



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

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
13 AUGUST 2018**

<b>Application Number</b>	<b>FUL/MAL/18/00787</b>
<b>Location</b>	Land East Of Goldsands Road, Southminster
<b>Proposal</b>	Proposed agricultural workers dwelling.
<b>Applicant</b>	Mr John Fisher - D.J.Fisher(Farms) Limited
<b>Agent</b>	Mr Mike Otter - GPO Designs Ltd
<b>Target Decision Date</b>	21.08.18
<b>Case Officer</b>	Anna Tastsoglou Tel: 01621 875741
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Cllr Fluker on the grounds of public interest and the idiosyncratic and subjective reasoning regarding design, size, bulk and sustainability of the proposed development

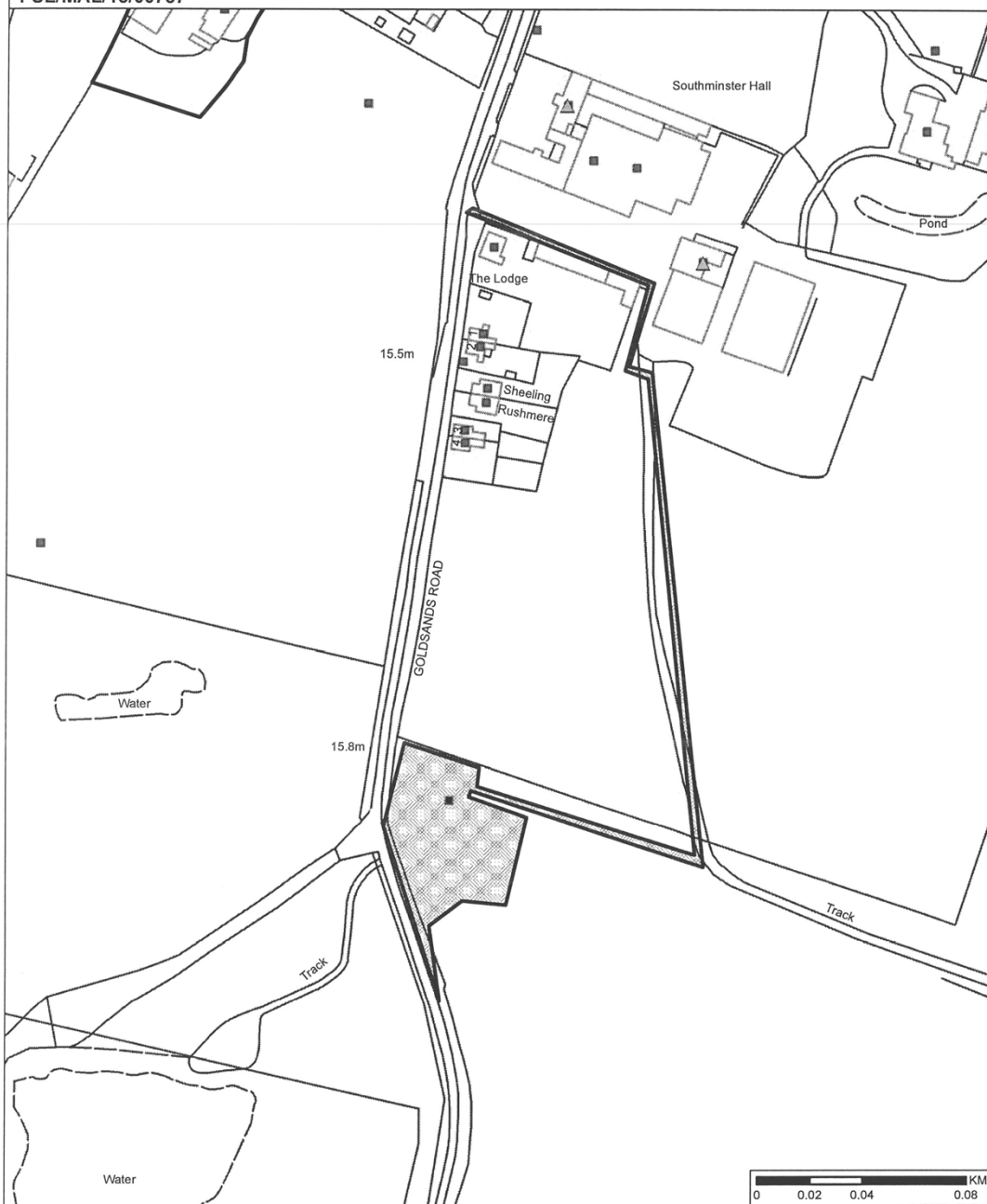
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**Land East Of Goldsands Road, Southminster**  
FUL/MAL/18/00787



