



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
2 SEPTEMBER 2020**

<b>Application Number</b>	<b>20/00549/OUT</b>
<b>Location</b>	Land Adjacent to 64 Southminster Road, Tillingham
<b>Proposal</b>	Outline application with all matters reserved for a proposed construction of a detached 3 bedroom bungalow.
<b>Applicant</b>	Mr Richard Embling
<b>Agent</b>	Mr Anthony Cussen – Cussen Construction Consultants
<b>Target Decision Date</b>	4.09.2020
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>TILLINGHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor A S Fluker Reason: In relation to policies D1, S1, H2, H4 and S8

1. **RECOMMENDATION**

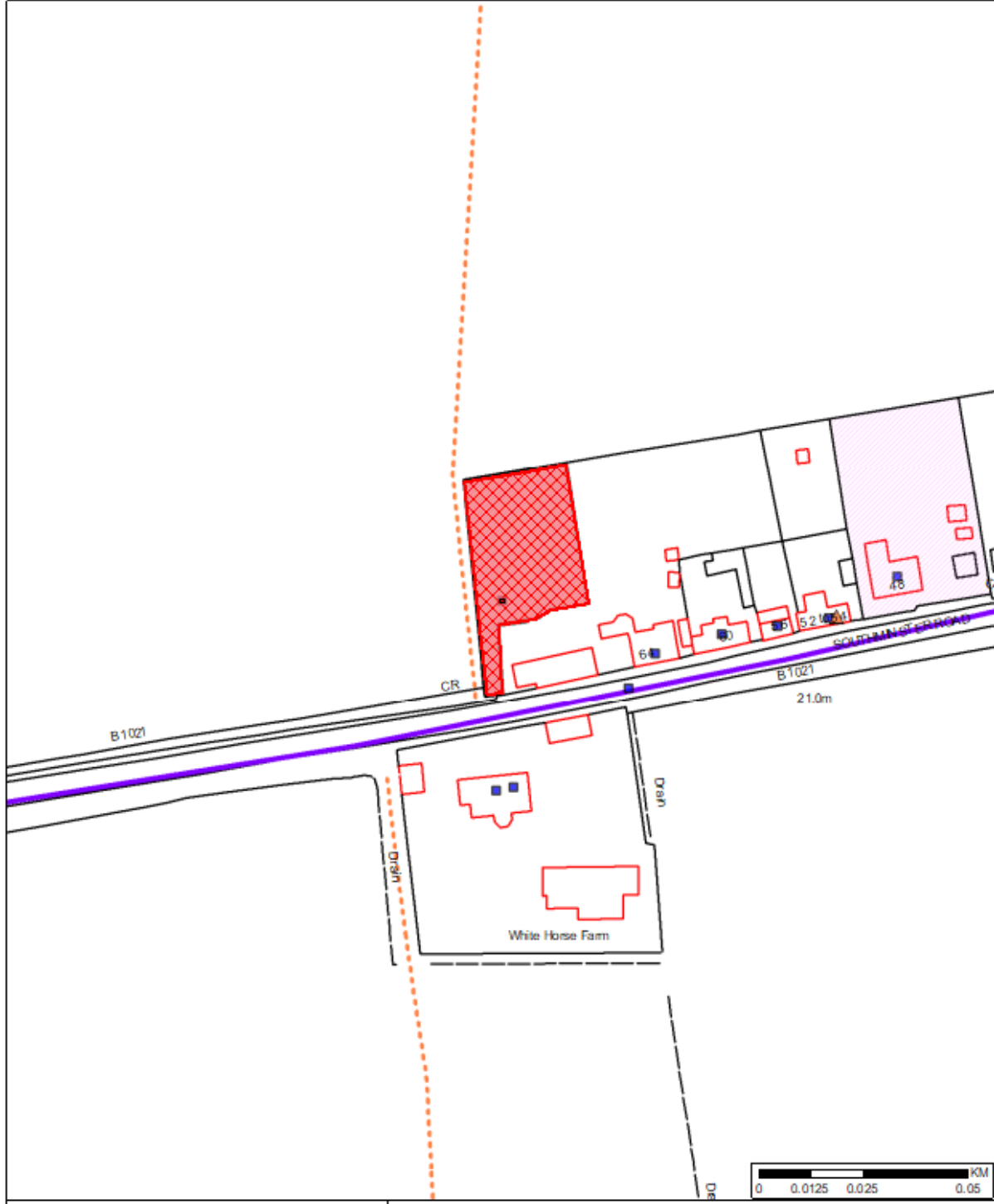
**REFUSE** for the reasons as detailed in Section 8 of this report.

2. **SITE MAP**

Please see overleaf.

