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DIRECTOR OF STRATEGY,  
PERFORMANCE AND  
GOVERNANCE  
Paul Dodson

16 May 2023

Dear Councillor

You are summoned to attend the meeting of the;

**NORTH WESTERN AREA PLANNING COMMITTEE**

on **WEDNESDAY 24 MAY 2023 at 7.30 pm**

in the **Council Chamber, Maldon District Council Offices, Princes Road, Maldon.**

Please Note: All meetings will continue to 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 continue to do so via Microsoft Teams.

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A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

COUNCILLORS

M F L Durham, CC  
J C Hughes  
S J N Morgan  
C P Morley  
R H Siddall  
E L Stephens  
M E Thompson  
S White  
L L Wiffen







**AGENDA**  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**WEDNESDAY 24 MAY 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 8 March 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. **22/00639/FUL - 62 New Road, Tollesbury** (Pages 11 - 42)

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

6. **23/00010/FUL - Spital Farm, Station Road, Tolleshunt D'Arcy, CM9 8HR** (Pages 43 - 62)

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

7. **23/00147/HOUSE - September Barn, Chelmsford Road, Purleigh, Essex, CM3 6QP** (Pages 63 - 70)

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

8. **23/00229/FUL - Land North of Poplar Grove Chase, Great Totham** (Pages 71 - 82)

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

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



**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. 5-8.
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**

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**Health and Safety**

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**Closed-Circuit Televisions (CCTV)**

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## **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  
NORTH WESTERN AREA PLANNING COMMITTEE  
8 MARCH 2023**

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**PRESENT**

Chairman	Councillor Mrs M E Thompson
Vice-Chairman	Councillor J V Keyes
Councillors	M F L Durham, CC, C P Morley, E L Stephens and S White

**623. CHAIRMAN'S NOTICES**

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

**624. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mrs J L Fleming, CC, S J N Morgan and R H Siddall.

**625. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 8 February 2023 be approved and confirmed.

**626. DISCLOSURE OF INTEREST**

There were none.

**627. 22/00833/FUL - FORMER ATHERSTONE LODGE, FAMBRIDGE ROAD, PURLEIGH, CM9 6NL**

<b>Application Number</b>	<b>22/00833/FUL</b>
<b>Location</b>	Former Atherstone Lodge, Fambridge Road, Purleigh, CM9 6NL
<b>Proposal</b>	New commercial building comprising a cold store, ancillary operation spaces access drives and a loading bay.
<b>Applicant</b>	Mr B. Rigby of Ben Rigby Game Ltd.
<b>Agent</b>	Mr R. Knight of Arcady Architects
<b>Target Decision Date</b>	04.10.2022 Extension of time until 02.12.2022
<b>Case Officer</b>	Jonathan Doe
<b>Parish</b>	<b>PURLEIGH</b>



Following the Officer's presentation, the agent for the applicant, Mr R Knight, addressed the Committee. The Chairman then opened the discussion.

Councillor M F L Durham proposed that the application be approved, in accordance with the Officer's recommendation and this was duly seconded.

Councillor S White, proposed to amend condition 15 to include evergreen hedging like that already present at the site to allow for better screening of the proposed development. The Specialist: Development Management, then suggested that an additional condition be added to the application that would restrict the type of use to a cold storage facility with ancillary operating areas, including the loading and wrapping of meat and facilities for staff and for no other purpose to which Members agreed. The Chairman then put the proposal to the Committee, with the inclusion of the additional condition and amendment to condition 15 (Landscaping), and it was agreed.

**RESOLVED** that the 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 complete accordance with approved drawings: 19/15/40 Cold store location plan; 19/15/41 Cold store existing site plan; 19/15/42 Cold store proposed site & roof plan; 19/15/43 Cold store proposed floor plans; 19/15/44 Cold store proposed elevations & section; 19/15/45 Cold store proposed street scene; Planning statement; Environmental noise impact assessment by Sharps Acoustics LLP dated 28<sup>th</sup> September 2022 with Addendum note dated 31<sup>st</sup> January 2023.
- 3 The use hereby permitted shall only be undertaken between 07:30 hours and 18:00 hours on weekdays and between 07:30 hours and 18:00 hours on Saturdays and not at any time on Sundays and Public Holidays. This shall include deliveries to and collections from the site.
- 4 The rating level of noise emitted by all fixed plant excluding the emergency generator shall not exceed 45dB at any noise sensitive premises between 07:00 and 23:00 and 42dB between 23:00 and 07:00 hours. The measurement and assessment shall be made according to BS 4142:2014+A1:2019.
- 5 Routine testing of the emergency diesel generator shown on approved plan 19/15/43 shall only be undertaken between 09:00 and 17:00 hours and for no longer than one hour on each occasion that such testing is carried out.
- 6 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - a. the parking of vehicles of site operatives and visitors
  - b. loading and unloading of plant and materials
  - c. storage of plant and materials used in constructing the development
  - d. wheel and underbody washing facilities.
- 7 Prior to occupation of the development, the southern vehicular access shall be upgraded and reconstructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Block Plan Layout Drawing No.19/15/42.



- 8 Any gate provided at the vehicular access shall be inward opening only and shall be set back a minimum of 17 metres from the back edge of the carriageway.
- 9 Prior to first use of the development, the Heavy Goods Vehicle turning area as shown within planning drawing No.19/15/42 shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose and retained as such.
- 10 The proposed boundary planting shall be maintained a minimum of 1 metre back from the highway boundary and any visibility splay.
- 11 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 12 No pallets, meat, other goods, materials, plant (other than as shown on the approved plans), machinery, skips, containers, packaging or other similar items shall be stored or kept outside of the building.
- 13 Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 as amended, no further display of advertising material shall be displayed within the site without express advertisement consent.
- 14 Before any above ground works associated with the development hereby permitted occur, a scheme for generating 25% of the predicted energy requirement of the development from decentralised renewable and/or low carbon sources (as defined in the NPPF or any subsequent revision) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.
- 15 Within the first available planting season (October to March inclusive) following the commencement of the development a hedgerow, as indicated on approved plan 19/15/42, shall be planted and maintained, a minimum of 1m from the carriageway of the adjacent highway, along the front, the eastern, site boundary. The hedgerow shall be of a specification which shall have been approved in writing by the local planning authority prior to its implementation to include hawthorn and at least one evergreen plant type such as laurel. The specification shall not include leylandii. Plants shall be planted as a double staggered row, with rows about 300mm apart and plants spaced at 450mm centres along each row. The plants shall be planted into ground previously cleared of all weed growth and mulched with a fabric / polythene sheet mulch and / or organic mulch. Shrub guards should be used to protect the plants.
- 16 No development works above ground level shall occur until details of a surface water drainage scheme to serve the development 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 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 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) 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. Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.



- 17 No development works above ground level shall occur until details of the foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first use or occupation of the building hereby permitted.
- 18 Before the development hereby permitted commences, details of all external illumination of the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the local planning authority. All illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the local planning authority.
- 19 All fixed plant and equipment including the back-up generator shall have a combined rated emissions level of 5dB(A) below background (determined in accordance with BS4142:2014 methodology) when operating at its maximum speed and output. Where mitigation is required to meet the noise criteria above, it must be installed prior to first use AND the applicant must also provide the Planning Authority with a validation report from a competent person that confirms that the noise impact arising from the plant and equipment. Where it does not demonstrate this, additional mitigation measures shall be proposed, agreed with the Planning Authority and implemented prior to first occupancy. Any mitigation installed must be retained and maintained thereafter. All noise-related survey reports required must include full details of the calculations and assumptions used in reaching conclusions both on noise impact and mitigation scheme design.
- 20 The building hereby permitted shall be used as a cold storage facility with ancillary operating areas, including the loading and wrapping of meat and facilities for staff, as detailed in the approved documentation and for no other use within Class B2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.

The meeting closed at 8.00 pm.

MRS M E THOMPSON  
CHAIRMAN





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**24 MAY 2023**

<b>Application Number</b>	<b>22/00639/FUL</b>
<b>Location</b>	62 New Road, Tollesbury
<b>Proposal</b>	Proposed development of 17, 1, 2, and 3 bedroom dwellings including access, landscaping and associated works
<b>Applicant</b>	Mr Adam McLatchie – Front Architecture
<b>Agent</b>	Mr Mike Bradburn – Saltmarsh Developments
<b>Target Decision Date</b>	25.05.2023
<b>Case Officer</b>	Devan Hearnah
<b>Parish</b>	<b>TOLLESBURY</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

**1. RECOMMENDATION**

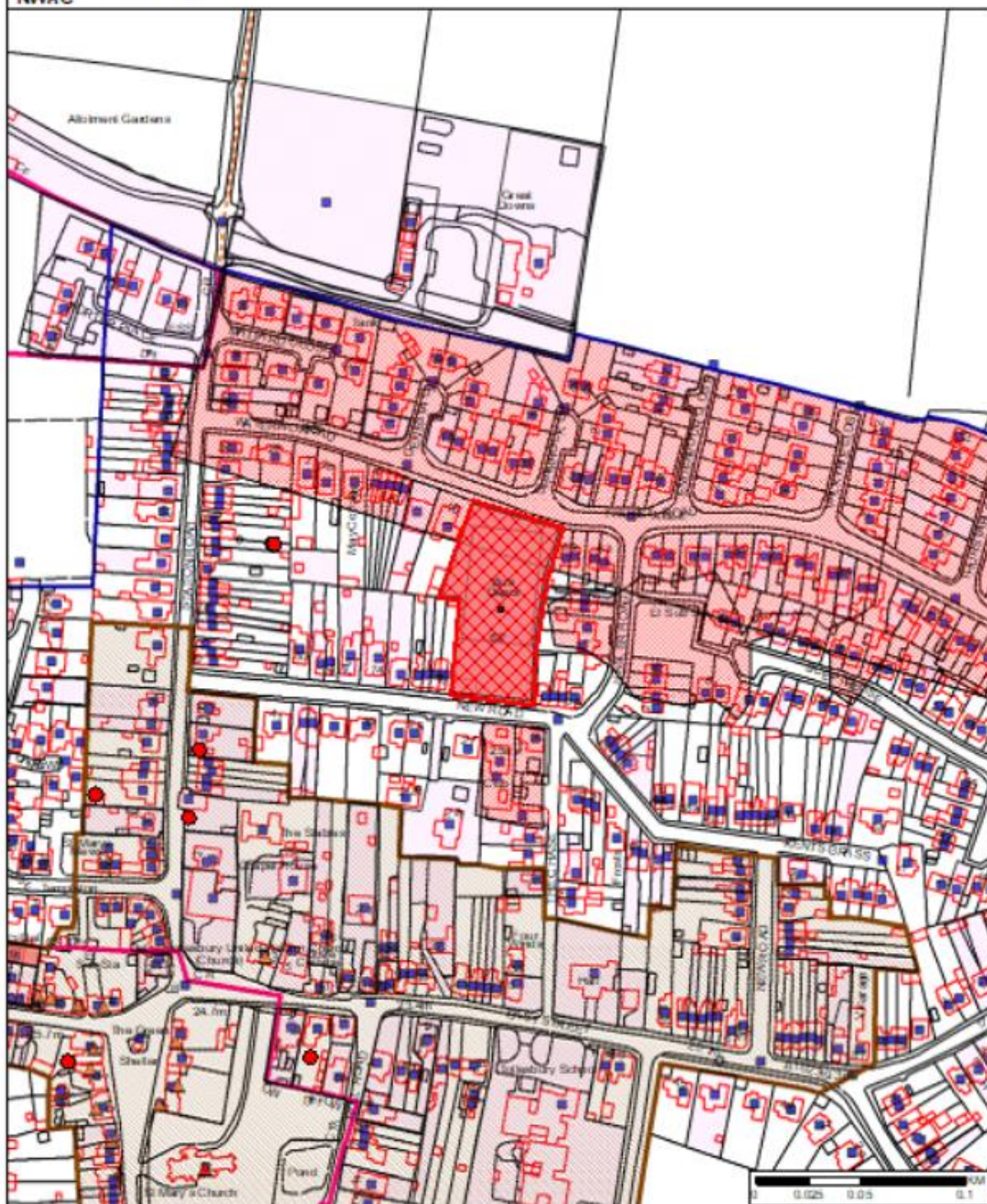
**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.

**2. SITE MAP**

Please see below.



22/00639/OUTM  
NWAC



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Maldon District Council 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 30/03/2023

MSA Number: 100018588







### 3. **SUMMARY**

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

##### Site Description

- 3.1.1 The application site is located to the north of New Road and to the south of Thurstable Road. The site previously comprised a large building which was formerly used for the stationing of buses and is now vacant. Within the south west of the site sat a single-storey office building. However, it should be noted all of the buildings within the site have now been demolished and the site is vacant. Vehicular and pedestrian access to the site is via New Road.
- 3.1.2 The site gradient gently slopes from a west to east direction on the northern part of the site fronting onto Thurstable Road. The site is relatively flat on the southern part of the site fronting onto New Road.
- 3.1.3 Previously the application site was enclosed by palisade fencing and chain link fencing on the northern and southern boundary of the site. Domestic garden fencing was found to the eastern and western boundary of the site. A variety of style, design, scale, height, bulk of residential properties surrounds the application site.

##### Proposal

- 3.1.4 Full planning permission is sought for seventeen residential properties which includes a mix of apartments, semi/link-detached and detached two storey dwellings. The properties would consist of a mix of one, two and three-bedrooms. The flatted development (Plots 5-12) would be provided within the centre of the site fronting an access road from New Road that would run south to north. Plots 1-4 are proposed as linked semi-detached properties fronting New Road to the south and plots 13-17 a mix of detached and semi-detached dwellings would front Thurstable Road to the north.

- 3.1.5 For ease of reference the accommodation proposed is presented in the table below:

Reference/Plot	Bedrooms	Width	Depth	Eaves Height	Ridge Height	Private Amenity Space	Car Parking Spaces
<b>Fronting New Road</b>							
Plot 1	2B 3P	28.7m (semi/link attached)	7.9m	5m	8.3m	58m <sup>2</sup>	2
Plot 2	2B 3P		7.9m	5m	8.3m	61m <sup>2</sup>	2
Plot 3	3B 4P		7.9m	5m	8.3m	91m <sup>2</sup>	2
Plot 4	3B 4P		7.9m	5m	8.3m	103m <sup>2</sup>	2
<b>Apartment Block</b>							
Plot 5	3B 4P	58.6m	12.8m	5.1m	7.9m	22m <sup>2</sup> + 488m <sup>2</sup> shared space	2
Plot 6	1B 2P					17m <sup>2</sup> + 488m <sup>2</sup> shared space	2
Plot 7	2B 3P					488m <sup>2</sup> of	2



Reference/Plot	Bedrooms	Width	Depth	Eaves Height	Ridge Height	Private Amenity Space	Car Parking Spaces
<b>Fronting New Road</b>							
						shared space	
Plot 8	2B 3P					488m <sup>2</sup> of shared space	2
Plot 9	1B 2P					17m <sup>2</sup> + 488m <sup>2</sup> shared space	1
Plot 10	3B 4P					22m <sup>2</sup> + 488m <sup>2</sup> shared space	1
Plot 11	2B 3P					488m <sup>2</sup> shared space	2
Plot 12	2B 3P					488m <sup>2</sup> of shared space	2
<b>Fronting Thurstable Road</b>							2
Plot 13	3B 5P	10.1m (semi-detached)	10.1m	4.9m	7.9m	101m <sup>2</sup>	2
Plot 14	3B 5P		10.1m	4.9m	7.9m	97m <sup>2</sup>	2
Plot 15	3B 5P		10.1m	4.9m	7.9m	97m <sup>2</sup>	2
Plot 16	3B 5P		10.1m	4.9m	7.9m	97m <sup>2</sup>	2
Plot 17	3B 5P	5.6m	10.1m	4.9m	7.9m	112m <sup>2</sup>	2

3.1.6 Plots 1-4 feature two pairs of semi-detached dwellings with pitched roofs to the front, adjoined by a first-floor link above a car port area. The dwellings feature a traditional design, shown with a well-ordered fenestration pattern and a mix of white render and buff brick surfaces. The link section is set back approximately 2m from the principal elevation and is set at a height which is 1m lower than the main ridge height. Plot 1 features a bay window on its western side, whilst the southern end Plot 4 features a hipped roof side projection which mirrors the heights and depth of the link attachment between the pairs of properties. To the rear the dwellings feature gable roofs with a single stored flat roof projection to plots 3 and 4.

