



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
10 FEBRUARY 2020**

Application Number	19/01214/OUT
Location	Land At Bellsgate, Maldon Road, Latchingdon
Proposal	Proposed detached dwelling.
Applicant	Mr Fred Dash
Agent	Mr Paul Harris
Target Decision Date	11/02/2020
Case Officer	Louise Staplehurst
Parish	LATCHINGDON
Reason for Referral to the Committee / Council	Member Call In – Councillor Mrs P A Channer, CC Reason – LDP policies relating to Sustainable Development, Design Quality and the Built Environment, Settlement Boundaries and the Countryside and Replacement Dwellings.

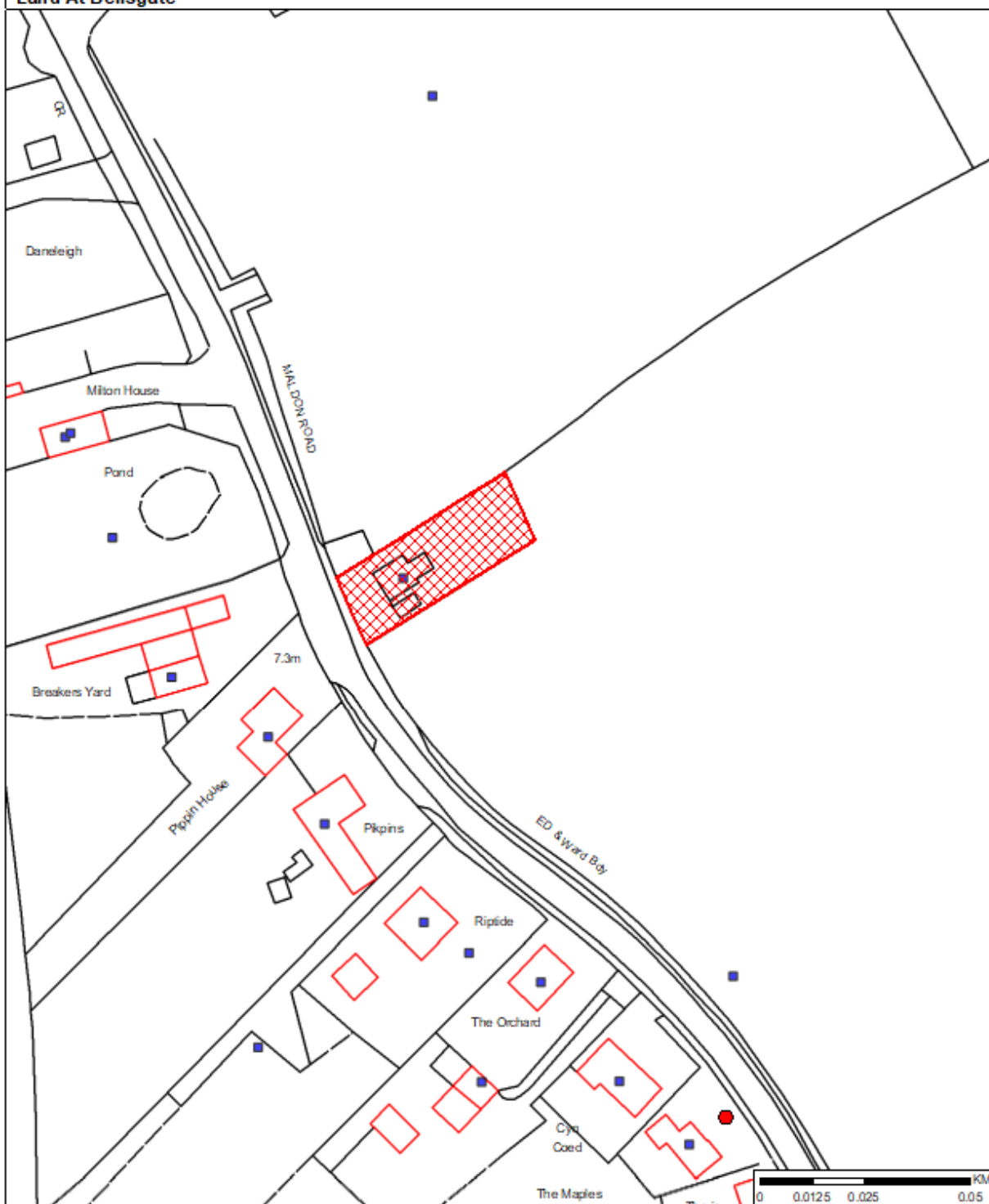
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

