REPORT of
DIRECTOR OF SERVICE DELIVERY

to
SOUTH EASTERN AREA PLANNING COMMITTEE
5 AUGUST 2020

Application Number	**19/01335/OUT**
Location	Land Adjacent Theedhams Farm Steeple Road Southminster
Proposal	Demolition of existing building and construction of new building to be divided into up to 8 business units for use Class B1 and/ or use Class D1 purposes.
Applicant	Mr Bradley Faulkner - BF Ground Maintenance Ltd
Agent	Mr Mike Otter - GPO Designs Ltd
Target Decision Date	21.07.2020
Case Officer	Kathryn Mathews
Parish	**SOUTHMINSTER**
Reason for Referral to the Committee / Council	Major application Member call-in by Councillor Fluker with regards to the following policies: S1 Sustainable Development 8) Flooding 13) Modes of transport S7 Prosperous Rural Communities D1 Design Quality and Built Environment D5 Flood Risk and Coastal Management 1) Increase to flood risk D6 Advertisements E1 Employment E4 Agriculture and Rural Diversification H4 Effective use of land

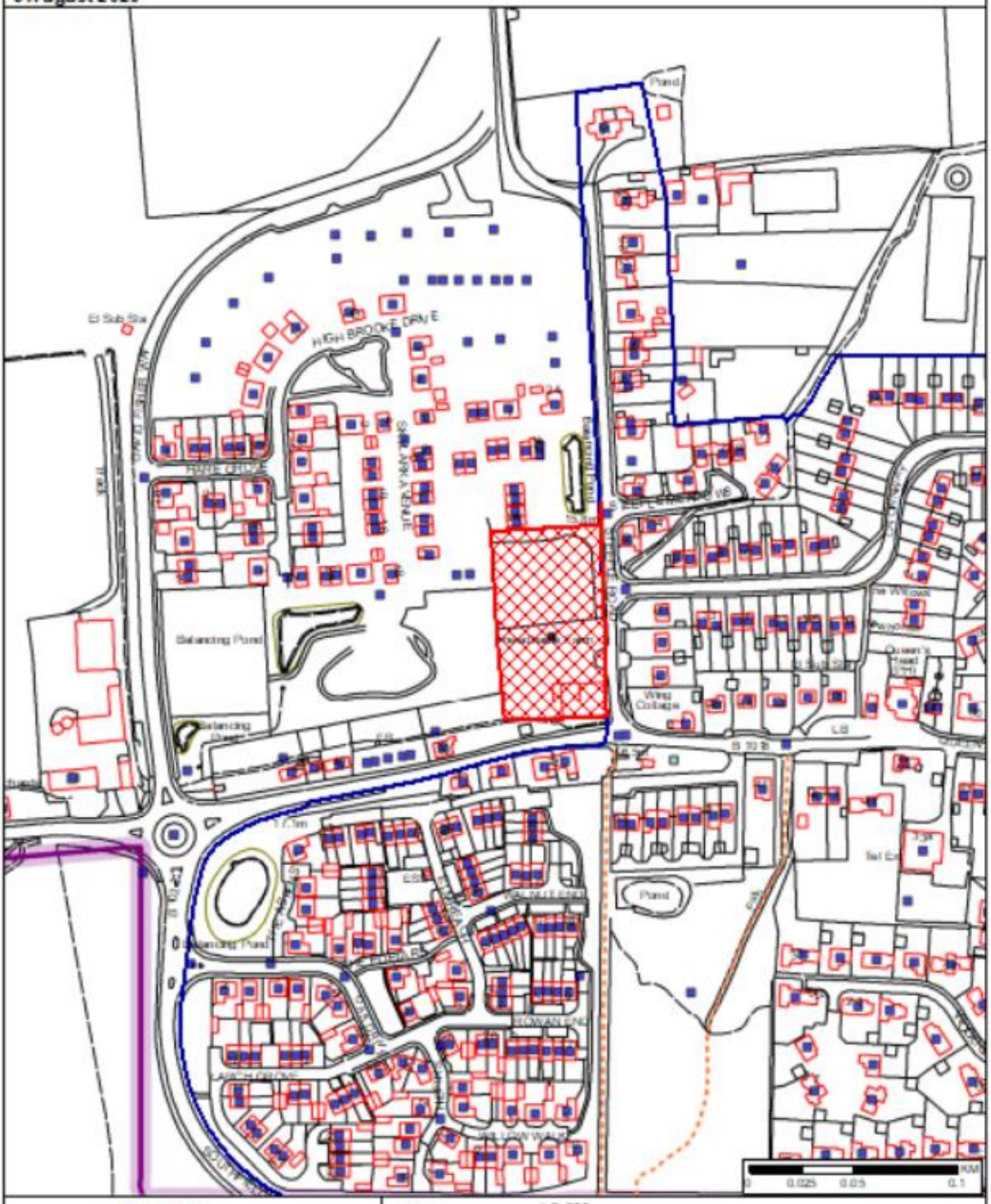
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Land adjacent Theedhams Farm, Steeple Road, Southminster
5 August 2020