**20/00549/OUT**

Land Adjacent to 64 Southminster Road, Tillingham



### **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 Southminster Road, outside of the settlement boundary of Tillingham. The site comprises an area of undeveloped land which lies to the west of No.64 Southminster Road. application site is currently bounded by low hedging and is surrounded by open countryside to the north and west.
- 3.1.2 The surrounding area consists of single-storey and two-storey detached and semi-detached dwellings, which predominantly sit on the roadside.
- 3.1.3 Outline planning permission is sought for the principle of one detached three-bedroom bungalow on the application site. The outline application procedure allows for applicants to identify specific matters for consideration which includes the principle of development, layout, access, scale, appearance and landscaping. The application has identified that this application is to consider the principle of the development only. The considerations of access, scale, appearance and landscaping will form the subsequent reserved matters application, should outline permission be granted for this proposal. Nevertheless, all material planning considerations are relevant where applicable to this application.
- 3.1.4 No elevation or floor plans of the dwelling have been provided. A block plan has been provided which also shows an indicative roof plan of the dwelling. From this plan, the dwelling proposed appears to be of a cross gable design. It would measure 15 metres deep in total and 9.6 metres wide in total. There is also a double garage measuring 7 metres wide and 7.6 metres deep. The Design and Access Statement submitted with the application states that, whilst the plans are indicative, the dwelling would be a three-bedroom bungalow.
- 3.1.5 The block plan indicates that the site would share the existing access, used by No.64 Southminster Road. The parking will be located towards the south west of the site, with the main amenity area to the north of the dwelling.
- 3.1.6 Application 16/00255/OUT sought outline permission for two two-storey three-bedroom dwellings. This was refused for the following reasons:
- 1. Policy S2 seeks to provide control over new buildings in rural areas beyond defined settlement boundaries and to ensure that new residential developments are in appropriate locations. The proposal is therefore contrary policy S2 of the Maldon District Replacement Local Plan as the site lies within a rural area outside of a settlement boundary and is remote from services and facilities needed for everyday living. 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 Local Development Plan to meet the objectively assessed needs for housing in the District. Furthermore, the development, by way of its intrusive nature into the rural landscape, detrimental impact upon the landscape character, harmful nature of an urban residential development and poor relationship to the existing urban grain is considered contrary to policies BE1 and CC6 of the adopted Local Plan, emerging policies D1, H4 and S8 of the Local Development Plan as*

*submitted and the guidance and provision contained within the National Planning Policy Framework.*

2. *The proposed development would result in an unacceptable access which does not comply with current visibility requirements for vehicular access. The development would therefore be to the detriment of pedestrian and highway safety and the safe and convenient free flow of traffic, contrary to policies T2 of the adopted Maldon District Replacement Local Plan, T2 of the Submitted Local Development Plan and the guidance contained in the National Planning Policy Framework.*

3.1.7 Application 19/00884/OUT sought permission for one two-storey three-bedroom dwelling. This was refused for the following reason:

1. *The application site lies outside of the defined settlement boundary of Tillingham 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 proposal would therefore, represent the unjustified encroachment of built form onto undeveloped land, with associated visual impacts. Furthermore, the proposed development, by reason of the unavoidable implications of the siting of the development, would result in a development being proposed that is further north of the existing building line and out of keeping with the prevailing pattern of development in the area, to the detriment of the visual amenity of the site, the streetscene and the wider surrounding area. The proposal is therefore contrary to policies S1, S2, S8, D1 and H4 of the Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.*

3.1.8 The amendments under this application are that a bungalow with a detached garage is now proposed, rather than a two-storey dwelling.

## **3.2 Conclusion**

3.2.1 Having taken all material considerations into account, it is considered that the proposal due to its siting outside the defined settlement boundary, would cause harm to the intrinsic beauty and character of the countryside. Furthermore, it is considered that the development, by reasons of the inevitable siting to the rear of the prevailing building line, would result in a detrimental impact on the character and appearance of the area. In addition, the absence of a signed legal agreement to secure the appropriate contribution in line with the Essex Coast RAMS requirement results in the proposal being unacceptable. The proposal is therefore considered to be contrary to the Maldon District Local Development Plan (MDLDP) and guidance contained within the National planning Policy Framework (NPPF).

#### **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
- 117 – 123 Making effective use of land
- 124 – 132 Achieving well-designed places
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##### **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
- H4 Effective Use of Land
- T2 Accessibility
- I1 Infrastructure and Services

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

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

#### **5. MAIN CONSIDERATIONS**

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

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.1.2 The application site lies outside the defined settlement boundary of Tillingham as identified in the LDP as such it is considered that Policy S8 of the LDP is applicable for the proposed development. Policy S8 requires development to be directed to sites within settlement boundaries to prevent urban sprawl beyond existing settlements and to protect the District's landscape. 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 it is for a specific purpose as listed under Policy S8 (a)-(m).