3.1.7 The bulk of the apartment block containing Plots 5-12 would feature a hipped roof running north to south. At either end of the building would be a gable roof projection running east to west and there would be two gable elements to the front of the building. There would be flat roof storm porches above the access doors on the main elevation. The rear would feature the two gable projections at the end of the building, with car ports extending from their side elevations, with the main bulk of the first floor being set back. There would be a flat roof projection at ground floor. The building would have long line windows set in a consistent pattern. The rear would also feature four Juliet balconies and bifold doors. The materials would feature grey roof tiles with buff brick and rendered walls.



- 3.1.8 Plots 13 and 14 would be a semi-detached pair. Plot 13 would feature a gable roof running front to back whereas plot 14 would have a gable end on its western end. Both dwellings would feature flat roof storm porches, with the one serving plot 13 extending above the bay window. The front of plot 14 would be set back by approximately 0.3m from the principal elevation of Plot 13. Plot 13 would be finished in brick at ground floor with weatherboard at first floor. Plot 14 would have a white rendered finish. The roof would feature grey roof tiles with a false chimney on the roof of Plot 14.
- 3.1.9 Plots 15 and 16 are a semi-detached pair with a symmetrical design featuring a consistent fenestration pattern and flat roof storm porch. The dwellings will have a gable roof with a decorative chimney and would be finished in render.
- 3.1.10 Plot 17 would be the only detached dwelling on site. It would have a gable roof running front to back, with cladding at first floor and brick at ground floor. There would be a bay window to the front with a flat roof storm porch projecting from the roof of the bay. The fenestration would be set in a fairly consistent pattern.
- 3.1.11 Within the centre of the site along the western boundary would be two car ports providing parking for plots 5-8 and a bin and cycle store. Between the two buildings would be an area of soft landscaping and parking areas to the front. The car port would measure 9.1m in width, 5.5m in depth and 4.7m in height. The carport, bin and cycle store would measure 8.9m in width, and 5.5m in depth with a height of 4.7m. Access to the bin and cycle store would be taken from the southern side of the building.
- 3.1.12 Visitor parking would be provided to the southeast of the carports along the western boundary fence. There would also be soft landscaping either side of the proposed estate road and the front of the dwellings.

#### Relevant Background Information

- 3.1.13 As set out in section 6 of this report application 17/00620/FUL was determined in 2017 and was for the demolition of all structures within the site and the development of 10 dwellings along with associated works. However, even though some works have commenced on the site, largely in the form of demolishing the existing buildings, there were pre-commencement conditions contained within the 2017 permission (17/00620/FUL) that were never discharged. The pre-commencement conditions relate to matters such as materials, boundary treatments, a construction method statement, boundary treatments, contamination, drainage and super-fast broadband. Given that some of these matters, particularly in relation to contamination, drainage and the construction management plan go to the heart of the permission it is essential that these matters were dealt with prior to the commencement of works on site. Therefore, the commencement of the development on the site is considered to have been unlawful and as the 2017 permission expired on 31.10.2020, the previous permission (17/00620/FUL) does not provide a fall-back position in relation to this application. This is consistent with the stance taken by the Local Planning Authority (LPA) in the determination of application 21/00343/FUL, determined on 11 November 2021.
- 3.1.14 This application follows the refusal of application 21/00343/FUL which was for the development of nine, two, three, and four-bedroom houses including access, landscaping and associated works. The application was refused for six reasons, those being:



1. *'Due to the number of units, the disproportionate size of the proposed dwellings, the lack of affordable housing and the level of public and private amenity space proposed the Council is not satisfied that the proposal would represent an efficient and effective use of land, contrary to Policy H4 of the adopted Maldon District Local Development Plan and paragraphs 119 and 125 of the National Planning Policy Framework. The proposal has not utilised all of the developable land in the most efficient and effective way, which would not amount to sustainable development that adequately contributes towards the development needs for the District. The development is therefore unacceptable and contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.*
2. *The proposed development would fail to provide a housing mix that meets the District's need for two and three-bedroom dwellings. Therefore, the development would not provide a suitable mix and range of housing to support the creation of a mixed and balanced community contrary to policy H2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.*
3. *The proposed development makes inadequate provision for affordable housing or a financial contribution in lieu of affordable housing contrary to policy H1 of the approved Maldon District Local Development Plan and the National Planning Policy Framework (2021).*
4. *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 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 and the NPPF.*
5. *The proposed development would fail to provide adequate on-site parking provision. The proposal would therefore be likely to cause additional on-street parking to the detriment of the freeflow of traffic and highway safety. The proposal is therefore contrary to policies S1, D1 and T2 of the Maldon District Local Development Plan.*
6. *It has not been demonstrated that the proposed development can suitably manage and deal with surface water runoff at the site without increasing flood risk elsewhere. Therefore, the proposal is contrary to policies S1 and D2 of the Maldon District Local Development Plan and guidance contained within the NPPF.'*

3.1.15 The main difference between this application and the previously refused application is the increase in unit numbers from nine to seventeen and the addition of apartments within the centre of the site, opposed to dwellings. The change in the proposed number of houses also has resulted in changes to the design of the scheme. However, the overall layout remains similar to what was considered previously, with properties fronting New Road, Thurstable Road and an internal access road running south to north. The previously proposed public open space has been replaced with a bicycle store, bin store, car ports and parking spaces.

## **3.2 Conclusion**

3.2.1 The proposed development would represent a new residential development within the development boundary of Tollesbury where there is no objection in principle to such development. Whilst the development would not be wholly in accordance with the Local Housing Needs Assessment in terms of housing mix and not provide affordable housing, Officers are satisfied that the proposal has overcome the previous concerns and now represents an effective use of land. Furthermore, the



development would make use of Previously Developed Land and would contribute to the Five-Year Housing Land Supply (5YHLS). The development is also considered acceptable in design terms and would not impact on neighbouring amenity subject to conditions. Therefore, in weighing the benefits against the harm, subject to appropriate conditions, the proposed development would bring greater community benefits than its existing use by way of contributing additional smaller units and a choice of tenures, widening opportunities for home ownership, creating sustainable, inclusive mixed communities in accordance to the principal aims of the National Planning Policy Framework (NPPF) as well as Policies S1, S8, D1, H4 and T2 contained within the Maldon District Local Development Plan (LDP).

#### **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
- 54-58 Planning conditions and obligations
- 74-77 Maintaining supply and delivery
- 78-80 Rural Housing
- 84-85 Supporting a prosperous rural economy
- 92-103 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 152-169 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:**

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- E1 Employment
- H1 Affordable Housing
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- N3 Open Space, Sport and Leisure
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility



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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide Supplementary Planning Document (SPD)
- Maldon District Vehicle Parking Standards SPD

### **5. MAIN CONSIDERATIONS**

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

5.1.1 The 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 LDP.

5.1.2 The Local Planning Authority (LPA) for the Maldon District is expected to “identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.” To this end, Maldon District Council (MDC) prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.

5.1.3 Work is being carried out by the Council in reviewing the suitability of the 5 Year Housing Land Supply (5YHLS) methodology through its 5YHLS Working Group established in August 2022. It has yet to conclude its work and present its recommendations to Council. The methodology used for calculating the housing land supply is therefore the same as in 2021/2022. The last published position was 3.66 years in April 2022. On 30 March 2023, an Officer statement was delivered to Council advising that the 5YHLS, as of 30 March 2023, calculated using the same methodology as 2021/2022 stood at 5.1 years; an increase of 1.44 years. The statement to Council was caveated that this updated supply was still subject to further checks and verification activities, which could mean it increases or decreases by the time it is presented to Council for approval in line with the Council decision on 23 February 2023 that the annual land supply statement must now be reviewed and agreed by Council prior to publication.

5.1.4 Where an 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 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.”*

- 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 LDP 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 On the basis of the above, the Council’s official 5YHLS figure stands at 3.66 years and therefore, having regard to the annually published figure, the Council cannot currently demonstrate a 5YHLS. However, the information in paragraph 5.1.3 reflects that the Council has clearly adopted a more proactive approach to housing by approving housing developments both outside the settlement boundaries and on the Strategic sites where they can be deemed sustainable. The likelihood of the forthcoming published 5YHLS figure deviating significantly from the five-year mark is considered unlikely given that the figures were last calculated one day prior to the end of the monitoring period. Therefore, whilst the current balance still applies, it is reasonable to determine that it is now more level than it was previously. Therefore, whilst the Council acknowledges the importance of delivering homes for the residents of the District through a positive approach to decision making and note that the 5YHLS is not a ceiling for approving housing development, this increase in supply allows the Council to be less constrained in its consideration of the most sustainable developments and of those that carry the greatest benefits to ensure that developments are sustainable for the District.
- 5.1.9 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 contributing towards and maintaining a healthy and consistent 5YHLS, particularly in light of the current official 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 LDP.
- 5.1.10 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 LDP. 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, given the balanced nature of the five-year housing land position at this point in time, together with the published five year housing land figure as being less than five years supply of deliverable housing, 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, however, 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.

5.1.11 Paragraph 78 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'.*

5.1.12 The application site lies within the defined settlement boundary of Tollesbury as identified in the LDP. As such it is considered that Policy S8 of the LDP would be applicable to this case. Policy S8 requires development to be directed to sites within settlement boundaries to prevent urban sprawl beyond existing settlements and to protect the District's landscape.

5.1.13 The application site is centrally located within Tollesbury and is surrounded by existing residential properties. Tollesbury contains a range of facilities that are within walking distance and there are public transport services available. Taking into account the number of dwellings proposed and the generally good level of accessibility of the site to services, facilities and sources of employment, it is considered the principle of a residential development at this site is acceptable in accordance with Policy S8 of the LDP.

5.1.14 Policy E1 of the LDP states that "Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if "1) *The present use and activity on site significantly harms the character and amenity of the adjacent area;* or 2) *The site would have a greater benefit to the local community if an alternative use were permitted;* or 3) *The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.*"

5.1.15 Although the previous permission (17/00620/FUL) at the site has expired, planning history still forms a material planning consideration in the determination of an application. As part of that application, it was considered that the site did not host any employees as the building was always used as a bus depot. Furthermore, it was considered that although the site was not untidy, or the building unattractive, the bulk, scale, siting of the building was not compatible with the pattern of development in the area and did not contribute positively to the residential character of the surrounding area. Therefore, it was considered that the proposed use for residential development would be of greater benefit to the local community and the character of the area than the existing use and the previous buildings at the site. The loss of land that was formerly used for employment purposes was therefore considered to be in accordance with Policy E1 of the LDP.



- 5.1.16 Whilst it is noted that the existing buildings within the site have been demolished, it is not considered reasonable to reach a different conclusion in relation to the loss of employment to that which was reached as part of the previous applications. Furthermore, the Council is now in a position where they cannot demonstrate a 5YHLS and therefore the public benefits of a residential scheme are now greater than they were under the previous application. Therefore, there is no objection in relation to the loss of employment. This stance was also taken in the determination of the previous 2021 application.
- 5.1.17 Notwithstanding the above, an objection was raised to the previous application on the basis that the proposal was not making an effective use of land. The NPPF seeks to promote an effective use of land in meeting the need for homes and other uses (para. 119). Paragraph 125 of the NPPF seeks to avoid homes being built at low densities and looks to ensure that developments make optimal use of the potential of each site. Further to this, Policy H4 of the LDP states that 'To promote sustainable development and contribute towards the development needs for the District, it is essential for development proposals to utilise developable land in the most efficient and effective manner whilst having regard to the quality of the local environment.' The policy then goes on to state that 'infill housing could make the most effective use of land and contribute positively towards local character.'
- 5.1.18 As per Policy H4, infill development will be considered on a site-by-site basis to take into account local circumstances, context and the overall merit of the proposal. Infill development will be permitted if all the following criteria are met:
- 1) There is a significant under-use of land and development would make more effective use of it;*
  - 2) There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;*
  - 3) There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and*
  - 4) The proposal will not involve the loss of any important landscape, heritage features or ecology interests.'*
- 5.1.19 In relation to the first criterion, it is noted that the site is currently vacant and no longer functions as a bus depot. However, concerns were previously raised over the size of the two- and three-bedroom properties, which were not proportionate sizes for the dwelling types proposed. They were found to be more akin to three- and four-bedroom properties and could have functioned as such. Given the Council's inability to demonstrate a 5YHLS, it was even more essential to ensure the optimum use of the site. Therefore, the application was in part refused on the basis of a conflict of criteria 1 of Policy H4.
- 5.1.20 The dwelling mix proposed by the Applicant is two one-bedroom, six two-bedroom and nine three-bedroom properties and the properties are now more proportionate in size to the bedroom numbers proposed. The increase in the number of units, therefore, creates a more effective use of the land as a result of the increase in the density. Although the increase has resulted in the loss of open space provision, a development of this size would not be expected to provide an area of public open space and each property would be served by sufficient outdoor private amenity space. Therefore, a more efficient use of land would be made through more appropriately sized areas of public and private amenity space. Furthermore, the development makes suitable use of Previously Developed Land. For these reasons the previous objection on this matter has been overcome.



- 5.1.21 In relation to criteria 2 the amenities of neighbouring occupiers are assessed further below. In relation to criteria 3 and 4 the land is not of local social, economic, or historic significance, and it does not involve any important heritage features. However, the impact of the proposed development upon landscaping features and ecology is assessed further below.

## **5.2 Housing Mix**

- 5.2.1 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 in this report. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance 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 need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.2 As stated, the proposed dwelling mix is two one-bedroom (12%), six two-bedroom (35%) and nine three-bedroom properties (53%). These percentages are slightly above the requirements set out in the LHNA for one and three beds, which sets out that developments should provide up to 10% of the units as 1-beds, 25%-35% as 2-beds and 40-50% as 3-beds. However, the oversupply would be minimal, and the proposal would provide a good mix of dwellings, particularly in relation to the Council's need for two and three-bedroom properties. Therefore, in terms of bedroom numbers alone, the proposal would support the provision of mixed and balanced communities as required by the NPPF. Matters relating to affordable housing will be discussed below.

