



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

---

to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
26 AUGUST 2020**

<b>Application Number</b>	<b>20/00601/FUL</b>
<b>Location</b>	The Bungalow, Green Lane, Little Totham
<b>Proposal</b>	Section 73A application for the refurbishment of a building and the change of use of associated land to residential (C3)
<b>Applicant</b>	Mr Tom and Mrs Vicky Witney
<b>Agent</b>	Mr Chris Moore – Plainview Planning Ltd
<b>Target Decision Date</b>	EOT 28.08.2020
<b>Case Officer</b>	Hayleigh Parker-Haines
<b>Parish</b>	<b>LITTLE TOTHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor Siddall – Policy S1 and S8 – Sustainable Development within the Village and Settlement Boundaries

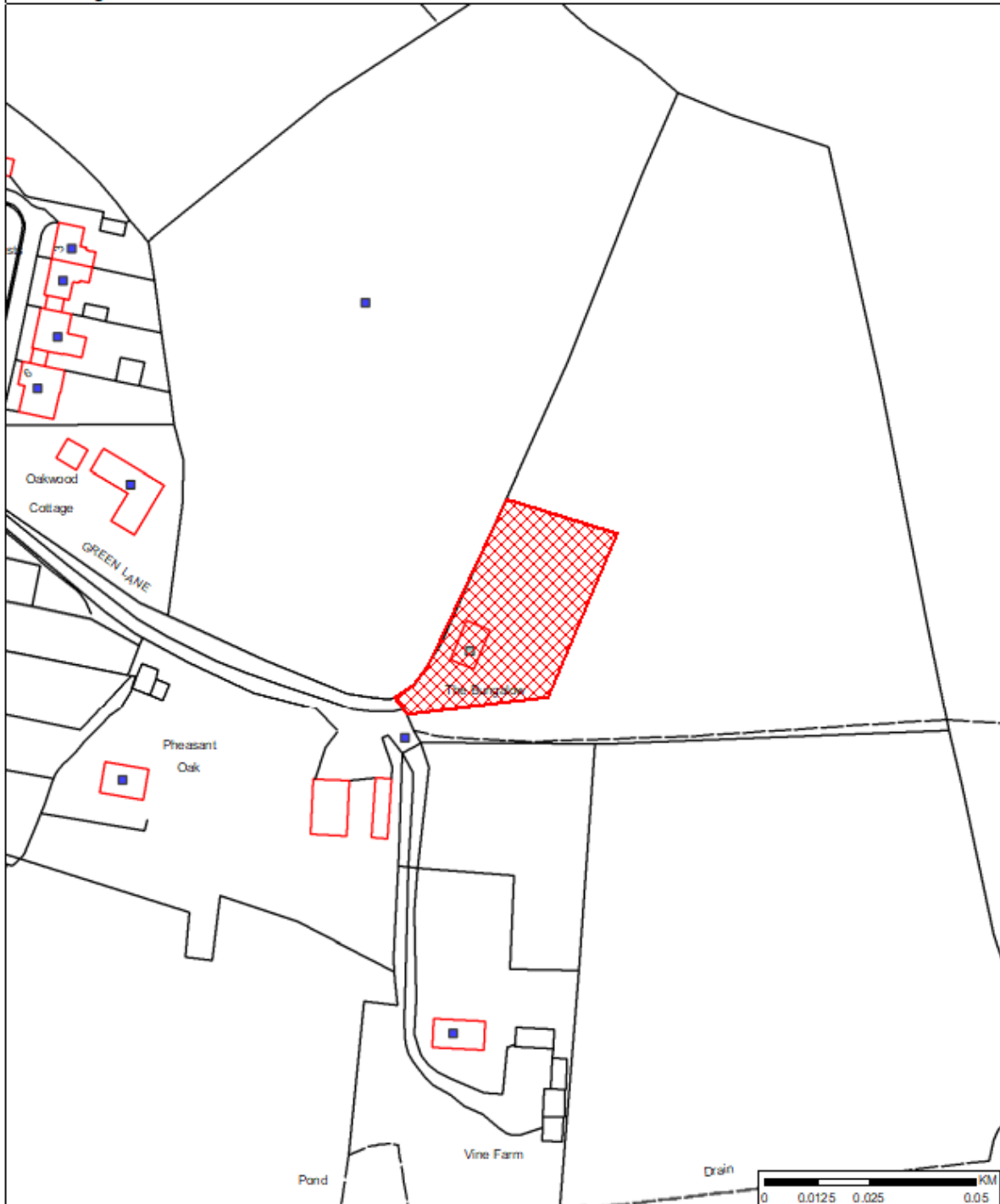
**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**20/00601/FUL**  
**The Bungalow**



