



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
29 JULY 2020**

Application Number	20/00499/OUT
Location	Land adjacent to Old Wheatsheaf, The Street, Stow Maries
Proposal	Outline application with all matters reserved for a new detached dwelling
Applicant	Mr N Brown
Agent	Mr P Harris
Target Decision Date	31.07.2020
Case Officer	Hayleigh Parker-Haines
Parish	STOW MARIES
Reason for Referral to the Committee / Council	Member Call In – Councillor. White – Public Interest, Effect on the Countryside, Highways and Streetscene

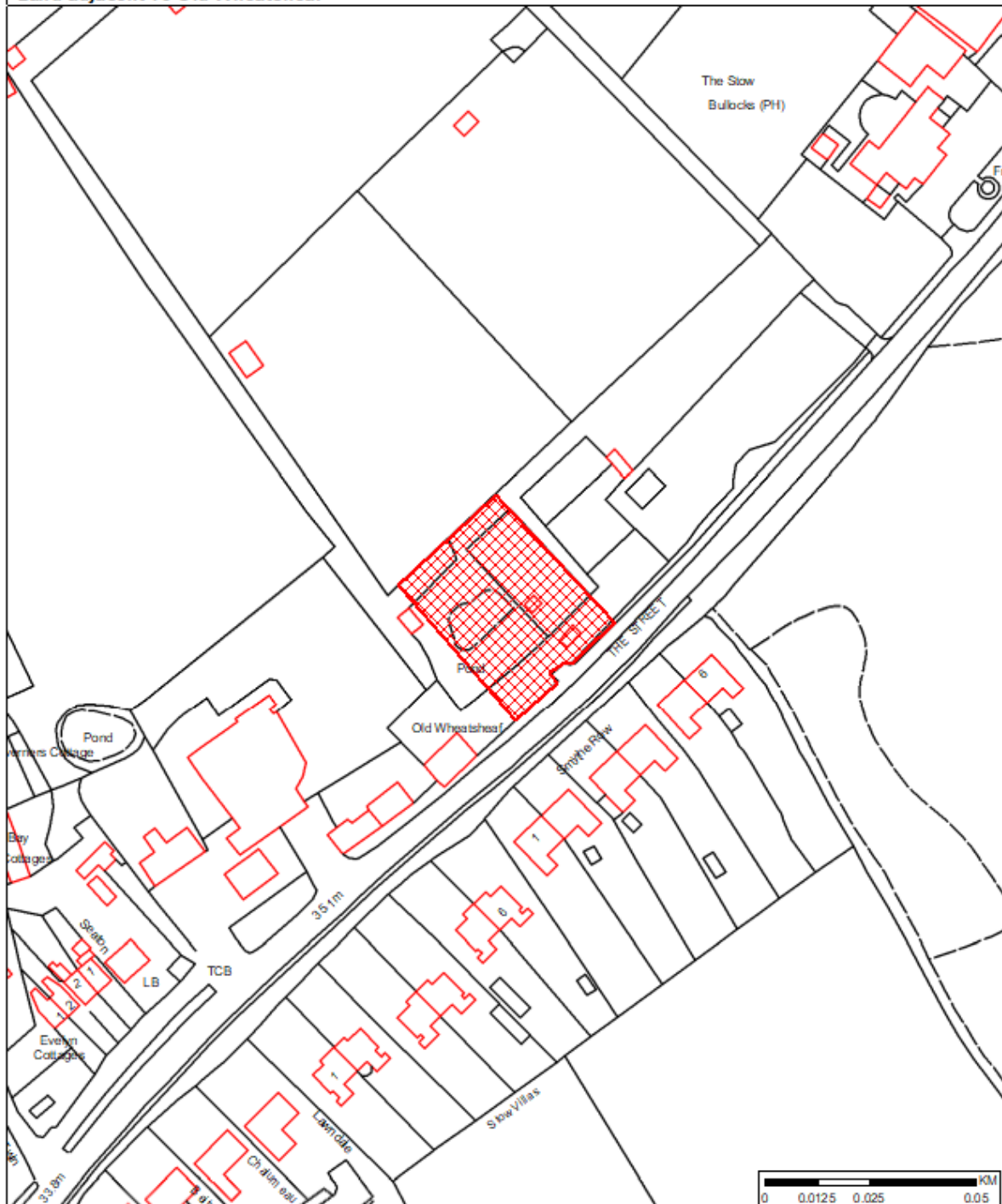
1. RECOMMENDATION

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


2. SITE MAP

Please see overleaf.

20/00499/OUT
Land adjacent To Old Wheatsharf



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 Maldon District Council 100018588 2014


 MALDON DISTRICT COUNCIL

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Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	
Date:	25/06/2020
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the northern side of The Street and does not fall within any defined settlement boundary. The application site has an area of approximately 0.12 ha. The site is currently free from any built form and is bordered by native hedgerow where the site borders the road.
- 3.1.2 The application seeks outline planning permission with all matters reserved for the erection of a single detached dwelling with a detached garage.
- 3.1.3 An indicative site plan has been provided which shows that the dwelling would be located relatively central to the plot with the garage situated close to the north eastern corner of the site, with a new access from The Street adjacent to this.

3.2 Conclusion

- 3.2.1 The proposed dwelling is contrary to the policies of the Local Development Plan (LDP) as the application site is outside of the settlement boundary of Stow Maries. The development would urbanise and develop the site to the detriment of the character of the site and the surrounding area and the countryside. The proposal is therefore unacceptable and contrary to the content of national and local planning policies.

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
- 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 the Countryside
- D1 Design Quality and Built Environment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG)
- Maldon District Vehicle Parking Standards SPD (VPS)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)).
