policy EN.2 – New Development and Flood Risk
- Policy EN.3 – Enhancement of the Natural Environment
- Policy R1.1 – Protection and Improvement of the Riverside
- Policy RI.2 – Design Sensitivity of Riverside Developments
- Policy RI.3 – Retention of Primary River Related Employment Uses
- Policy HO.2 – Range and Type of New Residential Development
- Policy HO.8 – Housing Design Principles

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards
- Burnham On Crouch Neighbourhood Plan
- Essex Coast Recreation Disturbance Avoidance Mitigation Strategy (RAMS)
- Emerging South East Marine Plan

### **5. MAIN CONSIDERATIONS**

- 5.1 The main issues which require consideration as part of the determination of this application are the principle of the development, the impact of the development on the character and appearance of the area (which is a Conservation Area and contains a Grade II listed building), any impact on the amenity of the occupiers of

neighbouring residential properties, quality of life for occupiers of the houseboats, highways / access / parking, flood risk, and nature conservation.

## **5.2 Principle of Development**

- 5.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan is the approved LDP.
- 5.2.2 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk area, the historic environment, local infrastructure and services, character and appearance, and minimising need to travel.
- 5.2.3 The application site lies outside of any defined development boundary. According to Policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside 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 provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.4 Policy H8 states that planning permission for houseboats and associated activities may be considered appropriate if it can be demonstrated that:
- 1) The proposal does not have a significantly detrimental impact on the surrounding area in terms of pollution, biodiversity value, character and appearance.
  - 2) The proposal is within or adjacent to settlement boundaries; and
  - 3) The proposal does not conflict with activity, privacy and amenity of neighbouring uses.
- 5.2.5 Where planning permission is granted for the mooring of houseboats, the Council will require the applicant to enter into a legal agreement for the removal and disposal of any vessel so moored if it subsequently sinks, or becomes unfit for habitation, derelict or is otherwise abandoned. Any proposal for the replacement of houseboats will have to comply with the above requirements.
- 5.2.6 The preamble to the Policy states that *'the small groups of houseboats in the District's rivers and estuaries provide a unique type of housing which forms part of the District's varied character'*.
- 5.2.7 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five-Year Housing Land Supply (5YHLS). The Council is not currently able to demonstrate a deliverable 5YHLS, with the most recently published figures showing that only 3.66 years of housing land supply is currently available.
- 5.2.8 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, its housing supply Policies are considered to be out-of-date and the



presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 8, of the NPPF which states:

"For decision taking this means:

"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,

"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Footnote 8 - This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.2.9 At the heart of the NPPF 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 policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5-year housing land supply cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37). As currently the Council is unable to demonstrate a deliverable 5-year supply of housing land, for planning purposes, the housing delivery Policies within the LDP, in particular Policy S1, are out-of-date and so cannot be afforded material weight in the determination of this application. Therefore, with respect to housing delivery, the NPPF would take precedence over the LDP.
- 5.2.10 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out of date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'.
- 5.2.11 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.2.12 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental parts. The LDP through Policy S1 reiterates the requirements of the NPPF. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable

development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up-to-date five-year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three-dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme. These three dimensions are assessed below.

### **5.3 Environmental Dimension**

- 5.3.1 Accessibility is a key component of the environmental dimension of sustainable development.
- 5.3.2 Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment.
- 5.3.3 The application site is located adjacent to The Quay within Burnham-on-Crouch which is a main settlement which contains a range of services and opportunities for employment, retail and education and serves a wide catchment area, with good public transport links.
- 5.3.4 The location of the site would, therefore, not fail to discourage the use of private cars. Paragraph 105 of the NPPF states that "The planning system should actively manage patterns of growth in support of these objectives [sustainable transport]. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes." As highlighted above, occupiers of the site would have opportunities for utilising sustainable transport. The proposal is considered to accord with Policy T2 of the LDP where it seeks 'to provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate'. The proposal, therefore, is considered to be sustainable development in relation to its accessibility to sustainable means of transport.
- 5.3.5 The other aspects of the environmental dimension of sustainable development (including the impact of the development on the character and appearance of the area (which is a Conservation Area and within the setting of a listed building), nature conservation, flood risk/drainage, residential amenity and the quality of life for the occupiers of the site) are discussed in the relevant sections below.

### **5.4 Social Dimension**

- 5.4.1 The development would accommodate four units of residential accommodation. The number of bedrooms within the houseboats is not known but they are likely to be smaller units. The Council currently encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. However, the most up-to-date Local Housing Needs Assessment (LHNA) (May 2021) identifies that the greatest need is for two and three-bedroom dwellings. The development has the potential to provide units which would meet this greatest need which would, therefore, contribute positively to the identified housing need and be sufficiently responsive to local circumstances, which weighs in favour of the proposal. However, it is acknowledged that the social benefits of the residential development of four dwellings would not be significant in the context of the District as a whole.

## **5.5 Economic Dimension**

- 5.5.1 It is reasonable to assume that there may be some support for local trade from the development, and the occupiers of the additional units may support local businesses. This would however be limited given the scale of the proposal in the context of the District as a whole. There is also no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. These economic benefits would therefore be considered to be limited.

## **5.6 Conclusion**

- 5.6.1 Based on the above assessment and as the proposal is adjacent to the settlement boundary of Burnham-on-Crouch thereby complying with criterion 2) of Policy H8, it is considered that the principle of the development is acceptable (subject to further assessment in relation to other material considerations as set out below).

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

- 5.7.1 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.

- 5.7.2 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 creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

*“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, taking into account any local design standards or style guides in plans or supplementary planning documents”.*

- 5.7.3 The basis of policy D1 of the approved LDP 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.

- 5.7.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide SPD (2017) (MDDG).
- 5.7.5 One of the requirements of Policy H8 is that houseboats and associated activities may be considered appropriate if it can be demonstrated that the proposal does not have a significantly detrimental impact on the surrounding area in terms of pollution, biodiversity value, character and appearance (criterion 1). The preamble to the Policy states that *'the small groups of houseboats in the District's rivers and estuaries provide a unique type of housing which forms part of the District's varied character'*.
- 5.7.6 The application site falls within the Burnham on Crouch Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the approved Maldon District Local Development Plan states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.7.7 The Burnham-on-Crouch Conservation Area Review and Character Appraisal (2004) comments on the 'many significant features of marine activity' which remain along the quay, such as 'projecting wharfs, jetties, cranes, shell traps and even the formation of Priors dock' (p.13).
- 5.7.8 The development would consist of a new access deck, access bridge and floating pontoons which would enable up to four houseboats to be moored within the site. However, the site contains the remains of structures which were used for a similar purpose previously and the development would have no greater impact on the character or appearance of the area than that of the neighbouring houseboat sites. Furthermore, there is an existing jetty greater in length than that proposed around 45m to the west of the site and another a further 265m to the west adjacent Burnham Sailing Club. The site is outside the development boundary for Burnham-on-Crouch but is immediately adjacent to it. Through the imposition of conditions, there would be the ability to control the appearance and size of the houseboats to be moored and to require that they are removed if they became unused to ensure that they do not detract from the character and appearance of the site and the surrounding area as currently is the case.
- 5.7.9 In relation to the impact of the development on heritage assets, the Specialist – Conservation and Heritage has advised that the Grade II war memorial has 'group value' for its relationship with the grade II listed buildings which enclose two sides of the square; The Cabin Dairy to the west and Nos 14 & 16 High Street to the north. The war memorial square is an important part of the Burnham Conservation Area providing a strong visual link between the High Street and the river.
- 5.7.10 The Specialist comments that some of the existing houseboats have a traditional appearance, whereas others look rather like sheds or caravans with uPVC windows and plastic cladding which can appear somewhat at odds with the traditional character and appearance of the Conservation Area. However, he does not consider that they currently detract from the setting of the war memorial. He notes that there

are already three houseboats immediately adjacent the war memorial and that the proposed houseboat berths would be positioned further away from the War Memorial than the existing houseboats.

- 5.7.11 On the basis of the above, the Specialist does not object in principle to the creation of four more houseboat moorings in relation to their impact on the character and appearance of the Conservation Area and the setting of the Grade II listed war memorial, since this use already characterises this area. However, to help avoid any negative impact on the character of the conservation area which might be caused by unattractive houseboats, he recommends that a condition is attached to the permission requiring the appearance of the houseboats to be agreed and suggests that it will be important that the superstructures aim to be nautical rather than domestic in appearance, preferably with the walls at a raked angle with curved roofs. As stated above, this condition could be imposed if planning permission were to be granted.
- 5.7.12 As also stated above, a condition could be imposed if planning permission were to be granted requiring that the houseboats are removed if any subsequently sink, become unfit for habitation, derelict or otherwise abandoned, in compliance with Policy H8.
- 5.7.13 In conclusion, it is considered that the development proposed would be in-keeping with the character and appearance of the site and the surrounding area and would not detract from the character or appearance of the Conservation Area or the setting of the Grade II listed War Memorial, in compliance with Policies S1, S8, H8, D1 and D3 of the approved LDP.

## **5.8 Impact on Residential Amenity**

- 5.8.1 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, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.8.2 It is noted that the Specialist – Environmental Health raises no objections.
- 5.8.3 The proposal would continue the previous use of the site and be the same as the use of the neighbouring sites. Furthermore, the development proposed would be located at a sufficient distance away (over 15m) from existing residential properties to avoid any adverse impact being caused with respect to privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.8.4 Based on the above, as a result of the location, nature and scale of the development proposed, it is not considered that the proposal would have a materially adverse impact on the activity, privacy or amenity of neighbouring uses, in compliance with criterion 3) of Policies H8 and D1 of the LDP.

## **5.9 Quality of Life for the Occupiers**

- 5.9.1 Policy D1 of the approved LDP requires all residential development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.

- 5.9.2 The preamble to Policy H8 states that *'the small groups of houseboats in the District's rivers and estuaries provide a unique type of housing which forms part of the District's varied character. In planning terms, houseboats are considered to be a form of residential development similar to that of land based housing, requiring similar infrastructure such as car parking provision, access roads, refuse disposal points, and where possible access to main infrastructure networks'*.
- 5.9.3 The proposal is for residential accommodation which would be visible from the public domain as the house boats would be adjacent to a public right of way. However, the availability of views into the houseboats would depend on their design and would not be anticipated to be so significant to result in an unacceptable quality of life for the occupiers of the boats.
- 5.9.4 No private amenity space would be provided. However, given the specific nature of the residential accommodation proposed (it would not be practicable to provide private amenity space), the lifestyle that houseboats offer and as these houseboats are to remain navigable, along with the facilities available within the adjacent town of Burnham-on-Crouch, the lack of private amenity space is not considered unacceptable in this case. Provision for refuse disposal and access to main infrastructure networks are proposed as part of the application.
- 5.9.5 It is, therefore, considered that the accommodation would be of an adequate quality, in compliance with Policies D1 and H8 of the LDP.

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

- 5.10.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to include sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, 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 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.
- 5.10.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards.
- 5.10.3 The preamble to Policy H8 states that *'In planning terms, houseboats are considered to be a form of residential development similar to that of land based housing, requiring similar infrastructure such as car parking provision, access roads, refuse disposal points, and where possible access to main infrastructure networks'*.
- 5.10.4 There would be no off-street parking provision for the occupiers of the houseboats proposed. However, this was also the case for the previous use of the site. Furthermore, the houseboats to be moored would need to remain navigable to be acceptable from a flood risk perspective and, given their location immediately adjacent to the High Street with direct access from The Quay, occupiers of the houseboats would be able to access local services and facilities by means other than the private car. A condition requiring the provision of storage for bicycles could be imposed if planning permission were to be granted. Based on these facts, objection to the development on the basis of a lack of parking is not raised.
- 5.10.5 It is also noted that Essex County Council (ECC) Highways do not object to the proposal subject to the imposition of a condition that the public's rights and ease of passage over public footpath 11 (Burnham on Crouch) are maintained free and

unobstructed at all times, which could be imposed if planning permission were to be granted.

5.10.6 Based on the above, no objections to the proposal are raised on the grounds of highway safety, access or car parking.

## **5.11 Flood Risk and Drainage**

5.11.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.

5.11.2 One of the requirements of Policy D2 is to minimise all forms of possible pollution including air, land, water, odour, noise and light. The Policy states that any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

5.11.3 The Flood Risk Assessment (FRA) submitted identifies that the site is within Flood Zone 3b (functional floodplain) and suggests that the development could be considered to be 'Water Compatible'. The FRA also provides the following information:

- the 1:200-year +CC (2120) flood level is approximately 2.325m above the mean high water level.
- the houseboats and pontoon would need to be designed to raise to at least the 1:200-year +CC (2120) flood level of 5.175m AOD.
- the houseboats would also need to be adequately secured to be raised above the 1:200-year +CC (2120) flood level without becoming a floating debris hazard.
- a flood warning and evacuation plan and a plan if the foul drainage system were to fail are recommended.
- the site is at low risk of surface water flooding, groundwater flooding, sewer flooding and reservoir flooding.
- the means of surface water disposal would not increase the risk of flooding.