- 5.1.3 It is noted that the proposed development does not fall within the uses listed under Policy S8 (a-m). Therefore, the erection of a new dwelling on the site, which is outside of the defined settlement boundary, is considered to be contrary to the policies contained within the LDP.
- 5.1.4 The site is located outside of the settlement boundary of Tillingham. Tillingham is defined as a 'smaller village' in the LDP, which is a settlement containing few or no services and facilities with limited or no access to public transport facilities and employment opportunities. Policy T2 of the LDP relates directly to accessibility by requiring all new development proposals to 'provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate'. As there are limited public transport facilities to other larger settlements, the occupants of the dwelling on the site would be highly dependent on the use of the car as the main form of transport to and from the site.
- 5.1.5 In terms of use of public transportation, the nearest bus stop to the site is Manor Road to the west of the site. However, this only serves the DaRT 4 bus which runs between Bradwell and Burnham. This is a Demand Responsive Transport type which means users of this mini bus service must book two hours beforehand and there must be enough people using the service at a time for it to run. Therefore, whilst there is a footpath that runs to this bus stop and it is within a reasonable walking distance of the application site, it is not considered that this would be a practical or feasible option for the occupiers of the proposed development to use for their day-to-day needs or for commuting to work, given the nature of the service and its limited route between Bradwell and Burnham.
- 5.1.6 The Planning Statement states the D1 and D6 run through Tillingham however it does not appear that they stop at the bus stop near the application site. The 200 bus service only runs on a Friday and the 106 bus service is a school service and therefore this would only be beneficial for children, if they were to attend a school on the route. Fords Coaches provide a fortnightly service into Chelmsford however this is not considered to be a practical regular transport option.
- 5.1.7 Overall it is considered that the proposed dwelling, as a result of it being located outside of the settlement boundary, would result in the unacceptable development of previously undeveloped land which would be contrary to policies S8 and H4 of the LDP. Therefore, the principle of the development cannot be supported.

## **5.2 Housing Need and Supply**

- 5.2.1 The proposal would contribute towards the District's housing supply, but this would only weigh slightly in favour of the proposal as the District can demonstrate a deliverable 5-year housing land supply and the proposal is only for one dwelling. NPPF, however, seeks to boost significantly the supply of housing, and it is acknowledged that the Council's housing requirement is not a ceiling to development.

5.2.2 The proposal would provide one new three-bedroom dwelling. Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which, when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units. The Council therefore, encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated SHMA, published in June 2014 identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% of housing to be for three-bedroom plus units. The proposed two-bedroom dwelling will therefore not make a significant contribution to the District's Housing Need. It will however result in the contribution of one dwelling. As only one dwelling is proposed, it is considered that the social and economic benefits would be negligible.

### **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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.

5.3.2 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;

5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.

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.

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.

- 5.3.6 The presence of dwellings is infrequent in this location with the nearest dwellings being the traditional cottages and farmhouses sporadically placed alongside Southminster Road. The landscape character within this location is open, unspoilt and rural. The application site is a relatively small piece of land in association with No.64 Southminster Road featuring mature perimeter vegetation, trees and hedging. Due to the location of the site, the proposed dwelling could be viewed when approaching Tillingham from the west. The open character of this rural location adds to the unspoilt rural character of the area.
- 5.3.7 Whilst there are a few traditional cottages located along the roadside on the eastern side of the application site, the proposed development would result in domestication of the site to the detriment of the rural countryside. The location of the application site is predominantly surrounded by agricultural land which is open in character and appearance. Therefore, the introduction of a new dwelling and the associated residential paraphernalia would result in a shift in the appearance of the site to a wholly residential use. The countryside should be protected for its own sake, including its natural beauty, tranquillity and distinctiveness and it is essential that any new development does not cause harm to these features of the landscape and rural environment. Whilst it is noted that the land is already used in relation to the dwelling of No.64 Southminster Road and therefore there is already an element of this domestication that can reasonably occur at the site, it is considered that this would be intensified by the proposed development. Development on this site and its associated residential paraphernalia would be wholly prominent in the landscape. In this respect, the development would be out of character with the rural locality.
- 5.3.8 Whilst it is acknowledged that appearance and scale are not matters for consideration in this application, irrespective of the design, the proposal would result in an encroachment of built form onto an undeveloped piece of land. The proposal would result in an intrusion into the countryside, detracting from the intrinsic beauty of the countryside.
- 5.3.9 The prevailing character of the dwellings in this locality are smaller dwellings, sometimes semi-detached, and located in a linear arrangement close to the highway. Whilst the submitted block plan is indicative, any such positioning of a dwelling on the application site, due to the positioning of the site, would be entirely at odds with the existing building line and the prevailing pattern of development and would therefore result in significant demonstrable harm to the character and appearance of the area.
- 5.3.10 Although the dwelling has been amended under this application from a two-storey dwelling to a bungalow, this is not considered to overcome the concerns in relation to the presence of a dwelling in this location and its impact on the countryside.
- 5.3.11 It is noted that the agent has submitted a supporting statement with the application with reference to the amendments made from the previous application and supporting information regarding the location of the site. It is noted that the proposal has reduced the scale of the proposed dwelling, and that some nearby residential sites have outbuildings projecting northwards into the garden. However, this is not considered



to overcome the concerns in relation to the presence of a dwelling in this location and its impact on the countryside.