## **5.3 Affordable Housing**

- 5.3.1 Policy H1 requires that all housing development of more than 10 units or 1,000sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing. The site falls within the sub-area of Northern Rural and the development exceeds 1,000sqm of floorspace at 1,029m<sup>2</sup>, as the internal storage areas are also included within the floor area calculation. Therefore, the requirement towards affordable housing has been set at 40% of the total amount of housing provided.
- 5.3.2 Any relaxation in the abovementioned requirement will only be considered where the Council is satisfied, on a site-by-site basis, that such requirement will render any development proposals unviable. Affordable housing should be provided on-site, the contribution from developers should comprise of free serviced land to provide the number, size, type and tenure of affordable homes required by the Council's policies in accordance with the Strategic Housing Market Assessment (SHMA), the Council's adopted Maldon District Affordable Housing and Viability Supplementary Planning Document (SPD) 2018 and relevant housing strategies of the Council. In exceptional circumstances the Council may consider accepting financial contribution from the developer where it is justified that affordable housing cannot be delivered on-site, or that the District's need for affordable housing can be better satisfied through this route. Commuted sums will also be charged for an incomplete number of affordable units provided on site. The development of any affordable housing and the calculation of any financial contributions should be in conformity with the details set out in the Maldon District Strategic Housing SPD.



- 5.3.3 The application has been supported by a Financial Viability Assessment (July 2022) (FVA), which concluded that the site would not be viable if any affordable housing contribution was made. Therefore, the scheme proposes no affordable housing.
- 5.3.4 The FVA was reviewed by an independent consultant who found that the scheme would represent an overall assumed profit which is not excessive, particularly given the current economic climate. It was therefore found on balance that the submitted position could be accepted and that the scheme as presented would not support a contribution for affordable housing. On this basis it is therefore accepted that the proposed development would not be viable for affordable housing.
- 5.3.5 On the basis of the above, it is necessary to consider the planning balance of this proposal; this application does not comply with the Council's policy (H1) for affordable housing. The Council's current official 5YHLS position stands at 3.66 years and as such there is a demand for the development. Furthermore, it has been found that the housing mix would largely be in accordance with the District's need for smaller housing units. Therefore, whilst the shortfall in affordable housing does weigh against the application, there is a pressing need to allow the development of the site given the five-year housing land supply position. Furthermore, the proposal would make an effective use of land and would make efficient use of Previously Developed Land. Therefore, on this basis it would not be reasonable to object on a lack of affordable housing alone.

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

- 5.4.1 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.
- 5.4.2 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 local design standards, style guides in plans or supplementary planning documents".*

- 5.4.3 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.
- 5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.5 In addition, 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.
- 5.4.6 Tollesbury village has a great diversity of different residential building types which includes a variety in design features such as dormer windows, roof heights and pitches, as well as varied use of external materials.
- 5.4.7 As previously stated, the layout of the proposed scheme does not differ substantially in relation to the previously refused scheme and the Council did not raise an objection to the design or layout of the previous proposal. The main differences between this and the previous proposal is that there is one more dwelling fronting Thurstable Road, the centre of the site would consist of apartments and there would be four semi/link attached dwellings on New Road opposed to two dwellings. There are also carports and a parking area proposed on the western boundary where public open space was previously proposed.
- 5.4.8 In terms of design and appearance, it was found as part of the previous application, that the proposed dwellings would be of a more modern design than neighbouring properties but of heights, scale and bulk that respect the character of other properties within the area and there are traditional details which reflect the character of the area. Although the design of the properties has changed to a degree, the previous findings are still applicable to the current scheme.
- 5.4.9 The dwellings proposed on New Road are now more in keeping with the existing streetscene than what was previously proposed as they are more akin to the design and scale of the dwellings to the west. Furthermore, the eastern projection on the most easterly dwelling follows the visual cues of the hipped roof form on the neighbouring terrace. Therefore, the dwellings would be sympathetic to the surrounding streetscene.
- 5.4.10 In respect of the properties fronting Thurstable road, it is noted, that both detached and semi-detached properties are characteristic of the streetscene. The detached dwelling at Plot 17 appears as a smaller scale and bulk than the other two semi-detached pairs proposed, which provides a visual transition to the neighbouring bungalows as the dwelling would be more reflective of their bulk than a semi-detached pair. The dwellings have also been designed in a way to reflect the design of the neighbouring properties taking visual cues from the fenestration pattern and roof styles.
- 5.4.11 The apartment block would be visible between the dwellings on Thurstable Road, and plots 2 and 3 fronting New Road. However, the main bulk of the block would be set at least 30m from New Road and Thurstable Road and would therefore, not



appear as a significant bulk of development. Furthermore, as the development would only be visible between the dwellings it would not have a dominating or demonstrably harmful impact on the character and appearance of the surrounding area.

- 5.4.12 The layout of the development is less spacious than the previous scheme. However, the houses proposed to front Thurstable Road have been set back from the pavement with a large front garden and large driveway, which is reflective of the surrounding character. In contrast the dwellings fronting New Road are set closer to the highway edge to be in keeping with the existing pattern of development. Therefore, with regard to the plot sizes and the density of development, it is considered that the proposal would not appear out of keeping with the prevailing pattern of development in the locality. In terms of the layout of the proposed development, it is noted that the site was previously occupied by a large, dominating building which was different, out of scale and disproportionate when viewed in context with existing residential properties surrounding the site. The replacement of this building with residential dwellings would be beneficial to the site and surroundings as the development would improve and enhance the character and appearance of the area.
- 5.4.13 Overall, it is considered that the development, by reasons of its scale, design and appearance would not result in a demonstrable harm to the character and appearance of the existing dwelling and the locality in accordance with policies D1 and H4 of the LDP.

## **5.5 Impact on Residential Amenity**

- 5.5.1 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).
- 5.5.2 Based on the plans submitted, the dwellings have been orientated to minimise the possibility of overlooking neighbouring properties whilst providing safe direct access from the street itself for both pedestrians and vehicles. The back-to-back distance of 25 metres within the site meets policy requirements contained within policy D1 of the LDP and guidance contained within the MDDG (2017).
- 5.5.3 It is noted that there are first floor windows in the side elevation of Plot 1 which face the side of No. 64 New Road. However, given the separation distance of 12.6m, that the windows would serve non-habitable rooms and that there are no first-floor windows in the side elevation of No. 64 New Road, there are no concerns in regard to overlooking into this property. Furthermore, the apartment block would be located a minimum of 12.5m from the shared boundary with No. 64 New Road and 23.5m from No. 16 Thurstable Road. Given the separation distances, that the apartments would be sited to the far end of the extensive neighbouring amenity spaces and the car port and bin stores would intervene, these properties will not have an overbearing impact or result in overlooking into the neighbouring properties. Likewise, a back to side distance of over 16m with the dwellings fronting Thurstable Road is achieved and a back-to-back distance in excess of 25m would be maintained between the apartments and the dwellings fronting Hasler Road.
- 5.5.4 Plot 4 would not extend beyond the rear of the dwelling to the east and there would be no windows proposed in this side elevation. Therefore, no objection is raised in this respect.



- 5.5.5 There is a first-floor window proposed in the eastern elevation of Plot 17. However, this would serve an en-suite and therefore, would be obscured glazed, which would be secured by a condition. The same applies to the first-floor windows in the side elevations of Plots 13-16.
- 5.5.6 Numbers 16 and 69 Thurstable Road both have side extensions that project beyond the rear of the proposed dwellings at Plots 13 and 17. However, given the single storey nature of those projections they will not cause an overbearing impact on the future occupiers of the site.
- 5.5.7 The bin and cycle store as well as a car port will be sited on the boundary of No.16 Thurstable Road. However, the structures would have an eaves height of 2.4m with the bulk of the roof extending away from the boundary to the highest point of 4.7m. Given this, the outbuildings would not have an overbearing or overshadowing impact on the neighbouring amenity space.
- 5.5.8 Consideration has been had to the letters of objection that have been received, raising concern over noise and odour impacts as a result of the siting of the bin store and car ports. However, given the limited number of cars that would be using the access road there would not be significantly harmful noise impacts. Furthermore, the bin store will be emptied on a regular basis and a waste management plan would be secured by way of a condition. Therefore, it would not be reasonable to object to the application on these grounds.
- 5.5.9 The above also applies to the siting of the car parking spaces and car ports serving Plots 1, 2, 11 and 12 and the impacts that would be had on the adjacent amenity space areas.
- 5.5.10 Having regard to the above assessment, it is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, nor would it create unacceptable levels of noise or odour in accordance with the stipulations of D1 of the LDP.

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

- 5.6.1 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.
- 5.6.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher-than-average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel



requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.6.3 As previously stated, the application would provide for one-, two- and three-bedroom properties. The one-bedroom properties would require one parking space, whilst the two- and three-bedroom properties would require two spaces. There is also a requirement for one vehicle charging point per residential property and one cycle space for every one bed property and two for every two or more-bedroom property, unless the dwelling benefits from a garage.
- 5.6.4 Plots 9 and 10 would benefit from one car parking space, whereas all other plots would benefit from 2 parking spaces. Whilst Plot 10 is a three-bedroom property and therefore, requires two spaces, it is noted that Plot 6 a one-bedroom property benefits from two spaces whereas only one is required. Therefore, as there is a sufficient number of parking spaces across the site to serve the dwellings, subject to a condition ensuring that each dwelling has the appropriate number of parking spaces, no objection is raised. Furthermore, a condition could be imposed securing at least one vehicle charging point per dwelling.
- 5.6.5 In terms of visitor parking, there are two spaces proposed along the access road, which would provide adequate visitor parking for those visiting the flats. In terms of the dwellings fronting New Road and Thurstable Road, no visitor parking would be provided. However, the dwellings should be read in the context of the streetscene they sit in, and it would not be appropriate to provide visitor parking bays in this location as they would create an unacceptable visual appearance. Furthermore, whilst on street parking is not encouraged it is noted that it is commonplace within the surrounding area and there are no restrictions on either New Road or Thurstable Road. Therefore, it is possible for any visitors to park on the Public Highway. Whilst the shortfall in visitor parking weighs against the development, taking a pragmatic stance in respect of the size of the development and the minimal amount of visitor traffic likely to be generated by visitors, it is not considered that this matter would warrant the refusal of the application. It is noted that an objection was raised to on street parking as part of the previous application. However, this was applicable to the parking for one dwelling and not visitor parking. Therefore, the on-street parking would have occurred a lot more frequently.
- 5.6.6 The proposal includes a cycle store that would provide adequate provision for cycle storage for the proposed flats. A condition could be imposed to ensure that suitable cycle provision is provided in the gardens of the proposed dwellings.
- 5.6.7 Plots 3 and 4 fronting New Road and the dwellings proposed to front Thurstable Road would be served by individual drop kerbs taking from those roads, which is considered acceptable to both the LPA and Local Highways Authority.
- 5.6.8 The apartments and parking area serving Plots 1 and 2 would be sited off a private access road, which follow discussions with the Local Highways Authority includes a type 3 turning ahead to ensure the road is sufficient and safe for the number of properties it would serve. Therefore, there is no objection in terms of access.
- 5.6.9 The public representations received raise concerns over the increase in traffic that would be caused by the development. However, given the limited number of dwellings proposed the development would not have a material impact on the local highway network in terms of vehicle movements.



## **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 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 25 m<sup>2</sup> for flats.
- 5.7.2 Paragraph 3.1.5 above sets out the level of amenity space provision to be provided at each dwelling. Plots 1, 2, 4, 13 and 17 would all be provided with an over provision of amenity space. The flats would each benefit from a generous area of shared amenity space to the rear of the block. The shared amenity space would be well in excess of the 25m requirement and Plots 5, 6, 9 and 10 would each benefit from their own private amenity area, which is particularly beneficial to Plots 5 and 10 which are three bed units and are therefore likely to be occupied by families.
- 5.7.3 The amenity space provision proposed for Plots 14, 15 and 16 would each fall 3m<sup>2</sup> below of the required 100m<sup>2</sup> of private amenity space. The amenity space serving Plot 3 would be 9m<sup>2</sup> below the requirement. However, the shortfall in amenity space is di minimis in respect of Plots 14, 15 and 16. The under provision at Plot 3 is slightly greater. However, it still would not be at a level that would prevent a family from using the space, particularly given that the garden is of a regular shape with the potential for all areas of the garden to be optimised for use. For these reasons, it would be unreasonable to object to the application as a result of the amenity space provision, as the under provision would not result in material harm to the living conditions of the future occupiers.

## **5.8 Green Infrastructure and Landscaping**

- 5.8.1 Policy D2 of the LDP requires green infrastructure to be incorporated into developments as a way of adapting and mitigating for climate change through the management and enhancement of existing habitats and the creation of new ones to assist with species migration, to provide shade during higher temperatures and for flood mitigation. Negative impacts on ecology, landscape and green infrastructure should be minimised.
- 5.8.2 Policy N1 of the LDP encourages the enhancement of the green infrastructure network, identifying that “The requirement for new green infrastructure associated with developments will be subject to the legal tests (currently set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010) and subject to the proviso that no obligation or policy burden shall threaten the viability of the development”.
- 5.8.3 The previous proposal included a landscaped public amenity area, which is not included as part of this proposal. However, as part of the previous application it was deemed that on the basis of the dwelling numbers the provision of amenity space would not be necessary to make the development acceptable. Therefore, the loss of the public open space results in a more effective use of land.
- 5.8.4 In terms of the overall landscaping, it is noted that each dwelling would feature a suitable soft landscaped frontage and large areas of hardstanding to the front of dwellings has been avoided. Furthermore, the access road would feature a grass verge with tree planting along its length. Therefore, if the application were to be approved then a condition securing details of the proposed planting and hard



surfacing would be sufficient in securing an appropriate provision of hard and soft landscaping.

## **5.9 Ecology and Biodiversity**

- 5.9.1 The application site does not fall within or in close proximity to nature conservation sites. However, policy N2 of the LDP states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.”* Conservation and enhancement of the natural environment is also a requirement of the NPPF.
- 5.9.2 The application has been supported by a Preliminary Ecological Appraisal (ACJ Ecology, March 2023) (PEA) and a Bat Assessment Update (TMA, 18.02.2021) which outlines the likely impacts of the development on designated sites, protected and Priority species and habitats, whilst also identifying mitigation measures. Following consultation with the Councils Ecological Consultant the mitigation measures identified in the PEA are acceptable and should be secured by way of a condition in order to conserve and enhance protected and Priority species, particularly nesting birds.
- 5.9.3 The submission also includes reasonable biodiversity enhancements. A Biodiversity Enhancement Strategy should be secured by a condition in order to secure net gains.

## **5.10 Ecology regarding development within the Zone of Influence (Zol) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.10.1 Natural England (NE) has produced interim advice 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 SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘Zones of Influence’ of these sites cover the whole of the Maldon District.
- 5.10.2 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 Zones of Influence 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.
- 5.10.3 NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - NE has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.10.4 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.

5.10.5 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 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.

5.10.6 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 following development types? Yes -  
The planning application relates to seventeen dwellings

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

##### 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.

5.10.7 As the answer is no, it is advised that 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 above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.

5.10.8 The Essex Coastal RAMS SPD is now post consultation and constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure. However due to indexation this figure is now £156.76. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution of £2,664.92 is necessary. The Supporting Statement acknowledges that the Applicant is willing to provide the necessary RAMS contribution. Therefore, subject to a signed S106 the development would be in accordance with policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.