5.11.4 The Environment Agency agrees that the development could be considered 'Water Compatible' provided that the vessels are moveable with engines, and they raise no objections in relation to flood risk. However, they advise that, as the site forms part of the functional flood plain (Flood Zone 3b), the proposal would need to pass Sequential Test and be supported by a site-specific FRA. A site-specific FRA has been submitted and it is considered that the development passes the Sequential Test as there would no sites with a lower risk of flooding which could accommodate the type of development proposed i.e. boat moorings. As highlighted elsewhere in this report, a condition could be imposed if planning permission were to be granted requiring that the boats moored are and remain navigable.

5.11.5 As part of their consultation response, the Environment Agency also highlights the following from the FRA submitted:

### **Actual Risk**

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability flood event, including an allowance for climate change, as well as within the flood extent for a 5% (1 in 20) current day annual probability flood event.
- The site does not benefit from the presence of defences.

- The floating pontoon and four houseboats are proposed to float above at least 5.175m AOD. This is above the 0.5% annual probability flood level including climate change of 5.11m AOD and therefore dry of flooding by 0.065m depth in this event.
- Flood resilience/resistance measures have not been proposed.
- The floating pontoon and four houseboats are proposed to float above at least 5.175m AOD and the FRA suggests that it will need to be raised adequately above this to ensure they are secured and do not become a floating debris hazard. Therefore, there is likely to be refuge above the 0.1% (1 in 1000) annual probability flood level of 5.21m AOD.
- the site access route is roughly 3.40m AOD and in a 0.5% annual probability flood level including climate change of 5.11m AOD, and so the flood depth would be 1.71 metres. Therefore, assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change. Therefore, this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in 200) annual probability including climate change flood event). However, no objections to the proposed development are raised on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant, but the local planning authority should determine its adequacy to ensure the safety of the occupants.
- Compensatory storage is not required.

#### Residual Risk

- Section 6 of the FRA explores the residual risk of a breach using the Maldon District Council's Strategic Flood Risk Assessment (SFRA). The site could experience breach flood depths of up to 1.5 metre during the 0.5% (1 in 200) annual probability including climate change breach flood event (up to the year 2107).
- The floating pontoon and four houseboats are proposed on the riverward side of the flood defences and so the FRA has considered the impact of a breach on the proposed development as low. This applies to both the 0.5% (1 in 200) annual probability including climate change breach flood event & 0.1% (1 in 1000) annual probability including climate change breach flood event.
- Maldon District Council's Strategic Flood Risk Assessment (SFRA) also assesses the flood hazard as danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Flood resilience/resistance measures have not been proposed.
- A Flood Evacuation Plan has been proposed and is necessary to ensure the safety of the development in the absence of safe access.

5.11.6 In terms of surface water drainage, no objections have been raised by the Statutory Consultees (including the Specialist – Environmental Health) to this being discharged into the River. Officers have no reason to disagree particularly taking into account the nature and scale of the development proposed which would replace a comparable use.

5.11.7 It is also noted that there have been no objections raised to the development in relation to any impact on the flow of the River or build-up of silt, including by the Environment Agency. The only immobile element of the development would be three piles, all the other elements would rise and fall on the tide. Therefore, and given that the site is located between two similarly developed/used sites, it is not considered that the development would materially affect tidal flow or the build-up of silt.



- 5.11.8 Foul drainage from the development is to be discharged via a new foul drain provided that the houseboats to be moored are equipped with the necessary storage and pumping equipment. If planning permission were to be granted, a condition could be imposed requiring that foul drainage is not disposed of into the River.
- 5.11.9 Based on the contents of the FRA submitted and the means of drainage proposed along with advice of the Environment Agency and the Specialist – Environmental Health, it is considered that the development would be safe for its lifetime and no objections are raised in relation to flood risk or drainage. Flood resilience and resistance measures along with measures to ensure that the houseboats are adequately secured could be required by condition, if planning permission were to be granted. Whilst some details of a Flood Evacuation Plan are included within the FRA submitted, it is considered necessary to require a more detailed Flood Evacuation Plan if planning permission were to be granted.
- 5.11.10 The development is, therefore, considered to be in compliance with Policies D5 and H8 of the LDP.

## **5.12 Nature Conservation**

- 5.12.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.12.2 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.
- 5.12.3 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).
- 5.12.4 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.12.5 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.12.6 One of the requirements of Policy H8 is that houseboats and associated activities may be considered appropriate if it can be demonstrated that the proposal does not have a significantly detrimental impact on the surrounding area in terms of pollution, biodiversity value, character and appearance (criterion 1).
- 5.12.7 The application is supported by an Updated Preliminary Ecological Appraisal Report (December 2021), a shadow Habitat Regulations Assessment (HRA) Screening Report, Ecological Statement (July 2022) and Outline Method Statement (November 2021).
- 5.12.8 The Ecological Statement responds to advice received from Natural England and Essex County Council (ECC) Ecology in March/April 2022. It concludes that further

wintering bird and invertebrate surveys are unnecessary and that it is considered unlikely that these animals will be significantly impacted by the proposed works considering the scale and nature of the works, provided that the mitigation measures in the HRA and the Method Statement are followed.

5.12.9 The Updated Preliminary Ecological Appraisal submitted advises that:

- Installation of piles into the riverbed has the potential to affect marine fauna through acoustic disturbance and vibrations and the potential to temporarily increase sediment
- Construction is likely to cause disturbance to marine fauna and bird assemblages for which the European designated sites are notified for
- The site is situated upon Priority Habitat Inventory mudflats and intertidal substrate foreshore (due to likely impacts, an Outline Method Statement has been produced)

5.12.10 The Appraisal concludes as follows:

- No issues with respect to bats are raised but consideration of lighting is recommended
- A low impact in relation to otters is anticipated but precautionary measures are recommended i.e. check for signs of otters prior to works commencing and the works being carried-out in accordance with pollution prevention guidance and over low tide
- There is potential for the site to be used by grey seal, harbour porpoise and harbour seal (which are all protected species and harbour porpoise and harbour seal are also Priority Species under the UK Post-2010 Biodiversity Framework). This use would be transitional with the daily incoming/receding tides, but it is recommended that works are carried-out in accordance with pollution prevention guidance and over low tide. The same recommendation is made in relation to fish.
- Birds could use the existing wreck [now removed] and decking for nesting, so it is recommended that disturbance is carried out from March to mid-August to create as little disturbance as possible to wintering wildfowl and waders, including brent geese.
- The adverse impact on aquatic invertebrates is likely to be low but it is recommended that works are carried-out in accordance with pollution prevention guidance and over low tide
- The site is unlikely to support any rare or protected flora

5.12.11 Enhancements are recommended within the Appraisal as follows: addition of standard bird boxes to house boats (two 1B Schwegler small hole nest boxes are recommended but located out of direct sunlight and close to but not restricted by vegetation); consideration of lighting details in relation to bats, wintering waders, wildfowl, marine mammals and fish to minimize light spillage onto mudflats; and the sympathetic management of the base of the sea wall to allow the area to vegetate naturally with the incoming/receding tides.

5.12.12 The Appraisal concludes that, if the precautionary measures recommended are followed, including in relation to aquatic invertebrates, European eel, grey seal, harbour porpoise, harbour seal, nesting birds, smelt and otter, and works are carried out during times of low tide and following the 'Outline Method Statement', the development is able to proceed with minimal impact on the local conservation status of any protected, principally important or rare species within the area.

5.12.13 Natural England has provided the following advice:

Initial response:

*Further information is required to determine the impacts on designated sites. As submitted, the application could have potential significant effects on the Crouch and Roach Estuaries Special Protection Area (SPA), Ramsar and the Essex Estuaries Special Area of Conservation (SAC). This site is also notified at a national level as the Crouch and Roach Site of Special Scientific Interest (SSSI) and impact risk zones are also triggered for the Outer Thames Estuary SPA and Blackwater, Crouch, Roach and Colne Estuaries - Marine Conservation Zones. Natural England requires further information to determine the significance of these impacts and the scope for mitigation. Without this information, Natural England may need to object to the proposal. The LPA needs to assess the proposal in relation to RAMS but does not consider the proposal will have an impact on the England Coast Path.*

Further response (09.03.2022):

*A HRA is required including the assessment on SAC habitat to determine impacts on designated sites.*

*To assist with screening for the likelihood of significant effects on European sites, Natural England offers the following advice, based on the information provided:*

- the proposal is not directly connected with or necessary for the management of the European site*
- the proposal is unlikely to have a significant effect on the SPA birds, either alone or in-combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment*
- Natural England advises that there is currently not enough information provided in relation to impacts on SAC habitat to determine whether the likelihood of significant effects can be ruled out. The LPA's HRA needs to consider all potential impacts on the SAC, proceeding to Appropriate Assessment if impacts cannot be ruled out*

5.12.14 ECC Ecology raised a holding objection based on the Updated Preliminary Ecological Appraisal (December 2021) due to insufficient information on the likely impacts on designated sites (the Crouch & Roach Estuaries (Mid-Essex Coast Phase 3) Protection Area (SPA) & Ramsar site, Essex Estuaries Special Area of Conservation (SAC) and underpinning Site of Special Scientific Interest (SSSI)). They recommended that a shadow HRA was submitted to assist the LPA in preparing a HRA as the competent authority. They also advised that an appropriate financial contribution towards RAMS was secured.

5.12.15 Following the submission of a shadow HRA, a further response from ECC Ecology (November 2022) has been received which maintains a holding objection due to insufficient ecological information on designated sites (Crouch and Roach Estuaries Ramsar and SPA). They have advised that the LPA needs to complete a project level Appropriate Assessment and mitigation measures need to be secured to ensure they are adequate and delivery is in perpetuity. They recommended that the following additional information was required:

- Details of the methodology and timing and length of the construction works.
- Details of any likely increase in disturbance from increased visual disturbance, noise or vibration during construction and operation phases of the development, to be informed by appropriate assessments.
- Details of site drainage during construction and operation phases of the development.
- Likely impact upon the qualifying features of the Habitats Sites and SSSI's (Breeding and overwintering birds, plants and invertebrates)
- A strategy for mitigating any identified impacts upon the qualifying features of the Habitats Sites and SSSI's.

They advised that this further information was required to allow the LPA to demonstrate compliance with its statutory duties under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife & Countryside Act 1981 (as amended).

- 5.12.16 The shadow Habitat Regulations Assessment Screening Report submitted has been used to assist with the carrying out of a HRA for the proposal which has been sent to Natural England for agreement, as required. A response from Natural England had not been received at the time of writing this report.
- 5.12.17 Based on the above and the conclusions of the HRA (assuming they are agreed by Natural England), there is no reason to conclude that the development would have an adverse impact on the ecology of the site or its surroundings, subject to the imposition of conditions, as recommended below and a financial contribution towards RAMS being paid which the Council has agreed to. These conditions include a Construction Environmental Management Plan (CEMP) being required, details of external lighting being submitted and limiting the months of the year construction can be carried out. These conditions along with the payment of a financial contribution towards RAMS, address the matters raised by ECC Ecology set out above. Therefore, the proposal is in compliance with Policies S1, S8, D1, N1, N2 and H8 of the LDP and the NPPF.

## 6. **ANY RELEVANT SITE HISTORY**

None.