- 5.1.2 Policies S1, S2 and S8 of the approved Maldon District Local Development Plan (MDLDP) seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.3 Policy S8 of the LDP indicates that outside defined settlements housing will not normally be allowed. The site is outside the development boundary and is in the countryside for purposes of application of planning policy. As such the proposal is in conflict with the approved policies. Policy S8 also includes a list of acceptable forms of development within the countryside which does not include open-market housing.
- 5.1.4 The NPPF is also clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three key dimensions that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental roles. This requirement is carried through to local policies via policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.5 The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and it is 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. The content of the LDP can therefore be afforded full weight in the assessment of any application.
- 5.1.6 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.'

- 5.1.7 Further to the above, whilst it is acknowledged that the proposed dwelling would not necessarily be considered isolated in terms of other development, this does not automatically mean that the site is considered sustainable. The erection of a new dwelling outside of the defined settlement boundary is resisted by the adopted policies. It is considered in this instance that the proposed development would urbanise the area through the provision of a dwelling and associated residential paraphernalia, to the detriment of the character of the area. Whilst it is noted that the application is outline in nature the concerns relate to a dwelling being located onsite irrespective of the appearance and scale of the development. Overall it is considered that the subsequent harm from such a dwelling would introduce an unacceptable level of built form outside of the settlement boundary therefore, failing to meet the criteria contained within the LDP and the guidance contained within the NPPF and the LDP.
- 5.1.8 In terms of Policy H4, the site serves a purpose of providing open space within the countryside and contributes to the rural character of the area. Therefore, it is considered that the site does have a useful purpose and it has not been demonstrated, to the satisfaction of the Local Planning Authority (LPA), by the Applicant that there is a significant under use of land and the proposal would make more effective use of it.
- 5.1.9 Having regard to the above, it is considered that the proposal would be contrary to policies S1, S8 and H4 of the LDP due to the introduction of inappropriate and unjustified development within the countryside.