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Maldon District Council 100018588 2014

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Scale: 1:2,000

Organisation: Maldon District Council

Department: Department

Comments: SE Committee

Date: 31/07/2018

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located on the eastern side of Goldsands Road, outside of the settlement boundary of Southminster. The main part of the application site is a parcel of undeveloped land measuring 0.19 hectares and is currently part of an arable field. The site also includes an existing farm track that extends 108 metres to the east of the top part of the site before turning north, continuing for approximately 220 metres before turning west for 80 metres to connect to Goldsands Road. The surrounding area is rural in nature with open countryside to the north, east and south of the application site and fishing lakes are located opposite the site.
- 3.1.2 Planning permission is sought for the erection of an agricultural workers dwelling.
- 3.1.3 The proposed dwelling would measure 9.75m in height to the ridge, 5.5m in height to the eaves, 17m in width and a maximum of 11.6m in depth. The proposed dwelling would accommodate a kitchen/family room, utility room, living room, study and WC at ground floor and four bedrooms and three bathrooms at first floor. PV panels are proposed to the rear facing roofslope.
- 3.1.4 Due to the bend in the public highway, the dwelling would be positioned between 26 and 16 metres from the public highway and 12 metres from the rear boundary of the site. A new hedge line would be created at the boundaries of the site, with the front boundary being set back from the frontage of the site, thereby 'squaring off' the front boundary'
- 3.1.5 The site would be accessed from the northernmost point of the site where there is an existing farm access. Parking would be provided for three cars with a gravel driveway and it is noted that the hedgerow would be replaced to enable visibility splays to be achieved. An oak tree within the visibility splay would be retained.

#### **3.2 Conclusion**

- 3.2.1 The proposed development of an agricultural workers dwelling is considered unacceptable in this instance. The proposed development fails to accord with the guidance within the National Planning Policy Framework and policy H7, S8 and D1 of the Local Development Plan (LDP). The evidence supplied is not considered adequate to sufficiently justify the functional need for a dwelling to be provided at the site. It is not considered that the harm caused by the erection of a dwelling in an unsustainable location is outweighed by the need for an agricultural workers dwelling. Furthermore, the harm to the open and undeveloped countryside is significantly exacerbated by the scale of the proposed dwelling

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

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

#### **4.1 National Planning Policy Framework 2018 including paragraphs:**

- 2, 7 to 12, 38, 53, 78, 83, 102 to 111, 124, 127. 128 and 130

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

- D1 - Design Quality and Built Environment
- N2 - Natural Environment and Biodiversity
- T1 - Sustainable Transport
- T2 - Accessibility
- S1 - Sustainable Development
- S2 - Strategic Growth
- S7 - Prosperous Rural Communities
- S8 - Settlement Boundaries and the Countryside
- H4 - Effective Use of Land
- H7 - Agricultural and Essential Workers Dwelling

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

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

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 The Council is required to determine planning applications in accordance with its Development Plan unless material considerations indicate otherwise [Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990) and paragraph 2 of the NPPF].
- 5.1.2 Planning permission is sought for a new dwelling outside of the development boundary for Southminster.
- 5.1.3 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.1.4 In relation to the above, the site is located in the countryside where policies of restraint apply. Policy S8 seeks to support sustainable development in settlement boundaries and to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policy states that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and

the development is for one of the development types listed within that policy. The dwelling is proposed for the use of an agricultural worker, which is listed under Policy S8 (g) and therefore the principle of development would depend on the compliance of the proposed development with Policy H7 of the LDP. Similarly, paragraph 79 of the NPPF states that dwellings can be erected within the countryside where there is an “essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.”