## 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>
Burnham-on-Crouch Town Council	<p>Recommends refusal, for the following reasons:</p> <ul style="list-style-type: none"> <li>- The proposed site is at an extremely sensitive location. It is: <ul style="list-style-type: none"> <li>• In the centre of the town</li> <li>• In a conservation area on Burnham's ancient quayside</li> <li>• Immediately adjacent to and acting as a backdrop to registered heritage asset the Burnham war memorial</li> <li>• The memorial is the centre of Town services and commemorations with already very compromised visibility and access to the crowds that attend such events</li> </ul> </li> </ul> <p>Because of its scale, mass and design it is</p>	<p>Noted – refer to sections 5.2, 5.3, 5.4, 5.6 and 5.8 of this report. Financial contributions towards the NHS and education are not required for the scale of development proposed as a result of the limited impact it would have. The Llys Helig has now been removed from the site.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>believed that the addition of an extra 4 large domestic houseboats, with no effective control over design, appearance or maintenance standards (as has been demonstrated over the past 3 years with the Lylis Helig) would create an unacceptable precedent. The proposed development fails key NPPF strictures:</p> <ul style="list-style-type: none"> <li>• 194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.</li> <li>• 32. Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and allow for the efficient delivery of goods, and access by service and emergency vehicles</li> <li>• There are no proposed parking provisions to service these 4 large permanent houseboats in an area which already has severe shortfalls</li> <li>• The additional 4 large residential boats would be unsustainable because Burnham has insufficient NHS and Education facilities to meet present and already approved incremental residential accommodation when the town and district have in excess of 5-year land</li> </ul>	

Name of Parish / Town Council	Comment	Officer Response
	<p>supply</p> <ul style="list-style-type: none"> <li>• 195. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.</li> <li>• 196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Furthermore, when the river is at high tide the houseboats will look directly into the neighbour's windows. Hence a loss of privacy</li> </ul> <p>This application should</p>	

Name of Parish / Town Council	Comment	Officer Response
	<p>not be conjoined with the application to remove the Lylis Helig boat. These should be treated as TWO separate applications.</p> <p>If this application was to be granted, then a condition be placed on the application that NO sewerage from the houseboats be discharged directly into the river.</p> <p>This application contravenes MDC policy H8 (Provision for houseboats)</p>	

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	<p>Initial response:</p> <p>Further information is required to determine the impacts on designated sites. As submitted, the application could have potential significant effects on the Crouch and Roach Estuaries Special Protection Area (SPA), Ramsar and the Essex Estuaries Special Area of Conservation (SAC). This site is also notified at a national level as the Crouch and Roach Site of Special Scientific Interest (SSSI) and impact risk zones are also triggered for the Outer Thames Estuary SPA and Blackwater, Crouch, Roach and Colne Estuaries - Marine Conservation Zones.</p> <p>Natural England requires further information in order to determine the significance of these impacts and the scope for</p>	<p>Noted – refer to section 5.8 of this report. A HRA for the development has been carried-out and sent to Natural England for agreement. Their response to awaited.</p>

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>mitigation. Without this information, Natural England may need to object to the proposal. The LPA needs to assess the proposal in relation to RAMS but does not consider the proposal will have an impact on the England Coast Path.</p> <p>Further response (09.03.2022):</p> <p>A HRA is required including the assessment on SAC habitat to determine impacts on designated sites.</p> <p>To assist with screening for the likelihood of significant effects on European sites, Natural England offers the following advice, based on the information provided:</p> <ul style="list-style-type: none"> <li>• the proposal is not directly connected with or necessary for the management of the European site</li> <li>• the proposal is unlikely to have a significant effect on the SPA birds, either alone or in-combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment</li> <li>• Natural England advises that there is currently not enough information provided in relation to impacts on SAC habitat to determine whether the likelihood of significant effects can be ruled out.</li> </ul> <p>The LPA's HRA needs to consider all potential impacts on the SAC, proceeding to Appropriate Assessment if impacts cannot be ruled out</p>	



<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Environment Agency	Originally issued a holding objection on the grounds of lack of information regarding ecology and proximity to flood defences but this has subsequently been removed. They agree that the proposal could be considered water compatible provided that the vessels are moveable with engines. No objections raised in relation to flood risk. As functional flood plain (Flood Zone 3b) the proposal would need to pass the Sequential Test and be supported by a site-specific FRA.	Noted – refer to section 5.7 of this report.
Marine Management Organisation	Advisory comments made.	Noted.
ECC Highways	No objection subject to a condition that the public's rights and ease of passage over public footpath 11 (Burnham on Crouch) are maintained free and unobstructed at all times	Noted – refer to section 5.6 of this report - the recommended condition could be imposed if planning permission were to be granted.

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Specialist – Environmental Health	No objections but provides advisory comments in relation to construction.	Noted.
ECC Ecology	Based on Updated PEA (December 2021), holding objection issued due to insufficient information on the likely impacts on designated sites (the Crouch & Roach Estuaries (Mid-Essex Coast Phase 3) Protection Area (SPA) & Ramsar site, Essex Estuaries Special Area of Conservation (SAC) and underpinning Site of Special Scientific Interest (SSSI)). A shadow HRA	Noted – refer to section 5.8 of this report. A HRA has been carried-out and sent to Natural England for agreement. Their response to awaited.

Name of Internal Consultee	Comment	Officer Response
	<p>should be submitted to assist the LPA in preparing a HRA as the competent authority. An appropriate financial contribution towards RAMS should also be secured.</p> <p>Further response (November 2022) maintained a holding objection due to insufficient ecological information on designated sites (Crouch and Roach Estuaries Ramsar and SPA). Advised that the LPA needs to complete a project level Appropriate Assessment and mitigation measures need to be secured by a planning obligation to ensure they are adequate and delivery is in perpetuity. The following additional information is required:</p> <ul style="list-style-type: none"> <li>- Details of the methodology and timing and length of the construction works.</li> <li>- Details of any likely increase in disturbance from increased visual disturbance, noise or vibration during construction and operation phases of the development, to be informed by appropriate assessments.</li> <li>- Details of site drainage during construction and operation phases of the development.</li> <li>- Likely impact upon the qualifying features of the Habitats Sites and SSSI's (Breeding and overwintering birds, plants and invertebrates)</li> <li>- A strategy for mitigating any identified impacts upon the qualifying</li> </ul>	

Name of Internal Consultee	Comment	Officer Response
	features of the Habitats Sites and SSSI's. Consequently, this further information is required to allow the LPA to demonstrate compliance with its statutory duties under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife & Countryside Act 1981 (as amended).	
Specialist - Heritage and Conservation	No objection subject to the imposition of conditions.	Noted – refer to section 5.3 of this report.

#### 7.4 Representations received from Interested Parties

- 7.4.1 12 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Area in need of tidying up and existing houseboats not visually attractive but would not be a positive addition to quayside and would obstruct river views if increased in number. Would affect views to and from the war memorial which is an important local feature.	Refer to section 5.2 of this report.
No parking provision	Refer to section 5.6 of this report.
No employment would be generated and no benefit to area	Refer to section 5.2 of this report.
Crouch Harbour Authority have policy not to grant further licenses for houseboats	This is not a material planning consideration.
Foul drainage should be provided for existing houseboats without development proposed	Noted.
Understood the existing berth is for the temporary mooring of vessels not permanent houseboats	Noted.
Grey water, as well as foul drainage, should be prevented from being discharged into River due to potential pollution	Noted but no objections to the proposed drainage have been raised by any consultee including the Specialist – Environmental Health and Natural England – refer to section 5.7 of this report.
Concern flood gates would be left open putting the town at risk of flooding	Noted - there is no reason to anticipate that this would be the case, but is not within the jurisdiction of the local

<b>Objection Comment</b>	<b>Officer Response</b>
	planning authority.
Long pontoon proposed – the boats would be vulnerable in high winds	The boats would be no more vulnerable than many boats already moored within the River, the pontoon is no longer than existing jetties and ensuring that the boats were adequately secured during high winds would be the responsibility of the occupiers.
Lack of privacy for occupiers of houseboats	Noted – refer to section 5.5 of this report.
Would add to light, noise etc pollution	Noted but given the scale and location of the site, it is not anticipated that any such pollution would be materially increased.
Will upset the flow of the river and wildlife	Refer to sections 5.7 and 5.8 of this report.
Excessive development on riverside waterfront	Noted.
Will affect seabed, tidal flow and build-up of silt	Noted – refer to section 5.7 of this report.
Access too narrow for wheelchair access	Access gateway 3 is wide enough for wheelchair users to access the site.
Local infrastructure, particularly sewerage, already overloaded	Noted.
Risk of drowning if anyone were to fall overboard due to strong tide	Noted but it would be the responsibility of the occupiers of the site to minimise the risk of falling overboard.
Suggests proposal is to fund removal of wreck but removal of existing vessel should happen anyway	The wreck has now been removed.
Concerns about safety of persons using the River. Would interfere with sailing; jetty should be reduced in length by half	It is not anticipated that the development would materially adversely impact on the safety or use of the river as there are existing, longer pontoons/ jetties in the vicinity of the site.
Potential damage to flood defence	There are no works proposed which would directly impact the existing flood defences.
Could negatively impact on local businesses from loss of view and increased silting	Noted.

## 8. **PROPOSED CONDITIONS**

### Pre-Commencement Conditions

Pre-commencement conditions are recommended and the applicant/agent has been written to to advise of the intention to use these conditions. If no response is received or no objection raised to the conditions within 10 days, the Local Planning Authority is able to impose the suggested conditions. The recommended below is made on the assumption that agreement is gained.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
  - Drawing Number 1905/01: Site Location Plan.
  - Drawing Number 1905/04: Proposed Elevations & Cross Section.
  - Updated Preliminary Ecological Appraisal Report (December 2021)
  - Habitat Regulations Assessment Screening Report (October 2021)
  - Ecological Statement (July 2022)
  - Outline Method Statement (November 2021)
  - Flood Risk Assessment (December 2019)REASON To ensure that the development is carried out in accordance with the details as approved.
3. No development shall take place unless details of flood resilience and resistance measures to be incorporated into the development and measures to secure houseboats to ensure they do not become floating debris have been submitted to and approved in writing by the local planning authority. The development shall be carried-out in accordance with the approved details and retained as such thereafter.  
REASON To ensure the appropriate use of the site as it is located within an area at high risk of flooding, in accordance with Policy D5 of the Maldon District Local Development Plan and the NPPF.
4. No vessel shall be moored within the site unless a Flood Warning and Evacuation Plan has been submitted to and approved in writing by the local planning authority. The use of the site shall be carried-out in accordance with the approved Plan, thereafter.  
REASON As the site is located within a high-risk flood zone, in the interests of minimising the impacts of flood risk, in accordance with Policy D5 of the approved Maldon District Local Development Plan and the NPPF.
5. The public's rights and ease of passage over public footpath 11 (Burnham on Crouch) shall be maintained free and unobstructed at all times  
REASON To protect the amenity of the area and to prevent pollution, in accordance with Policies D1 and T2 of the Maldon District Local Development Plan and the NPPF.
6. No boat shall be moored within the site unless provision for cycle storage has been made in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The storage shall be retained as such thereafter in perpetuity.  
REASON To encourage the use of non-motorised means of transport, in accordance with Policy T2 of the Maldon District Local Development Plan and the NPPF.
7. Details of the scale, form, materials and finishes of all houseboats to be moored within the site shall be submitted to and approved in writing by Maldon District Council prior to them being moored within the site. The houseboats shall be retained in accordance with the approved details thereafter  
REASON To ensure the appropriate use of the site in accordance with Policies D1 and D3 of the Maldon District Local Development Plan and the NPPF.

8. Houseboats shall be removed from the site within one month if they subsequently sink, become unfit for habitation, derelict or otherwise abandoned, in compliance with Policy H8.  
REASON In the interests of the character and appearance of the area, in accordance with Policies D1, D3 and H8 of the Maldon District Local Development Plan and the NPPF.
9. No more than four boats shall be moored within the application site at any one time.  
REASON In the interests of the character and appearance of the area, in accordance with Policies D1, D3 and H8 of the Maldon District Local Development Plan and the NPPF.
10. No boat moored within the site shall measure more than 20 metres in length.  
REASON In the interests of protecting the appearance and amenities of the area in accordance with Policies D1, D3 and H8 of the approved Maldon District Local Development Plan and the NPPF.
11. Any houseboat occupying the site shall be and remain navigable and shall be moveable under its own power at all times.  
REASON in the interests of protecting the appearance and amenities of the area and flood risk in accordance with Policies D1, D3, D5 and H8 of the approved Maldon District Local Development Plan and the NPPF.
12. No foul drainage from the houseboats moored within the site shall discharge into the River Crouch.  
REASON To prevent pollution of the local area, in accordance with Policy D2 of the approved Maldon District Local Development Plan and the NPPF.
13. No development shall take place until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECOW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The CEMP shall include the following measures:

- Toolbox talks by an ecologist to help inform construction workers and site personnel of the importance of the designated habitats and species, habitats and their sensitivities, as well as all required actions by staff. The toolbox talk will also appraise site workers of biosecurity procedures, including an overview of the identification of priority non-native species.
- All wastes to be stored in designated areas that are isolated from surface water drains, open water, and are bunded to contain any spillage, or releases.
- No waste concrete slurry/wash water from concrete or cement works will be discharged into the marine environment, particularly from the boat to be utilised for piling.
- For fuel spillages, run off and other potential pollution incidents which have the potential to impact on habitats including offsite watercourses, appropriate equipment such as spill kits containing absorbent material will be available to site operatives and site operatives shall be trained in the use of these spill

kits. All reagents and chemicals will be clearly signed and appropriately stored, contained and banded.