MALDON DISTRICT COUNCIL

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Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	South Eastern Committee
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 adjacent to but outside the development boundary for Southminster as defined in the Maldon District approved Local Development Plan (MDLDP) and so is within the rural area for planning purposes.

3.1.2 The site is stated as measuring 0.46ha, is rectangular in shape and is located at the junction of the B1018 (Scotts Hill) and Steeple Road. The site has a frontage with Steeple Road of around 91m but is be set back from the B1018 by between 3.5m and 11m and is located partly behind a residential property (30 Scotts Hill). The site is around 50m in width. To the north and west is a housing estate which is under construction. To the south and east, on the opposite side of Steeple Road, is older, existing residential development. There is a hedge along the northern half of the site's frontage with Steeple Road. Other boundaries are formed by fencing. The site is reasonably flat with no significant changes in ground levels across the site.

3.1.3 The northern half of the site is in Flood Zone 3b and the southern half, in flood zone 3a. There is a watercourse along part of the north eastern boundary of the site and a much larger watercourse (Asheldham Brook – a Main River) located along the site's southern boundary.

3.1.4 The planning application submitted seeks outline planning permission (with all matters of detail - means of access to the site, layout, scale, appearance and landscaping - reserved for future determination) for the demolition of the existing buildings on site and the construction of a new building to be divided into up to 8 business units for use for Class B1 and/ or Class D1 purposes.

3.1.5 The existing building is in the south-eastern corner of the site and is divided into three barns. It is stated as having 403sq.m. of floorspace. The existing building is a maximum of 5.6m in height and has the typical appearance of an agricultural building with black weatherboarding for the walls and a mixture of pantiles and corrugated metal for the roof. The yard adjacent to the existing buildings is used for associated external storage – the applicant refers to 'numerous tanks and pallets, bays for the storage of aggregates, soil and timbers and various pieces of machinery'. Beyond the yard and the bisecting hedge referred to above, is an area described as being used for 'tractor mounted equipment and for the storage of wood'. The external areas of the site contain an area of concrete hardstanding (around 1,025sq.m.) but the rest of the site is unsurfaced/permeable. The applicant describes the land as 'previously developed'. The existing use is described as 'storage of agricultural equipment and agricultural fencing materials' and the existing business operated from the site is stated as specialising in 'agricultural contracting, landscaping and ground maintenance'.

3.1.6 It is stated that the floorspace of the proposed building would consist of 298.6sq.m. of Class B1(a) office (other than A2) floorspace split between three units and 466.6sq.m. of Class B1(c) light industrial floorspace, again split between three units. 236.7sq.m. of Class D1 (non-residential institutions) floorspace is proposed split between two units. The proposal is speculative but examples of the proposed Class D1 use referred

to are a veterinary surgery or training centre. The total floorspace proposed would be 1001.9sq.m..

3.1.7 In terms of employees, these would increase from 8 full time and 4 part time employees to 18 full time and 8 part-time employees.

3.1.8 Hours of use would be 7am to 7pm Monday to Friday, 8am to 4pm on Saturdays with no opening on Sundays or Bank Holidays.

3.1.9 Whilst the application is made in outline form, with all matters of detail reserved for future determination, the application is accompanied by a block plan which indicates that the new building would be located at the southern end of the site. To the rear would be a parking area (including 27no. parking spaces, a cycle shelter and a storage area for refuse and recyclables) with a new vehicular access onto Steeple Road, directly opposite Crown Way (to provide improved visibility splays) with associated turning space to accommodate the 'occasional large vehicles which may serve the site'. There would also be a pedestrian access point in the south eastern corner of the site. At the northern end of the site a detention basin flood water storage area is shown with tree and hedge planting.

3.1.10 Proposed elevations have also been submitted for a two-storey building, with a single storey, lean-to projection to the rear/southern elevation, with a maximum height of 9.6m to the ridge. The design of the building is described as having the 'appearance of a traditional barn with central front and rear gabled sections'. The Class B1(a) uses are indicated as being at first floor level with the Class B1(c) uses on the ground floor. A Class D1 unit is shown at ground and first floor levels. The external materials referred to are black weatherboarding cement cladding with a brick plinth for the walls and red coloured plain tiles for the roof with natural or fibre cement slate to the lean-to section.