5.2 Housing Need and Supply

- 5.2.1 The proposal would provide a dwelling with an unspecified number of bedrooms. The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.2 Policy H2 of the LDP and its preamble (paragraph 5.2.2), which when read alongside the evidence base from the SHMA, shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units, and around 71% of all owner-occupied properties having three or more bedrooms.
- 5.2.3 The Council is therefore encouraged in the approved policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. Therefore, in the absence of details in relation to the size of the dwelling, it is not possible to give any positive weight to the contribution that the proposal might make to social sustainability in this regard.
- 5.2.4 It should also be noted that the Council has an up-to-date development plan which will generally deliver the housing required. As part of its FYHLS 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 six 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 needs 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. Likewise, 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 to the countryside in relation to a number of factors.
- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.4 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. Furthermore, Policies D1 and H4 encompass this requirement for rural countryside protection. Erecting a dwelling in this location is therefore considered to fail to meet any of the strategic criterion of adopted policies S1 and S8 which are policy compliant with the Framework and have an unnecessary visual impact on the countryside.
- 5.3.5 The proposed development would cause material harm to the character and openness of the countryside by resulting in the domestication and urbanisation of the site and the countryside, which would be exacerbated by the unavoidable resultant residential paraphernalia that would accompany the proposed dwelling. The intrinsic character of the countryside is that it should be open and free from unnecessary development. Erecting a dwelling at this site would therefore erode the character and appearance of the site and represent the intrusion of residential development into the site.
- 5.3.6 It is considered that the application site is important in that it currently provides a gap in built development with extensive views of open countryside, and therefore makes a valuable contribution to the sense of space between The Old Wheatsheaf and The Stow Bullocks to the north of the site.
- 5.3.7 As the proposal is in outline form with all matters reserved it is considered that it is not the appropriate arena to assess the scale, layout of appearance of the development in details. However well these matters are addressed at reserved matters stage, the abovementioned harm will not be able to be off-set or mitigated.

- 5.3.8 Having considered the above, due to the resultant and inherent domestication and urbanisation of the site which would erode the important gap between The Old Wheatsheaf and The Stow Bullocks, the proposal would significantly harm the site and result in a detrimental impact upon the character and appearance of the area contrary to policies S1, S8, D1 and H4 of the LDP, the guidance and provisions as contained within the NPPF and the adopted MDDG.

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 Based on the indicative plans, which shows sufficient separation distances from neighbouring properties which prevent concerns in relation to the development being overbearing, providing no windows are proposed to the southern side elevation of the property it is not considered that the proposed development would result in a loss of privacy to the neighbouring occupiers either. This would however require further assessment at the reserved matters stage, if the application were to be approved, when the required detail was available to the LPA.

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 development would include the addition of an access. However, this is a matter reserved for future consideration. Nevertheless, it is noted that no objection has been raised to this by the Highway Authority and it is considered that the existing access would be adequate to serve the proposed development and adequate parking would be able to be provided at the site given the size of the plot.
- 5.5.3 Although layout is a reserved matter and the number of parking spaces required cannot be confirmed as the size of the dwelling is unknown, it is considered that the site would be of ample size to enable adequate parking to be provided.

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 Maldon Design Guide 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 25m² for flats.

- 5.6.2 Although layout is a reserved matter and the amount of amenity space required cannot be confirmed as the size of the dwelling is unknown, it is considered that the site would be of ample size to enable adequate amenity space to be provided.