- Any coatings/treatments utilised have to be suitable for use in the marine environment and are to be used in accordance with best environmental practice.
- The floating jetty will be anchored by three steel piles driven by a floating pontoon mounted crane of minimum size required for the complete installation using either a hydraulic or pneumatic pile driver applying a soft start technique.
- The piles, access bridge and pontoon sections will be delivered by road to an offsite yard or wharf location and stored there until required. When required, they will be picked up by barge as needed and tides allow. Piles will be positioned by engineer viewing and giving instruction from shore by radio.
- The pontoon can be craned or floated into position.
- The access bridge will be connected to the jetty via flexible bolted connections. The bridge will be mounted directly onto the floating pontoon sections secured by the pre-driven piles.
- Works will likely take around two weeks to complete, with piling likely to be undertaken over one or two working days (dependent on weather and tide windows).
- Measures to prevent 'biofouling' through a biosecurity plan. Scheme activities which risk introducing or spreading non-native species will be identified. Biosecurity measures will include following a check, clean and dry procedure where working on The Estuary. Boat users and staff will be required to sign in and out, confirming that they have cleaned and inspected all their equipment. All clothing and equipment will be thoroughly inspected and any visible debris (mud, plant or animal matter) will be removed and left at the water body where it was found. Particular attention will be paid to seams and seals of boots and waders. Any pockets of pooled water will be emptied. Equipment will be hosed down or pressure- washed on site. If facilities are not available then equipment will be carefully contained, e.g. in plastic bags, until they can be found. Washings will be left at the water body where the equipment was used, or contained and not allowed to enter any other watercourse or drainage system (i.e. not put down the drain or sink). Where possible, clean equipment should be dipped in disinfectant solution (e.g. Virkon) to kill diseases, but note this is unlikely to kill non-native species. Thoroughly drying is the best method for disinfecting clothing and equipment. Water-cooled engines must be washed thoroughly with tap water to ensure the system does not harbour non- native species. Boots and nets should be hung-up to dry. Equipment should be thoroughly dry for 48 hours before it is used elsewhere. Some non-native species can survive for as many as 15 days in damp conditions and up to 2 days in dry conditions, so the drying process must be thorough. Biofouling will be thoroughly removed from all hulls and other submerged surfaces before transfer to another site.
- No emptying of the bilge pump to occur into the River Crouch.
- A contingency plan will be put in place if the presence or spread of non-native species is linked to the works.
- Details of surface water drainage during construction.

The approved CEMP shall be adhered to and implemented throughout the construction period.

REASON To conserve protected and Priority species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended)

and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies S8, D1, N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.

14. No floodlighting or other external form of illumination of the site shall be provided, including during construction.

REASON In order to minimise light spillage in the interests of the character and appearance of the rural area within which the site is located and to protect wildlife habitats, in accordance with the NPPF and Policies D1, N1 and N2 of the Maldon District Approved Local Development Plan.

15. No houseboat shall be occupied until details of measures to avoid light spill onto habitats have been submitted to and approved in writing by the local planning authority. Any lighting required for security/safety will use sensor activated lamps of no more than 2000 lumens (150 Watts) and only low wattage lamps (<70W) shall be used.

REASON In order to minimise light spillage to protect wildlife habitats, in accordance with the NPPF and Policies D1, N1 and N2 of the Maldon District Approved Local Development Plan.

16. Construction works shoreward of the flood defences shall not be undertaken during the overwintering period (1st October to second week of April).

REASON To avoid impacts to overwintering bird interest features for which the Crouch and Roach estuaries are notified and to avoid impacts on important migratory fish species allowing for local variations in migratory and spawning times for the relevant fish species e.g. smelt, in accordance with the NPPF and Policies D1, N1 and N2 of the Maldon District Approved Local Development Plan and the NPPF.

17. All enhancement measures shall be carried out in accordance with the details contained in the Updated Preliminary Ecological Appraisal Report (December 2021) prior to the occupation of any houseboat within the site and retained as approved thereafter.

REASON In the interests of nature conservation, in accordance with the NPPF and Policies D1, N1 and N2 of the Maldon District Approved Local Development Plan.





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
15 FEBRUARY 2023**

<b>Application Number</b>	<b>22/00535/FUL</b>
<b>Location</b>	The Hawthorns, Scalby Road, Southminster, CM0 7BP
<b>Proposal</b>	Material change of use of land to the south of the existing site 'The Hawthorns' and siting of an additional mobile home for permanent residential occupation with associated access gateway, driveway and hardstanding, grassed amenity area and boundary fencing and landscaping.
<b>Applicant</b>	Mr Michael Pilkington
<b>Agent</b>	Mr John James - John James Associates
<b>Target Decision Date</b>	07.06.2022
<b>Case Officer</b>	Jonathan Doe
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

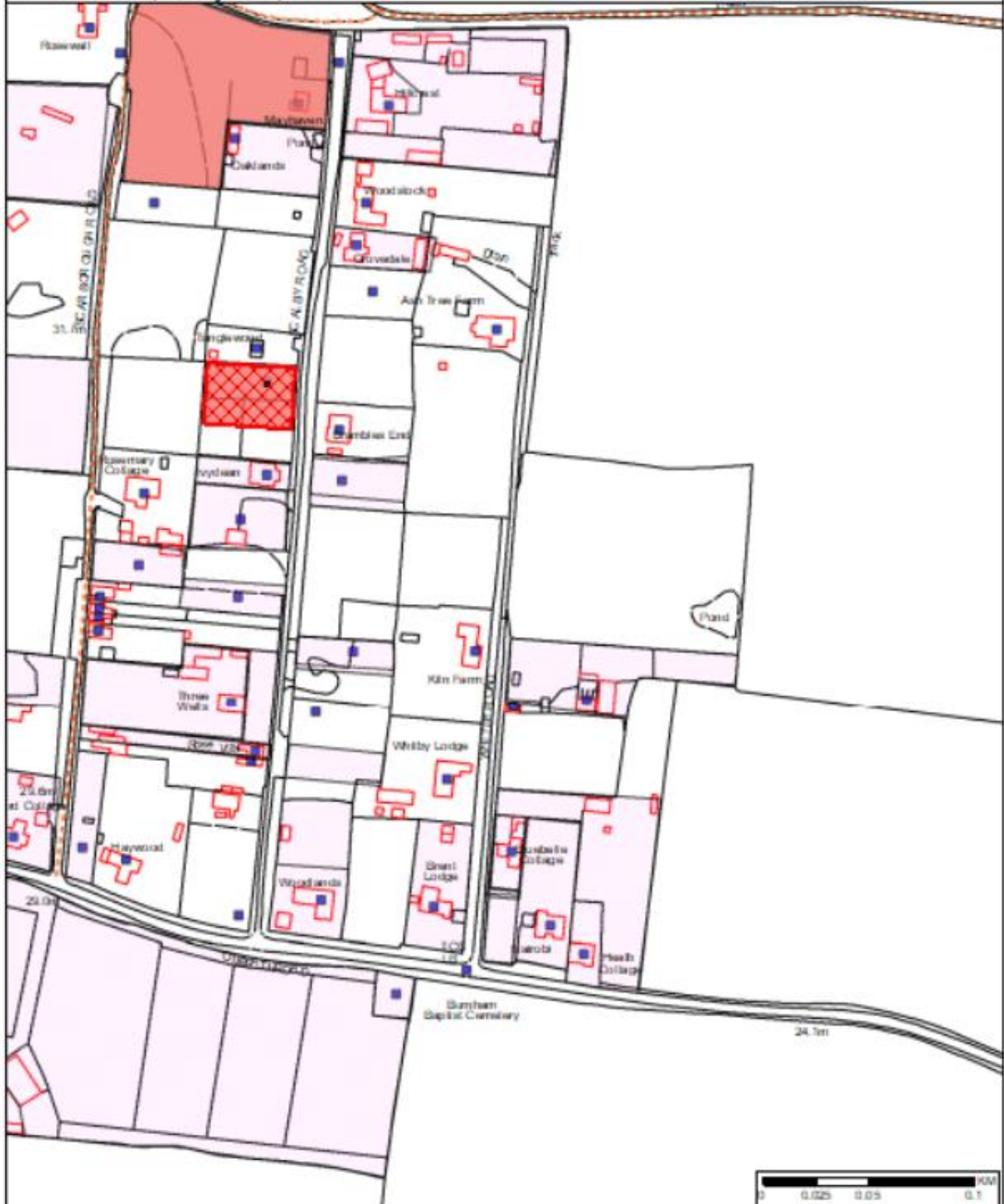
**1. RECOMMENDATION**

**APPROVE** subject to the conditions as detailed in Section 8.

**2. SITE MAP**

Please see below.

**Application reference 22/00535/F UL**  
**The Hawthorns, Scalby Road, Southminster**



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 24/01/2023

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The site is formed from part of a horse paddock and the curtilage of The Hawthorns. The horse paddock and The Hawthorns are on the western side of Scalby Road, a cul-de-sac type track off Old Heath Road. It is understood that Scalby Road is privately owned and not a public highway. The general setting to the site is rural albeit sporadic residential development. The site is to the southwest of Southminster and outside the settlement boundary.
- 3.1.2 The Hawthorns and the horse paddock are set between the residential property Tanglewood, to the north, and the residential property Ivydean, to the south. On the opposite side of the track is another residential property, Brambles End. To the rear of the site, to the west, is an area of woodland.
- 3.1.3 The proposal is for a new dwelling. The dwelling would take the form of a mobile home. Whilst the mobile home would be capable of being removed from the site, the application is for permanent residential occupation.
- 3.1.4 The plans show that the two-bedroom mobile home would be positioned in the far left-hand corner of the paddock in relation to Scalby Road. A shingle hardstanding would form a driveway and parking and turning area. A close-boarded gate 1.9m in height would be set on the front boundary of the plot. The remainder of the front boundary, the eastern boundary, would be defined by a close boarded fence of 1.9m in height.
- 3.1.5 The plot for the proposed dwelling would be 14m wide by 43.5m deep.
- 3.1.6 The proposed mobile home would be 4m wide by 12.5m long.
- 3.1.7 Mr and Mrs Pilkington live at The Hawthorns with their son and his wife and their daughter. The proposed mobile home is to accommodate the son and daughter-in-law and their daughter.

#### **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against all current material planning considerations, including the planning history of the site and that of the surrounding area and it is found that the principle of a dwelling at this location is acceptable. The proposed development would not have a discordant impact on the character and appearance of the area, or the intrinsic beauty of the countryside and its design would not be out of keeping with its setting. No objection is raised in relation to the impact of the development on residential amenity or parking provision. Therefore, subject to appropriate conditions, including a condition to ensure that occupation of the dwelling would be as presented in the application, the development is considered acceptable.

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

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

#### **4.1 National Planning Policy Framework 2021 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-49 Determining applications
- 55-58 Planning conditions and obligations
- 60-67 Delivering a sufficient supply of homes
- 78-80 Rural Housing
- 104-111 Promoting sustainable transport
- 119-123 Making effective use of land
- 124-125 Achieving appropriate densities
- 126-134 Achieving well-designed places
- 174-182 Conserving and enhancing the natural environment

#### **4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- N2 Natural Environment, Geodiversity and Biodiversity
- H2 Housing Mix
- H4 Effective Use of Land
- H6 Provision for Travellers
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).
- 5.1.2 The proposed development is for the stationing of a mobile home for permanent occupation, the creation of a dwelling which would be sited outside a settlement boundary.

5.1.3 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five-Year Housing Land Supply (5YHLS). The Council has published an up to date 5YHLS which concludes that the Council cannot currently demonstrate a 5YHLS.

5.1.4 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 8, of the NPPF which states:

*"For decision taking this means:*

*"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

5.1.5 Footnote 8 - 8 This includes, for applications involving the provision of housing, situations where the LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).

5.1.6 At the heart of the NPPF 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 policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).

5.1.7 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out of date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'.

5.1.8 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.