3.1.11 The application is accompanied by a number of supporting documents including a Planning Statement, Design and Access Statement, a Noise Impact Assessment Statement, an Arboricultural Assessment (which merely states that there are no trees on the site), an Economic Statement and the following:

3.1.12 Flood Risk Assessment - the Assessment concludes that the re-grading of the ground surface of the development has a positive off-site impact at Steeple Meadows and Crown Way (to the East of the site) and reduces the extent of flooding in those areas in the most frequent flood risk events (1 in 20 years or less). The modelling also shows that as a result of the development the proposed building (and the pedestrian emergency egress route from those buildings) will be located entirely outside the 1 in 100 year plus 35% climate change flood event outline (i.e. it will be located outside of Flood Zone 3). With respect to the Sequential Test, the Assessment concludes that no alternative sites for new Class B1 and Class D1 developments have been identified with a lower risk of flooding within Southminster than the proposed site and therefore they consider that the sequential test has been passed. Furthermore, the proposed buildings have been located within the area of the site with the lowest flood risk. A Hydraulic Modelling Report has also been submitted.

3.1.13 Contamination Assessment – Phase One Desk Study Report – as part of the conclusions of this Report it is recommended that 'intrusive ground investigations are

undertaken at the site to confirm the prevailing ground conditions, establish the presence and extent of made ground and assess the contamination status of the site. In-situ and geotechnical laboratory testing should be undertaken to confirm the above assumptions. Intrusive investigations should include the installation and subsequent monitoring of standpipes to assess the gassing regime beneath the site. It would be prudent to undertake asbestos testing on soil samples recovered as part of the intrusive investigations at the site.'

3.1.14 Landscape Strategy and Visual Appraisal – the site is located within the Tillingham and Latchingdon Coastal Farmland character area as identified in the Landscape Character Assessment (2006). The Appraisal concludes that the building would be larger and more prominent than the existing building but would not be harmful and would be an improvement compared to the existing building. It is stated that the building would be similar in appearance to the existing listed barn off Goldsands Road which is used by Wibblers Brewery.

3.1.15 Health impact assessment – which concludes that the development would, overall, have a neutral impact on both the mental and physical health of residents.

3.1.16 Surface Water Drainage Strategy (Revision A) – as part of this document it is stated that the total proposed hard surfacing is 2,865sq.m., that hard surfaces would be constructed of permeable paving and part of the hard surface would have a 150mm high tank beneath to provide further attenuation which would also be used for roof run-off. The outfall into Asheldham Brook would be restricted and would have a non-return valve. The building will require an Environmental Permit from the Environment Agency because it is close to the bank of the Brook. Surface water drainage control during construction will also be required.

3.1.17 Transport statement – there are four bus stops within an approximate 300m (four minute) walk of the site providing connections with Maldon, Burnham-on-Crouch, Chelmsford, Basildon etc. Southminster rail station is approximately 1.4km (18 minutes' walk) east of the site. The site is 800m (10 minutes) walk east from Southminster High Street. The Two Rivers Way cycle route runs approximately 1km to the east which connects Burnham-on-Crouch with St Lawrence and Steeple. Steeple Road is to be stopped up beyond the northern boundary of the site as part of the adjacent residential development. The scheme would attract a two-way flow of 12 vehicles during the AM peak hour (nine arrivals and three departures) and a two-way flow of 13 vehicles during the PM peak (four arrivals and nine departures). This is equivalent to approximately one additional trip every five minutes during the peak periods which is unlikely to result in a noticeable impact on the highway network.

3.2 Conclusion

3.2.1 The development would not comply with the flood risk Sequential Test and is, therefore, not acceptable from a flood risk perspective. It is also considered that the development would cause harm to the character and appearance of the area. It is recommended that planning permission is refused for these reasons.

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
- 80-82 Building a Strong, Competitive Economy
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 184-192 Conserving and enhancing the historic 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
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D4 Renewable and Low Carbon Energy Generation
- D5 Flood Risk and Coastal Management
- E1 Employment
- E3 Community Services and Facilities
- T1 Sustainable Transport
- T2 Accessibility

Due to the nature of the development, Policies D6 Advertisements, E4 Agriculture and Rural Diversification and H4 Effective use of land, referred to in the referral request referred to above, are not considered to be relevant to the determination of the current application.

