



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

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

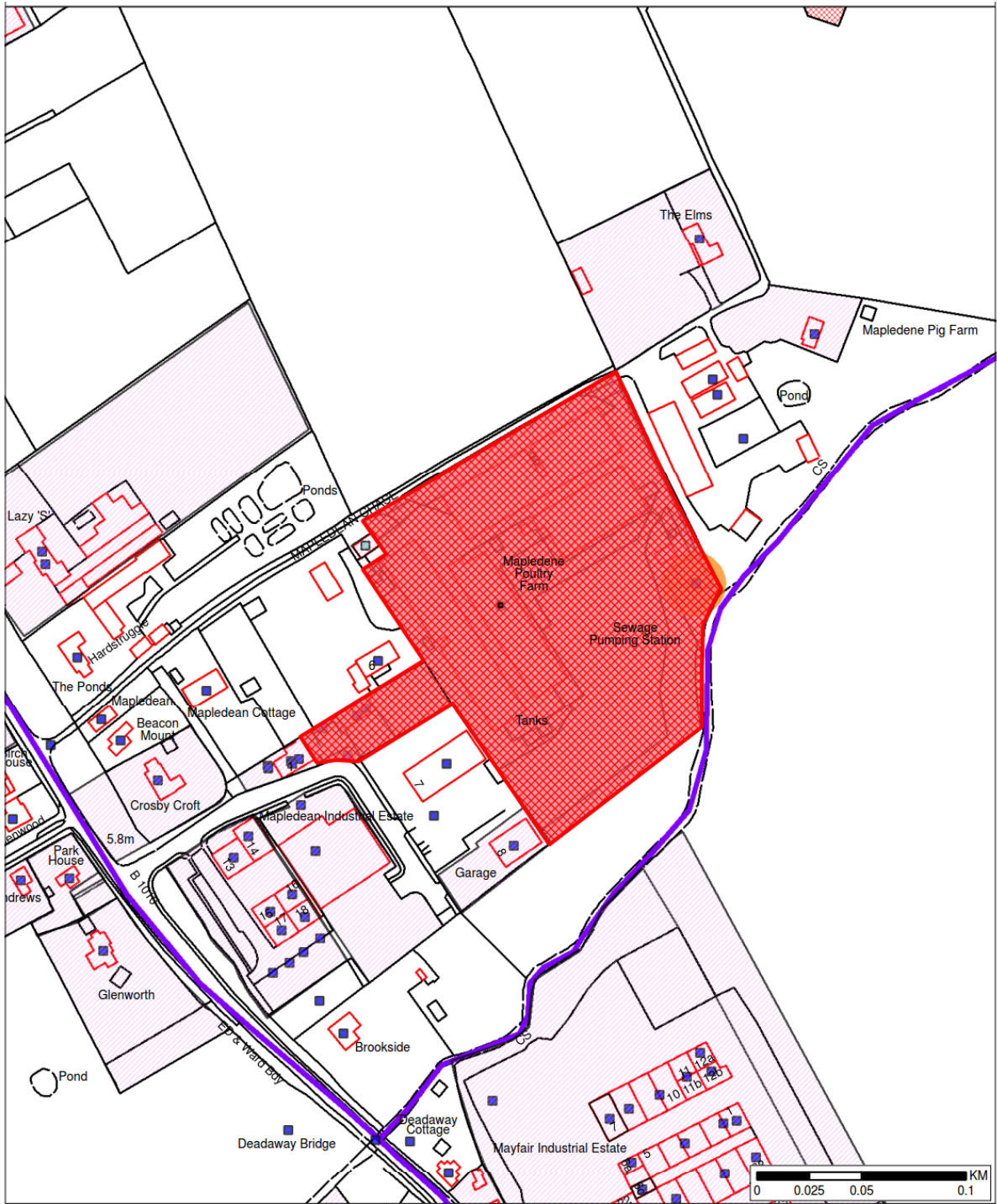
Application Number	18/01034/OUT
Location	Mapledean Poultry Farm Mapledean Chase Mundon Essex
Proposal	Redevelopment of poultry farm for approximately 5030sqm B1 (b) & (c) commercial floorspace with associated access arrangements
Applicant	B.J. Rock Ltd & S.P. Bardwell Ltd
Agent	Mr Peter Le Grys - Stanfords
Target Decision Date	Extension Target Date 15 March 2019
Case Officer	Julia Sargeant / Yee Cheung
Parish	MUNDON
Reason for Referral to the Committee / Council	Previous Committee Decision Major Application

1. RECOMMENDATION

That Members agree the resolution to **REFUSE** outline planning application 18/01034/OUT as the Applicant has failed to enter into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations in relation to highway improvements and Travel Plan monitoring fee.

2. SITE MAP

Please see overleaf.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The planning application was an outline planning permission with ‘Appearance’, ‘Landscaping’, ‘Layout’, and ‘Scale’ matters to be reserved whilst ‘Access’ was for consideration. The proposal was to redevelop the site through the demolition of the existing poultry farm structures and the erection of approximately 5,030sqm of new buildings to be used for commercial purposes (Class B1 (b) and (c) uses with ancillary offices).