5.1.9 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1

re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

- 5.1.10 Sustainability issues, specifically character and appearance of the area and accessibility, were some of the main issues evaluated by an Inspector when planning permission was granted for the dwelling now known as The Hawthorns. The Inspector stated that the residential occupation of The Hawthorns had been put forward by a gypsy and traveller. Given that the current application is for a residential occupation by the son, and daughter-in-law, of the appellant for The Hawthorns, Policy H6 is of relevance to the current application.
- 5.1.11 With reference to Policy S8, the Inspector referred to how this policy contains a list of exceptions, of uses which are permissible uses in the countryside, which includes Travellers and Travelling Showpeople accommodation (i)).
- 5.1.12 The Inspector referred, at paragraph 12, to how the appeal site formed part of an area of plot land to the south west of Southminster that is characterised by scattered developments, predominantly residential that are interspersed by paddocks, garden land, trees, vegetation, outbuildings and stables. A site visit was made for the current application and the character of the site and its setting is fundamentally unchanged. At paragraph 15 of the Inspector's decision letter it was commented that in the context of this semi-rural environment that hosts low density residential dwellings and other buildings, the visual harm of the then proposal would be very limited. This is also considered to be the case with the current proposal.
- 5.1.13 With regard to whether the site is at a relatively sustainable location, at paragraphs 16 and 17 the Inspector commented as follows:

*"Turning to accessibility, the nearest settlement is Southminster that hosts a reasonable selection of services and facilities, including a school and a GP surgery, which could provide for the general day-to-day needs of future occupiers. Southminster would be a short drive or cycle ride from the appeal site. It would be possible to walk to Southminster along public highways, albeit the rural nature of Old Heath Road without pavements and streetlighting and the busy fast-moving traffic travelling along Burnham Road, along with its narrow pavements, would not encourage occupiers to walk this route, particularly at night.*

*Notwithstanding this, dedicated public footpaths accessible from the northern end of Scalby Road that traverse the fields between Southminster and Scalby Road would offer a more direct route to Southminster than that of the public highways. These dedicated footpaths would also provide an alternative route to the bus stops at Burnham Road that are located near to Old Heath Road. Accessing these bus stops would enable travel to other settlements further afield. I acknowledge that the unmetalled countryside footpaths would not be practical to walk at night or during inclement weather. Nonetheless, the contours of the land and the pleasantness of the open countryside environment would offer an attractive alternative walking route to Southminster and the nearest bus stops. Furthermore, I do not consider the*

*proximity of the appeal site to Southminster to be so far as to dissuade future occupiers from using these countryside footpaths."*

- 5.1.14 In light of the Inspector's comment above, it can be reasonably concluded that the Inspector considered the site, or at least the immediate locality of the site, acceptable with regard to Policy H6 at Part 2 at d). With regard to Part 3 the proposal is considered appropriate in scale to nearest dwellings, is not in an area at risk from flooding, can be accessed safely by vehicles, is of sufficient size, and would avoid unacceptable harm to the character of the local area and the living conditions of local residents.
- 5.1.15 In the light of the Inspector's comments in an appeal with a bearing on the current site in combination with the character of the setting of the site not being that of open countryside, the principle of the proposed development is acceptable. The impact of the development on the character of the countryside is discussed below. Other issues, the living conditions of the future and neighbouring occupiers, highways issues and ecology are also assessed below.

## **5.2 Housing Need and Supply**

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that LPAs should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up to date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted. Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.
- 5.2.2 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change. However, more recent assessment has identified a greater need for 3 bed dwellings. The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance (PPG), and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing needs of specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.3 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings; specifically 25-35% 2-beds and 40-50% 3-beds. The proposal is therefore considered to be acceptable with regard to Policy H2 of the Local Plan as it would meet identified needs and demands.
- 5.2.4 The proposed development would provide a two-bedroom dwelling which would contribute to housing stock in the District.

- 5.2.5 The Council cannot demonstrate a housing supply in excess of five years. The proposal would contribute to housing supply albeit by a single dwelling.

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

- 5.3.1 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.

- 5.3.2 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”.*

*“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”.*

- 5.3.3 This principle has been reflected in the approved LDP. The basis of policy D1 of the approved LDP 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.*

- 5.3.4 Policy H4 states that “all development will be design-led and will seek to optimise the use of land having regard to the following considerations:

- 1) *The location and the setting of the site;*
- 2) *The existing character and density of the surrounding area;*
- 3) *Accessibility to local services and facilities;*
- 4) *The capacity of local infrastructure;*
- 5) *Parking standards;*
- 6) *Proximity to public transport; and*
- 7) *The impacts upon the amenities of neighbouring properties.”*

- 5.3.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).



- 5.3.6 The application site lies outside the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate 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 provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.7 The setting to the site is sporadic residential development of a modest scale and at a low density. The proposal represents an infilling of existing built development.
- 5.3.8 The mobile home to form the dwelling would not be visible from a public vehicular highway or from a public footpath. In practice there is public access to the site though the siting of the mobile home, at a rear corner of the plot behind a front boundary fence, would mean that the mobile home would be essentially unseen. As such, the proposed dwelling would be of an acceptable appearance, which would not detract from the visual amenity of the area and could not be said to result in a development of limited architectural merit.
- 5.3.9 The development is therefore of acceptable scale, design and appearance and would not have a detrimental impact on the character of the area or the appearance of the streetscene. The development would accord with policies D1 and H4 of the LDP, the housing design principles set out in the Neighbourhood Plan and the guidance contained in the MDDG(2017).

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

- 5.4.1 The basis of Policy D1 of the LDP 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. This is supported by Section C07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 The proposed development would result in increased levels of activity, by reason of the erection of one dwelling on land which is currently open grassed land. However, on balance, the proposed residential development would not have a materially harmful impact on the residential amenity of the neighbours, in terms of noise and disturbance, given the nature of the use, which is compatible with the use of the existing generally residential area.
- 5.4.3 A paddock would remain between the site and the residential dwelling to the south, Ivydene. The width of the carriageway of Scalby Road would isolate another neighbouring property, Brambles End. Given the degree of isolation by spacing from neighbouring properties, there would be no significant adverse impact to the residential amenity of the occupier of any neighbouring property.
- 5.4.4 The proposed dwelling would have no material adverse impact on the residential amenity of occupiers of any neighbouring property.

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

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, 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 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.

- 5.5.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. There would be sufficient space within the site to accommodate at least two parking spaces which would be sufficient to comply with the adopted parking standards.
- 5.5.3 The Highways Authority was consulted and raised no objection to the proposed development. A written response has been received from the Highways Authority which comments that as far as can be determined from the details submitted, the proposal is located along a privately owned road called Scalby Road and will not alter the existing access arrangements to the local highway network. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highways Authority.

## **5.6 Private Amenity Space and Living Conditions of the Future Occupiers**

- 5.6.1 With regard to the size of amenity spaces, the Council has adopted the MDDG as a supplementary guidance to support its policies in assessing applications for residential schemes. Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable.
- 5.6.2 The block plan shows a grassed amenity area screened by the proposed fencing. This amenity area would be some 140 sq m. The relevant minimum standard set out in the MDDG for a 1–2-bedroom dwelling is 50 sq m. Amenity space provision would be acceptable.
- 5.6.3 The site has no notable landscape features. The details of the hard and soft landscaping, ensuring screening for and to the mobile home would be secured by condition.

## **5.7 Nature Conservation**

- 5.7.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.7.2 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.
- 5.7.3 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value (criterion f).
- 5.7.4 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.7.5 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant

legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

- 5.7.6 Place Services, Ecology was consulted on the application. An initial response was received that an Ecological Survey should be submitted with the application. This was subsequently submitted and the latest response from Ecology is that there is no objection subject to securing a proportionate financial contribution towards RAMS and biodiversity and enhancement measures. A financial contribution towards RAMS has been secured by a Unilateral Undertaking. A scheme of biodiversity and enhancement can be secured by condition.
- 5.7.7 As a result of the location of the site and the nature of the development proposed, the proposal would have off-site impacts on nature conservation. Natural England (NE) has produced interim advice with reference to the emerging strategic approach relating to Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within Maldon District Council (MDC) are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zones of Influence' (Zol) of these sites cover the whole of the Maldon District.
- 5.7.8 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots. 5.7.8 The application site falls within the Zol for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure. As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a Habitats Regulation Assessment (HRA) should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.7.9 To accord with NE's requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent one the above European designated sites?  
No

Summary of Appropriate Assessment – as a competent authority, the LPA concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites providing that mitigation, in the form of a financial contribution is secured. A financial contribution (£462) has been received. Therefore, the harm to off-site nature conservation interest has been adequately mitigated.

**6. ANY RELEVANT SITE HISTORY**

- **18/00623/FUL** – Material change of use of land for stationing of caravans for residential occupation by one family with associated development (hard standing and utility building) - Allowed at appeal 15.11.2019
- **19/05197/DET** – Compliance with conditions notification FUL/MAL/18/00623 allowed on appeal APP/X1545/W/18/3215950 (Material change of use of land for stationing of caravans for residential occupation by one family with associated development (hard standing and utility building) Condition 5 - Materials. Condition 6 - Refuse storage facilities. Condition 9 - Surface water drainage scheme. Condition 10 - Foul water drainage scheme. Condition 11 - Hard & soft landscaping. - Conditions cleared 09.03.2020
- **21/01086/VAR** - Variation of condition 2 (approved plans) on planning application 18/00623/FUL allowed on appeal APP/X1545/W/18/3215950 (Material change of use of land for stationing of caravans for residential occupation by one family with associated development (hard standing and utility building)) - Approved 09.12.2021
- **21/05050/DET** - Compliance with conditions notification 18/00623/FUL (Material change of use of land for stationing of caravans for residential occupation by one family with associated development (hard standing and utility building) Condition 2 Utility Block, Condition 5 - Materials Utility Block, Condition 6 - Menas of Enclosure and Refuse Storey Facility, Condition 9 - Details of Surface Water Drainage Scheme, Condition 10 - Foul Drainage Scheme & Condition 11 - Hard and Soft Landscaping Details. - Conditions Part Cleared/Part Refused 12.10.2021

**7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	Recommend the granting planning permission subject to a Section 106 agreement that the	A condition, rather than a Section 106 agreement, is considered sufficient and appropriate to address this

Name of Parish / Town Council	Comment	Officer Response
	annexe is ancillary to the main property.	matter.

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection	See 5.5

## 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Team	No objection subject to conditions regarding a caravan site licence, details of the foul drainage scheme and details of the surface water drainage scheme	A caravan site licence is the subject of separate legislation and is the subject of an informative. Foul and surface water drainage are addressed by conditions.
Ecology, Place Services	No objection subject to securing: a) a proportionate financial contribution towards Essex Coast RAMS b) biodiversity mitigation and enhancement measures	RAMS UU received, discussed above. A scheme of biodiversity enhancement is addressed by condition.

## 7.4 Representations received from Interested Parties

### 7.4.1 Representations objecting to the application

- Additional traffic would be created to a level unsuitable for this single track, unsurfaced cul-de-sac
- Water pressure would become worse
- A replacement horse paddock would be required
- Adverse impact on local countryside and environment
- Unsustainable location, not within a town envelope

## 8. **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON** To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with approved drawings: JJA/2102 Site location plan; 2102/04 Block plan & site layout plan; Covering letter from agent; Ecological Walkover Report by James Blake Associates dated 2022.  
**REASON** To ensure the development is carried out in accordance with the details as approved.

- 3 A scheme of mitigation and enhancement measures and/or works for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme of mitigation and enhancement measures and/or works for biodiversity shall be carried out in accordance with the approved details prior to first occupation of the mobile home hereby permitted to be stationed at the site and retained in perpetuity.  
REASON In the interest of sustainable development in accordance with Policy S1 9), Policy D1 1) f) and Policy N2 of the Local Plan and the provisions of the National Planning Policy Framework.
- 4 The mobile home hereby permitted to be stationed on the site shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Hawthorns. The site shall not be occupied by a person other than the son or daughter-in-law of Mr Michael Pilkington (senior) or any resident dependent of the son or daughter-in-law of Mr Michael Pilkington (senior).  
REASON To ensure the development is carried out in accordance with the details as approved as the site is outside a defined settlement boundary where new residential development would not normally be given planning permission by virtue of Policies S1 and S8 of the adopted Local Plan.
- 5 Other than the mobile home hereby permitted to be stationed at the site, no caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.  
REASON In the interests of the character and appearance of the area and to ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan.
- 6 No vehicle over 3.5 tonnes shall be stationed, parked or stored at the site.  
REASON In the interests of the character and appearance of the area and to ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan.
- 7 No commercial activity shall take place on the land, including the storage of materials.  
REASON In the interests of the character and appearance of the area and to ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan.
- 8 Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum: 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance. 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1/l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.  
REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).
- 9 Prior to the commencement of the development details of the foul drainage scheme to serve the development shall have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented

prior to the first occupation of the mobile home hereby permitted to be stationed on the site.

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).

### **INFORMATIVE**

(a) The applicant must contact the Environment Services Department to discuss the need to apply for a caravan site licence under the Caravan Sites and Control of Development Act 1960 should permission be granted. The current fee for a site licence application for 1-8 pitches is £666.00. (b) There must be at least 6 metres between caravans on the site and any other structure. (c) Fire appliance access should be available to within 45 metres of every point within the mobile home or to 15% of the perimeter of the mobile home whichever is the less onerous.