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 The main issues which require consideration as part of this application are the principle of the development, the impact of the development on the character and appearance of the area, any impact on the amenity of the occupiers of neighbouring residential properties, highway safety/parking/access issues, flood risk and drainage, contamination and archaeology.

5.2 Principle of Development

5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk areas, the historic environment, local infrastructure and services, character and appearance, and minimising need to travel. One of the aims of this Policy is to ensure a healthy and competitive local economy by providing sufficient space, flexibility and training opportunities for both existing and potential businesses in line with the needs and aspirations of the District.

5.2.2 Policy S7 states that the Council will actively seek to support and facilitate sustainable economic development within the villages through, inter alia, the provision of 'small and micro business space'.

5.2.3 The application site is located outside the defined development boundaries within the District and within the countryside. The Council's spatial strategy is to focus new development within settlement boundaries (Policies S1 and S8) but Policy S8b) does allow for employment generating proposals in accordance with Policy E1.

5.2.4 Policy E1 states that the Council will encourage employment generating developments and investments in the District which would include the regeneration, modernisation and expansion of existing employment sites, especially where this supports the retention of existing businesses and/or provides employment space that meets the current needs of local businesses in the District. Outside designated employment allocations, new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment and infrastructure considerations.

5.2.5 Policy E3 states that development proposals and other measures which will help to improve the provision of, and accessibility to, community services and facilities in a local area will be encouraged, including the relocation, co-location, modernisation and expansion of existing services.

5.2.6 Based on the information submitted with the application and the Council's records, the existing use of the site is agricultural. On the basis that the lawful use of the site is agricultural, the site is not 'previously developed' land as the applicant claims. Previously developed land is land that is or has been occupied by agricultural or forestry buildings, among other uses of land that are explicitly not previously developed land.

5.2.7 Notwithstanding this, the proposal would not result in the loss of any best or most versatile agricultural land (Policy D4) and would create additional employment opportunities, potentially community facilities (Class D1) and provide investment (as referred to in Policies S1, S7, S8, E1 and E3) which would weigh in favour of the proposal. The principle of the proposal in this respect could be supported.

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 This principle has been reflected to the approved Local Development Plan (LDP). The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
b) Height, size, scale, form, massing and proportion;
c) Landscape setting, townscape setting and skylines;
d) Layout, orientation, and density;
e) Historic environment particularly in relation to designated and non-designated heritage assets;
f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
g) Energy and resource efficiency.

5.3.4 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 The application site is in a visually prominent location, at the junction of Steeple Road and Scotts Hill/Queen Street. The existing buildings on site, as a result of their position in the south-eastern corner of the site are visually prominent but are single storey in height and of a design and appearance typical of rural, agricultural buildings. The site, whilst within a rural area, outside any defined settlement boundary, is surrounded by residential development, typically either chalet style or two storeys in height with an area of proposed public open space adjacent to the majority of the western boundary of the site and single storey outbuildings associated with 30 Scotts Hill close to the site's south-western corner. The proposal is for a building with a significantly greater floorspace and indicated as being a two-storey building in the same visually prominent position as that which exists. Whilst the layout of the site and the appearance of the building proposed is indicative, a building with the amount of floorspace proposed, has the potential to be of a size, height and position which would be visually incongruous within the street scene, to the detriment of the character and appearance of the area. In this respect the scheme cannot be supported and it is recommended below that planning permission is refused on this basis.

5.4 Impact on Residential Amenity

5.4.1 Policy D1 requires that all development must protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.

5.4.2 There are new residential properties located adjacent to the north-western corner of the site and a residential property (30 Scotts Hill) located adjacent to the south-western corner of the site. There are also residential properties on the opposite side of Scotts Hill and Steeple Road.

5.4.3 For those residential properties on the opposite side of Scotts Hill and Steeple Road, given the separation distance between them and the application site, it is considered that the site could be developed for the purposes proposed without causing material harm to their occupiers in relation to dominance, loss of outlook, loss of privacy and loss of light.

5.4.4 The dwellinghouse at 30 Scotts Hill is located approximately 24m to the west of the application site and there are outbuildings associated with this property adjacent to the south-western corner of the application site. The indicative proposed layout for the site suggests that the new building could be located 2m from the boundary of 30 Scotts Hill at its closest point. However, it is suggested that the majority of the building closest to this neighbouring property would be single storey in height and based on the position and size of this neighbour's outbuildings, it is considered that the application site could be developed for the purposes proposed without causing material harm to the occupiers of this dwelling by reason of dominance, loss of outlook, loss of privacy and loss of light.