3.1.2 The outline planning permission was considered at the South Eastern Area Planning Committee on 11 March 2019 with the officer recommendation to refuse as the development proposal was contrary to the Development Plan Policies and the absence of a completed S106 legal agreement. The proposed reasons for refusal are listed below:

- 1 *The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The site has not been identified by the Council to meet the needs of the District in terms of Employment Land and insufficient evidence has been submitted to demonstrate the need for an additional 2.4ha of employment land outside the designated sites listed in policy E1. The development would result in an unjustifiable employment use outside the designated areas for employment purposes and by reason of its nature in an unjustifiable encroachment to what is currently considered as agricultural land. The development would be therefore unacceptable and contrary to the policies S1, S2 and E1 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2012).*
- 2 *The proposed development is located within a high-risk flood zone (flood zone 3a) and insufficient evidence has been submitted to demonstrate that there are no other available sites within lower risk of flooding that can accommodate the proposed development. Thus, the development is considered to fail the sequential test and therefore the proposal is unacceptable and contrary to policies S1 and D5 of the Maldon District Local Development Plan (2017), and Government advice contained within the National Planning Policy Framework (2012).*
- 3 *In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary provision of a new two metre wide pedestrian footway along the eastern side of Maldon Road from a point opposite the northbound bus stop to the main Mapledean Industrial Estate site access and the payment of a Travel Plan monitoring fee as requested by the Highway Authority, the impact of the development cannot be mitigated contrary to Policies S1, D1 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework*

3.1.3 The Minutes of the South Eastern Area Planning Committee meeting indicated that outline planning permission should be approved, contrary to Officer's Recommendation, as the development of the site would encourage rural diversification, supporting local businesses, as well as providing employment opportunities. Members agreed that the benefits of the development proposal would outweigh the harm caused subject to planning conditions and the completion of a S106 legal agreement in relation to highway improvements and Travel Plan monitoring fee as requested by Essex County Council (ECC) Highway Authority.

3.1.4 The highway improvements include the following:

'Prior to occupation, the existing bus stops on either side of Maldon Road nearest the proposed site access shall be improved. The northbound stop (towards Mundon) shall be provided with a new pole and flag, timetable information and raised kerbs to facilitate pedestrian and wheelchair access. The southbound stop (towards Latchingdon) shall be provided with a new pole, flag and timetable information. Full details are to be agree with the Highway Authority.'

'A new two metre wide pedestrian footway shall be provided along the eastern side of Maldon Road from a point opposite the aforementioned northbound bus stop to the main Mapledean Industrial Estate site access. Dropped kerbs and tactile paving shall also be provided to connect to the existing footway on the south side of the access junction.'

3.1.5 In addition to the above, the Highway Authority has also requested financial contribution of the following:

'Prior to first occupation of the proposed development, the Developer shall submit a formal employee travel plan to the Local Planning Authority for approval in consultation with Essex County Council. The approved travel plan shall then be actively implemented for a minimum 5 year period from first occupation of the development. A monitoring fee of £5,000 (plus the relevant sustainable travel indexation) will be payable on first occupation of the development, to cover the 5 year period.'

3.1.6 The completion of a S106 legal agreement would have been necessary in this instance as the development proposal would have added pressure to the local highway networks.

3.1.7 It is important to note that the Council has been working with the Applicant in relation to the submission of a S106 legal agreement. Due to the wording of the above requirements to make the development acceptable to all road users, the onus lies with the Applicant to liaise with the Highway Authority to ensure that a legal agreement has been completed between the relevant parties and notifying the Council to confirm that this has been satisfactorily addressed prior to the issue of the decision notice.

3.1.8 Based on the email communications between the Council and the Agent in May 2020, it appears that the Agent has not been able to agree terms for the legal agreement with

the Highway Authority and may appeal and claim for costs against the Highway Authority for unreasonable behaviour.

- 3.1.9 Taking into account the above information, and the Minutes of the South Eastern Area Planning Committee on 11 March 2019 relating to the outline planning application 18/01034/OUT, the Council considers that now would be a reasonable time to determine the application with the recommendation to refuse the proposal in the absence of a completed S106 legal agreement. This would also assist the Applicant wishing to move forward and appeal against the terms of the legal agreement as set out by the Highway Authority.

4. CONCLUSION

- 4.1 It is recommended that the Members recommendation to approve the outline planning application on 11 March 2019 subject to the completion of a S106 legal agreement in relation to highway improvements and Travel Plan monitoring fee be revisited.
- 4.2 The planning application should be refused for the following reason:

In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary provision of a new two metre wide pedestrian footway along the eastern side of Maldon Road from a point opposite the northbound bus stop to the main Mapledean Industrial Estate site access and the payment of a Travel Plan monitoring fee as requested by the Highway Authority, the impact of the development cannot be mitigated contrary to Policies S1, D1 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework (2019).

5. BACKGROUND PAPERS

- 5.1 Report to South Eastern Area Planning Committee on 11 March 2019 (Item No. 5) (**APPENDIX 1**)
- 5.2 Consultation response from Essex County Council Highway Authority in relation to outline planning application 18/01034/OUT (**APPENDIX 2**)
- 5.3 Minutes of South Eastern Area Planning Committee on 11 March 2019 (**APPENDIX 3**)