The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:

- a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
- b) No dust emissions should leave the boundary of the site;
- c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
- d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods when there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

Should any land or groundwater contamination be found that was not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof should be re-assessed by a competent person in accordance with the Essex Contamination Land Consortium's Land

Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.

All highway related details shall be agreed with the Highway Authority.

All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team at SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford. CM2 5PU or emailed to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
15 FEBRUARY 2023**

<b>Application Number</b>	<b>22/01180/FUL</b>
<b>Location</b>	Mapledean Pig Farm, Mapledean Chase, Mundon
<b>Proposal</b>	Construction of a chalet bungalow
<b>Applicant</b>	Mr & Miss Dean Cardy & Leah Foss
<b>Agent</b>	Cussen Construction Consultants
<b>Target Decision Date</b>	19 <sup>th</sup> January 2023
<b>Case Officer</b>	Lisa Greenwood
<b>Parish</b>	<b>MUNDON</b>
<b>Reason for Referral to the Committee / Council</b>	Called in by Councillor A S Fluker, with regard to Policy D1.

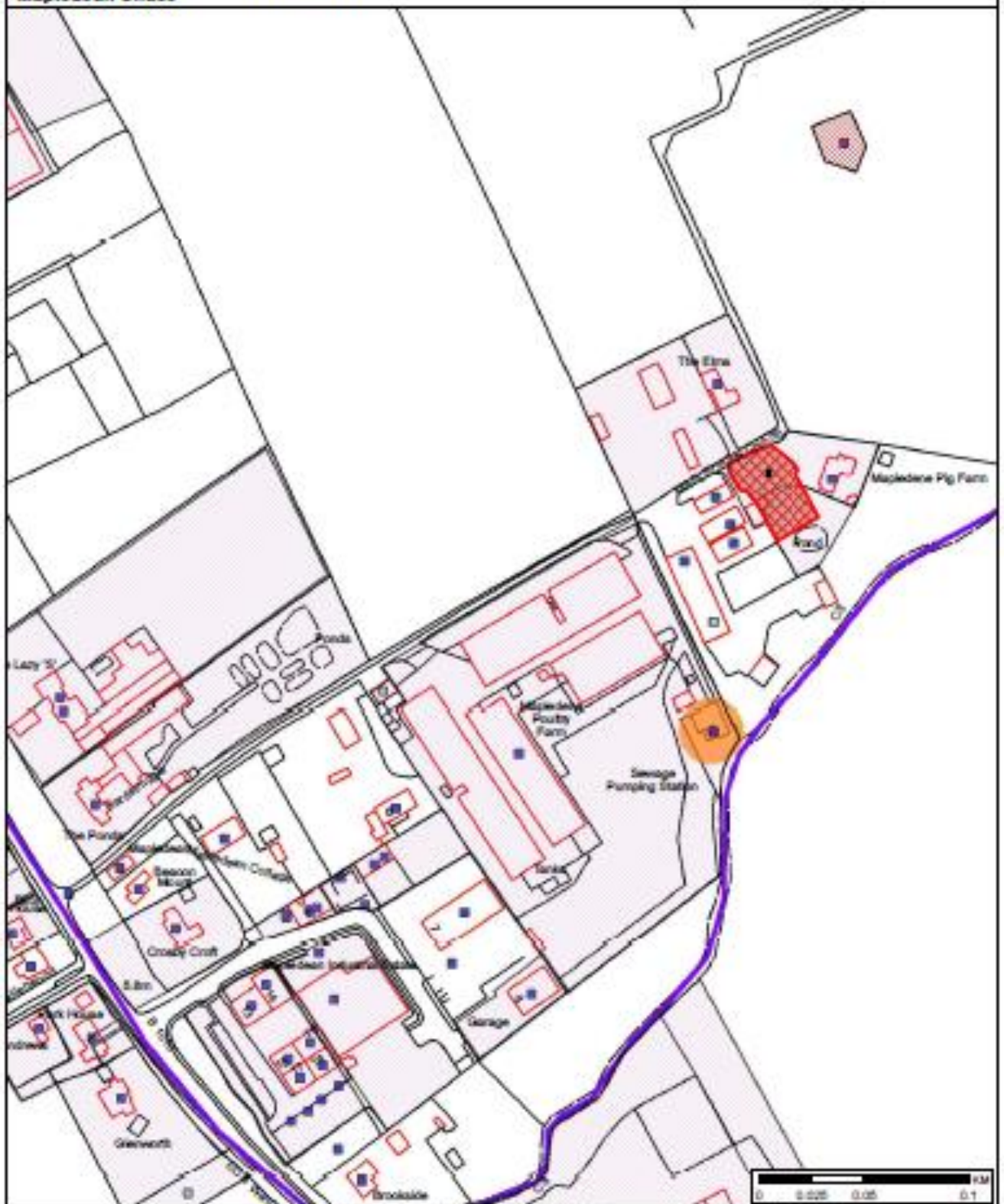
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

# **Land at Mapledene Pig Farm** **Mapledene Chase**



<div data-bbox="212 1848 343 2004"> </div> <div data-bbox="359 1814 710 2016"> <p><b>Copyright</b>            For reference purposes only.            No further copies may be made.            This map is reproduced from Ordnance Survey            material with the permission of Ordnance Survey on            behalf of the Controller of Her Majesty's Stationary            Office © Crown copyright.            Unauthorised reproduction infringes Crown copyright            and may lead to prosecution or civil proceedings.            Maldon District Council 100018588 2014</p> </div>	<p><b>Scale:</b> 1:2,500</p>
	<p><b>Organisation:</b> Maldon District Council</p>
	<p><b>Department:</b> Department</p>
	<p><b>Comments:</b> Latchingdon</p>
	<p><b>Date:</b> 23/01/2023</p>
<p><a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a></p>	<p><b>MSA Number:</b> 100018588</p>

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information and related planning history**

##### Application site

- 3.1.1 The application site is located to the south east of Mapledene Chase, which is a private road, unadopted by the Highways Authority, and is outside of a defined settlement boundary. Access to Mapledene Chase is at Maldon Road. The application form submitted to support the proposal confirms that the site measures 0.11 hectares, and forms land associated with Mapledene Pig Farm, which has an overall area of 0.66 hectares.
- 3.1.2 The site is roughly rectangular in shape and comprises an area of cultivated garden land, which includes some trees and established vegetation.
- 3.1.3 The site is located at the very end of the unadopted road (circa 400 metres), to the east of the Essex Pet Crematorium, the Mapledene Poultry Farm and a Sewage Pumping Station. Beyond Mapledene Poultry Farm is the Mapledene Industrial Estate (an employment area, as defined by the Local Development Plan (LDP)). To the north west of the site is a large polytunnel, 1no. greenhouse and 1no. outbuilding. Residential development at Mapledene Chase is sporadic and comprises 'The Elms' to the north west, and Mapledene Pig Farmhouse, to the east. Beyond the 2no. plots of residential development is open countryside. The character at Mapledene Chase is mixed (predominantly industrial to the west), however, the existing residential development to the eastern side of Mapledene Chase is surrounded by open countryside, and the character at this section of Mapledene Chase is rural. A pond is located to the north east of the site, beyond the rear boundary.
- 3.1.4 In terms of accessibility, the site is located in excess of 800 metres (as the crow flies) from the settlement boundary of Latchingdon, and in excess of 1.2 km (as the crow flies) from the settlement boundary of Mundon.
- 3.1.5 The site is located entirely within Flood Zone 3a.

##### The Proposal and Background Information

- 3.1.6 Planning permission is sought for the construction of a chalet bungalow.
- 3.1.7 The proposed bungalow is rectangular in shape, and is proposed to measure 11.020 metres in width, 8.620 metres in depth and approximately 7.3 metres to the ridge of a hipped roof (3.611 metres to the eaves).
- 3.1.8 The ground floor proposes to provide for 1no. kitchen, 1no. hallway, 1no. technical room, 1no. bathroom, 1no. gym, and 1no. living / dining room. The first floor proposes to provide for 2no. bedrooms (1no. with an en-suite), 1no. bathroom and 1no. landing area.
- 3.1.9 Parking for 2no. vehicles is proposed at the frontage. An area of private amenity space is proposed to the side (east) and rear.

#### **3.2 Conclusion**

- 3.2.1 The proposed development is location outside of a defined settlement boundary and is in open countryside. Access to the nearest settlement is via an unlit, poorly

maintained, single track private road, which measures approximately 400 metres in length. This is deemed unsafe for pedestrians and cyclists, particularly during the hours of darkness and in inclement weather. Future occupants of the site will be required to use the private car, and this does not promote sustainable travel. Furthermore, by virtue of the domestication and urbanisation of the site, the proposed development is considered to appear as an incongruous form of development that is out of keeping and will erode the intrinsic beauty of the open countryside.

- 3.2.2 Further, the proposal has not considered the context within which it will sit and the dwelling proposed is of poor architectural merit, which would be highly visible at the street scene. This will appear as visually intrusive and cause harm to the character and appearance of this rural section of Mapledean Chase.
- 3.2.3 A completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy, has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites.
- 3.2.4 Of great concern is the fact that the proposed development is located within Flood Zone 3a and the site therefore has a higher probability of flooding. The proposal is for the provision of 1no. dwelling, which is classified as 'more vulnerable' development. The policies and guidance in the National Planning Policy Framework (NPPF) (2021) and Policy D5 of the Maldon District Local Development Plan (MDLDP) (2017) seek to direct development to areas with a lower risk of flooding. The applicant has submitted insufficient information to allow the Local Planning Authority (LPA) to determine whether or not the proposal passes the Sequential Test and the Exception Test. Further information is also required with regard to flood risk mitigation measures. In accordance with comments received from the Environment Agency, to comply with national policy the proposal is required to pass the Sequential Test and the Exception Tests and it has failed to do so.
- 3.2.5 It is therefore recommended that planning permission for the proposal is refused.

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

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

##### **4.1 National Planning Policy Framework (NPPF) 2021, including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55 – 59 Planning conditions and obligations
- 92-97 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 173 Meeting the challenge of climate change, flooding and coastal change

- 170 – 183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG) (first released in 2014, but regularly updated)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).
- 5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).
- 5.1.3 Where the LPA is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'tilted balance'. This position is set out in paragraph 11d with its footnote 7 of the NPPF, which states:

*'For decision taking this means:*

*"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed  
or*

*“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

*Footnote 8 - This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74).*

- 5.1.4 At the heart of the NPPF 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 policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5 year housing land supply cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’.
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.
- 5.1.8 Paragraph 79 of the NPPF states that:
- ‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’.*

- 5.1.9 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that “development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.” This is supported by the update of the Government’s Policy Paper, ‘Strategic road network and the delivery of sustainable development’ (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that “new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable.”
- 5.1.10 The site lies outside of any defined settlement boundary and is within the open countryside. As the crow flies, the site is in excess of 800 metres from the settlement boundary of Latchingdon. Policy S8 of the LDP classifies Latchingdon (the closest settlement in terms of distance) as a “smaller village.” The post-amble to this Policy defines smaller villages as “defined settlements containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities.” Moreover, as aforementioned, Mapledean Chase is a private, unadopted road, measuring circa 400 metres in length (the application site is located at the very end of this road). Upon visiting the site, the Officer noted that this road is of a single track, is poorly maintained, and is unlit. Large vehicles / lorries serving the adjacent industrial and industrial / employment uses also access the road, restricting safe access for pedestrians and cyclists. The only way for future occupants of the site to access the settlement, or bus stops at Maldon Road, would be via this road. All of these factors would mean that future occupants would be heavily reliant on the use of the private vehicle, as access to Maldon Road is not considered safe for pedestrians or cyclists, particularly at times of inclement weather, or during the hours of darkness.
- 5.1.11 Whilst it is acknowledged that residential development is present at Mapledean Chase at ‘The Elms’ and ‘Mapledean Pig Farmhouse’, both of these properties were erected initially as agricultural worker’s dwellings (planning references MAL/666/77 and MAL/837/88) and are therefore not a direct comparison to the proposal the subject of this report. Notwithstanding this, all applications are assessed on their own merits.
- 5.1.12 The applicant has provided a “village amenities map”, however, as stated, the village can only be accessed by unsafe and unsustainable / unsafe means and the village is classified as a “smaller village”, and therefore future occupants will still be required to use the private car to access day to day facilities such as supermarkets etc.
- 5.1.13 Owing to the inaccessible location of the site, it is not considered that the proposal constitutes a form of sustainable development and this is contrary to local and national planning policy and guidance.
- 5.1.14 The Council’s spatial strategy is to focus new development within settlement boundaries (Policies S1 and S8). Policy S8 states that, outside of the defined development boundaries and other defined areas, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for development within a limited list of criteria.