## **5.11 Other Material Considerations**

### Contamination

- 5.11.1 Policy D2 of the Approved Maldon District Local Development Plan states that where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source. The Council will expect development proposals to take into account environmental issues such as air quality, water consumption and quality, drainage, sewerage, energy,
- 5.11.2 Given that the site represents Previously Developed Land and the length of time that it has functioned as a bus depot, it is possible that there may be contamination present at the site. The application has been supported by a Geo-Environmental Site Investigation Report (2781/Rpt 1v2 April 2022) and a Remediation Method Statement (2781/Rpt 2V2 April 2022). The Site Investigation Report identified some levels of contamination that could pose a risk to human health. However, section 9.2 of the report includes recommendations to mitigate against the above-mentioned harm which could be agreed by way of a condition. Therefore, if the application were to be approved conditions in relation to those points would be necessary.

### Flood Risk and Drainage

- 5.11.3 The application has been supported by a Drainage Strategy (DBS 21-0021, Feb 2023). The Drainage Strategy was updated to address initial comments made by the Lead Local Flood Authority (LLFA) stating the strategy did not allow the LLFA to assess the flood risk development. Following the updates, the LLFA has removed their holding objection subject to conditions requiring a Surface Water Drainage Strategy and conditions relating to its maintenance and management. Therefore, there is no objection subject to these conditions.

### Waste

- 5.11.4 Section C09 of the MDDG (2017) stipulates that the provision of waste management facilities within developments is fundamental to provide and maintain an attractive and healthy environment. To do so, sufficient space should be provided for storage of bins at a convenient place and access of collection vehicles has been considered.
- 5.11.5 The development includes suitable waste storage facilities for the apartments in the form of a bin store opposite the building. Therefore, no objection is raised in respect of waste storage.

### External Lighting

- 5.11.6 The level of detail submitted in relation to waste collection is limited. However, it is considered that subject to a suitably worded condition seeking details of either a communal waste point or details demonstrating that the access road can accommodate a 26 tonne refuse vehicle, then adequate refuse provision could be provided for the future occupiers at locations that are convenient for both the occupiers and the collection vehicles, in accordance with the requirements of MDDG (2017).

### 5.11.7 Health

- 5.11.8 Policy I1 seeks to maintain and improve infrastructure provision in the District by ensuring that an appropriate level and type of infrastructure is provided for new developments where required to meet community and environmental needs. It



outlines that Developers will be required to contribute towards local and strategic infrastructure and services necessary to support the proposed development. Mitigation can be secured through a S106 agreement.

5.11.9 As the development would involve more than 10 dwellings the National Health Service (NHS) has been consulted on the application. In their response the NHS has stated that the development is likely to have an impact on the services of the surgery which operates within the vicinity of the application site. The General Practitioner (GP) practice does not have capacity for the additional growth resulting from the development and cumulative development in the area.

5.11.10 Health services within a 2km radius of the proposed development have an existing deficit of 126.5m<sup>2</sup> of floorspace. The proposed development would have an impact on healthcare provision within the area, where there is already a deficit of primary care facilities. Therefore, if left unmitigated the development would be unsustainable. As such a contribution of £8,100 is required in order to increase capacity for the benefit of the patients of the Primary Care Network operating in the vicinity of the site. This can be secured through a S106 agreement and the Applicant has confirmed their willingness to provide the necessary contribution in this way as part of the application. Therefore, subject to a signed S106 securing the financial contribution not objection is raised.

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

- **90/00304/FUL** - Renewal of temporary consent - siting of two Portakabins as temporary office accommodation to replace office at East Street Tollesbury. **Approved 14.11.1995**
- **97/00512/FUL** - Alterations to west elevation replacement of existing fuel tanks with 1 no. tank new fence and brick planter. **Approved 02.09.1997**
- **01/00200/FUL** - Proposed demolition of existing office building and erection of a single storey office building. **Approved 25.04.2001**
- **17/00620/FUL** - The demolition of all structures and the development of 10, 2 and 3 bedroom houses with landscaping and associated works including access to the site. **Approved 31.10.2017**
- **20/01220/FUL** - Variation of condition 21 to approved planning permission 17/00620/FUL (The demolition of all structures and the development of 10, 2 and 3 bedroom houses with landscaping and associated works including access to the site) Amendment sought: Variation of condition 21. **Withdrawn**
- **21/00343/FUL** - Proposed development of 9 No. 2, 3 and 4 bedroom houses including access, landscaping and associated works. **Refused 11.11.2021**



## 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>
Tollesbury Parish Council	<p>Support</p> <ul style="list-style-type: none"> <li>Any S106 monies could go towards repairs on the Waterworks Road.</li> <li>Climate mitigation should be put in place</li> <li>Not in favour of lack of affordable housing</li> </ul>	<ul style="list-style-type: none"> <li>The development would not create an increase in road traffic to a degree that would warrant a financial contribution towards these works.</li> <li>Given the scale of the development appropriate measures would include vehicle charging points which could be secured by way of a condition.</li> <li>Addressed at section 5.3</li> </ul>

### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Local Highways Authority	No objection subject to conditions requiring a Construction Management Plan, securing the delivering of the access arrangements, the reinstatement of the full height drop kerb and pavement, the delivery of the parking and turning areas, provision of a Residential Travel Information Pack and to ensure there is no use of unbound material within 6m of the highway	Addressed at section 5.6



Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Lead Local Flood Authority	No objection subject to conditions requiring a surface water drainage scheme, maintenance arrangements and maintenance logs for the scheme.	Addressed at section 5.11
Anglian Water	No comment	Noted
Education	No response received.	Noted. The development due to the number of dwellings proposed would not be required to provide an education contribution.
NHS	<p>Proposal is likely to have an impact on the services of the surgery that operates within the vicinity of the application site. The GP practice does not have capacity for the additional growth resulting from this development and cumulative development in the area.</p> <p>Development would likely impact on the NHS funding programme for the delivery of primary healthcare provision within this area and the health catchment of the development. These impacts should be fully assessed and mitigated.</p> <p>The development would generate approximately 40 new residents and increase demand on existing constrained services.</p> <p>The Tollesbury Practice is already below the recognised standards of provision for the existing population. The additional population growth would add to the deficit and would be unsustainable if mitigated.</p>	Addressed at section 5.11



<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	The capital required to create additional floorspace arising from the proposal is £8,100. This should be secured through a S106 agreement.	
Essex and Suffolk Water	No response received at the time of writing this report	Noted. However, as part of the previous application the consultee advised that they have no apparatus in the area and so raise no objection. This remains applicable to this scheme.

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions requiring a Construction Management Plan, a foul drainage scheme, and a remediation scheme	The application has been supported by a Construction Method Statement which can be secured by a condition.  Drainage and contamination are addressed at section 5.11 above. A foul drainage condition should be included on any grant of permission.
Strategic Housing	It has been confirmed that the scheme was not viable to provide Affordable Housing	Addressed at section 5.3
Ecology	The mitigation measures identified in the Preliminary Ecological Appraisal should be secured by a condition and implemented in full.  Reasonable biodiversity enhancements are supported to secure net gains  Impacts will be minimised such that the proposal is acceptable.  Conditions requiring a Biodiversity Enhancement	Addressed at section 5.9



Name of Internal Consultee	Comment	Officer Response
	Strategy and mitigation and enhancement measures in accordance with the Ecological Appraisal.	
Conservation Officer	No objection – the proposal will have no impact on the setting or significance of any nearby designated heritage assets.	Noted

## 7.4 Representations received from Interested Parties

7.4.1 10 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
<ul style="list-style-type: none"> <li>• Overdevelopment</li> <li>• Increase in traffic</li> <li>• Lack of affordable housing</li> <li>• Lack of space for EV charging points</li> <li>• Lack of parking</li> <li>• Increase in rubbish</li> <li>• Neighbouring impacts due to siting of bin collection area such as noise and odour. Bins should be collected from outside the properties.</li> <li>• Impacts on infrastructure</li> <li>• Foul drainage concerns</li> <li>• Flats are out of keeping with the character of the area.</li> <li>• Site is not appropriate for large, detached properties</li> </ul>	<ul style="list-style-type: none"> <li>• Addressed at section 5.4</li> <li>• Addressed at section 5.6</li> <li>• Addressed at section 5.3</li> <li>• Addressed at section 5.4</li> <li>• Suitable provision for waste collection has been included</li> <li>• Addressed at section 5.5</li> <li>• Necessary contributions to infrastructure have been sought where necessary and relevant to the development.</li> <li>• Addressed at section 5.11</li> <li>• Addressed at section 5.4</li> <li>• Addressed at section 5.2</li> </ul>

## 8. RECOMMENDATION

### HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

- £8,100 healthcare contribution
- £2,664.92 RAMS contribution

## 9. 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) of The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out and retained in complete accordance with following approved drawings:
  - 260 REV P2
  - 255 REV P2
  - 254 REV P2



- 253 REV P3
  - 252 REV P3
  - 251 REV P2
  - 258 REV P2
  - 257 REV P2
  - 256 REV P2
  - 250 REV P4
  - 270 Rev P1
- 3 Prior to their use in the development hereby approved, details and photographs or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall 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.  
REASON In the interests of protecting the rural character of the area in accordance with Policies S8 and D1 of the LDP.
- 4 The development shall be implemented in accordance with the dwelling mix hereby approved, which is as follows:
- Open market houses:
- 2 no. one-bedroom dwellings
  - 6 no. two-bedroom dwellings
  - 9 no. three-bedroom dwellings
- REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking into account the objective of creating a sustainable, mixed community contained in Policy H1 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning policy Framework.
- 5 Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include, for example:
- i. Proposes finished levels contours;
  - ii. Means of enclosure;
  - iii. Car parking layouts;
  - iv. Other vehicle and pedestrian access and circulation areas;
  - v. Hard surfacing materials;
  - vi. Minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, signs, lighting);
  - vii. Proposed and existing functional services above and below ground (e.g drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);
  - viii. Retained historic landscape features and proposals for restoration, where relevant.
- The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless



otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

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

REASON In the interest of the character and appearance of the area in accordance with Policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

6. Details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.

REASON In the interest of the character and appearance of the area in accordance with Policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework

7. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1.15l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- • A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

REASON In the interest of surface water flooding in accordance with Policy D5 of the Maldon District Local Development Plan.



- 8 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (ACJ Ecology, March 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON To conserve and enhance protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA 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).

- 9 A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

REASON To enhance protected and Priority species & habitats species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

- 10 No works above ground level associated with the development hereby approved shall take place until a strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means, has been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the agreed details.

REASON To improve broadband coverage in rural areas in accordance with Policies S1 and S7 of the Maldon District Local Development Plan.

- 11 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities / frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk in accordance with policy D2 of the Maldon District Local Development Plan.

- 12 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.



- REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with policy D2 of the Maldon District Local Development Plan.
- 13 Prior to any works above ground level details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan
- 14 The remediation scheme, as set out within the Remediation Method Statement report No 2781/Rpt 2v2 by Brown2Green dated April 2022, must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the Local Planning Authority for approval.

The written verification shall include that:

- i) All contaminated material removed from the site is removed by an appropriate licensed contractor to a facility approved by the Environment Agency
- ii) All imported material is suitable for its intended use
- iii) All agreed remediation measures identified as necessary in the contaminated land assessment have been undertaken to render the site suitable for the use specified.

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

- REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.
- 15 The development shall be carried out in accordance with the Construction Phase Method Statement 62 New Road Tollesbury CM9 8RE (April 2022) throughout the construction period.
- REASON: In the interests of neighbouring amenity and highway safety in accordance with Policies S1, T1, T2 and H4 of the Maldon District Local Development Plan.
- 16 Prior to the occupation of the development hereby approved, at least one electric charging point per dwelling shall be provided for vehicles and electric bicycles and shall be retained thereafter.
- REASON: In order to promote sustainable travel and reduce carbon emissions in accordance with Policy D2 of the Local Development Plan.
- 17 Prior to the first occupation of the development, the vehicle parking and turning areas, as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. Each dwelling will be provided with the required number of vehicle parking spaces as set out within the Maldon District Vehicle Parking Standards. The parking and turning areas shall be retained as such for the life of the development.



- REASON: To ensure that vehicle parking is in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Local Development Plan.
- 18 The bicycle parking facilities to serve Plots 5-12 as shown on the approved plan 255 Rev P2 which is attached to and forms part of this permission shall be provided in accordance with the approved scheme prior to the first occupation of the development and retained for such purposes thereafter.
- Cycle parking shall be provided for Plots 1-4 and Plots 13-17 prior to the occupation of the development hereby approved in accordance with Maldon District Council's adopted standards. The approved facility shall be secure, convenient, covered and retained at all times.
- REASON: To ensure that cycle parking is proposed in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Local Development Plan.
- 19 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- REASON To avoid displacement of loose material onto the highway in the interests of highway safety and in accordance with Policies S1 and T2 of the Maldon District Local Development Plan.
- 20 Prior to occupation of the development hereby approved, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport for each dwelling. The packs are to be provided by the Developer to each dwelling free of charge.
- REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies S1 and T2 of the approved Local Development Plan and the guidance contained in the National Planning Policy Framework.
- 21 Prior to the first occupation of the development the access arrangements as indicated on the approved plans shall be fully implemented and retained as such for the life of the development.
- REASON To ensure that appropriate and safe access is provided in accordance with Policies S1 and T2 of the approved Maldon District Local Development Plan
- 22 Prior to the first occupation of the dwellings hereby approved, a scheme for waste management shall be submitted to and approved in writing by the Local Planning Authority.
- REASON To ensure that adequate refuse facilities are provided and in the interest of the visual amenity of the area in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and the provision and guidance as contained within the Maldon District Design Guide.
- 23 Prior to the first occupation of the development any redundant dropped kerb crossings shall be fully reinstated with full height kerbing and footway construction as necessary
- REASON To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety and in accordance with Policies S1 and T2 of the Maldon District Local Development Plan.
- 24 Prior to the first occupation of the building hereby permitted, the first floor window(s) in the eastern elevation of Plots 13, 15 and 17 and western elevation of Plots 14 and 16 shall be glazed with opaque glass and of a non-openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.
- REASON To prevent overlooking in accordance with Policies S1 and H4 of the Maldon District Local Development Plan.





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
24 MAY 2023**

<b>Application Number</b>	<b>23/00010/FUL</b>
<b>Location</b>	Spital Farm, Station Road, Tolleshunt D'arcy, CM9 8HR
<b>Proposal</b>	Proposed demolition of agricultural barns and construction of 2No dwellings
<b>Applicant</b>	Messrs William & Robert Bradshaw
<b>Agent</b>	Mr Ian O'Hanlon - Tricker Blackie Associates Ltd
<b>Target Decision Date</b>	13.03.2023 Extension of time until 28.04.2023
<b>Case Officer</b>	David Green
<b>Parish</b>	<b>TOLLESHUNT DARCY</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call in by Councillor J V Keyes, none given.