5.4.5 With respect to the new dwellinghouses to the north-west of the application site, only the side elevations would face onto the application site and, whilst one of these properties would have a rear garden which borders the application site, it is considered that the application site is of sufficient size for the development proposed to be accommodated without causing undue harm to the amenity of the occupiers of these adjacent dwellings by reason of dominance, loss of outlook, loss of privacy or loss of light. Furthermore, the indicative layout proposed for the site suggests that the northern part of the site would accommodate an attenuation basin and not any new buildings or potentially unneighbourly ancillary uses.

5.4.6 As a result of the nature and extent of the development proposed, it is also considered that the proposal would not cause harm to the occupiers of any existing, neighbouring residential property by reason of smell, noise and pollution, provided that conditions are imposed, as recommended by the Specialist – Environmental Health.

5.4.7 Based on the above, it is considered that the site could be developed for the description of development proposed without causing material harm to the amenities of occupiers of neighbouring, residential properties.

5.5 Access, Parking and Highway Safety

5.5.1 Policy T2 pursues to create and maintain an accessible environment, requiring development proposal, inter alia, to 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 adopted parking standards for the uses proposed are as follows:-

- Class B1a) (offices) - 1 parking space per 20sq.m.; 1 cycle parking space per 100sq.m. for staff and 1 cycle parking space per 200sq.m. for visitors
- Class B1c) - 1 parking space per 50sq.m. and cycle parking provision the same as for Class B1a) uses

- Class D1 varies according to the type of use proposed but medical centres require the provision of 1 parking space per full time member of staff and two spaces per consulting room; 1 cycle parking space per four staff and 1 per consulting room for visitors. For further education premises, the requirement is for 1 parking space per daytime teaching staff and 1 per 15 students; 1 cycle parking space per 20 staff and 1 cycle parking space per 20 students. However, an individual assessment for these type of Class D1 uses would also be possible.

5.5.4 The applicant has suggested that a minimum of 25 parking spaces and 17 cycle parking spaces would be required to comply with the SPD on the basis of the following:

- D1 – 177sq.m. (excluding stairwells and lobby) – 1 space per full time staff = 7 spaces
- B1a – 204sq.m. (excluding stairwells and lobby) – 1 space per 20sq.m. = 11
- B1c – 347sq.m. (excluding stairwells and lobby) – 1 space per 50sq.m. = 7

The parking spaces would measure 2.9m x 5.5m and four bays would have increased dimensions for disabled parking spaces

5.5.5 As the application is speculative and details of the intended occupiers of the units proposed is not known, it is not possible to reach a definitive conclusion as to whether or not the numbers of car parking and cycle parking spaces included within the indicative proposed layout would be sufficient to comply with the adopted SPD. However, as a result of the size of the site, it is considered that there would be scope to provide more than the 27 parking spaces and 20 cycle parking spaces referred to in the current application, if necessary, to comply with the adopted SPD. Therefore, no objections are raised in relation to parking provision.

5.5.6 ECC Highways has raised no objection to the proposal subject to the imposition of conditions. Those which are necessary and relevant to the current application (which is in outline form with means of access to the site reserved for future determination) could be imposed if planning permission were to be granted.

5.5.7 In the absence of an objection from ECC Highways, as the proposal is in outline form with all matters of detail (including means of access to the site) reserved for future determination and as the site is an existing commercial site with an existing vehicular access onto Steeple Road, no objections are raised on highway safety, access or parking grounds.

5.6 Flood Risk and Drainage

5.6.1 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.

"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for

applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."

5.6.2 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.

5.6.3 Following the application of the Sequential Test, if it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and

- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

5.6.4 Sequential and Exceptions Tests

5.6.5 With respect to the Sequential Test, the Flood Risk Assessment submitted by the applicant concludes that no alternative sites for new Class B1 and Class D1 developments have been identified with a lower risk of flooding within Southminster than the proposed site and therefore the applicant considers that the sequential test has been passed. Furthermore, they point out that the proposed buildings have been located within the area of the site with the lowest flood risk.

5.6.6 However, in terms of the Sequential Test, the Council has identified existing and new employment land within the adopted LDP. Whilst there are no new sites identified in Southminster itself, there are existing sites for Class B1, B2 and B8 uses in Southminster (0.65ha at Hall Road Industrial Estate – site E1c) and 1.72ha at Hallmark Industrial Estate – site E1(d)) and new sites have been identified within the District as a whole including nearby in Burnham-on-Crouch (a 3.4ha extension to Burnham Business Park for Class B1, B2 and B8 uses – site E1(p)) . Furthermore, since the adoption of the LDP a number of unallocated sites have been granted planning permission, for employment generating opportunities, which further weigh against the proposed development and the ability for the application to pass the sequential test. Therefore, there are sites available in the District as a whole where land falls outside the highest risk Flood Zone and where permission could be obtained for employment development. In this respect, the applicant has failed to meet the requirements of the Sequential Test, contrary to Policy S1 and D5 of the MDLDP and the NPPF.

