



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
16 DECEMBER 2020**

<b>Application Number</b>	<b>20/01000/OUT</b>
<b>Location</b>	Building at the Old Dairy, Broad Street Green Road, Great Totham
<b>Proposal</b>	Replacement of a commercial building with up to three dwellings
<b>Applicant</b>	Mr Lawson
<b>Agent</b>	Peter Le Grys – Stanfords
<b>Target Decision Date</b>	15.12.2020
<b>Case Officer</b>	Hayleigh Parker-Haines
<b>Parish</b>	<b>GREAT TOTHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member call in from Councillor J V Keyes Reason: S1, S8, E1 and H4

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**Building At The Old Dairy, Breat Street Green Road, Great Totham**  
20/01000/OUT



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	<b>Organisation:</b>	Maldon District Council
	<b>Department:</b>	Department
	<b>Comments:</b>	NW Area Planning Committee
	<b>Date:</b>	01/12/2020
	<b>MSA Number:</b>	100018588

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### **3. SUMMARY**

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

- 3.1.1 The application site is located to the western side of Broad Street Green Road and does not fall within any defined settlement boundary. The existing building is located central to the wider site which has an existing lawful B1 (b) and (c) use. The red line boundary extends approximately 0.10 hectares and is currently occupied by a commercial building used in association with the wider site. The surrounding area is predominately residential consisting of properties fronting Broad Street Green Road, with linear residential development fronting Poplar Grove Chase to the south.
- 3.1.2 The application site is bordered by open fields to the north and west, a commercial building directly to the east, with an access to a barn and stables to the north west of the site running through the site.
- 3.1.3 Outline planning permission is sought for the principle of up to three dwellings with an unknown number of bedrooms. 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 matter application, should outline permission be granted for this proposal. Nevertheless, all material planning considerations are relevant where applicable to this application.

#### **3.2 Conclusion**

- 3.2.1 It is not considered that the provision of up to three dwellings would be acceptable on this site, due to the unjustified loss of employment and the impact on the character and appearance of the surrounding area. The development would result in an incongruous grain of development and would not make an overly positive contribution in terms of social or economic sustainability. 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
- 102 – 111 Promoting sustainable transport
- 117 – 123 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
- E1 Employment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

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

5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990), and through Government policy, at paragraph 47 of the National Planning Policy Framework (NPPF).

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

***“For decision taking this means:***

*“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed” or*

*“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

*‘Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)*

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37)
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The Local Development Plan through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF’ the Local Planning Authority are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

5.1.8 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’*

5.1.9 The application site is located 700 metres from the settlement boundary of Heybridge and over 1200 metres from the settlement boundary of Great Totham. Heybridge is described under Policy S8 as being a main settlement, with a range of services and employment opportunities, retail and education with good public transport links. Furthermore, there is a bus stop located to the south of the access which is serviced by the 75 offering frequent transport to Maldon and Colchester. Therefore, it is considered that in terms of sustainability and accessibility the site would be appropriately located, despite being outside a defined settlement boundary, due to the close proximity to numerous facilities. There is also a bus stop located approximately 54 metres from the access as shown on the Block Plan provided

5.1.10 Further to the above, the site is previously developed land and it is noted that the NPPF states that that planning policy and decisions should give weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. This site is not within a settlement boundary and whilst the NPPF encourages the re-use of land, this does not necessarily mean that the re-use for residential purposes should automatically be supported.

5.1.11 Policy S8 states 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 the development is for one of the development types listed within that policy. The proposed residential dwellings would not fall within any of the categories listed within policy S8. It is considered that the site could be used for any of the accepted purposes that are set out within policy S8 which would be policy compliant whilst also achieving the re-use of previously developed land. Such uses should be explored before it can be argued that residential use is the only prudent re-use of the site. No information has been provided in relation the other options explored.

5.1.12 Furthermore, the NPPF supports the re-development of previously developed land within settlement boundaries. As stated above, the application site falls outside of any defined settlement boundary and whilst the LDP currently carries limited weight in this regard, it is not considered, taking into account the above assessment that the proposed provision of three dwellings on this land would be supported taking into account the guidance contained within the NPPF.

5.1.13 It is acknowledged that the site is relatively well connected by means of sustainable transport and this is given appropriate weight in the assessment of the application. However, based on the above assessment, it is not considered that sufficient information has been provided to evidence that the use of the land for residential purposes is the only viable option for the site and that other, more appropriate, uses

have been considered. Therefore, the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

## **5.2 Employment**

5.2.1 The proposed development would result in the loss of an existing employment use (previous B1, now known as Class E (E(g))) therefore the application will also need to be assessed against policy E1 of the LDP.