- 5.3.12 Although the plans are indicative, the access and landscaping shown are considered acceptable in terms of design.

#### **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.
- 5.4.2 The dwelling to the south east of the site, No.64 Southminster Road, will be located 11.3 metres from the south eastern corner of the site. Whilst it is noted that the submitted plans are indicative, it is not considered that a dwelling in this location would cause significant harm to No.64 Southminster Road, by way of overlooking or overshadowing, due to the separation distance between this neighbour and the site boundary.
- 5.4.3 The dwelling to the south of the site, White Horse Farm, across Southminster Road, is located at a distance where the proposed dwelling would not significantly impact on its residential amenity.
- 5.4.4 Due to the relationship with neighbouring sites, the occupiers of the proposed dwelling would not be affected in terms of a loss of privacy or a loss of light.

#### **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.
- 5.5.2 Whilst the plans are indicative, the proposed site would be accessed using the existing access of No.64 Southminster Road. The Highway Authority objected to application 16/00255/OUT, due to there being insufficient visibility splays at the access to the site; this formed a reason for refusal for this application. However, this was overcome in the previous application as the existing boundary fence was proposed to be reduced in height to allow for sufficient visibility splays. It was noted that the fence is located outside the red line boundary of the site, but it is within the blue ownership line and therefore it is considered that a condition could be included to ensure the fence is reduced in height, to allow for sufficient visibility splays. In addition, it was also considered that the proposal had been reduced from two dwellings, under application 16/00255/OUT to one dwelling under this and the previous application and therefore there are likely to be fewer vehicle movements.
- 5.5.3 As there have been no material changes regarding access between this current application and the previous application, and no objections were raised regarding

highway safety in the previous application, it is considered that safe and suitable access arrangements could be provided at the site.

- 5.5.4 Whilst no details of cycle parking have been submitted, it is noted that a garage is proposed and therefore this is considered to be a suitable cycle storage area.
- 5.5.5 The submitted block plan shows the driveway could provide space for at least three parking spaces of the required bay size, 2.9 metres wide by 5.5 metres deep, and the garage is in excess of the required double garage standards (6 metres wide by 7 metres deep). Furthermore, there would be sufficient turning space, over 6 metres, provided at the site to allow for vehicles to egress the site in a forward gear.

## **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 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 25m<sup>2</sup> for flats.
- 5.6.2 The block plan shows that over 400 square metres of amenity space could be provided at the site, in accordance with the standards set out within the MDDG, which would require a three or more-bedroom dwelling to have over 100 square metres.
- 5.6.3 The indicative site plan states that non-unbound material will surface the first 6 metres of the access and that the existing boundary hedging will be retained. There are no objections to this however it is noted this would be assessed fully at reserved matters stage.

## **5.7 Impact on Designated Sites**

- 5.7.1 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.7.2 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 Essex Coastal Recreational Avoidance and Mitigation Strategy document is under consultation. This document states that the flat rate for each new dwelling has been calculated at £125.58 and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

## 5.8 Other Material Considerations

5.8.1 It is noted that no details of drainage have been provided. However, this could be requested through the inclusion of a condition.

## 6. ANY RELEVANT SITE HISTORY

- **16/00255/OUT** - Outline planning permission for proposed construction of two, 2 storey 3-bedroom dwellings – Refused
- **19/00884/OUT** - Proposed construction of a detached 3-bedroom dwelling - Refused

## 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>
Tillingham Village Council	Support	Comments noted.

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
County Highways	No response at the time of writing the report.	Any response received will be included on the members' update.

## 7.3 Representations received from Interested Parties

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

## 8. REASONS FOR REFUSAL

- 1 dThe application site lies outside of the defined settlement boundary of Tillingham 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 proposal would therefore, represent the unjustified encroachment of built form onto undeveloped land, with associated visual impacts. Furthermore, the proposed development, by reason of the unavoidable implications of the siting of the development, would result in a development being proposed that is further north of the existing building line and out of keeping with the prevailing pattern of development in the area, to the detriment of the visual amenity of the site, the streetscene and the wider surrounding area. The proposal is therefore contrary to policies S1, S2, S8, D1 and H4 of the Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.
- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.