19/01214/OUT
Land At Bellsgate



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SEAC
	Date:	23/01/2020
	MSA Number:	100018588

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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 Maldon Road, outside of the settlement boundary of Latchingdon. The site is occupied by a fire damaged former dwelling, with what appears to be building materials being stored on site. The area to the north, east and south of the site is characterised by open agricultural fields. The area to the west, across Maldon Road and the wider surrounding area are characterised by a range of dwelling types and a mix of commercial and industrial sites.
- 3.1.2 Outline planning permission is sought for the principle of a two-storey dwelling. The outline application procedure allows for applicants to identify specific matters for consideration which includes the principle of development, layout, access, scale, appearance and landscaping. The application has identified that this application is to consider the principle of the development only. The considerations of access, scale, appearance and landscaping will form the subsequent reserved matters applications, should outline permission be granted for this proposal. Nevertheless, all material planning considerations are relevant where applicable to this application.
- 3.1.3 The indicative block plan shows the proposed dwelling at the site with an area likely to be used for parking at the front and amenity to the rear.
- 3.1.4 A Design and Access Statement has been submitted with the application which states that the site is currently occupied by a fire damaged detached dwelling with an attached garage and that the proposed dwelling will replace this. The existing access will be used. The dwelling is proposed to be wheelchair accessible.

3.2 Conclusion

- 3.2.1 It is considered that, due to the location of the proposal outside of the defined settlement boundaries, the proposed development would harmfully alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site, representing the sprawl of built form outside of a defined settlement boundary. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP) (2017) and Government advice contained within the National Planning Policy Framework (NPPF) (2019).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 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
- 54-57 Planning conditions and obligations
- 59-79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and Countryside
- D1 Design Quality and Built Environment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD
- Maldon District Vehicle Parking Standards SPD

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 It is therefore necessary to assess whether the development should be considered a new dwelling in the countryside or as a replacement dwelling. The key consideration of this relates to the matter of abandonment.
- 5.1.3 The property on the site has been fire damaged. It is important to firstly assess whether the residential use of the property has been abandoned as this will indicate whether the proposal must be assessed as a replacement dwelling or a new dwelling. In considering this, the relevant assessment factors are those confirmed in the case of *Hughes v South Holland District Council* (2000) which was determined by the Court of Appeal.
- 5.1.4 The relevant factors relevant to establishing whether or not a residential use has been abandoned are assessed below.

Physical Condition of the Building

- 5.1.5 The property is in a poor state of repair and has been severely damaged by fire. The property has no roof and some of the walls have fallen down. Site visits and photos evidence that the property has been open to the elements for a period of time and as such has suffered considerable damage whereby the structural integrity of the dwelling is questioned. The application lacks evidence in relation to the structural integrity of the building to prove whether or not the property could be refurbished or would require demolition and rebuilding. The dwelling internally has been open to the elements and this is likely to have had a demonstrable impact upon the structural integrity of the dwelling. The application does not include any robust, sound justification as to the physical condition of the dwelling. Whilst the applicant has failed to prove the structural integrity of the building, it is an undisputed matter of fact that the property is in an advanced state of dereliction and is physically incapable of being lived in as a dwelling, amounting to positive evidence of the residential use having been abandoned.

The length of the period of non-use as a dwelling

- 5.1.6 The application form states the building has been disused since 2013. However, the Council's records show that the building was fire damaged in 1995. This was when the Valuation Office considered the dwelling to be uninhabitable from. This period of 24 years is considered to be a significant time of non-use as a dwelling.

Intervening use

- 5.1.7 It is noted that there are materials being stored on the site, which appear to relate to the scrap yard opposite the site, also owned by the applicant, which supports the view that the residential use of the site has ceased.

Evidence of owner's intentions throughout the period of non-used

- 5.1.8 There is no evidence to indicate any steps were taken to prevent the property falling into a state of dereliction. However, it does appear that the site has been cleared recently from overgrown planting. It is considered that there is no evidence put forward to demonstrate that the owner's intentions were to restore the property and limited positive steps undertaken since the property was unoccupied to keep the residential use alive. Limited activity recently is not considered to evidence any intention to retain the residential use through the last 24 years.