 <p><b>Copyright</b>  For reference purposes only.  No further copies may be made.  This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office to Crown copyright.  Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  Maldon District Council 100018588 2014</p> <p><a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a></p>	Scale:	1:1,250
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Little Totham
	Date:	30/07/2020
	MSA Number:	100018588

### 3. SUMMARY

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

- 3.1.1 The application site is located on the northern side of Green Lane and does not fall within the defined settlement boundary. The site measures 0.14 hectares. Green Lane is a private road serving four other properties. The surrounding area is predominately open fields with the closest neighbouring property being approximately 60 metres from the site (Pheasant Oaks) and the defined settlement boundary of Little Totham 80 metres to the west of the site. The site is currently occupied by a detached building, a mobile home and a gated entrance has been constructed since the last application, as noted on the site visit.
- 3.1.2 This planning application is partially retrospective in nature, as the external 'refurbishment' of the building has been completed and consists of cladding, white windows and corrugated metal roof. Limited information has been provided as to the exact works proposed as both existing and proposed elevations remain the same externally. This is to allow the existing structure on site to be used as a residential dwelling. The existing and proposed floor plans illustrate the main bulk of the refurbishment which would accommodate one bedroom, living area, kitchen, hall and bathroom.
- 3.1.3 Planning permission is also sought to change the use of the land to residential.
- 3.1.4 It is noted that this is the resubmission of a previously refused application 19/00889/FUL. This application was refused for the following reasons:

*'The development represents an inappropriate form of development in the countryside that is unsustainable in terms of its environmental impact and contrary to the policies of the Local Development Plan. The other sustainability credentials of the development are considered to be limited to such an extent that they do not outweigh the harm identified. Due to the location of the application site, which is outside of the settlement boundary and a considerable distance to facilities, schools and support services, the proposed dwelling would be considered to have poor accessibility. Furthermore, the dwelling has lead to the domestication of the site in a manner that would erode the setting and the wider rural landscape, thereby resulting in an incongruous form of development that would have an urbanising effect by way of visual intrusion and encroachment into the rural landscape setting. Therefore the development does not amount to a sustainable form of development and does not benefit from the presumption in favour of development set out in the Framework nor would it accord with the aims of Policies S1, S2 and S8 of the LDP and Government guidance contained within the National Planning Policy Framework (NPPF) and the National Policy Planning Guidelines (NPPG).'*

*'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 NPPF.'*

3.1.5 The following amendments have been made to the development the subject of this proposal:

- Additional information has been provided stating that the proposed building is lawful and therefore permission is sought for the refurbishment of the building rather than construction of a 'new dwelling'.
- The previous application was for a three bedroom unit, the development the subject of this application is for a one bedroom dwelling.

### **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 a defined settlement boundary. Furthermore, the development, would result in the domestication of the countryside to the detriment of the character and appearance of the area. 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 (VPS) SPD

### **5. MAIN CONSIDERATIONS**

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

- 5.1.1 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.
- 5.1.2 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.
- 5.1.3 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.
- 5.1.4 The Council has undertaken a full assessment of the Five Year Housing Land Supply in the District and 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.
- 5.1.5 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'*