5.6.7 As a result of the failure of the proposal to satisfy the Sequential Test, the proposed development would not be acceptable from a flood risk perspective and is recommended for refusal on this basis.

5.6.8 Exceptions Test

5.6.9 Given the result as above, the local planning authority does not need to go on to determine whether or not the proposal meets the Exceptions Test.

5.6.10 However, with respect to flood risk, the following detailed advice has been received from the Environment Agency which would be relevant if compliance with the Exceptions Test needed to be assessed:

Flood Risk

Our maps show the site lies within fluvial Flood Zones 3b, 3a, 2 and 1 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' respectively as the functional floodplain (FZ3b), having a high (FZ3a), medium (FZ2) and low (FZ1) probability of flooding. The proposal is for a new building formed of eight business units, which is classified as a 'less vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA). To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, referenced FACM07BD_FRA2.1 and dated 17 December 2019 and FRA hydraulic model report by JBA, referenced Steeple Road Flood Risk Assessment - Hydraulic Model Report - Revision 2.0 and dated December 2019, are detailed below.

Environment Agency model review

Flood risk modelling undertaken by a third party has been used in support of this application and the Environment Agency has applied a risk based approach to the assessment of this model. In this instance a basic review has been carried out. The hydraulic model submitted for this proposed development is substantially the same as the hydraulic model submitted for planning application referenced 18/00752/RES for 294 houses on the land adjacent to the current planning application. As part of planning application 18/00752/RES a detailed model review was undertaken by the Environment Agency. Our letter referenced AE/2018/123273/02-L01 and dated 21 November 2018 in relation to that planning application confirms that this hydraulic model is suitable for use in planning purposes for that planning application.

Section 2.1 of the FRA hydraulic model report by JBA details the changes that they have made to the hydraulic model submitted as part of planning application 18/00752/RES. These changes have been applied to the baseline scenario.

Section 2.2 of the FRA hydraulic model report by JBA details the changes that they have made to the hydraulic model submitted as part of planning application 18/00752/RES. These changes have been applied to the post-development scenario.

As the proposed development is less vulnerable in Flood Zone 3a and only the changes detailed in Section 2.1 and 2.2 have been made to an existing hydraulic model which we have deemed suitable, we have undertaken a basic review of the model. Our basic review concludes that the hydraulic model used to support this application as detailed in the FRA hydraulic model report by JBA, referenced Steeple Road Flood Risk Assessment - Hydraulic Model Report - Revision 2.0 and dated December 2019 is suitable for use in planning purposes in this planning application.

The Environment Agency has not undertaken a full assessment of the fitness for purpose of the modelling and can accept no liability for any errors or inadequacies in the model.

Actual Risk

- *The site lies within the flood extent for a 5% (1 in 20) annual probability event, which can be used to determine the functional floodplain (Flood Zone 3b). The proposed development building on the site has been sequentially site outside of this flood event.*
- *The site lies within the flood extent for a 1% (1 in 100) annual probability event, including an allowance for climate change. The proposed development building on the site has been sequentially sited outside of this flood event.*
- *The site does not benefit from the presence of defences.*
- *Finished ground floor level have been proposed at 16.38m AOD. This is above the 1% (1 in 100) annual probability flood level including a 35% allowance for climate change as shown on Figure 3-4 of the FRA hydraulic model report by JBA. The report does not provide the flood levels from the hydraulic model in the report, so while we can confirm that the proposed development will not flood in this event, we cannot confirm by how much it remains dry in this event.*
- *Flood resilience/resistance measures have been proposed.*
- *Finished ground floor level have been proposed at 16.38m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability flood level as shown on Figure 3-5 of the FRA hydraulic model report by JBA. The report does not provide a modelled scenario for the 0.1% (1 in 1000) annual probability flood level including climate change flood event, so we cannot confirm whether the proposed development has refuge for the lifetime of the development.*

However we note from drawing referenced FACM07BD-DR2.1B and dated 17 December 2019 that the proposed development is two storey. Finished first floor levels have not been proposed, but are likely to be roughly 2.5 metres above the proposed finished ground floor level. This puts the finished first floor level at roughly 18.88m AOD and is likely to provide refuge above the 0.1% (1 in 1000) annual probability flood level including climate change.