Overall

- 5.1.9 The onus lies with the applicant to prove that the residential use of the site has not been abandoned. It is considered that this has not been proven and as such, having regard to the above, the residential use of the site is considered to have been abandoned and therefore the proposal will be assessed as a new dwelling and not as a replacement dwelling.
- 5.1.10 The application site lies outside of the defined settlement boundary of Latchingdon as defined in the LDP. Policies S1, S2 and S8 of the approved MDLDP seek to support

sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for a specific purpose as listed under policy S8 (a)-(m).

- 5.1.11 The abovementioned policies are in compliance with the NPPF which, in order to promote sustainable development in rural areas, suggests that housing should be located where it will enhance or maintain the rural communities, such as small settlements. It is also stated that local authorities should avoid new isolated residential developments in the countryside, unless special circumstances indicate otherwise.
- 5.1.12 On the basis of the information provided, the proposal would not fall within any of the categories listed within policy S8. It is therefore considered that the principle of development would be unacceptable unless material considerations outweigh this presumption.

5.2 Housing Need

- 5.2.1 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units. The Council therefore, encourages, in Policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated SHMA, published in June 2014, identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% for three-bedroom plus units. The proposed dwelling will not make a significant contribution to the District's Housing Need, but it will result in the contribution of one dwelling. However, it is not considered that the provision of one residential unit would contribute substantially enough to the District's housing need as to justify residential development within the countryside.
- 5.2.2 In addition to the above, the Council has an up-to-date development plan which will generally deliver the housing required. As part of its Five-Year Housing Land Supply Statement, the Council has published information on its potential housing supply (5 year supply of housing plus an additional 5% buffer as required by the NPPF). The statement provided evidence that the Council is able to demonstrate a housing land supply in excess of five years against its adopted targets and therefore, meets the requirements of the NPPF in terms of housing delivery. Thus, the authority is able to meet its housing need targets without recourse to allowing development which would otherwise be unacceptable.

5.3 Design and Impact on the Character of the Area

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

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

- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

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

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;

- 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 lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.

- 5.3.6 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.

- 5.3.7 An indicative block plan has been provided showing the possible positioning of the dwelling however no further details of elevation plans have been provided. Notwithstanding the lack of detail, the proposal would result in a detached dwelling being set within an open area. Whilst it is acknowledged there are dwellings within

the vicinity of the site, these are located predominantly on the western side of the road. Whilst the application site fronts onto Maldon Road, the immediate surrounding area consists of open fields. A dwelling in this location would appear isolated in its appearance and would be highly visible from the surrounding area, resulting in harm to the rural nature of the area, on the eastern side of Maldon Road. Whilst it is noted that there is an existing structure on the site, the erection of a dwelling in this location along with associated residential paraphernalia would increase the domestication and urbanisation of the site and the surrounding area.

- 5.3.8 Further in relation to the existing structure on the site, it is noted that the structure is dilapidated and in a state of disrepair and therefore, does not make a positive contribution to the character and appearance of the countryside or the surrounding area. However, just because there is a structure causing existing demonstrable harm to the character and appearance of the area, this does not provide reasoning to allow other inappropriate development that would also result in detrimental harm as highlighted above. Furthermore, any perceived benefits of improvement of the untidy site are not considered to outweigh the harm, particularly when considering the storage use appears to be unauthorised.
- 5.3.9 Of relevance to this is paragraph 130 of the NPPF which states '*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.*'
- 5.3.10 In this instance it is not considered that a two-storey dwelling, in this highly visible countryside location, which would result in the further domestication and urbanisation of the site and the surrounding area, would take the available opportunity for improving the character and quality of the area. Therefore, in this respect the proposal is contrary to the guidance contained within the NPPF.
- 5.3.11 The intrinsic character of the countryside is that it should be open and free from unnecessary development. Erecting a dwelling at this site and the associated domestic paraphernalia would therefore erode the character and appearance of the site and represent the intrusion of residential development into the site, the dwelling would be highly visible from Maldon Road and all other views, due to the lack of any boundary treatments or planting shielding the site from view. As such it is considered that the erection of a dwelling at the site would have a harmful visual impact on the countryside that is contrary to the LDP policies.
- 5.3.12 Due to the resultant domestication and urbanisation of the rural site, the proposal would significantly harm the character and appearance of the site and the intrinsic character and beauty of the surrounding area.