5.1.5 Policy H7 of the LDP states the following:

*‘Permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:*

- 1) Evidence has been submitted to the satisfaction of the Council that there is an existing agricultural, forestry, fishery or other commercial equine business-related functional need for a full-time worker in that location;*
- 2) There are no suitable alternative dwellings available, or which could be made available in the area to serve the identified functional need;*
- 3) It can be demonstrated that the enterprise is, or will be in the case of new businesses, a viable business with secure future prospects;*
- 4) The size and nature of the proposed structure is commensurate with the needs of the enterprise concerned; and*
- 5) The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area, and is acceptable when considered against other planning requirements.”*

5.1.6 The applicant has submitted a planning statement and financial appraisal to demonstrate compliance with the stipulations 1, 2 and 3.

Functional Need

5.1.7 Within the planning statement it states that DJ Fisher Farms Ltd is predominantly an arable farming business who currently farm 2,800 acres of land. The main office and farm are located at Hall Farm, Goldsands Road Southminster around 200m to the north of the application site. It is stated that the dwelling would be used by the farm manager, who currently resides in a property off site and not owned by DJ Fisher Farms.

5.1.8 The justification for requiring a dwelling at the site in terms of functional need has not been updated since the previous application. It has been stated that *‘It is essential that the farm manager is housed within the site of the main operations of the business for the following reasons:*

- 1. Peak Season. During peak season, between July-October, extra labour is employed and it is sometimes necessary for operations to go on for 24-hour days, working around the weather. This will mean the farm manager will need to be available to deal with machinery breakdowns, equipment failures, labour issues, health and safety and farm security around the clock.*
- 2. Grain Drying. The farm houses several grain driers which need to be monitored during summer months and turned off as humidity levels rise during the night. It*

is essential that the farm manager is able to monitor and control this process at short notice.

3. *Irrigation Water from the onsite reservoir is fed through a series of hydrants situated on the farm track in front of the proposed building. This equipment must be periodically moved (typically in the early morning and early evening to minimise evaporation).*
4. *Crop Spraying. There are times that crop spraying is needed to be done during the early hours of the morning to avoid volatilisation and late into the night where weather windows are tight’.*

The underlined text is highlighted as this is the only text that is additional to that which was included within the statement for application OUT/MAL/18/00240 at this site.

- 5.1.9 The applicant has also identified the following advantages of the proposed development:

*“It is directly opposite the entrance of the farm owned fishing pits which have come under threat of poaching and unauthorised access.*

*2. The dwelling is alongside a field most often used for high value crops that require the maximum irrigation, care and attention.*

*3. It has the best view over most fields, which are commonly under threat of illegal hare coursing, a major issue for the business.*

*4. The proposed site is away from the environmental scheme that lays between the farm and the site and houses birds, bees and other wildlife. Furthermore the dwelling has been designed in a traditional farm house style (Policy H7, point 5).*

*5. It is situated between the two farms situated on Goldsands Road and the fishing pits. Ideally placed for best security and management.*

*6. The dwelling can be easily screened from Goldsands Road and from the open countryside using hedging to minimise the visual impact of the dwelling on the countryside.*

*7. The land on which the dwelling would be positioned is not suited for modern arable farming practices as it is positioned in a small space between the road and an adjacent redundant Ministry of Defence monitoring station (underground). The space does not allow for the turning circle required by the large equipment used on the farm. The submitted aerial imagery (document NDCM07JW\_AE1.0) shows that the area of the proposed dwelling is not used for crops.”*