- 5.1.6 The application site lies outside the defined settlement boundary of Little Totham. The proposal is therefore, contrary to the objectives of Policy S8 of the LDP. Therefore, the impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as the whether the development constitutes sustainable development.
- 5.1.7 Little Totham is classed as a small village containing few or no services and facilities, with no access to public transport with very limited or no employment opportunities. The closest bus stops are located within Goldhanger (approximately 2.6 miles), Tolleshunt D'Arcy (approximately 3.1 miles) or Great Totham (approximately 1.9 miles). Services from Tolleshunt D'Arcy operate infrequently every two hours and only go to Maldon. Apart from paving to the west of 'The Green' there are no formal footpaths within the village and, therefore there are no footpaths for the future occupiers of the site to safely access the surrounding villages. Although, services and facilities in surrounding villages, as mentioned above, would be within reasonably convenient cycling distance, the route would be unlikely to be attractive to pedestrians due to lack of footpaths and lighting.
- 5.1.8 Whilst it is noted that the Applicant states that a property was constructed on site C in 1920 it is also acknowledged by the Applicant the use has also ceased. The Council has previously considered this matter and come to the conclusion that the use of the site for residential purposes has been abandoned. The Applicant was provided with this position prior to the submission of the application; no substantive argument has been provided as part of the application to argue against this decision. In relation to abandonment the relevant assessment factors are those confirmed in the case of *Hughes v South Holland District Council (2000)*, which was determined in the Court of Appeal. The relevant factors pertaining to establishing whether or not a residential use has been abandoned are assessed below; (1. *physical condition of the building* / 2. *the length of the period of non-use as a dwelling* / 3. *whether or not there had been any intervening use* / 4. *evidence of the owner's intentions throughout the period of non-use*). Each of the four determining factors carry equal weight and are not mutually exclusive. Taking in to account the lack of any substantive argument by the Applicant in relation to the above case law it is not considered that there is any reason for the Council to come to a different conclusion. Therefore, any abandoned residential use is considered to be a material consideration of no real weight in the determination of this application.
- 5.1.9 Having regard to the above, it is not considered that the principle of development at the site is acceptable, and as such, the proposal is contrary to policies S1, S8 and T2 of the LDP. The impact of the development on the immediate setting of the dwelling will be discussed in greater detail in other sections, along with other material considerations.

## **5.2 Housing Land Supply and Need**

- 5.2.1 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 Strategic Housing Market Assessment (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 policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The development provides a one bedroom dwelling. In this respect, the proposal would meet this policy requirement. However, it is not considered that the benefits arising from the provision of one dwelling, particularly when the Council can demonstrate a five-year supply of housing, would outweigh the harm relating to accessibility and environmental sustainability discussed throughout this report.

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

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

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

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

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

- 5.3.3 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 In addition, Policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting

of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.3.6 The application site is rural in nature and is in a countryside location which is not characterised by residential units. The building subject of this application is located 8.3m from the public highway and has an overall height of 5.5 metres. There is a public footpath that runs along the southern boundary of the site and therefore, the bungalow is highly visible from the public realm.
- 5.3.7 Due to the proximity of the bungalow to the public footpath it is considered to have an obvious and urbanising effect on the site and the surrounding countryside and is intensified by the residential design of the bungalow. Whilst it is noted, that the materials used are to reflect a typical agricultural barn (black weatherboarding) the use of UPVC windows and fascia's are considered to be an incongruous design feature for an rural outbuilding in a rural location. Additionally, the gables to the southern and northern elevations alongside the fenestration pattern is more akin to a residential dwelling than a rural outbuilding; which has resulted in a domesticating and urbanising impact on the intrinsic character and beauty of the countryside. Furthermore, the materials used are not reflective of the sporadic residential properties dotted along Green Lane, further segregating the development from the existing residential development within the vicinity of the site.
- 5.3.8 The development also, inherently results in the intrusion of domestic paraphernalia resulting in the urbanisation of the site to the detriment of the countryside. It is considered that the amount of development and the domestication of the rural site would represent an unacceptable intrusion into the countryside. Exacerbated by the high visibility of the building from the public realm, the development has introduced a more urban form of development to this part of the countryside, which results in serious harm to its rural character and appearance.
- 5.3.9 Having regards to the above assessment it is considered that the development has resulted in unacceptable urban sprawl into the countryside to the detriment of the character and appearance of the site and the intrinsic character and beauty of the countryside. Given that the site lies outside the settlement boundary, within the countryside it is not considered that a building of this scale and design is acceptable and is therefore, considered to be contrary to policies S1, S8, D1 and H4 of the LDP.