**1. RECOMMENDATION**

**REFUSE** for the reasons detailed in Section 8.

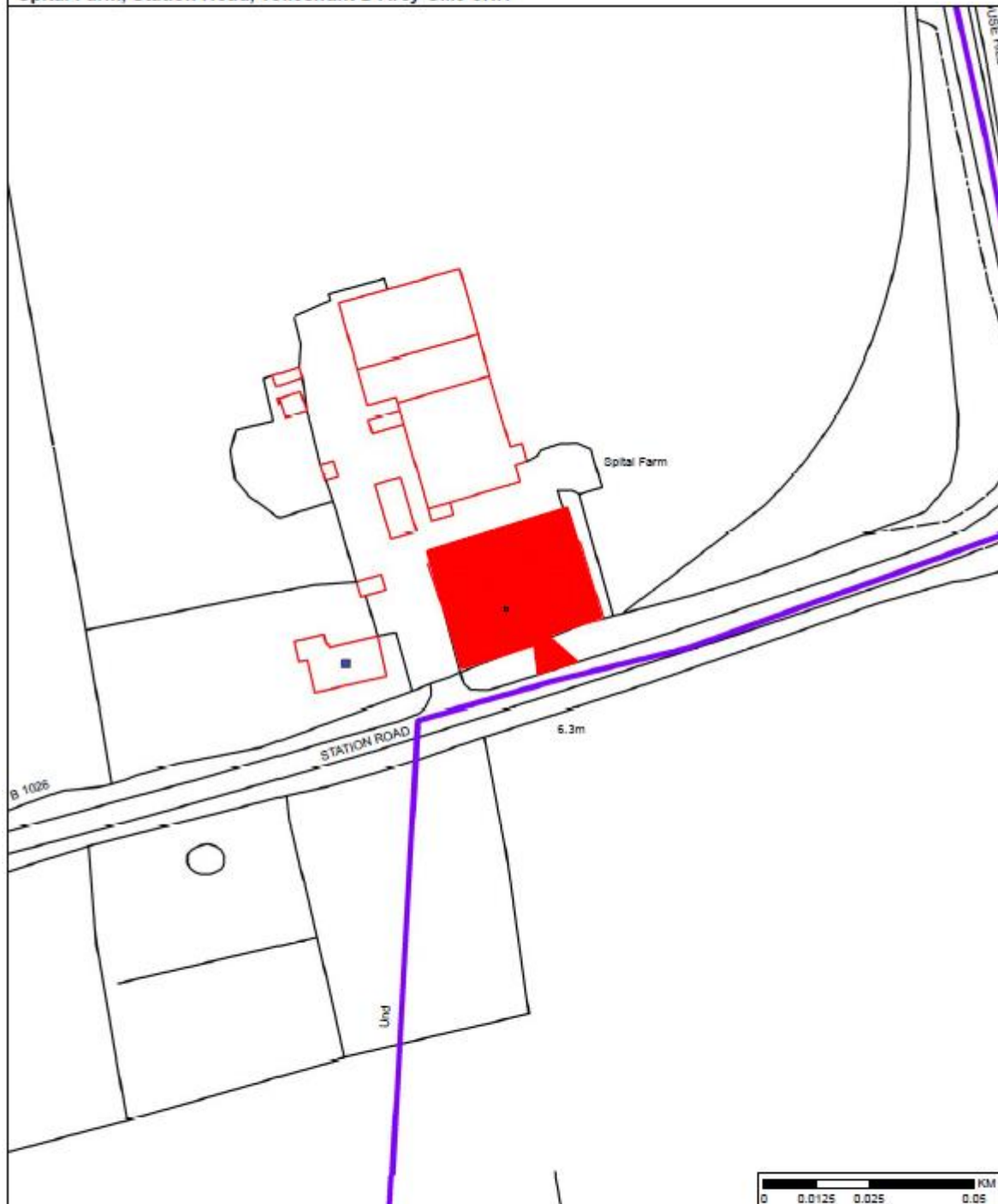
**2. SITE MAP**

Please see below.



23/00010/FUL

Spital Farm, Station Road, Tolleshunt D'Arcy CM9 8HR



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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: North Western Committee

Date: 09/05/2023

MSA Number: 100018588



### **3. SUMMARY**

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

##### Site description

- 3.1.1 The application site is located on the northern side of Station Road. The site is located in the countryside, outside of any defined settlement boundary. The site forms part of a small group of farm buildings at Spital Farm which is located on the north side of Station Road (B1026) just west of its junction with Whitehouse Hill and Colchester Road. The application site/barn fronts onto the highway and is situated to the east side of the main vehicular access point serving the farmhouse and farm buildings. The group of buildings comprise the farmhouse, two large, modern, single storey barns to the north and a timber framed barn set around a small courtyard. It is the latter to which this application relates. The site is surrounded by open countryside. On the south side of the road, to the east is a large dwelling set within extensive grounds. Immediately to the south of the timber framed barns is a walled enclosure which has an historic access onto the highway.
- 3.1.2 The application site benefits from prior approval permission to convert the existing barn, on the subject site, to 2no. dwellings under planning reference 21/00619/COUPA. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.1.3 Following the approval of 21/00619/ COUPA a subsequent application 22/00685/ful for the demolition of agricultural barns and construction of 2No dwellings was refused for the following reasons:
1. The proposed development, by reason of its location, would be disconnected from services and facilities and would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unsustainable and contrary to the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
  2. The introduction of two residential dwellings and associated paraphernalia on the site would represent the inappropriate urbanisation of the site and would have a harmful 15 impact on the rural character of the area, to the detriment of the intrinsic character and beauty of the countryside. The harm is exacerbated by the visual prominence of proposed dwellings in terms of their height and overall bulk. In addition, concerns in respect to the appearance, design features and form of the dwellings are raised. The proposal is therefore considered to result in demonstrable harm to the character and appearance of the site and locality contrary to policies S8, D1 and H4 of the Maldon District Local Development Plan as well as the principles and guidance contained within the National Planning Policy Framework.
  3. The proposed development has the potential to have an unacceptable impact on highway safety. Insufficient information has been submitted to allow the Local Planning Authority to determine that the proposed development would not have a detrimental impact upon highways safety, contrary to policy T2 of the Maldon District Local Development Plan and Government advice as contained in the National Planning Policy Framework.



4. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, N2 and I1 of the Maldon District Local Development Plan and the NPPF.
- 3.1.4 The applicant is currently appealing against this refusal and the current application is also trying to present a revised scheme which attempts to address some of the previous reasons for refusal that were included in the decision for application 22/00685/FUL.

*Description of proposal*

- 3.1.5 Planning Permission is sought for the demolition of agricultural barns and construction of 2No dwellings.
- 3.1.6 The proposal seeks to form 2No dwellings along with associated amenity space and parking facilities on two plots. Plot 1-A is a 4 bedroom, two storey dwelling with a gross internal floor area of 220m<sup>2</sup>, and Plot 2- A is a 3 bedroom, two storey with a gross internal floor area of 147m<sup>2</sup>
- 3.1.7 The principal entrances to each dwelling are clearly defined and at the front of the buildings, the courtyard is intended to provide the occupants with good quality, south facing outdoor space. There will be soft landscaping, planting within these areas and the courtyard walls will be rebuilt in brickwork.
- 3.1.8 Private amenity space is provided to the north side of the buildings and is contained by a 2.0m high brick wall. Each space will have a mix of amenity grass and paved courtyard areas. The positions for cycle storage and refuse bin storage have been carefully considered to be located in a practical sense but also to be discrete.
- 3.1.9 The design of the site layout has been influenced by the position and arrangement of the existing barn structures. Being south facing and with the working farm area to the north, the concept aims to allow the buildings to screen the modern barns to the north and to take advantage of the solar orientation and views to the south.
- 3.1.10 The Gross internal floor area of the Class Q approved scheme was 381m<sup>2</sup>. The Gross internal floor area of the proposal refused under application 22/00685/FUL was 430m<sup>2</sup>. The Gross internal floor area of this current application has been reduced to 367m<sup>2</sup>.
- 3.1.11 The proposed development seeks to maintain the agricultural style and theme of the existing barns. The design of each dwelling is based upon a simple rectangular form of 5.9m in depth with cross wing protrusions over which the roof slope is then extended down to ground floor eaves level. A single storey pitched roof structure links the two dwellings and continues the defensible building line.
- 3.1.12 Following the refusal of application 22/00685/FUL the following adjustments have also been incorporated into the current scheme:
- 1) Eaves height lowered
  - 2) Gap between properties increased



- 3) Length of 1½ storey element reduced
- 4) Elevations simplified
- 5) Emphasis on main two storey element increased
- 6) Dormer windows removed
- 7) Use of 'Velux' type roof windows
- 8) Barn qualities reinforced through use of smaller windows and less regimented fenestration.

- 3.1.13 The principle behind the design is to maintain the street scene appearance of the farmhouse with associated agricultural buildings, having the narrative of a barn conversion such that the main form is simple with 'barn-like' proportions. The linear orientation of the existing barn structure, with ridge running parallel to the highway, is maintained. Typically, the eaves height is 1 ¾ storey, fenestration is limited and the palette of external materials is traditional black painted timber boarding above red brick plinth and set beneath a slate pitched roof.
- 3.1.14 Having regard for the above, the design and impact of the proposed dwellings has improved from the dwellings refused under application 22/00265/FUL. However, the proposal would result in the urbanisation and domestication of the existing site, eroding its current agricultural character and appearance with the development being highly visible from the public realm. It is acknowledged that domestic paraphernalia associated with the residential use would occur if the prior approval permission was implemented. However, this is not considered to outweigh the harm of the proposed development, which would result in an unjustified intrusion of built form and urbanisation of the countryside to a degree that would be demonstrably greater than the harm that would result from the prior approval permission. It is therefore considered reasonable to maintain an objection on this basis.
- 3.1.15 To address refusal reason 3 of 22/00685/FUL the applicant has provided parking spaces within the courtyard at the front of the site designed in accordance with Maldon District Council (MDC) Parking Standards. Plot 1 is served with 3 spaces whilst Plot 2 is served with 3 spaces (MDC parking standards require only 2 as minimum). With regard to vehicle access the scheme proposes to use the historic vehicular access which will be widened to comply with Essex County Council (ECC) Highways standards and will provide a shared access for the two dwellings. The layout of parking provides sufficient space for the manoeuvring of cars such that they can enter and exit the site using forward gears. On this basis ECC Highways raise no objections to the proposed access and parking arrangements. Therefore reason 3 is no longer applicable.
- 3.1.16 To address refusal reason 4 of 22/00685/FUL the applicant has also provided a signed Unilateral Undertaking for the purposes of securing the financial contribution for Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Therefore reason 4 is no longer applicable.

## **3.2 Conclusion**

- 3.2.1 Whilst changes made to the scheme to address the previous reasons for refusal are welcomed, the fact remains that the application site is located in an unsustainable location remote from all services, facilities and public transport options. Further, the



proposed dwellings would result in visual harm to the site and surrounding area. Whilst the prior approval on the site is noted, for the reasons highlighted above, it is still not considered that this outweighs the harm.

#### **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
- 60-80 Delivering a sufficient supply of homes
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 52-173 Meeting the challenge of climate change, flooding and coastal change
- 174-188 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
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- 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



## 5. **MAIN CONSIDERATIONS**

### 5.1 **Principle of Development**

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990)), and through Government policy, at paragraph 47 of the NPPF;
- 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 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 making 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)*

- 5.1.4 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 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)
- 5.1.5 Work remains underway by the Council reviewing the suitability of the 5YHLS methodology through its 5YHLS Working Group established in August 2022. It has yet to conclude its work and present its recommendations to Council. However, the methodology used for calculating the housing land supply is therefore the same as in 2021/2022. On 30 March 2023, an Officer statement was delivered to Council advising that the 5YHLS, as of 30 March 2023, calculated using the same methodology as 2021/2022 stood at 5.1 years; an increase of 1.44 years. The statement to Council was caveated that this updated supply was still subject to



further checks and verification activities, which could mean it increases or decreases by the time it is presented to Council for approval in line with the Council decision on 23 February 2023 that the annual land supply statement must now be reviewed and agreed by Council prior to publication.

5.1.6 Whilst the above is not the official published position given that it is based on the use of the same methodology as the previous monitoring year, it is clear that the housing land supply will sit around the five-year mark, particularly as this data was up to date just one day prior to the closure of the monitoring year, which is a significant improvement on the last published figure of 3.66 years. This demonstrates that the LPA have been more proactive in decision making over the last monitoring period, which has been apparent both outside the settlement boundaries and on the Strategic sites where they can be deemed sustainable. Examples of this are:

- **22/00454/FUL** for 42 units within the South Maldon Garden Suburb which was resolved to be approved on the 22 September 2022 (subject to S106)
- **22/00887/OUTM** which was an outline application for 203 residential units of older persons, outside of the settlement boundary, which the District Planning Committee resolved to approve on the 27 October 2022 (subject to S106)
- An application for 18 units approved outside of the settlement boundary in Woodham Mortimer on the 5 October 2022 (**22/00482/OUT**).
- **21/00752/RES** at the North Heybridge Garden Suburb for 160 dwellings
- **21/00702/FUL** at Tollesbury for 25 dwellings
- **21/00030/FUL** for 7 dwellings

5.1.7 Whilst the Council will continue to take a proactive approach to decision making, the improvement on the 5YHLS figure gives some additional flexibility in the consideration of whether housing developments are or are not sustainable and therefore, has an impact on the planning balance, either removing the 'presumption' or tipping the balance to be more equal.

5.1.8 As outlined above the official 5YHLS figure is 3.66 years, albeit this is likely to increase to 5.1 years or thereabouts when the official figure for the 2022/23 monitoring period is published. There is likely to be little deviation from this figure as the unofficial 5.1-year figure was calculated one day prior to the end of the monitoring period. Nevertheless, the titled balance still applies, albeit is considered to be more level than previously stated due to the predicted increase in supply.

5.1.9 Therefore, it is necessary to assess whether the proposed development is a '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'

5.1.10 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.

- 5.1.11 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 of the 5YHLS status as identified above 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 are 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.

- 5.1.12 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'*

- 5.1.13 Planning permission is sought for the construction of two dwellings which would be located outside of a defined settlement boundary. The closest defined settlement to the application site is Tolleshunt D'Arcy and the site is located around 1200m from the edge of the settlement in a north-east direction.

- 5.1.14 The application site is set within a rural area, removed from day-to-day services and facilities and sustainable transport modes. Tolleshunt D'Arcy is classified as one of the "small villages" within the district, as detailed within policy S8 of the LDP. A 'small village' is classified as containing few or no services and facilities, with little access to public transport with very limited or no employment opportunities. Therefore, it is considered that any future occupiers of the dwelling would be required to travel to access day to day facilities, work and education. The closest bus stop appears to be located around 0.8 miles from the application site and given the lack of footpaths or pavements, the narrow roadways and 60mph speed limit along Station Road, which links to the settlement, walking to the settlement and bus stop is considered to be unsafe and is unlikely to be a desirable option. Further, the buses which serve the bus stop are limited to 50 Seasider, 50A Seasider and 92 Seasider, which provide a limited service to Tollesbury and Colchester (dependent on direction) running from 07:48-17:05 weekdays and 07:45-17:05 on Saturdays. Given the latter, the location of the site would fail to discourage the use of private cars contrary to paragraph 105 of the NPPF which states that *"The planning system should actively manage patterns of growth in support of these objectives. 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."*

- 5.1.15 Overall, it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and as such, the proposal would fail to accord with Policy S1, S8 and T2 of the LDP. The harm identified above is considered to weigh heavily against the proposal in the planning balance.

- 5.1.16 As stated in a preceding section of this report; the application site benefits from prior approval permission to convert the existing barn, on the subject site, to 2no.



dwelling under planning reference 21/00619/COUPA. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The previous planning history of a site is a material planning consideration and is pertinent in the consideration of this application. Therefore, this permission, whilst not being a traditional planning application is still a material consideration in the determination of this planning application.