- 5.1.15 It is not considered that the proposal satisfies any of the criterion listed at Policy S8. The site has not been identified for development in an adopted neighbourhood plan. The development will not generate employment proposals, nor will it provide community services and facilities to meet a local need, or agriculture and forestry and related development. The development will not re-use a redundant or disused building, and will not involve rural diversification, recreation and tourism. The development will not provide agricultural and essential workers' accommodation, nor does it constitute a rural exception site for affordable housing, or travellers and travelling show people accommodation. The proposal does not provide green infrastructure, open space, or sports facilities. It does not provide utility and highway infrastructure, nor will it facilitate the delivery of a new Community Hospital or healthcare facility. As is stated within the body of this report, the proposal is also contrary to policies within the LDP.
- 5.1.16 With regard to the impact on the intrinsic beauty and character of the countryside, the site is outside of what can reasonably be considered as the residential curtilage for Mapledean Pig Farmhouse. The proposal will introduce additional residential development and paraphernalia that would be harmful to the intrinsic character and beauty of the open countryside. The site would become more domesticated with its own residential garden, boundary treatments, artificial lighting, hardstanding, and associated paraphernalia, linked with a residential use, and the scope for integrating the development into its surroundings is limited. This would urbanise the site, materially altering its character, and causing harm to the intrinsic beauty and character of the open countryside.
- 5.1.17 In addition, the proposed dwelling is considered to be of poor design, and this is discussed further at Paragraph 4.3 of this report. The development would, therefore, appear as incongruous and at odds with its setting. Whilst it is acknowledged that the use of materials could be influenced via the imposition of a suitably worded planning condition and permitted development rights could be removed for extensions to the new dwellings, and for outbuilding to gardens, etc., however, this would not significantly diminish the harm caused.
- 5.1.18 As stated by the Inspector at appeal reference APP/X1545/W/17/3172993, by Mr & Mrs Breet against the decision of Maldon District Council, "Latchingdon is a predominantly linear settlement. As such, there is a clear distinction between the built form of the settlement and the surrounding countryside." In accordance with the NPPF (2021), planning decisions should recognise "the intrinsic character and beauty of the countryside", and in accordance with Policy S8 of the LDP, as aforementioned, "planning permission will only be granted where the intrinsic character and beauty of the countryside if not adversely impacted upon."
- 5.1.19 For the reasons aforementioned, the proposal has been found to be contrary to Policies S1, S8, D1, H4, T1 and T2 of the MDLDP (2017), and the policies and guidance in the NPPF (2021). The principle of development at the site is therefore not acceptable.

## **5.2 Housing Need and Supply**

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that LPAs should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts



of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.
- 5.2.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF (2021) and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build.
- 5.2.4 Whilst it is acknowledged that the Design and Access Statement asserts that the proposal will provide for 1no. 2-bedroom dwelling, the floor plans provided (drawings no. 02 and 03) show that the proposed dwelling has at least 3no. rooms capable of use as a bedroom, and that the first floor plan shows 'bedroom 3' as labelled.
- 5.2.5 The LHNA states that the greatest mix needed for market housing is for 3-bedroom dwellings (40-50%), however, as the proposal is for 1no. dwelling, the contribution to the housing mix is considered to be nominal, and this would not outweigh the concerns within this report.

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

- 5.3.1 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.
- 5.3.2 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 creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".*

*"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, taking into account any local design standards or style guides in plans or supplementary planning documents".*

- 5.3.3 The basis of Policy D1 of the approved LDP 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.
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 As aforementioned, Policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.6 The proposal seeks to erect 1no. chalet dwelling on land associated with Mapledean Pig Farmhouse. As residential development at Mapledean Chase is sporadic, there is no set residential building line. The proposed dwelling will sit forward of its host, fronting Mapledean Chase, adjacent to the neighbouring Pet Cemetery.
- 5.3.7 The proposed dwelling is rectangular in shape and of a single storey, with roof lights and windows at the first floor side elevations serving the habitable loft space. Drawings 05 and 06 confirm that the dwelling would be rendered white, and the roof would be constructed with concrete tiles. The doors and windows are proposed to comprise of white UPVC. Parking is proposed at the frontage.
- 5.3.8 When viewed at the street scene, it would appear as though the proposed dwelling has taken design cues from the neighbouring buildings at the Pet Cemetery, which are also of a single storey design, with white rendered walls. It should be noted that Mapledean Pig Farmhouse is set well back from Mapledean Chase and is not readily visible from the adopted road. The dwelling proposed is to be sited in a visually prominent location. Whilst in keeping with the commercial / industrial uses to the west of the site, this is at odds with the rural setting to the east of Mapledean Chase.
- 5.3.9 In addition, the basic design of the proposed development lacks any architectural merit, and the further domestication of the site is considered to erode the intrinsic beauty and character of the rural area and urbanise the site. The development would, therefore, appear as incongruous and at odds with its rural setting. Whilst it is acknowledged that the use of materials could be influenced via the imposition of a suitably worded planning condition and permitted development rights could be removed for extensions to the new dwellings, and for outbuilding to gardens, etc., however, this would not significantly diminish the harm caused, and would impact the

relationship between the commercial / industrial area and the open countryside, appearing as an extension to such uses.

- 5.3.10 For the reasons aforementioned, the proposal has been found to be contrary to Policies S1, S8, D1 and H4 of the MDLDP (2017), and the policies and guidance in the NPPF (2021). In accordance with Paragraph 134 of the Framework, “development that is not well designed should be refused.”

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

- 5.4.1 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, outlook, noise, smell, light, visual impact, pollution, daylight, and sunlight. This is supported by section C07 of the MDDG.
- 5.4.2 The closest residential dwelling to the proposed development is Mapledean Pig Farmhouse, which is located approximately 25 metres to the east of the site. Owing to the separation distance between the proposed development and Mapledean Pig Farmhouse, the proposal would not result in a loss of daylight or sunlight to this neighbour, nor would the proposal appear as overbearing. With regard to any potential loss of privacy, it is acknowledged that 1no. window is proposed at the first floor side (east) elevation. This window is proposed to serve 1no. bedroom. This window would afford future occupants a view of the neighbouring driveway, and this feature is not such as to warrant a reason for refusal.
- 5.4.3 With regard to the neighbour at ‘The Elms’, the proposed development is to be located in excess of 30 metres from the neighbouring dwelling. A private road, Mapledean Chase, intersects the proposed development from the neighbouring site. Owing to the siting of the proposed development, the proposal would not result in a loss of daylight or sunlight to this neighbour, nor would the proposal appear as overbearing. With regard to any potential loss of privacy, the proposal is for a chalet bungalow, that appears as a single storey dwelling, with roof lights to serve the first floor. Parking is proposed at the frontage. Any view of ‘The Elms’ from the proposed development would be obstructed by parked vehicles, and the unadopted road. Owing to the separation distance proposed, it would not be reasonable to recommend a refusal on this basis.
- 5.4.4 Neighbour objections have been received with regard to the noise levels at the site. This noise is in relation to HGV lorries and trucks and would apply to the construction phase of the proposed development. Should planning permission be forthcoming, a construction management plan could be requested to ensure that construction only took place during certain times of the day, and this could aid with noise mitigation. It is not considered that the proposed development would result in an unacceptable level of noise beyond the construction phase.
- 5.4.5 With regard to the impact on the future occupants of the site, the Council’s Environmental Health Officer has reviewed the proposal and has noted that the site is located next door to a pet crematorium. Breakdowns cannot be ruled out and this may give rise to short term releases of smoke. Further activities at the wider site may also give rise to noise. Whilst this would not warrant a reason for refusal, future occupants of the site should be made aware of the potential impact to their amenity.

#### **5.5 Access, Highway Safety**

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard

to the Council's adopted parking standards. Similarly, 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 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.

- 5.5.2 The proposal has been reviewed by the Highways Authority, noting that Mapledean Chase is a private, unadopted road. As such, they raise no objection to the proposal. Advisory comments have been provided, and can be issued as an informative, should planning permission be forthcoming.
- 5.5.3 With regard to parking, the proposal seeks to provide for 3no. rooms capable of use as a bedroom. In accordance with the Council's Parking Standards SPD (2018), 2no. parking spaces must be provided, and the spaces must measure 2.9m x 5.5m. Drawing no. 1229/02 shows that parking for 2no. vehicles can be achieved at the frontage, however, the size of the parking spaces provided do not adhere to the Standards. Notwithstanding this, ample space for parking can be achieved at the site. Should planning permission be forthcoming, additional information with regard to the parking at the site would be sought.

## **5.6 Landscaping and tree impact**

- 5.6.1 Policy D1 of the LDP states that all development must respect and enhance the character and local context and make a positive contribution in terms of landscape, setting, townscape setting and skylines and in terms of the natural environment.
- 5.6.2 The proposal has been reviewed by the Council's Arboricultural Consultant, who has advised that there are no trees on site that are considered to be significant, and their removal or potential impact by construction would not be an issue. However, should planning permission be forthcoming, a suitably worded condition would be required to ensure the applicant provides a tree protection method statement for trees to be retained and a soft landscaping plan to include suitable planting to complement the scheme, biodiversity, and wider public amenity.

## **5.7 Private Amenity Space**

- 5.7.1 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 MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms. It is considered that the proposed dwelling has 3no. rooms capable of use as a bedroom.
- 5.7.2 Sufficient space has been provided within the site to accommodate the minimum area of private amenity space required (100m<sup>2</sup> per dwelling).

## **5.8 Nature Conservation and Biodiversity**

- 5.8.1 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity*'.
- 5.8.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.

- 5.8.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. LDP Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.8.4 A Preliminary Ecological Appraisal has been submitted to support the proposal (Arbtech, October 2022). The proposal has been reviewed by the Council's Ecological Consultant, who has noted that there is sufficient ecological information available to determine the application. The Consultant acknowledges that the site falls within the evidenced recreational Zone of Influence (Zol) of the Blackwater Estuary Ramsar and SPA. A Habitats Regulation Assessment is required, and a per dwelling tariff secured by way of a legal agreement. This is addressed below. The mitigation measures identified in the Preliminary Ecological Appraisal should be secured by the imposition of a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species, particularly Great Crested Newt, badger and hedgehogs.
- 5.8.5 In addition, the Consultant also supports the proposed reasonable biodiversity enhancements of 2no. bat boxes, 2no. bird boxes, hedgerow planting, pond enhancement, wildflower grassland creation, and the creation of hibernacula / refugia for amphibians, reptiles and hedgehogs, which have been recommended in the Appraisal, in order to secure net gains for biodiversity. The reasonable enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 5.8.6 The Appraisal also highlights that it is likely that bats could be foraging / commuting within and around the site. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:
- Light levels should be as low as possible as required to fulfil the lighting need.
  - Warm white lights should be used at less than 3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
  - The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
  - Lights should be designed to prevent horizontal spill, e.g. cowls, hoods, reflector skirts or shields.
- 5.8.7 This will enable the LPA to demonstrate its compliance with its statutory duties, including its biodiversity duty under s40 of the NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the imposition of such conditions based on BS42020:2013.
- 5.8.8 The development of 1 no. dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and strategy advice, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European

site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment, are listed below:

HRA Stage 1: Screening Assessment      Test 1 – the significance test

Is the development within the Zone of Influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes, the development is for 1no. dwelling, and therefore the net increase of dwellings at the site is 1no. dwelling.

Test 2 – The integrity test

Is the proposal for 100 houses + (or equivalent)? No.

Is the proposal within or directly adjacent to one of the above European designated sites? No.

- 5.8.9 As the answer is no, it is advised that, should planning permission be forthcoming, a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the named European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to re-consult on this Appropriate Assessment.
- 5.8.10 The Essex Coastal Recreational Avoidance and Mitigation Strategy has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £131.71 (2022-2023 figure) and thus, the developer contribution should be calculated at this figure. However, in the absence of a signed legal agreement to secure the aforementioned contribution, the impact of the development may not be able to be mitigated and thus, this would constitute a reason for the refusal of this application.

## **5.9 Archaeology**

- 5.9.1 Policy D3 of the LDP requires that, where development might affect geological deposits, archaeology, or standing archaeology, an assessment from an appropriate specialist should be carried out. This has not been recommended in this instance.
- 5.9.2 The proposal has been reviewed by the Council's Archaeological Consultant, who has advised that there is no known archaeology on the site, and the scale of the proposed development is unlikely to significantly impact any unknown archaeology that might be present. No archaeological recommendations will be made with respect to this proposal.

## **5.10 Flood risk and drainage**

- 5.10.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximise opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).