#### **5.4 Impact on Residential Amenity**

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The closest neighbouring property is to the south west of the site and is known as 'Pheasant Oaks', the development is located over 40 metres from the boundary of the

site. Given the distance between the neighbouring properties and the application site and the single storey nature of the development, it is not considered that the bungalow results in an unneighbourly form of development or that the development gives rise to significant overlooking or overshadowing.

- 5.4.3 It is therefore considered that the development does not have a materially harmful impact on the amenities of neighbouring residents and would therefore be in accordance with policy D1 of the LDP.

## **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 recommended standard for a one bedroomed property is a minimum of one parking space. No details have been received in relation to the parking provision provided on site. However, there is adequate space to the south of the site to accommodate parking provision for a minimum of one vehicle. However, it is considered that a condition regarding this matter could be imposed on any granting of planning permission.
- 5.5.3 The Local Highways Authority were consulted in relation to this application and have raised no objection subject to the inclusion of one condition should the application be approved which related to the footpath.

## **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 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.6.2 The proposed development would result in the creation of a one bedroom dwelling; the proposed garden would be in excess of the 50m<sup>2</sup> as required by the standards. Therefore, there are no objections in terms of amenity space provision and the development would be in accordance with Policy D1.
- 5.6.3 No information in relation to the proposed boundary treatments or the landscaping has been provided as part of this application. However, it is considered that this information could be secured via condition should the application be approved.

## 5.7 European Designated Sites

5.7.1 The application site falls within the ‘Zone of Influence’ for one or more (Blackwater Estuary SPA and Ramsar site and Dengie SPA and Ramsar site) 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.

5.7.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (NE). 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.

5.7.3 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.

5.7.4 The RAMS is currently under preparation and it therefore, constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £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 not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

- 5.7.5 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.

## **5.8 Other Matters**

- 5.8.1 The application is accompanied by a supporting statement which provides a timeline of the history of the building. It is noted that the application is for the refurbishment of the building and that this relates predominately to internal aspects of the proposed dwelling. Therefore, this alone would not require formal planning permission from the Local Planning Authority (LPA). However, as mentioned in section 5.1 of this report, it is considered that the residential use of the site has been abandoned and by the applicant's own submission the building has not been occupied since the 1980's. Furthermore, a new building was constructed in June 2009, contrary to advice sought from the LPA advising then, that the residential use had been abandoned. Whilst the building itself is considered to be lawful due to the passage of time. The application relates to the change of the use of the land to residential to allow for this building to become a one bedroom residential dwelling. However, as stated in section 5.1 and 5.3 of this report; it is not considered that the principle of erecting a dwelling on this site is accepted. Furthermore, it is considered that the residential use of the site would have an unacceptable impact on the character and appearance of the surrounding countryside and is therefore, contrary to policies D1, H4, S1 and S8 of the approved LDP and guidance contained within the NPPF.
- 5.8.2 It is noted that in the accompanying statement, the construction of the new building was complete in 2010 and until 2019, this was used for the storage of personal items (aerial imagery can confirm that there has been a structure in the same location as the building shown on the location plan provided as part of this application since 2011, as shown below). However, the use of the building for storing personal items does not constitute a C3 use. Furthermore, the Council considers that this use was abandoned, as discussed in section 5.1, and therefore, it is considered this is given little weight in the determination of this application in relation to the change of use.



6. **ANY RELEVANT SITE HISTORY**

- **FUL/MAL/19/00889** – Section 73A application for the construction of a new dwelling and the change of use of associated land to residential (C3) – Refused – 18.11.2019.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Little Totham Parish Council	No response	N/A

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways	No objection subject to a condition relating to the footpath should the application be approved	Comments noted

## 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection in principle. Would reiterate concerns raised under the last application 19/00889/FUL (septic tanks are unacceptable forms of treatment for new developments unless there is no other practical method of disposal). Two Conditions are suggested should the application be approved.	Comments noted

## 7.4 Representations received from Interested Parties

No letters of representation have been received

## 8. PROPOSED REASONS FOR REFUSAL

1. The application site lies within a rural location outside of the defined settlement boundary of Little Totham 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 open character and intrinsic beauty of the countryside and would detract from the open character and appearance of the site as a result of the domestication of the site and the inclusion of associated residential paraphernalia. If developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District

Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018).

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.