- 5.1.10 The supporting text of Policy H7 goes onto state that ‘*The Council will support permanent (or temporary) accommodation in the countryside in exceptional circumstances to sustain the effective operation of a viable rural business. Evidence will be required within an application to outline why accommodation is required to support the business in that particular location. Any evidence provided should seek to establish, to the Council’s satisfaction, that the business needs one or more workers to be readily available at most times, for example to provide essential care to animals or processes at short notice. The application must demonstrate that new residential accommodation on that site is essential, rather than convenient, for the enterprise.*’

- 5.1.11 The above evidence supplied to the Council does not demonstrate an essential need for a member of staff to be located on the farm. The applicant’s submissions make it clear that the agricultural operation is arable and therefore there are no livestock or

other animals at the site that would require such immediate attention that would justify an agricultural worker needing to live within sight and sound of the agricultural activities.

- 5.1.12 No evidence has been submitted to back up the claim that the site is at threat of illegal activities and therefore whilst the comments about security are noted, it is considered that there is no basis to assess that the erection of a dwelling is a proportionate means to addressing this concern. Furthermore, no evidence has been provided to show that no other opportunities, in relation to security, have been considered. Such arguments have been found to be flawed within a number of recent appeal decisions.
- 5.1.13 Whilst it would be convenient, it is considered that it has not been demonstrated why the proposed dwelling is essential in order to sustain the effective operation of the business. Therefore, it is considered that the application fails to comply with this stipulation. In this regard it is noted that the applicant suggests that the inclusion of accommodation within job adverts must be evidence that there is a need to provide such accommodation. It is considered that it does not follow that these adverts are any evidence of functional need, they are merely a reflection that accommodation is desirable and that many farms have properties that they can offer to employees. The additional text that has been provided with this application, but not the previous application is noted, but is not considered to be new evidence of a functional need that outweighs the concerns that have been raised previously.
- 5.1.14 The unfortunate changing circumstances of the enterprise have been set out and are noted. However, it is considered that this does not derive any additional 'functional need' to be at the site in terms of the operational requirements of the holding.
- 5.1.15 For these reasons it is considered that it remains the case that it has not been demonstrated that there is a functional need to provide a dwelling at the site and as such the proposal is in conflict with the abovementioned policy.

#### Alternative dwellings

- 5.1.16 Given that it is not considered that there is a functional need for the proposed dwelling on the farm, there are several properties for sale and rent within Southminster that could be utilised for the farm manager.
- 5.1.17 A previous application was accompanied with a plan that showed the extent of the holding, including eight dwellings along Goldsands Road that were demarked as being within the ownership of the applicant. Part of the concern raised at that time was that no information had been provided as to why these dwellings could not be used to meet the needs of the holding. Therefore, it was considered that the application had failed to comply with this stipulation.
- 5.1.18 The applicant subsequently updated the submitted plans (NDCM07JW\_FP1.3) to exclude the other dwellings of Goldsands Road and it is therefore demonstrated that these dwellings are not within the ownership of the applicant and are not available to meet the needs of the farm holding. No objection was therefore raised to the last application in this respect.

- 5.1.19 It is noted that the current farm manager and their family is housed at a dwelling (unspecified location) that is in close proximity to the site, but that this is not owned by the business and may not be available in the future. It is stated that if it were to become available the company would attempt to buy and house an employee. Presumably this could be the farm manager.

#### Viable business

- 5.1.20 A financial appraisal of DJ Fisher Farms LTD by Whirledge and Nott has been submitted to the Council. The assessment has been undertaken by a professional member of the Royal Institution of Chartered Surveyors and a Fellow of the Association of Agricultural Valuers. This also accompanied the previous applications and in the case of the first application, it was a concern of officers that there were a number of areas of uncertainty within the submissions.
- 5.1.21 Far more detail of the company's financial performance was subsequently provided when the second application was submitted and it was considered that it had been demonstrated that the arable farm operations at the site are profitable and could sustain the erection of a dwelling at the application site. The previous concerns that were raised by officers have therefore been adequately addressed in this regard.