- 5.1.17 Whilst it is an accepted, point of planning law, that any consideration which relates to the use and development is capable of being a planning consideration (*Stringer v Minister of Housing and Local Government* [1970]) and the weighting given to a material consideration is a question of planning judgment, which is a matter for the decision maker (*Tesco Stores Ltd v Secretary of State for the Environment* [1985]) the weight given to a material consideration must be reasonable and where relevant should reflect government legislation, guidance and case law. If this is not done the Council can be seen as being unreasonable or erred in its judgement.
- 5.1.18 As previously detailed, prior approval was granted under 21/00619/COUPA for the change of use of the agricultural building to a dwellinghouse. An application for prior approval is an assessment against set criteria contained within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to whether or not a development could gain deemed consent. The current application relates to the demolition of the existing building and the construction of a larger and visually different development. An application for full planning permission is therefore, required. Under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) the Council was only able to consider whether the location and siting of the building would make it impractical or undesirable to change the use to residential, but not a test in relation to the sustainability of location.
- 5.1.19 The development sought under this application is not for prior approval and it is therefore necessary to assess the proposal against the policies contained within the LDP alongside the NPPF, NPPG and relevant SPDs. Furthermore, the previous prior approval application does not mean that the principle of the development has been accepted. The starting point for consideration of a prior approval application is not the development plan and conflicts with the LDP and Government Guidance are not material to the determination of such an application. This is materially different to an approach such as the case with this application where the starting point is the Development Plan.
- 5.1.20 As highlighted above, a prior approval application was previously granted for the conversion of the barn to 2no. residential units. This was subject to conditions, including condition 2 which stated that the development shall be carried out in complete accordance with the approved drawings. The proposed development is much larger in scale and is of a more residential appearance than the prior approval permission. It is not considered that the prior approval process could allow for a similar development, as to that being submitted under the planning application, being allowed.
- 5.1.21 It is considered appeal decision APP/X1545/W/18/3194812 is relevant to this consideration. The appeal was for the conversion of a barn to a residential dwelling and associated alterations which were not considered as part of a previously granted prior approval application. At paragraph 11 of the appeal decision the Inspector said that where there are minor differences between the proposed development and the approved scheme then there is a realistic prospect of the approved scheme being implemented in the event that the appeal fails. Furthermore, there was no evidence



that the fall-back position could not be implemented and that a very similar development could be carried out within the site.

- 5.1.22 As highlighted by the Applicant in supporting documents provided as part of the application process, the Courts have acknowledged that the weight to be attributed to the 'fallback position' is affected by the "real prospect" of the development coming forward.
- 5.1.23 As part of the previous recommendation for refusal (22/00685/FUL) it was considered that the proposed development was of a notably larger scale than that approved under the terms of 21/00619/COUPA, the existing barn has a floor area of 381m<sup>2</sup> whilst the development proposed in the planning application that was refused had a floor area of 430m<sup>2</sup>. In addition, the overall height and bulk of the proposed development in that refusal was significantly increased when compared to the approved conversion. Whilst the maximum ridge height on the existing barn is 6.4m the maximum ridge height on the scheme that was refused was 7.4m. In that scheme whilst the majority of the existing barn is at a lower level than 6.4m, the proposed replacement building in the refused application had the majority of the proposed dwellings at 7.4m in height. This was felt to result in an unacceptable overall increased bulk of the development at the site and was therefore considered to have a significant visual impact.
- 5.1.24 In this current application, the following adjustments have been incorporated into the scheme:
- 1) Eaves height lowered
  - 2) Gap between properties increased
  - 3) Length of 1½ storey element reduced
  - 4) Elevations simplified
  - 5) Emphasis on main two storey element increased
  - 6) Dormer windows removed
  - 7) Use of 'Velux' type roof windows
  - 8) Barn qualities reinforced through use of smaller windows and less regimented
  - 9) Max ridge height reduced from 7.4m to 7.1m (existing barn 6.4m)
  - 10) Gross internal floorspace reduced from 430m<sup>2</sup> to 367m<sup>2</sup> (existing Barns 381m<sup>2</sup>)
- 5.1.25 These amendments have reduced the scale of the proposed buildings but it is still considered that the overall increased bulk of the development at the site, if this application was approved, would have a greater visual impact than a conversion of the existing barns.
- 5.1.26 Furthermore, the Applicant has not put forward an argument as to why the conversion is not being brought forward. Whilst it was accepted the structure had the potential to be structurally secure and be converted it has not been evidenced, as part of this application, that this is definitively the case. Whilst this is not the sole factor in the determination of this application or the consideration in the balancing exercise it does weigh against the weight that can be attributed to the 'fallback position' as there is a lack of definitive evidence that there is a "real prospect" of the existing building being converted. It is worth noting that a number of previously approved prior approvals have subsequently been found to be undeliverable.
- 5.1.27 Overall, the site is located in an unsustainable location remote from facilities needed for day-to-day living where, in normal circumstances, the Council would look to resist additional residential development, there is a need to be conscious of site-specific material considerations that weigh in favour of the proposal. The previous permission was granted under prior approval and is therefore not subject to the same



assessment in terms of sustainability, regard must be had to the fact that there is an existing permission for a dwelling on the site. Furthermore, consideration must be had to the Council's aforementioned 5YHLS situation and the reduced housing need, within the District, for smaller dwellings. However, for the reasons laid out above it is not considered the previous permission is of such a weight to overcome the conflict with the Council's policies or Government guidance.

- 5.1.28 Whilst other material considerations are discussed below, based on the above, it is considered that a residential development in this location is unacceptable.

## **5.2 Housing Need and Supply**

- 5.2.1 Whilst the Council will continue to take a proactive approach to decision making, the improvement on the 5YHLS figure gives some additional flexibility in the consideration of whether housing developments are or are not sustainable and therefore, has an impact on the planning balance, either removing the 'presumption' or tipping the balance to be more equal.
- 5.2.2 As outlined above the official 5YHLS figure is 3.66 years, albeit this is likely to increase to 5.1 years or thereabouts when the official figure for the 2022/23 monitoring period is published. There is likely to be little deviation from this figure as the unofficial 5.1-year figure was calculated one day prior to the end of the monitoring period. Nevertheless, the titled balance still applies, albeit is considered to be more level than previously stated due to the predicted increase in supply.
- 5.2.3 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 in this report. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance 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 need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.4 The proposal would provide one four-bedroom dwelling and one three-bedroom dwelling. 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. Therefore, as the proposal would provide one three-bed unit it would contribute towards the greatest housing need and therefore holds positive weight in the planning balance albeit limited due to the provision of a single dwelling and the latest 5YHLS figures which suggest that the required housing needs are being met by already approved housing developments.

## **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 local design standards, style guides in plans or supplementary planning documents”.*

- 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:-
- *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
  - *Height, size, scale, form, massing and proportion;*
  - *Landscape setting, townscape setting and skylines;*
  - *Layout, orientation, and density;*
  - *Historic environment particularly in relation to designated and non-designated heritage assets;*
  - *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
  - *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 The application site is located in a rural area which is predominantly characterised by open and undeveloped countryside. The development within the vicinity of the site is predominantly agricultural, with the residential development being limited to farmhouses, which are traditional in appearance.
- 5.3.6 The application site currently appears to be part of a larger agricultural complex and occupies a barn, which fronts the highway. The proposed development would result in the demolition of the existing historic barn, the subdivision and change of use of the plot to create two residential units and the erection of 2no. two storey dwellings. The proposed dwellings would be highly visible from the public realm.
- 5.3.7 The proposed development would result in the urbanisation and domestication of the site, creating a form of development which would detract from the rural and undeveloped character and appearance of the site and rural locality. This would fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural locality.
- 5.3.8 On the previous refusal it was felt that the poor design of the dwellings further exacerbated the harm of the proposed dwellings. The current application however has amended dwelling designs, so they are greatly improved. However, it is still considered that the appearance and form of the dwellings would result in a detrimental visual impact. The existing barn is low level with a staggered ridge height, whereas the proposed dwellings, would result in much more prominent and utilitarian development at the site. The revised fenestration detailing has improved from the previous scheme and is more reflective of the traditional and agricultural development in the area.



- 5.3.9 Having regard for the above, the design and impact of the proposed dwellings has improved from the dwellings refused under application 22/00265/FUL. However, the proposal would result in the urbanisation and domestication of the existing site, eroding its current agricultural character and appearance and it is noted the development would be highly visible from the public realm. It is acknowledged that some associated domestic paraphernalia associated with the use would occur if the prior approval permission was implemented. However, this is not considered to outweigh the harm of the proposed development, which would result in an unjustified intrusion of built form and urbanisation of the countryside to a degree that would be demonstrably greater than the harm that would result from the prior approval permission. Therefore, it is reasonable to object to the proposed development on this basis. It therefore follows that the proposed development would fail the environmental strand of sustainability and is considered to weigh heavily against the proposal in the planning balance.

#### **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 (2017).
- 5.4.2 The application site has no adjoining neighbouring occupiers, the closest neighbouring property is the farmhouse on the larger agricultural complex at 'Spital Farm' which is located directly to the west of the site and existing barn. The neighbouring dwelling has recently gained permission for a two-storey side extension under the terms of application 21/00501/HOUSE. There is a separation distance of approximately 13m between the rear corner of the extended neighbouring property and the front corner of the dwelling proposed to occupy plot 1. The front elevation of the dwelling proposed to occupy plot 1 would be sited in line with the rear elevation of the neighbouring dwelling and there are no first-floor windows proposed on the western side elevation of the proposed dwelling within plot 1. Therefore, given fenestration detailing, orientation and separation distance, the proposed development would not give rise to an overbearing impact, loss of light or overlooking to the detriment of the neighbouring occupiers.

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

- 5.5.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards (VPS).
- 5.5.2 In terms of parking spaces these will be provided within the courtyard at the front of the site and have been designed in accordance with MDC Parking Standards with Plot 1 and 2 being served with 3 spaces (MDC parking standards require only 2 as minimum)
- 5.5.3 The reinstated historic vehicular access will be widened to comply with ECC Highways standards and will provide a shared access for the two dwellings. The layout of parking provides sufficient space for the manoeuvring of cars such that they can enter and exit the site using forward gears.
- 5.5.4 In terms of access and highway safety the Highways Authority has confirmed that there are no objections to this application subject to conditions. Therefore, no concerns in respect of Access, Parking and Highway Safety are raised.



## **5.6 Private Amenity Space**

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) SPD advises a suitable garden size for each type of dwellinghouse, namely 50sqm of private amenity space for dwellings with 1 or 2 bedrooms and 100sqm for dwelling with 3 or more bedrooms.
- 5.6.2 The site layout shown on the block plan demonstrates that the proposed dwellings would be served by a private amenity area in excess of 100sqm. Therefore, no concerns in this respect are raised.

## **5.7 Ecology**

- 5.7.1 The NPPF states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

- 5.7.2 Policy N2 of the LDP which states that:

*“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.”*

- 5.7.3 The application has been supported by an Ecological Survey and Assessment which includes the likely impacts of the development on designated sites, protected species and priority species and habitats.
- 5.7.4 The Council's Lead Countryside and Coast Co-ordinator has confirmed that they are satisfied with the submitted information subject to conditions in relation to mitigation and enhancement measures, as set out within the report. It is considered that the requirements are reasonable and appropriate, and as such these conditions will be imposed, should the application be approved.
- 5.7.5 In respect of the off-site impact, Natural England (NE) has produced interim advice 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 MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.6 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 zones of influence 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), 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.
- 5.7.7 Prior to the RAMS being adopted, NE advised that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - NE



have provided an HRA record template for use where recreational disturbance is the only HRA issue.

- 5.7.8 The application site falls within the 'Zone of Influence' 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 likely significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.9 The proposal is for one new dwelling and NE's general advice is that a 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.
- 5.7.10 To accord with NE's requirements, a 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 following development types? Yes

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

##### 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.

#### Summary of appropriate assessment

- 5.7.11 The application proposes the erection of two dwellings. Given that the site is located within a zone of influence (Zol) for the Essex Coast RAMS, it is expected that the development of a further dwelling would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.
- 5.7.12 The Essex Coastal RAMS is currently under preparation and it therefore constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £157.76 and thus, the developer contribution should be calculated using this figure. As the proposal is for two dwellings a fee of £313.52 would be required. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development may not be able to be mitigated and thus, this would constitute a



reason for refusal of the application. The applicant has previously signed an agreement to cover this element and has also provided a draft agreement to ensure this matter is covered on this application. Accordingly, it is considered that this issue could be addressed and cannot be used as a reason for refusal.

## **5.8 Planning Balance and Sustainability**

- 5.8.12 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 and the latest evidence on the 5YHLS. The tilted balance still applies, albeit it is considered to be more level than previously stated due to the predicted increase in supply therefore the LPA must give appropriate weight to the NPPF and its fundamental position of sustainable development, which is the defining purpose of the planning system, as a material consideration.
- 5.8.13 The key priority within the NPPF, 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.
- 5.8.14 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.
- 5.8.15 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.
- 5.8.16 With regard to the 3 tests of sustainability, in economic terms, there would be little support for local trade due to the limited provision of local businesses, shops and services and the minor nature of the development would result in there being a very limited increase in footfall or economic benefit to the area.
- 5.8.17 In social terms the proposal would provide limited benefits to the vibrancy of the local area, given the lack of services and facilities and as mentioned above the occupiers of the site would be reliant on private cars. The application is for two dwellings and therefore provides limited benefits in terms of the housing stock.
- 5.8.18 In environmental terms, due to the location of the site there is limited access to services, facilities and public transport infrastructure; the occupiers of the dwelling will be reliant on private motor vehicles to satisfy the requirements of day-to-day living. The development would also harm the character and appearance of the site and surrounding area.
- 5.8.19 Overall, taking the above into account, the development is not considered to be sustainable, with the harm significantly outweighing the relatively minor benefits of the scheme. Therefore, the development is considered to be unacceptable.

## **5.9 Conclusion**

- 5.9.12 The application site is located in an area that is removed from all services, facilities and public transport options. Further, the proposed dwelling would result in visual



harm to the site and surrounding area. Whilst the prior approval on the site is noted, for the reasons highlighted above, it is not considered that this outweighs the harm.

## 6. **ANY RELEVANT HISTORY TO SITE AND IMMEDIATE SETTING**

- **21/00619/COUPA** - Change of use of 1No. agricultural buildings into 2No. dwellinghouses. Change of use from cold store to wholesale meat cutting and packing plant – Approved 04.08.2021
- **22/00685/FUL** - **Proposed demolition of agricultural barns and construction of 2No. dwelling** – Refused 09.08.2022 (appeal Pending)

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Tolleshunt D'Arcy Parish Council	The Parish Council recommends granting of Planning permission.	Noted.

### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	From a highway and transportation perspective the impact of the proposal is acceptable to the Highways Authority, subject to conditions.	Noted

### 7.3 **Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to imposition of conditions.	Noted.
Ecology	No objection subject to imposition of conditions.	Noted.
Archaeology	The proposed development will impact on a historic barn complex. Therefore any development should be conditioned so it is proceeded by a programme of historic building recording.	Noted.



## **7.4 Representations received from Interested Parties**

7.4.1 No representations have been received for the application.

## **8. REASONS FOR REFUSAL**

- 1 The proposed development, by reason of its location, would be disconnected from services and facilities and would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unsustainable and contrary to the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
- 2 The introduction of two residential dwellings and associated paraphernalia on the site would represent the inappropriate urbanisation of the site and would have a harmful impact on the rural character of the area, to the detriment of the intrinsic character and beauty of the countryside. The harm is exacerbated by the visual prominence of proposed dwellings in terms of their height and overall bulk. The proposal is therefore considered to result in demonstrable harm to the character and appearance of the site and locality contrary to policies S8, D1 and H4 of the Maldon District Local Development Plan as well as the principles and guidance contained within the National Planning Policy Framework.