5.2.2 Policy E1 of the LDP, states that proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:

- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
- 2) The site would have a greater benefit to the local community if an alternative use were permitted; or*
- 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.*

5.2.3 With regards to Policy E1(1), the existing lawful use of the site is B1 and the site has been used as a commercial premise in excess of 50 years. Therefore, it is not considered that the present use of the site significantly harms the character and amenity of the area.

5.2.4 With regard to Policy E1(2) the proposal seeks to demolish the existing building and replace it with up to three dwellings. Notwithstanding the lack of a 5YHLS, the residential use is not considered to provide any pertinent benefits to the local community that would weigh heavily in the proposal favor.

5.2.5 With regard to Policy E1(3), the policy clarification states that the site should be marketed for a sustained amount of time and it is generally considered that 1 year is appropriate. Supporting evidence has been provided which consists of three letters from Kemsley; two of which relate to the marketing of the whole site for sale (dated 25<sup>th</sup> April 2017 and 16<sup>th</sup> August 2017) and the other is dated 26<sup>th</sup> June 2019. The earlier letters confirm that the premises as a whole was marketed appropriately and the latter advises that there were few enquiries towards the premises with no inspection of the premises from outside parties. The premises was advertised on Kemsley's website, a marketing board was erected outside the site and an advert was placed in the Maldon and Burnham. The letter goes on to state that of the parties that made enquiries, a number were interested in acquiring the property as to the potential sale for residential development, concluding that no notable enquiries were received during the two year time period.

5.2.6 The supporting information indicates that the site has been marketed in excess of one year, as recommended. However, it must be noted that this application relates solely

to one building within the site rather than the site as a whole. If the Applicant wishes to break up the planning unit, as with this application, it would be reasonable for the marketing of the site to have allowed for such an approach. Therefore, whilst it is noted that the site has been marketed for some time it is not considered that the supporting information provided would substantiate the claim that the application site itself has been marketed appropriately. Therefore, given the above it is not considered that the proposed development is in compliance with Policy E1 of the LDP.

### **5.3 Housing Need and Supply**

- 5.3.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position and the engagement of paragraph 11d, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.3.2 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. The Council is therefore encouraged in the approved policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.3.3 Whilst the LDP carries limited weight at present in terms of the policies relevant to the delivery of housing (S2 and S8), the NPPF is clear that housing should be provided to meet an identified need. Therefore, it is still considered that weight should be afforded to the evidence base from the SHMA. The proposal would provide up to three dwellings and such a limited provision of dwellings would make a negligible contribution to the district's housing supply. However, should the application be approved it is considered that a condition could be imposed to ensure that three smaller dwellings are provided (maximum of two bedrooms); this would weigh in favour of the proposed development and would contribute towards the social strand of sustainability within the NPPF. However, overall this is considered to be of a limited benefit.

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

- 5.4.1 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.

5.4.2 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”.*

5.4.3 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;*
- 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.’*

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

5.4.5 The surrounding area is characterised by larger dwellings set within spacious plots which maintain a degree of openness that contributes to the character and appearance of the site, or by pairs of dwellings set within spacious plots with an average pair occupying a plot width of between 30 and 40 metres. Properties to the east of Broad Street Green are set between 3 metres and 22 metres from the boundary with Broad Street Green Road and properties to the north of Poplar Grove Chase are set between 14 metres and 22 metres from the boundary with this highway. The application site has a width of 30 metres and is set approximately 28 metres from the boundary with Broad Street Green Road.

5.4.6 Whilst it is noted that the proposed residential dwellings would replace an existing industrial building the proposed development would cause material harm to the character and openness of the countryside by resulting in the domestication and urbanisation of the site and the countryside, which would be exacerbated by the unavoidable resultant residential paraphernalia that would accompany the proposed dwelling. The intrinsic character of the countryside is that it should be open and free from unnecessary development. Erecting up to three dwellings at this site would therefore erode the character and appearance of the site and represent the intrusion of residential development into the site.

- 5.4.7 Based on the area of the application site and its location, it is considered that the provision of three dwellings on this site would result in an incongruous form of development taking into account, that other properties along Broad Street Green Road have a frontage on to the highway, the location of the site would result in up to three dwellings set further back and without any interaction with the highway, going against the existing grain of built form which contributes to the character and appearance of the surrounding area. Furthermore, whilst it is noted that the application is outline in nature it is noted that the properties within the surrounding area are generally set within spacious plots and due to the limited size of the site (0.10 hectares) it is considered that the provision of three dwellings on this parcel of land would not be able to replicate the general openness and spaciousness which makes up the prevailing character of the area. This concern is reflective of the points raised by the Planning Inspector when dismissing an appeal at the site in 2017 (paragraph 13). Whilst it is noted within the supporting statement accompanying the application, it is the intention that the proposed built form to be provided would be comparable to the existing built form on site; it is considered that due to the inherent domestication of the site (e.g. parking, domestic paraphernalia etc.), the site being within the countryside, the proposals conflict with the existing urban grain and the fact the application is outline in nature the Council does not consider that this position can be agreed with.
- 5.4.8 As the proposal is in outline form with all matters reserved it is considered that it is not the appropriate arena to assess the scale, layout or appearance of the development in details. Notwithstanding, however well these matters are addressed at reserved matters stage, the abovementioned harm will not be able to be off-set or mitigated.
- 5.4.9 Having considered the above, due to the resultant and inherent domestication and urbanisation of the site, the proposal would significantly harm the site and result in a detrimental impact upon the character and appearance of the area contrary to the guidance within the NPPF, policies S1, S8, D1 and H4 of the LDP and the adopted MDDG.