- *The site level is 15.75m AOD and therefore the site does flood in the 1% (1 in 100) annual probability flood event including a 35% allowance for climate change. However the proposed building does have safe access to the site in this flood event.*

- *Therefore assuming a velocity of 0.5m/s the flood hazard is very low in the 1% (1 in 100) annual probability flood event including a 35% allowance for climate change.*

- *Therefore this proposal does have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain up to a 1% (1 in 100) annual probability including climate change flood event. A Flood Evacuation Plan has been proposed.*

- *Compensatory storage is not required.*

<u>Guidance for Local Council on Safety of Building</u>

Flood Resilient Construction

The FRA proposes to include flood resistant/resilient measures in the design of the building to protect/mitigate the proposed development from flooding. You should determine whether the proposed measures will ensure the safety and sustainability of the proposed development…..

<u>Guidance for Local Council on Safety of inhabitants</u>

Safety of Building

The development has been designed to provide refuge above the predicted flood levels. Given that refuge is identified as a fall back mitigation measure it is important that the building is structurally resilient to withstand the pressures and forces (hydrostatic and hydrodynamic pressures) associated with flood water. We advise that supporting information and calculations are submitted to you to provide certainty that the buildings will be constructed to withstand these water pressures.

<u>Emergency Flood Plan</u>

… recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG). We have considered the findings of the likely duration, depths, velocities and flood hazard rating against the design flood event for the development proposals. This indicates that there will be: - No danger to people….

<u>Other advice</u>

…Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

5.6.11 The main points to be noted from the above, are as follows:

- the hydraulic modelling submitted is *'suitable for use in planning purposes in this planning application.'*

- the building has been sited outside the 1 in 20 and 1 in 100 annual probability flood event but they cannot confirm by how much it remains dry in the 1 in 100 annual probability flood event.
- flood resilience/resistance measures have been proposed.
- the ground floor of the building may not remain dry during the 1 in 1000 annual probability flood event including climate change but the first floor is likely to provide refuge during such an event.
- the site level is 15.75m AOD and therefore the site does flood in the 1% (1 in 100) annual probability flood event including a 35% allowance for climate change but they conclude that the flood hazard is very low.
- a Flood Evacuation Plan has been proposed and compensatory storage is not required.
- the Environment Agency has not considered the risk of flooding from other sources (surface water, reservoirs, sewer and/or groundwater).

5.6.12 Based on the advice of the Environment Agency and the relevant documents submitted as part of the application, if the Sequential Test had been passed, it is considered that the site could be developed along the lines indicated (a two-storey building located at the southern end of the site) without undue concerns relating to flood risk being raised. However, due to the failure of the development to pass the Sequential Test, the proposal is not considered to be acceptable on flood risk grounds.

5.6.13 Other Drainage Issues

5.6.14 The Specialist – Environmental Health has raised no objection to the proposal in relation to foul drainage, subject to the imposition of a condition which requires further details to be submitted for approval. The SuDS team at ECC have also not raised objection to the proposal but have recommended that conditions are imposed if planning permission were to be granted requiring a detailed surface water drainage scheme for the site, a scheme to minimise the risk of offsite flooding during construction works and to prevent pollution, and details of maintenance arrangements for the surface water drainage system. Anglian Water Services has also raised no objections to the proposal.

5.6.15 Based on the advice received and in the absence of any objections having been raised by the statutory consultees, it is considered that issues relating to foul and surface water drainage could be addressed satisfactorily through the imposition of conditions if planning permission were to be granted.

5.7 Other Material Considerations

5.7.1 Contamination - one of the requirements of Policy D2 of the LDP is that, where appropriate, development will include measures to remediate land affected by contamination. NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).

5.7.2 The Environmental Health Officer has raised concerns that, due to the existing/previous use of the site, the land may be contaminated, but this matter could be adequately addressed through the imposition of conditions requiring that the site is investigated for contamination and that any contamination found is satisfactorily remediated, were the proposal considered acceptable.

5.7.3 Archaeology - Policy D3 states that an appropriate assessment should be carried out where development might affect geological deposits, archaeology or standing archaeology. ECC Archaeology have advised that

The Essex Historic Environment Record (EHER) shows that the proposed development site is sited within the historic settlement of Southminster (EHER 19416). The 1st edn. OS map (1875) shows a pair of small buildings on the road frontage, underneath the proposed development. Southminster had its origins in the Saxon period, before developing into a small town in the medieval period. The neighbouring cottages to the west of the proposed development appear to have been built on purpresture (enclosed roadside green), which is a largely 16-17th century phenomenon in Essex. It is possible therefore that remains of later medieval or early post-medieval buildings will be impacted on by the proposed development.