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 There are no immediate neighbouring dwellings to the east, west or north of the site. The neighbouring dwellings to the south are located across Maldon Road, over 23 metres away from the southern boundary of the site. Due to the separation distance across the road, the proposal would therefore not result in any significant impact on the neighbouring residential sites in terms of a loss of light or loss of privacy.
- 5.4.3 It is considered that the future occupiers of the proposed dwelling would have acceptable living conditions and would not be overlooked or overshadowed by neighbouring sites.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. 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 are 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.
- 5.5.3 The application does not state how many bedrooms the dwelling will include. However, the maximum level of parking required by the adopted parking standards is a minimum of 3 parking spaces for a four plus bedroom dwelling, measuring 2.9 metres wide and 5.5 metres deep. Whilst the plans are indicative, it is considered that three parking spaces of these dimensions could be provided at the site with sufficient space to access and egress the site.
- 5.5.4 There are no alterations proposed to the access of the site.

5.6 Private Amenity Space and Landscaping

- 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 SPD advises a suitable garden size for each type of

dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.

- 5.6.2 Whilst the plans are indicative, the area to the rear of the indicatively shown dwelling would measure over 400 square metres and therefore sufficient amenity space could be provided.

5.7 Sustainability

- 5.7.1 The site is located 275m outside of the settlement boundary of Latchingdon. Latchingdon is described as a smaller village, containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities. However, it is noted that Latchingdon has a number of facilities including shops/takeaway facilities, a petrol station, a public house, community hall, public recreation fields, allotment gardens, a church and a primary school. Furthermore, there is a bus stop located 190m to the north of the site, which provides services to Chelmsford. Therefore, on balance it is considered that the site is not remote from everyday facilities and would not result in a development being overly reliant on the private motor vehicle.
- 5.7.2 In relation to the above, having regard to the content of policy T2, although the proposal would be accessible by public transport, it must be noted that accessibility is only part of the assessment of sustainability and the acceptability in this respect does not outweigh the environmental unsustainability that arises as a result of the development of land outside of the settlement boundary that was discussed in the above sections.
- 5.7.3 In economic terms, it is reasonable to assume that there may be some support for local trade from the development. This would however be limited given the scale of the proposal of one dwelling. Equally, there is no guarantee that the construction works required for this development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minor. Furthermore, whilst the residents of the proposed dwelling would bring some economic benefits to the village, which may provide some support to existing services, it is not considered that the benefits would be substantial. Therefore, due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 5.7.4 In social terms, development should assist in supporting a strong vibrant and healthy community, but the scale of the development is limited and thus the impacts on the community would be minimal. Nevertheless, it is noted that the site is in fair proximity to services needed for day to day living and so it is not considered that the occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities. However, given the limited scale of the proposal it is not considered that the social and economic benefits of the development would outweigh the harm in terms of environmental unsustainability, which have been discussed above.

5.8 Ecology and Impact on Designated Sites

- 5.8.1 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.8.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England. To accord with NE’s requirements and standard advice an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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

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

Does the planning application fall within the following development types? Yes - The planning application relates to one dwelling

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.

- 5.8.3 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. Natural England does not need to be re-consulted on this Appropriate Assessment.
- 5.8.4 The Essex Coastal Recreational Avoidance and Mitigation Strategy has been adopted by 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, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

6. ANY RELEVANT SITE HISTORY

There is no relevant planning history for this site.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Latchingdon Parish Council	No response at the time of writing the report.	N/A

7.2 External Consultees

Name of External Consultee	Comment	Officer Response
Highway Authority	No response at the time of writing this report.	N/A

7.3 Representations received from Interested Parties

7.3.1 No letters of representation have been received for this application.

8. REASONS FOR REFUSAL

1. The application site lies within a rural location outside of the defined settlement boundary of Latchingdon where policies of restraint apply. The council can demonstrate a five-year housing land supply to accord with the requirements of the national planning policy framework. The site has not been identified by the council for development to meet future needs for the district and does not fall within either a garden suburb or strategic allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the district. It is considered that, due to the location of the proposal outside of the defined settlement boundaries, the proposed development would harmfully alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site, representing the sprawl of built form outside of a defined settlement boundary. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and government advice contained within the National Planning Policy Framework.
2. 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, and I1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.