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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**24 MAY 2023**

<b>Application Number</b>	<b>23/00147/HOUSE</b>
<b>Location</b>	September Barn, Chelmsford Road, Purleigh, Essex, CM3 6QP
<b>Proposal</b>	Single storey rear extension
<b>Applicant</b>	Mr Ben Strathern
<b>Agent</b>	Mr John Crowley - Anthro Architect Ltd
<b>Target Decision Date</b>	21.11.2022
<b>Case Officer</b>	Nicola Ward
<b>Parish</b>	<b>PURLEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call-in by Councillor S White citing Policy D1 and S1

**1. RECOMMENDATION**

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


**2. SITE MAP**

Please see below.



**23/00147/HOUSE**  
**September Barn Chelmsford Road Purleigh**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	
	Date:	26/04/2023
	MSA Number:	100018588



### **3. SUMMARY**

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

- 3.1.1 The application site is located outside of any development boundary, in the rural area, to the northwest of the village of Purleigh. The application site is located on the southwestern side of Chelmsford Road and comprises a former agricultural barn which has recently been converted to a dwellinghouse following the grant of planning permission on 11 February 2021 for the retention of the existing dwellinghouse (ref. 20/01154/FUL). A single storey front extension has also since been added to the dwellinghouse following the grant of planning permission under application ref. 21/00621/HOUSE.
- 3.1.2 The application property adjoins another dwellinghouse to the west (which is also a converted agricultural building) and Mosklyns Farm farmhouse is to the east. To the rear of the site are agricultural buildings associated with Mosklyns Farm and the wider surrounding area to the south of Mosklyns Farm is predominantly open agricultural fields.
- 3.1.3 Planning permission is sought for the erection of a single storey rear extension. The extension would measure 5.5 metres in depth, 4.1 metres in width, 2.4 metres in eaves height and would have a maximum height of 4.7 metres.
- 3.1.4 The materials would consist of timber weatherboard cladding and clay roof tiles as well as grey coloured aluminum framed / upvc windows and doors, all to match the existing dwelling.
- 3.1.5 The application is a resubmission of a refused application 22/00969/HOUSE which was refused for the following reasons:
- ‘1. The proposed rear extension, as a result of its height, depth and position, would appear as an unsympathetic addition to the host dwelling that would not be subservient to and which would be out of keeping with the character and appearance of the existing dwelling to the detriment of the character and appearance of the host dwelling and the surrounding area. The proposal is therefore contrary to policies D1 and H4 of the approved Local Development Plan and the guidance contained in the National Planning Policy Framework (2021).
2. The occupiers of the extended dwelling would not be provided with sufficient usable private amenity space to the detriment of the living conditions of the existing and future occupiers of the dwelling. The proposed development is not therefore in accordance with Policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained in the National Planning Policy Framework (2021).’
- 3.1.6 The current submission poses no changes to the previously refused application 22/00969/HOUSE.

#### **3.2 Conclusion**

- 3.2.1 The proposed resubmission has not overcome the previous reasons for refusal. It is considered that the proposed development would result in harm to the character and appearance of the area and would provide an insufficient amount of private amenity space resulting in a poor living environment for the occupiers of the extended dwellinghouse, although the proposal would not cause harm to the amenity of



neighbouring occupiers and sufficient parking would be provided at the site. The proposal would therefore be contrary to Policies D1 and H4 of the approved Local Development Plan (LDP).

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

##### **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
- 54-58 Planning Conditions and Obligations
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 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
- E1 Employment
- E4 Agricultural Rural Diversification
- 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)
- Maldon District Design Guide (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD

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

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

- 5.1.1 The Council is required to determine planning applications in accordance with its approved LDP 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 (TCPA 1990)).
- 5.1.2 The principle of extending the existing dwellinghouse and of providing facilities in association with residential accommodation is considered acceptable in line with policies S1 and H4 of the approved LDP.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed



communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality, beautiful and sustainable built environment for all types of development.

- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 and H4 of the LDP and is found within the MDDG (2017).
- 5.2.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.4 The current submission proposes no changes to the previously refused application 22/00969/HOUSE.
- 5.2.5 The proposed rear extension would have a height of 4.7m which would match that of the ridgeline of the host property and would sit 0.5m above the ridge height of the existing front extension. Whilst it is noted the eaves height of the proposed extension would match that of the main dwelling, as well as the extension to the front, the extension would project a significant distance (5.5m) from the rear elevation. Although the proposed extension would not be excessive in width, it is considered that due to the height and depth of the extension, it would not be a subservient addition to the property and would be of a poor-quality design particularly as, due to the height and bulk of the roof proposed, it would appear overly large and not relate well to the building to which it is proposed to be attached. Furthermore, as the majority of the dwelling is positioned in front of the farmhouse to the east, the extension would be widely visible in views along Chelmsford Road, particularly from the east.
- 5.2.6 Whilst a front extension was recently approved at the property, which had a similar depth to the extension currently proposed, that extension was considered to be subservient as it was single storey with a lower ridge height. As a result, that addition was acceptable particularly, as, historically, the former barn had a front projection of a similar size.
- 5.2.7 The currently proposed development, due to the size, height and position of the extension proposed, would result in an incongruous, dominant extension to the property which would be visually prominent within the street scene, to the detriment of the character of the area and the appearance of the dwelling to an extent that would warrant refusal of the application. Therefore, the current submission has not overcome the previous reasons why the proposed single storey rear extension was refused planning permission.

### **5.3 Impact on Residential Amenity**

- 5.3.1 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).
- 5.3.2 The proposed single storey rear extension would be located 5m away from the neighbouring property to the east and 7.3m away from the adjoining neighbour to the west. This separation distance is considered to be sufficient to mitigate against any potential loss of light to these neighbours or the development having an overbearing impact.



- 5.3.3 It is noted that two rooflights are proposed within the western roof slope of the extension facing towards the adjoining neighbour to the west of the site. Whilst these rooflights would serve a bedroom, due to the height of the proposed rooflights above floor level, it is not considered that these windows would result in any overlooking.
- 5.3.4 Based on the above, it is considered the proposed development would not result in material harm to the residential amenity of existing neighbouring occupiers, in accordance with Policy D1 of the LDP.

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

- 5.4.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards.
- 5.4.2 Although the proposed development would result in the creation of a third bedroom at the property, the minimum parking provision required for both two- and three-bedroom dwellings is two parking spaces. There are two parking spaces to the front of the dwelling. Therefore, no objection is raised in terms of off-street parking provision.

#### **5.5 Private Amenity Space and Living Conditions of Future Occupiers**

- 5.5.1 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 (2017) 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.
- 5.5.2 The existing private amenity space at the rear of the property measures approximately 99m<sup>2</sup>, which is marginally lower than the minimum of 100m<sup>2</sup> recommended for properties with three or more bedrooms. As the number of bedrooms at the property would increase from two to three, a minimum of 100m<sup>2</sup> of private amenity space would need to be retained to comply with the recommended standard. The proposed extension would reduce the private amenity space at the property to approximately 74m<sup>2</sup>, which would be significantly below the recommended minimum standard for a property of the size proposed.
- 5.5.3 Furthermore, the useability of this amenity space would be compromised due to the shape of the remaining space of the garden. The interjection of the extension into the garden would result in a compartmentalised garden area with the largest section being 7.3m in width with a staggered depth of between 5.63m and 7.6m. This gives a single regular shape of approximately 51.6m. Additional space to the rear of the building amounts to an additional 12.4m giving a total garden amenity of approximately 73m (the applicants calculate 74m). Notwithstanding the minor difference, 12.4m of this space is shared between the rear of the extension (a depth of just over 2m to the rear boundary) and the side (a width of just under 2m to the side boundary). Given that the overall amenity provision size is 26m short of the Council's minimum standard of 100m<sup>2</sup> for a 3-bed dwelling, together with the irregular shape, the amenity space provision for this development is considered woefully substandard.
- 5.5.4 Whilst a reduction in amenity space below the 100m<sup>2</sup> could, in certain circumstances, be acceptable the resultant shape of the garden area, following the development as proposed, would be such as to reduce its' effective usability to an unacceptable degree



5.5.5 In further support of this position, an appeal decision at 16 Rydal Drive, Maldon, CM9 5LG (Appeal ref: APP/X1545/D/22/3312187) for a rear extension with garage / store room link) was approved on 15 February 2023. However, in granting permission, the following comments are noted with regard to the Inspector's consideration of the impact of the rear extension on the garden space:

4. *Policy D1 of the Maldon District Approved Local Development Plan 2014-2029 (2017) (the LDP) concerns design quality and the built environment. It requires development to respect and enhance the character and local context, and make a positive contribution against a number of criteria, including to provide sufficient and usable private and public amenity spaces. The Maldon District Design Guide Supplementary Planning Document (SPD) includes detailed guidance and standards to support the policy, including that a three or more bedroom dwelling as in this case should have a minimum of 100m<sup>2</sup> of private amenity space.*
5. *The Council indicates that the existing garden is around 100m<sup>2</sup>, which therefore meets the expected standard. The extension would result in the available garden area being around 85m<sup>2</sup>.*
6. *The proposal involves a modest single storey extension of 3.5 metres depth, which would result in a quantitative reduction from the requisite standard. The existing garden is the same width as the dwelling where it runs adjacent to the garage, but then opens out to the full plot width behind the garage. Consequently, the configuration of the remaining space means that even with the small extension in place it could reasonably be used and enjoyed for both children's play or sitting outside.*
7. *Therefore, the effect of the proposed extension on the quality of the useable space would be limited. I am mindful that, as a general principle, guidance such as that included in the SPD should be applied judiciously, taking account of the particular circumstances involved. In the circumstances of this case, the effects of the reduction in available space would not be so significant to cause material harm to current or future occupiers' enjoyment and use of the rear garden.*

5.5.6 The notable points from this example is that 1) the resultant garden in the above example is over 10 sq metres larger, and 2) would be of a regular shape than the current proposed garden. The second reason why the previously proposed single storey rear extension was refused planning permission has therefore not been overcome.

5.5.7 Members' attention is also drawn to an application considered by the Central Area Planning Committee of 15 July 2020. Members agreed officers' recommendation to refuse an application involving extensions to the dwelling, the salient reason (in relation to this case), being a refusal on grounds including an unacceptable reduction in the size of the rear garden. In that case, the reduction resulted in the rear garden being reduced from 94m<sup>2</sup> to 59.7m<sup>2</sup>. Whilst significantly below the Council's standard, the remaining garden was of a regular shape of a greater size than the 'regular shaped area' of the current proposal. In coming to this position therefore, officers have had regard to the need to be acting in a consistent manner to safeguard the integrity and reasonableness in both its decision making under delegated authority and its recommendations to Committee in light of the policies in the development plan.



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

- **15/01096/COUPA** - Change of use of two existing barns from agricultural to dwelling houses. Approved.
- **19/01162/COUPA** - Variation on condition 1 & 2 approved planning permission COUPA/MAL/15/01096 Change of use of two existing barns from agricultural to dwelling houses. – Refusal.
- **20/01154/FUL** - Retention of existing dwelling. – Approved.
- **21/00621/HOUSE** - Erection of single-storey front extension – Approved.
- **22/00668/HOUSE** - Two-storey hipped roof rear extension. – Refused.
- **22/00969/HOUSE** – Single Storey Rear Extension – Refused.

## 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>
Purleigh Parish Council	The proposed development is sustainable and complies with planning legislation and policies.	Noted

### 7.2 **Representations received from Interested Parties**

7.2.1 No representations received for this application.

## 8. **REASONS FOR REFUSAL**

- 1 The proposed rear extension, as a result of its height, depth and position, would appear as an unsympathetic addition to the host dwelling that would not be subservient to and which would be out of keeping with the character and appearance of the existing dwelling to the detriment of the character and appearance of the host dwelling and the surrounding area. The proposal is therefore contrary to policies D1 and H4 of the approved Local Development Plan and the guidance contained in the National Planning Policy Framework (2021).
- 2 The occupiers of the extended dwelling would not be provided with sufficient usable private amenity space to the detriment of the living conditions of the existing and future occupiers of the dwelling. The proposed development is not therefore in accordance with Policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained in the National Planning Policy Framework (2021).





**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
24 MAY 2023**

<b>Application Number</b>	<b>23/00229/FUL</b>
<b>Location</b>	Land North of Poplar Grove Chase, Great Totham
<b>Proposal</b>	Construction of stable block
<b>Applicant</b>	Mr and Mrs A Lawson
<b>Agent</b>	Mrs Melanie Bingham-Wallis – Foxes Rural Ltd
<b>Target Decision Date</b>	31.05.2023
<b>Case Officer</b>	Devan Hearnah
<b>Parish</b>	<b>GREAT TOTHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor J V Keyes Polices S1, D1, E1, E4 and H4

**1. RECOMMENDATION**

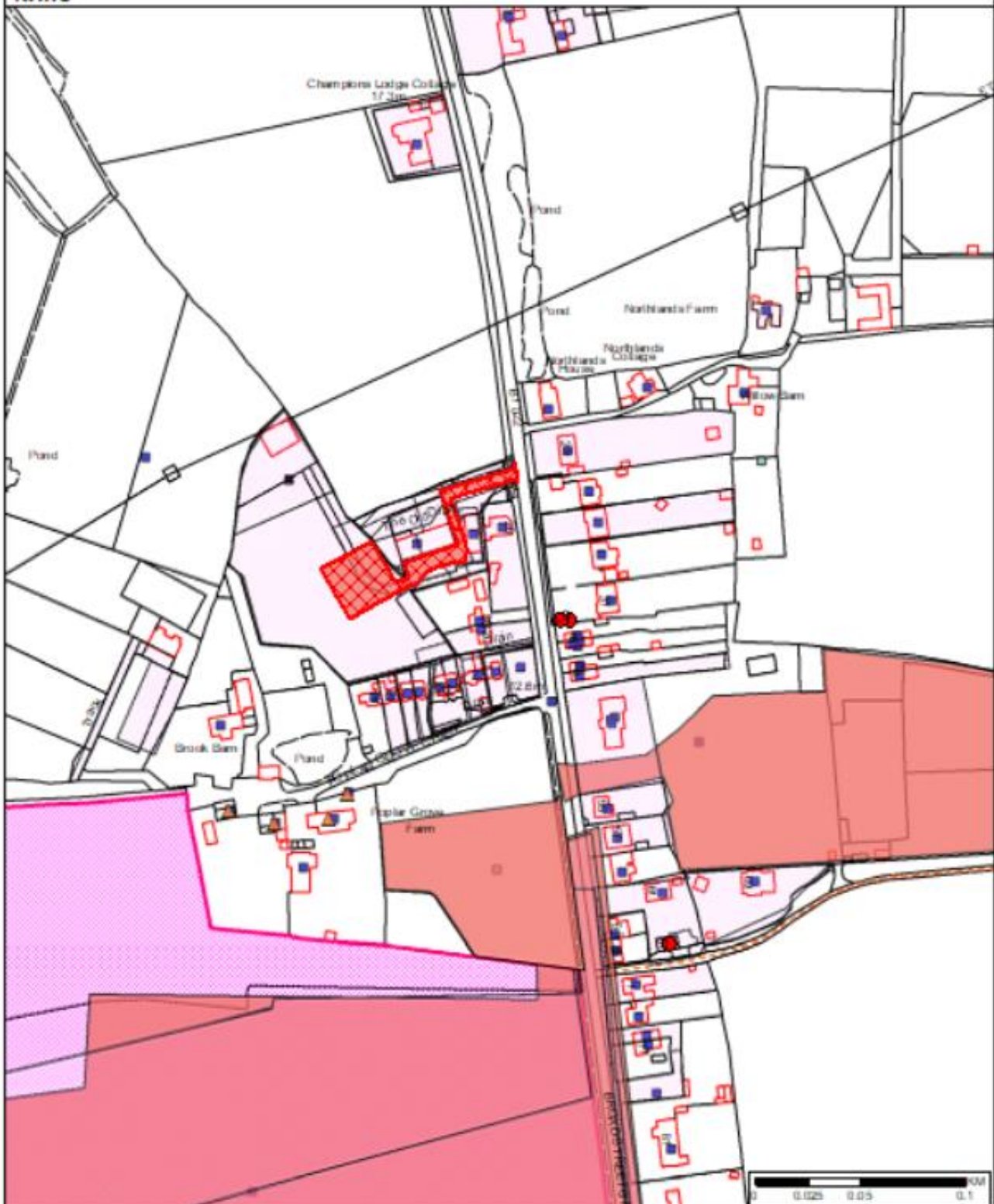
**REFUSE** for the reasons as detailed in Section 8 of this report.