5.7.4 They, therefore, recommend that any permitted development on site is preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent. Based on this advice, it is considered that the matter of archaeology could be adequately addressed through the imposition of conditions if planning permission were to be granted.

6. ANY RELEVANT SITE HISTORY

- **17/00761/FUL** - Erection of agricultural building to store agricultural equipment. Refused 12.09.2017
- **05/00613/OUT** - Demolition of redundant farm buildings and erection of 2No. detached dwellings with garages. Refused 01.08.2005 – Appeal dismissed - 05.10.2006
- **05/00333/OUT** - Demolition of redundant farm buildings and erection of 2 no detached dwellings with garages. Refused 10.05.2005

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Parish Council	Recommends granting planning permission	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	**omment**	**Officer Response**
Environment Agency	No objection to this planning application, providing that account is taken of the flood risk considerations which are the Council's responsibility.	Noted – refer to section 5.6 of report.
ECC Highways	No objection subject to the imposition of conditions and informatives	Noted – refer to section 5.5 of report.
Anglian Water Services	There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. There is available capacity for foul drainage from this development. Informatives are recommended.	Noted – refer to section 5.6 of report. The informatives could be added if planning permission were to be granted.
Essex and Suffolk Water	No response	
Consultant Arboriculturalist	No response	
ECC Archaeology	The site is located in an area of known archaeological potential and, therefore, it is recommended that a full archaeological condition is attached to the planning consent. This is in line with advice given the National Planning Policy Framework,	Noted – refer to section 5.7 of report.
ECC SuDS Team	No objection subject to conditions requiring a detailed surface water drainage scheme for the site, a scheme to minimise the risk of offsite flooding during	Noted – refer to section 5.6 of report.

Name of Statutory Consultee / Other Organisation	omment	Officer Response
	construction works and to prevent pollution, and details of maintenance arrangements for the surface water drainage system.	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	The block plan, drawing number FACM07BD_ BP5.3 shows the layout of the units to the south of the site, adjacent to the road and a detention pond /Suds to the north between the units and the residential properties on that boundary. The application is supported by a phase one desk study report dated March 2020, project no. 60472 by Richard Jackson, Engineering Consultants. The report has made recommendations including further intrusive ground investigations, in-situ and laboratory testing, the installation and subsequent monitoring of standpipes to assess the gassing regime beneath the site as well as asbestos testing on soil samples. It is therefore important that contaminated land conditions are included in any permission given on this site. The document entitled noise impact assessment, does not meet the criteria for a noise impact assessment, is included with the application details, document ref FACM07BD-	Noted – refer to sections 5.4, 5.6 and 5.7 of report.

Name of Internal Consultee	Comment	Officer Response
	NI1.0 by GPO Designs. It is proposed that units 2A, 3A and 4A shall be used for planning use B1c (light industrial) purposes and Units 2B, 3B and 4B are used by planning use Class B1a (office) purposes or for ancillary use to the B1(c) use on the floor below. I would recommend a condition restricting the use of the units on site to those proposed. As the design and access statement has identified, the site is entirely enclosed by residential development. Whilst B1 uses can be carried out in a residential area without detriment to its amenity it is important to impose restrictions on hours of use, deliveries, the installation of plant and equipment etc to protect those living in the vicinity. Essex County Council have been consulted and have and requested conditions relating to surface water drainage, it is important that a condition relating to a foul water drainage scheme is also included. No objections to the proposal, subject to the inclusion of conditions relating to contaminated land, construction management plan, use, hours of operation, external illumination, ventilation/extraction equipment, external storage, refuse/bin storage and foul drainage and informatives.	

7.4 Representations received from Interested Parties

7.4.1 No letters of representation were received.

8. REASONS FOR REFUSAL

1. The applicant has failed to meet the requirements of the Sequential Test and, therefore, the proposal is unacceptable on flood risk grounds, contrary to Policy S1 and D5 of the Maldon District Approved Local Development Plan and the NPPF.

2. The application site is located in a visually prominent location, at the junction of Steeple Road and Scotts Hill/Queen Street. Whilst the layout of the site and the appearance of the building proposed is indicative, a building with the amount of floorspace proposed has the potential to be of a size, height and position which would be visually incongruous within the street scene, to the detriment of the character and appearance of the area, contrary to Policy D1 of the Maldon District Approved Local Development Plan and the NPPF.