5.10.2 The site is entirely within Flood Zone 3a and as such, the Environment Agency (EA) has been consulted for comment. The EA confirms that it raises no objection, subject to the fact that the LPA take into account its responsibilities. The Agency has made the following comments:

“Our maps show the site lies within Tidal Flood Zone 3a, as defined by the Planning Practice Guidance: ‘Flood Risk and Coastal Change’ as having a high probability of flooding. The proposal is for the construction of a chalet bungalow, which is classified as a ‘more vulnerable’ development, as defined in Annex 3: Flood Vulnerability classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).”

5.10.3 Paragraph 7 of the FRA states that “the sequential test is applied to developments in areas identified as being at risk of any source of flooding now or in the future. The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account.” Whilst the FRA considers the proposal to be suitable with regard to flood risk, it clearly states that this is “subject to the implementation of the Sequential Test and the Exception Test.”

5.10.4 In order to complete the Sequential Test, applicants must provide the name and location of the site that is proposed for development, and an explanation of why this specific site has been chosen for development. Applicants must contact the LPA to discuss alternative sites, to estimate the capacity of each potential site and provide information to the LPA with regard to the alternative site’s name and address, whether it has been allocated in the local plan, any issues that would prevent development on the site and whether these issues can be overcome, the estimate of the capacity of the site, the status of the local plan and any supporting documentation about the alternative sites, e.g., local plan background and evidence base documents or housing and economic land available assessments. The risk of flooding at the application site should be compared to that of the alternative sites. It must then be concluded whether any of the alternative sites identified have a lower risk of flooding than the application site. The sequential test must be submitted to the LPA alongside an FRA.

5.10.5 Only if the sequential test shows that it isn’t possible to use an alternative site, should the Exception Test be applied. The Exception Test should set out the sustainability benefits of the development to the community, and how this outweighs the flood risk. It also needs to be demonstrated that the development will be safe for its lifetime taking into account the vulnerability of its users and that it would not increase flood risk elsewhere. The Exception Test must be submitted to the LPA alongside the Sequential Test and an FRA.

5.10.6 Turning firstly to the application of the Sequential Test, Paragraph 9.08 of the Design Access and Planning Support Statement acknowledges that Paragraph 168 of the NPPF (2021) confirms that some minor developments and changes of use should not be subject to the sequential test. This is contrary to the findings of the FRA submitted to support the proposal, which state that residential development of this nature within Flood Zone 3 will require a Sequential Test. For clarity, Paragraph 168 of the NPPF states:

“Applications for some minor development and changes of use<sup>56</sup> should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 55.”

Footnote 56 defines those minor developments and changes of use that do not be subject to the sequential test as follows:

“householder development, small non-residential extensions (with a footprint of less than 250m<sup>2</sup>) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.”

- 5.10.7 The proposed development is not a householder development, nor a small non-residential extension. It is therefore clear that the Sequential Test and Exception Tests should be applied, as appropriate, and satisfied, before planning permission can be granted. This is in accordance with the advice from the EA.
- 5.10.8 The applicant has failed to apply the Sequential Test and provide such information to the LPA. It is therefore not known if alternative sites within the District are available, however, based on the reasons why the principle of development has been found to be unacceptable, it is considered that there could be alternative sites available, and these should be explored. Notwithstanding this, should it have been found that there were no other sites available, and the Exception Test applied, the sustainability benefits of the development to the community have not been appropriately justified, and the proposal would therefore not satisfy the requirements of the Exception Test.
- 5.10.9 In order to assist the LPA in making an informed decision about the flood risk affecting this site, the EA summarised the key points to note from the submitted FRA and government policy and guidance. Many of the points made require the submission of additional information, for example, supporting information and calculations to ensure the certainty that the buildings will be constructed to withstand the pressure and forces associated with flood water. As the principle of development has been found to be unacceptable, no further information has been sought in this regard and this has not been satisfied.
- 5.10.10 In the absence of a Sequential Test, nor information to support the Exception Test, the LPA is not able to make an informed decision about the flood risk affecting this site. This is supported by comments made by the EA, who clearly state that the chalet bungalow proposed is classified as “more vulnerable” and “to comply with national policy the application is required to pass the Sequential and Exception Tests.” Additional information is also required to ensure the risks are fully considered. The proposal has therefore been found to be contrary to Policies S1 and D5 of the LDP and the objectives of the NPPF (2021) and the National Planning Practice Guidance (as updated).
- 5.10.11 With regard to drainage, owing to the size of the site, the Council’s Development and Flood Risk Officer does not wish to comment with regard to drainage, however, the Officer reiterates the fact that the site is within Flood Zone 3a and the EA must be consulted. The Council’s Environmental Health Officer, however, has noted that should planning permission be forthcoming, conditions should be imposed regarding surface water and foul drainage.
- 5.10.12 The Design and Access and Planning Support Statement acknowledges that “at construction stage, the site has the benefit of being able to process and dispose of both foul water drainage via a package treatment plant and storm water via a sustainable drainage system.” No further information has been provided in this regard. Should planning permission be forthcoming, a condition is required to secure such details.



## **5.11 Planning Balance and Sustainability**

- 5.11.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration
- 5.11.2 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.11.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate' to consider as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.11.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.11.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional units may support local businesses within the settlement such as shops and services. This would however be very limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal.
- 5.11.6 In social terms, the site is not located within an area where there is safe access to local facilities. Whilst it is acknowledged that the proposal does provide for 1 no. three bedroom dwelling, future occupants of the site would be highly reliant on the use of the private car, and could travel outside of the District, if desired, to utilise facilities and services. The social contribution of the proposed development is therefore also considered to be nominal, as the dwellings would not support a thriving local community.
- 5.11.7 As aforementioned, in environmental terms, the application site is not sited within an accessible location. Future occupants would be highly reliant on the use of the private car. This does not support the objectives of the LDP (2017), the NPPF (2021), nor the recently updated Government Policy Paper, 'Strategic road network and the delivery of sustainable development' (Updated 23 December 2022), which heavily emphasises the need for development to reduce the use of the private car. The proposal does not represent a sustainable form of development.
- 5.11.8 The adverse impacts of granting planning permission have been found to significantly and demonstrably outweigh the benefits, when assessed against the policies in the LDP, associated guidance, and the NPPF when taken as a whole.

## **6. OTHER MATTERS**

### **6.1 Personal circumstances**

- 6.1.1 A Design and Access and Planning Support Statement has been submitted to support the proposal. The Statement includes a personal statement, with regard to the personal circumstances of the applicant. Whilst it is acknowledged that the applicant has attempted to set out the reasons why they consider the dwelling to be acceptable, and the personal benefits to them (this includes the fact that the proposed development will enable them to “step onto the housing ladder”) these are not planning benefits. The contribution of 1no. dwelling is nominal, and as the proposed development is to be located outside of the settlement boundary, is of poor design, would render future occupants highly reliant on the use of the private car, and flood risk and ecological matters have not been satisfied, the proposal does not demonstrate a form of sustainable development. The lifetime of the proposal has to be considered in its perpetuity, and not against the personal circumstances of the applicant in this instance.

### **6.2 Neighbour objections / comments**

- 6.2.1 1no. neighbour objection and 1no. neighbour comment have been received that centre around the impact of additional lorries and HGVs accessing Mapledean Chase. It is considered that damage could occur to the road, the vehicles could be a threat to highway safety and an increase in noise could be experienced.
- 6.3. As set out at Paragraph 4.5 of this report, Mapledean Chase is a private, unadopted road, therefore the Highways Authority raises no objection to the proposal. Should planning permission be forthcoming, a suitably worded condition could be imposed with regard to the submission of a suitable construction management plan, that would include the hours of work. With regard to highway safety, this has been raised as an issue at Paragraph 4.1 of this report, and forms part of the reason why the proposal cannot be considered to represent a form of sustainable development.
- 6.4 As aforementioned, the proposal has been reviewed by the Council’s Environmental Health Officer, who has noted that should planning permission be forthcoming, informatives should be included with regard to refuse and recycling, land contamination, construction, small sewage treatment plants, alterations to an ordinary watercourse and the timing of submission details.

## **7. ANY RELEVANT SITE HISTORY**

- 7.1 There is no relevant site history for the immediate site, however, the planning history for Mapledean Chase Pig Farm is noted below:

<b>Application number</b>	<b>Description</b>	<b>Decision</b>
19/00930/FUL	Demolition of existing domestic storage building and erection of replacement domestic storage building.	Approved.
15/00240/HOUSE	Single storey side extension and conservatory to side and rear.	Approved.
06/00119/PE	Certificate of Lawfulness for use of land and small	

	incinerator for disposal of small animal carcasses imported on the site.	Closed.
06/00473/LDE	Occupation of the dwelling in breach of agricultural occupancy condition of MAL/837/88 for a period in excess of ten years.	Approved.
06/00267/LDE	Continued use of incinerator for disposal of animal carcasses from offsite.	Application withdrawn.

## 7.2. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### 7.2.1 Representations received from Parish/Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mundon Parish Council	No objection.	Noted.
Latchingdon Parish Council	No comments received.	Noted.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Officer	Future occupants of the site should be made aware of potential noise arising from neighbouring uses. Conditions should be imposed re drainage, if permission is granted.	Noted, and discussed at Sections 4.11, 4.45 and 6.3 of this report.
Tree Consultant	No objection, however, a condition is required to secure a tree method statement and landscaping scheme.	Noted, and discussed at Section 4.6 of this report.

### 7.4 Representations received from external consultees:

Name of Internal Consultee	Comment	Officer Response
Archaeology	No recommendations.	Noted, and discussed at Section 4.10 of this report.
Sustainable Drainage Systems	No comment, however, the site is within Flood Zone 3 and the Environment Agency must be consulted.	Noted, and discussed at Section 4.11 of this report.
Highways	No objection, the road is unadopted.	Noted, and discussed at Section 4.5 of this report.
Ecology	No objection, subject to the securing of RAMS tariff and the imposition of conditions.	Noted, and discussed at Section 4.8 of this report.

Name of Internal Consultee	Comment	Officer Response
Environment Agency	The proposal must pass the Sequential and Exception Tests to comply with national policy. Further information is required.	Noted, and discussed at Section 4.11 of this report.

## 7.5 Representations received from Interested Parties

7.5.1 1no. letter of **objection** has been received, summarised as follows:

Objecting comment	Officer response
Noise, impact on unmaintained road (lorries, HGVs and other vehicles). Improvements required to the road.	Noted, and discussed at Section 4.5 and 6.2 of this report.

## 7.6 Representations commenting on the application

7.6.1 1no. neutral **comment** has been received, summarised as follows:

Objecting comment	Officer response
Comment received regarding the impact on the private road. Damage, traffic, noise etc.	Noted, and discussed at Section 4.5 and 6.2 of this report.

## 8. REASONS FOR REFUSAL

1. The proposed development is located outside of a defined settlement boundary and is in open countryside. The site is not considered to be in an accessible location and does not promote sustainable travel. Furthermore, by virtue of the domestication and urbanisation of the site, the proposed development is considered to appear as an incongruous form of development that is out of keeping and will erode the intrinsic beauty of the open countryside. The principle of development has, therefore, been found to be unacceptable. The proposal is therefore contrary to Policies S1, S8, D1, H4, T1, T2 and D2 of the Maldon District Local Development Plan (2017), the Maldon District Design Guide (2017), and the policies and guidance in the National Planning Policy Framework (2021)
2. The proposed development has not considered the context within which it will sit and will introduce a residential development of poor architectural merit, with associated domestic paraphernalia, that will be highly visible at the street scene. The residential use will appear as visually intrusive and out of keeping and will cause material harm to the character and appearance of this rural section of Mapledean Chase. The proposal is therefore contrary to Policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (2017), the Maldon District Design Guide (2017), and the policies and guidance in the National Planning Policy Framework (2021).
3. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan (2017), and the policies and guidance in the National Planning Policy Framework (2021).

4. The proposed development is located within Flood Zone 3a and the site therefore has a higher probability of flooding. The proposal is for the provision of 1no. dwelling, which is classified as 'more vulnerable' development. The policies and guidance in the National Planning Policy Framework (2021) and Policy D5 of the Maldon District Local Development Plan (2017) seek to direct development to areas with a lower risk of flooding. The applicant has submitted insufficient information to allow the Local Planning Authority to determine whether or not the proposal passes the Sequential Test and the Exception Test. Further information is also required with regard to flood risk mitigation measures. In accordance with comments received from the Environment Agency, to comply with national policy the proposal is required to pass the Sequential Test and the Exception Tests; it has failed to do so. The proposal is therefore contrary to Policies S1 and D5 of the Maldon District Local Development Plan (2017), the policies and guidance in the National Planning Policy Framework (2021) and the National Planning Practice Guidance (first published in 2014, but regularly updated).

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