5.7 Planning Balance and Sustainability

- 5.7.1 One of the key priorities 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.
- 5.7.2 The application site is located just 7m (as the crow flies) from the nearest settlement boundary of Stow Maries. Stow Maries is described under Policy S8 as being a smaller village, with little or no services and facilities and very limited or no employment opportunities. Therefore, it is considered that the occupiers of the dwelling would be required to travel outside of Stow Maries for day to day services and facilities. Whilst it is noted that there is a bus stop along this road, which can be accessed by a pathway for the majority of the journey and that the site sits close to the defined settlement boundary of Stow Maries, the LDP’s overall strategy is to concentrate residential development within the defined settlement boundary. The site is considered countryside in the context of the LDP and therefore the development would not meet this objective. This is supported by a recent appeal decision (APP/X1545/W/19/3236566 – Land adjacent to 24 Catchpole Lane) whereby the proposed development bordered the settlement boundary of what is classified as a larger village with considerably more facilities than the settlement boundary of this application. Whilst this is not wholly comparable to the application site for the above reasons. The inspector concluded that although the appeal site was acceptable in relation to access to services and facilities, the development would not be an appropriate location as it would fail to comply with policies S1, S2, S8 and H4 of the LDP.
- 5.7.3 Having regard to policies S1 and T2, it is not considered that a dwelling in this locality would minimise the need to travel, or prioritise sustainable modes of transport. Therefore, it is not considered that the site is accessible in terms of sustainability.
- 5.7.4 Further to the above and as addressed earlier within this report, it is considered that the provision of a dwelling in this countryside location would be detrimental to environmental sustainability due to the inevitable impacts on the site as the result of the intensification of the site and the introduction of built form on land outside of the settlement boundary.
- 5.7.5 In economic terms, there would be little support for local trade as the proposal only relates to one dwelling. Furthermore, whilst the occupiers of the dwelling would bring some economic benefits to the village, which may provide some support to existing services, it is considered that the benefits would be minor given that only one dwelling is proposed. 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.

- 5.7.6 In social terms, development should assist in supporting a strong, vibrant and healthy community, but local services are very limited. Residents are required to travel further afield for day to day facilities and amenities. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the LDP. Therefore, it is not considered that the social and economic benefits of the development would outweigh the harm in terms of environmental unsustainability.
- 5.7.7 Having regard to the poor sustainability credentials of the site and the fact that there are limited public benefits to the scheme, i.e. the proposal would be for market housing and not affordable, it cannot be determined whether the dwelling would make a positive contribution in terms of housing mix and the proposal is contrary to Policies S1, S8, D1 and H4 of the LDP, it is not considered that there are benefits that outweigh the harm on the character and appearance of the area.
- 5.8 Ecology regarding development within the Zone of Influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**
- 5.8.1 Natural England 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 ZoI of these sites cover the whole of the Maldon District.
- 5.8.2 Natural England 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 ZoI constitute a likely significant effect on the sensitive interest features of these designated site 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.
- 5.8.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) –Natural England have provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.4 The application site falls within the ZoI 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.
- 5.8.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England would not provide bespoke advice. However, Natural England'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.

- 5.8.6 To accord with Natural England'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 (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes – The proposal is for one dwelling

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

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

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

Summary of Appropriate Assessment

As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £122.30 is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured. Based on the lack of secured mitigation through RAMS the proposal would be contrary to policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

6. ANY RELEVANT SITE HISTORY

- No relevant site history

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Stow Maries Parish Council	Members object to this application as it is outside the development envelope	Comments noted.

Name of Parish / Town Council	Comment	Officer Response
	of the Village and also felt that there is not enough information in the application to be able to make an informed decision.	

7.2 External Consultees

Name of External Consultee	Comment	Officer Response
Essex County Highways	No objection subject to the inclusion of one condition should the application be approved	Comments noted
Place Services – Archaeology	The proposed development site has the potential to impact on archaeological remains. The Historic Environment Record (HER) shows that it is located within the historic settlement of Stow Maries. Archaeological deposits are both fragile and irreplaceable and any permitted development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent.	Comments noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection to the proposed development subject to the inclusion of 4 conditions should the application be approved	Comments noted

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

8. REASONS FOR REFUSAL

1. The application site lies outside of the defined settlement boundaries 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. The proposed development would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site and by eroding the visual gap between Fourways and the farm buildings, including the listed barn to the north. Furthermore, the site is located in an unsustainable location that would result in future occupiers being heavily reliant on the use of a private motor vehicle. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).
2. 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.