#### Size and nature

- 5.1.22 When the application was submitted previously it was stated that "The business needs a reasonable sized property to accommodate the current manager's wife and 3 children. It is also important for the business to be able to provide a good farm house to attract a good standard of manager that is willing to work long unsociable hours, in a demanding job, for modest agricultural pay'. This has been repeated on this occasion and the applicant has also stated that *"The size of the dwelling is based on the requirement of the business to provide on site accommodation for the farm manager, his wife and their three children. Whilst the property is quite large the business believes that it is appropriate given the size of the business and the financial performance of the business which is demonstrated."* Additional justification for the size of the dwelling on the grounds that it is smaller than a dwelling approved at Scotts Farm in Purleigh, but this argument is given no weight in the assessment of this application as each dwelling should be considered on its own merits.
- 5.1.23 When first submitted, it was a concern of officers that a five bedroom dwelling would have exceeded the requirements of the family that would have occupied the dwelling and this was therefore in conflict with the abovementioned policy. The proposal has been amended to show a four bedroom dwelling, which is an improvement in comparison to the previous proposal. Examples of job adverts from similar businesses showing provisions of on farm accommodation have been provided. It appears that the accommodation is being proposed to meet the needs of the current farm manager who is stated to be a director of the company. It is therefore assumed that there would be no need to attract a new farm manager and as such the employment adverts at other farms are of limited relevance to the proposal that is being considered by the Local Planning Authority (LPA). There does not appear to be a need for extra accommodation to be provided speculatively.



- 5.1.24 The application proposes a dwelling measuring 9.75 m in height to the ridge, 5.5m in height to the eaves, 17.4m in width and a maximum of 12.1m in depth. It would accommodate a kitchen/family room, utility room, living room, study and WC at ground floor and four bedrooms and three bathrooms at first floor.
- 5.1.25 It is noted that the dwelling has been reduced in size in comparison to that shown within the first application. However, the dwelling remains a particularly large dwelling with four bedrooms, three bathrooms are en-suites and a large dressing area to one of the bedrooms. It is therefore considered that the level of accommodation provided remains generous and in excess of the minimum requirements to serve the needs of the farm.
- 5.1.26 The applicant's submissions and the reductions of the size of the proposed dwelling in comparison to the first application are noted. However, the dwelling would have no less impact than the dwelling proposed under the terms of the last application and it therefore remains the case that the dwelling proposed exceeds the requirements of the agricultural holding and the large dwelling proposed, which would have a substantial visual impact as a result of its height and width, would not be commensurate with the requirements of the business. Therefore, it is considered that the application fails to comply with this stipulation.
- 5.1.27 Compliance with stipulation 5 of policy H7 is assessed in 5.2 of the Officer report.

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

- 5.2.1 Paragraph 130 of the NPPF states that the planning system seeks the creation of high quality buildings and places. 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.
- 5.2.2 In addition, policy H7 states that 'The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area, and is acceptable when considered against other planning requirements.'
- 5.2.3 The proposed dwelling would measure 9.75 in height to the ridge, 5.5 in height to the eaves, 17.4 in width and a maximum of 12.1 in depth. The proposed dwelling in plan view is 'H' shaped and is largely symmetrical; there are two front and rear gable ends, a front porch, side porch and single storey rear element.
- 5.2.4 The application site fronts onto the existing road network and has a rural character given that it is a section of an undeveloped agricultural field. The site is surrounded by open and undeveloped land with the closest built form being in excess of 100m from the main part of the application site. The site contributes to the countryside setting, ensuring the character is maintained along this stretch of Goldsands Road. It is therefore considered that the encroachment of built form on this site, and resultant loss of this section of undeveloped countryside, would cause significant harm to the countryside and its intrinsic characteristics. The harm would be significantly exuberated by the scale of the dwelling with a ridge height of 9.75 m and a width of 17.4 m. Whilst it is noted that the applicant indicates that a 3m tall hedge could be provided as part of the landscaping scheme that could be the subject of a condition, it

is considered that the dwelling would continue to have an adverse impact upon the character and appearance of the area contrary to policy H7 and D1 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.
- 5.3.2 The application site is an isolated plot with no immediately adjacent neighbouring properties, with the closest residential dwelling in excess of 100m from the proposed development. Therefore, it is considered that the proposed dwelling would not result in overlooking, a loss of light or form an overbearing development to the detriment of the neighbouring occupiers.