**2. SITE MAP**

Please see below.



23/00229/FUL  
NWAC



 <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. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	Scale:	1:2,500
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	26/04/2023
www.maldon.gov.uk	MSA Number:	100018588







### **3. SUMMARY**

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

##### Application site

- 3.1.1 The application site is located on the western side of Broad Street Green Road, to the rear of The Old Dairy, a commercial premises. The site currently comprises of a dilapidated stable building, trees and scrub. The site shares an access with The Old Dairy, which is taken from the western side of Broad Street Green Road. The site also lies to the north of Poplar Grove Chase, within a paddock. There is a barn to the northwest of the application site which was developed under approval 18/00056/FUL.
- 3.1.2 It is also worth noting that there is outline permission to replace an existing commercial building to the east of the application site with up to three dwellings. This site is directly adjacent to the application site and there is a small area of intervening land between the neighbouring site and the application site.
- 3.1.3 The surrounding area has a semi-rural nature. Aside from the barn, the area to the north of the application site is open countryside. As mentioned, there is a commercial premises to the east along with linear residential development fronting Broad Street Green Road and Poplar Grove Chase to the south. To the far west and south of the site is more open countryside/agricultural land.

##### Proposal

- 3.1.4 Planning permission is sought for the construction of a 'U' shaped stable block along the western boundary of the site. The building is proposed to house rescue donkeys and would be in private use, with no commercial activities. The stables would measure a maximum width of 14.4m and a maximum depth of 11.3m. It would have a hipped to gable roof with an eaves height of 2.2m and a ridge height of 3.7m. There would be a window on each gable end of the 'U-shaped' structure and three windows on the front and two side elevations. There would be two roof lights on the northern elevation and one on the southern. The finish materials would consist of wooden shiplap timber walls, timber doors, metal roof sheets and transparent polycarbonate roof sheeting for the rooflights.
- 3.1.5 The building would accommodate four stables, a hand washing area, tack room, hay and straw store, equipment store and feed room.
- 3.1.6 No information in relation to hard and soft landscaping has been proposed.

##### Background

- 3.1.7 The application follows three previous applications at the site for single dwellings (16/00743/FUL, 18/01191/FUL and 21/01071/OUT), all of which were dismissed at appeal. Whilst the development is for stables, the previously dismissed proposals are relevant to the application because they discuss the contribution that the site makes to the character and appearance of the rural area. The findings of the Inspector are discussed where relevant below.

#### **3.2 Conclusion**

- 3.2.1 It has not been demonstrated that there is a justifiable and functional need for the proposed development. Furthermore, as a result of its scale, bulk and design the development would result in the provision of a large building with a domestic



appearance being sited within a rural location outside of any residential site. This would substantially alter the character of the area and have an unacceptable visual impact on the countryside and surrounding area through the urbanisation of the site. This would cause unacceptable harm to the character and appearance of the rural area contrary to policies S1, S8, E4 and D1 of the Local Development Plan (LDP) and the guidance contained within the National Planning Policy Framework (NPPF) (2021).

#### **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 – 59 Planning conditions and obligations
- 81-85 Building a strong and competitive economy
- 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 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D5 Flood Risk and Coastal Management
- E1 Employment
- E4 Agriculture and Rural Diversification
- 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)
- National Planning Policy Guidance (NPPG)
- Maldon District Vehicle Parking Standards
- Maldon District Design Guide SPD (MDDG)



## **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 LDP.
- 5.1.2 The NPPF is clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three interdependent objectives that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental objectives. This requirement is carried through to local policies via policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.3 Along with Policies S1 and S2, Policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that "*The Council will support sustainable developments within the defined settlement boundaries*". The policy goes on to state that "*development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for either [inter alia] .... f) rural diversification, recreation and tourism proposals (including equestrian and related activities) proposals in accordance with Policies E4 and E5*".
- 5.1.4 Policy E4 supports the development of new buildings associated with land-based rural businesses where:
- 1) There is a justifiable and functional need for the building/activity
  - 2) The function of the proposed building/activity is directly linked, and ancillary to, the existing use; and
  - 3) The building/activity could not reasonably be located in existing towns, villages or allocated employment areas.
- 5.1.5 Whilst the development is located outside of a defined development boundary, within the rural countryside, it is considered reasonable to support the provision of structures that are ancillary to existing outdoor recreational facilities, such as the keeping of donkeys, in rural locations within the District. Furthermore, the supporting statement states that the stable building is required in order to house two donkeys which the Applicant is looking to acquire from the Rescue Sanctuary. The statement acknowledges that the barn located in the north of the site includes stable facilities allowed under application 18/00056/FUL, but suggests it is not large enough to house the two additional donkeys. This, therefore, evidences a need for a stable building and also an ancillary link to the existing use. Notwithstanding this, it has not been justified that a building of the scale proposed with four stables is required given that the existing need is met through the existing stables to the north of the site. Therefore, whilst the provision of a stable building is not objected to, one of this scale would not meet the requirements of Policy E4.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised



principles of good design seek to create a high-quality built environment for all types of development.

- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 of the LDP and is found within the MDDG (2017).
- 5.2.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.4 The proposed building by way of its scale and bulk would be a large addition to the site and would be a much larger addition in terms of footprint than the dwelling proposed as part of the previously dismissed appeal scheme (21/01071/OUT). As part of the previous appeal decision the Inspector found that *'the new building would encroach into the paddock area, changing its essentially rural character and extending the built-up enclave in a haphazard way. Even though the new house would be largely screened from public views, it would be obvious from properties in Poplar Grove Chase, to the south. Even well screened development may not necessarily be acceptable in principle, of course.'*
- 5.2.5 Although the proposed building is for a use that is appropriate in a rural area, the design of the building has a residential character largely because of its roof form and the number of windows proposed, including roof lights, and their arrangement. Therefore, the development would change the rural character of the area and would add built form of a more urban character to this rural site. Whilst the materials would reduce the impacts to a certain degree because they would be more reflective of the use of the building, the footprint and residential design of the stable block alone would likely result in material harm to the character and appearance of the site and the countryside. The footprint of the building would extend much further to the west than the existing building on site and the previous appeal scheme for a dwelling, causing encroachment into the countryside. The development would therefore add a significant and inappropriate bulk of development to the site, a site which the Inspector considering the 2016 application noted had an open field character and appearance with a connection to the truly open countryside.
- 5.2.6 It is also noted that the building would largely be screened from public views. However, as acknowledged by the previous Inspector it would be obvious from properties in Poplar Grove Chase to the south, and good screening is not necessarily a reason for determining a development is acceptable in principle. Furthermore, the views from the neighbouring dwellings of Poplar Grove Chase would not be of the stable doors but would be of the side of the building where it would appear most residential in appearance.
- 5.2.7 Whilst it is noted that a stable building could be found to be a more acceptable form of development in the rural area than housing development, the building proposed has a residential appearance and is of a scale and bulk greater than what has reasonably been justified at the site. Therefore, the development would be contrary to policies S1, D1 and E4 of the LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 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).

- 5.3.2 The closest residential properties on Broad Street Green Road and on Poplar Grove Chase are located at least 40m from the proposed stable building. Due to the scale and nature of the development as well as its distance from the adjacent neighbouring residential properties, it is unlikely that there would be detrimental harm to the amenity of those properties in terms of a loss of privacy or the development being overbearing in nature. It is also unlikely that there would be any adverse impacts in terms of noise and odour as there is an existing stable within the wider site that does not create any adverse noise or odour impacts.
- 5.3.3 A condition limiting use of the stables to private use only would safeguard the amenity of neighbouring occupiers from any unacceptable levels of noise and/or disturbance resulting from a commercial use. Furthermore, conditions to prevent the burning of waste on site, one preventing the installation of external lighting and one requiring the details of the arrangements for the storage, drainage and disposal of manure and bedding would protect the neighbouring occupiers from pollution.

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

- 5.4.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards.
- 5.4.2 The existing entrance to the site is to be retained as part of the application. On this basis, the proposal is not considered to result in any demonstrable harm by way of highway safety. The planning application form states that there are no parking spaces proposed. However, given that the use is already occurring at the site it is unlikely that there would be a need for increased parking requirements at the site.

#### **5.5 Other Material Considerations**

##### Donkey and Horse Welfare

- 5.5.1 Consideration has been given to the welfare of the donkeys and whether the proposed facilities and land area could be compliant with the Department for Environment Food and Rural Affairs (DEFRA) Code of Practice. The Code of Practice states that as a general rule, each donkey requires a minimum 0.2-0.4 hectares of grazing of a suitable quality if no supplementary feeding area is provided. Donkeys should have constant access to feed-quality straw with restricted access to grass, hay or haylage dependent on individual circumstances. The guidance also states that donkeys require a minimum stable size of 3.05m x 3.05m and 3.05m x 3.65m for large donkeys. Average size donkeys kept in pairs require 9m<sup>2</sup> of covered space.
- 5.5.2 Two of the four stables would not provide sufficient space for a donkey, only measuring 3m x 2.5m. However, the two stables that measure 3.3m x 3.5m would be sufficient for housing a regular size donkey. Furthermore, it has been demonstrated within the Planning Statement that the donkeys will have access to suitable grazing areas on a daily basis, as well as being supplementary fed. Therefore, no objection is raised in relation to animal welfare.

##### Ecology and Trees

- 5.5.3 The application site does not fall within or in close proximity to nature conservation sites. However, policy N2 of the LDP states that "*All development should seek to*



*deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.”* Conservation and enhancement of the natural environment is also a requirement of the NPPF.

- 5.5.4 The application has been supported by a Preliminary Ecological Appraisal (Hybrid Ecology, November 2021) (PEA) which outlines the likely impacts of the development on designated sites, protected and Priority species and habitats, whilst also identifying mitigation measures. Following consultation with the Council's Ecological Consultant the mitigation measures identified in the PEA are acceptable and should be secured by way of a condition in order to conserve and enhance protected and Priority species, particularly nesting birds. Likewise, a sensitive lighting condition should be imposed if the application were to be approved in order to protect foraging and commuting bats.
- 5.5.5 The submission also includes reasonable biodiversity enhancements. A Biodiversity Enhancement Strategy should be secured by a condition in order to secure net gains.
- 5.5.6 There are trees within adjacent to the proposed construction and demolition zone that could be impacted if not suitably protected. Therefore, if the application were to be approved then a pre-commencement condition would be required to secure a Tree Protection Method Statement. However, it would be feasible to implement the proposal and protect the trees and therefore, the condition would be reasonable.

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

- **FULF/MAL/91/00293** - Closure of existing vehicular access and formation of new access. Approved: 04.06.1991
- **FUL/MAL/09/00532** - Change of use from Milk Depot to employment and light industrial (B1). Extensions and alterations to existing building. Approved: 17.08.2009
- **HOUSE/MAL/13/00292** - Erection of a timber framed single storey garage. Approved: 18.06.2013
- **COUPA/MAL/14/00554** - Conversion of office to residential units. Refused: 06.08.2014
- **FUL/MAL/15/01200** - Replace existing B1 industrial building with proposed children's day nursery and one dwelling. Refused: 26.01.2016. Appeal dismissed: 11 April 2017 (reference: APP/X1545/W/16/3154913)
- **FUL/MAL/16/00743** – One dwelling. Refused: 25.08.2016. Appeal dismissed: 11 April 2017 (reference: APP/X1545/W/16/3162966)
- **FUL/MAL/16/01231** – Extension to office building to form an attached live/work unit. Refused: 12.07.2017. Appeal dismissed: 11.08.2017
- **FUL/MAL/17/01272** - Extension to office building to form an attached live/work unit. Refused: 07.03.2018. Appeal dismissed 22.07.2019
- **FUL/MAL/18/01191** - Extension to office building to form an attached live/work unit. Refused: 10.01.2019. Appeal dismissed 2.12.2019.
- **FUL/MAL/20/01000/OUT** – Replacement of commercial building with up to three dwellings. Approved 12.01.2021.
- **OUT/MAL/21/01071/OUT** - Application for outline planning permission for one detached 3-bedroom dwelling with all matters reserved. Refused 09.02.2022. Appeal Dismissed 23.08.2021



## **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>
Great Totham Parish Council	No response received at the time of writing this report	Noted

### **7.2 Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Local Highways Authority	No response received at the time of writing this report	Given that the development would not be of a scale to impact on the local highway network no response is considered necessary.

### **7.3 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to three conditions: 1. Stables to be used for private use and not for commercial reasons 2. Details of stables waste should be submitted to the Local Planning Authority (LPA) 3. No burning of waste 4. No flood lighting without permission from the LPA 5. No menage without permission from the LPA 6. Foul drainage scheme.	These conditions would be applied if the application were to be approved.
Ecology	The mitigation measures identified in the Preliminary Ecological Appraisal should be secured by a condition.  The provision of biodiversity enhancements including Sparrow	Addressed at section 5.5



Name of Internal Consultee	Comment	Officer Response
	<p>Terraces, bird boxes, bat boxes and bat roosting features, which have been recommended by the Preliminary Ecological Appraisal are supported to secure net biodiversity gains.</p> <p>An sensitive external lighting condition should be imposed to protect foraging and commuting bats.</p>	
Arboricultural Consultant	No objection but a Tree Protection Method Statement should be condition and should be a prior to commencement condition as there are trees adjacent to the proposed construction and demolition zone that could be impacted if not suitably protected. It is feasible to protect the trees and implement the proposal.	Addressed at section 5.5

#### 7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

#### 8. REASON FOR REFUSAL

- 1 It has not been demonstrated that there is a justifiable and functional need for the proposed development which as a result of its scale, bulk and design would result in the provision of a large building which would be domestic in appearance being sited within a rural location outside of any residential site. This would substantially alter the character of the area and have an unacceptable visual impact on the countryside and surrounding area though the urbanisation of the site. This would cause unacceptable harm to the character and appearance of the rural area contrary to policies S1, S8, E4 and D1 of the LDP and the guidance contained within the National Planning Policy Framework (2021).



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