### **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 and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 Access to the proposed development would be taken from Goldsands Road. The Highway Authority has been consulted and raised no objection to the proposal.
- 5.4.3 In order to comply with policy T2 for off-street parking provision in accordance with the Council's adopted Parking Standards; the number of spaces provided depends upon the number of bedrooms for each dwelling. Given that the proposed dwelling shown on the indicative floor plan would accommodate four bedrooms the recommended standard is a maximum of three car parking spaces. An area of hardstanding is proposed to the front and side of the proposed dwelling which has space to accommodate three cars plus a turning area. Therefore, no concerns are raised.
- 5.4.4 It is noted that the application site has been altered compared to previous applications to include the land that would provide a pedestrian access route to link to the settlement of Southminster. This additional residential connection is noted and welcomed, but it is considered that the benefit of this would not outweigh the other harms that have been identified.

### **5.5 Private Amenity Space and Landscaping**

- 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 Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sq.m. of private amenity space for dwellings with three or more bedrooms.

- 5.5.2 Due to the size of the site, the rear amenity space would be in excess of 400sq.m and therefore would be in accordance with D1 of the LDP. The landscaping for the site will be considered as part of a reserved matters application at a later stage.

## **5.6 Other Matters**

- 5.6.1 It is noted that the application has been accompanied with details of the sustainability credentials of the proposal, citing that it would be in an accessible location relative to public transport and services. These submissions are noted and it is acknowledged that the site is within reasonably close proximity of the settlement of Southminster and the train station, and that the site would be able to connect to Southminster as a result of the track that is shown within the amended application site. It is also noted that the applicant proposes to erect the dwelling to a high level of energy efficiency. However, whilst the content of the applicant's sustainability scorecard is noted, it is considered that the erection of a dwelling outside of a settlement boundary conflicts with the Council's definition of sustainability in the Maldon District Local Development Plan and as such the comments of the applicant in this regard do not outweigh the harm that has been identified.

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

- 6.1.1 This application follows the refusal of an application for outline planning permission (**OUT/MAL/18/00240**) which was refused for the following reason:
- The proposed development would result in the erection of a dwelling outside the settlement boundary of Southminster in an unsustainable location, remote from community services and essential support services/facilities and inaccessible by a range of means of transport. Moreover the layout and scale of the proposed development would have a significant and material detrimental impact on the character and appearance of the surrounding countryside. Inadequate evidence has been provided to demonstrate that an essential functional need exists for an agricultural workers dwelling to be erected at the site and it is therefore considered that the harm identified is not outweighed by other material planning considerations. The proposal is therefore contrary to policies S1, S8, H7, T1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.*
- 6.1.2 That application followed the withdrawal of application **OUT/MAL/17/01114** which had been recommend for refusal by officers, but not determined.

## **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>
Southminster Parish Council	Recommend Granting Planning Permission.	Noted.

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Council (ECC)–Highway Authority	No objection.	Noted.

## 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions, particularly relating to contaminated land and foul and surface water.	Noted.

## 8. REASON FOR REFUSAL,

- 1 The proposed development would result in the erection of a dwelling outside the settlement boundary of Southminster in an unsustainable location, remote from community services and essential support services/facilities and inaccessible by a range of means of transport. Moreover the proposed development would have a significant and material detrimental impact on the character and appearance of the surrounding countryside. Inadequate evidence has been provided to demonstrate that an essential functional need exists for an agricultural workers dwelling to be erected at the site and it is therefore considered that the harm identified is not outweighed by other material planning considerations. The proposal is therefore contrary to policies S1, S8, H7, T1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.