## **5.5 Impact on Residential Amenity**

- 5.5.1 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. Similarly, policy D2 of the approved LDP requires all development to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.5.2 The application site is bordered by open fields to the north and west, a commercial building directly to the east with No.28 to the east of this approximately 17 metres from the application site, with the next closest immediate neighbouring property being to the south 'Holly Cottage' No.30 Broad Street, Green Road. This property is located over 30 metres from the application site. Subject to the detailed positioning of the proposed dwelling, it is considered that up to three dwellings could be built on the

application site which would not result in a harmful loss of light or loss of privacy to these neighbouring occupiers.

5.5.3 Furthermore, it is considered that, subject to appropriate conditions, the level of development proposed could be provided on site without having a detrimental impact on the standard of accommodation provided through the interrelationship between the dwellings.

5.5.4 The proposed dwellings would be located within a wider commercial site, with access to stables and barn which are located to the north west of the application site, running through the centre of the application site. A noise impact assessment has not been provided as part of this application and therefore, limited information has been provided as part of this application in regards to the noise impacts of commercial enterprise, and the potential impact this would have on the future occupiers of the dwellings. Environmental Health have not raised any concerns in relation to this aspect, therefore, it is considered that subject to the inclusion of an appropriately worded condition in relation to the noise impacts, it is considered that this could be overcome.

## **5.6 Access, Parking and Highway Safety**

5.6.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. 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.

5.6.2 It is noted that access is a matter reserved for future consideration. However, the proposed access to the dwellings would utilise the existing access to the north eastern corner of the site and it is considered that the existing access would be adequate to serve the proposed development. Although layout is a reserved matter and the number of parking spaces required cannot be confirmed as the size and number of the dwellings is unknown, it is considered that the site would be of ample size to enable adequate parking to be provided.

## **5.7 Private Amenity Space and Landscaping**

5.7.1 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.

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

## **5.8 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.8.1 The application site falls within the ‘Zone of Influence’ (ZoI) 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.
- 5.8.2 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England (NE) would not provide bespoke advice. However, NE’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.8.3 To accord with NE’s requirements, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European site in terms of increased recreational disturbance, as follows:

### HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? **Yes**

Does the planning application fall within the following development types? **Yes - The planning application relates to up to three dwellings**

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.**

- 5.8.4 As a competent authority, the LPA concludes that the project will, without mitigation, have a LSE on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account NE’s advice, it is considered that mitigation, in the form of a financial contribution of £125.58 per dwelling is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.

5.8.5 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.

## **5.9 Planning Balance and Sustainability**

5.9.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.

5.9.2 Notwithstanding, and as noted at 5.1.7 above, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making and case law (noted in preceding paragraphs), confirms that other policies in the plan are still relevant for decision making purposes where they are applicable to the proposal under consideration.

5.9.3 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.

5.9.4 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional units may support local businesses within the settlement such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Furthermore, the proposed development would result in the loss of an existing employment generating use and as discussed above it is not considered that an acceptable level of evidence has been provided to argue that the loss of the employment land is acceptable. Any economic benefits would therefore be considered negative.

5.9.5 In social terms the development should assist in supporting a strong, vibrant and healthy community. The site is considered to be located in an area where there is access to facilities and is not remote from day to day services without the unavoidable need for the use of a private car. The site currently has a lawful commercial use; this also contributes to the community through the provision of employment opportunities, and as stated within section 5.3 of this report, it is not considered that the loss of employment has sufficiently been justified. As the application is outline in nature, the number of bedrooms within each dwelling is unknown, therefore, it is considered that should the application be approved a condition could be imposed to ensure that three smaller dwellings are provided, this would provide some weight in favour of the proposed development in social terms. Notwithstanding this, it is worth noting that due to the limited number of dwellings proposed the social benefits are considered to be of a minimum.

5.9.6 In environmental terms the accessible location of the site could offer some environmental benefits, again, by removing the unavoidable need to use private cars

for access to everyday needs and services. The availability of public transport is also favourable in environmental terms. However, this would need to be balanced against the impact of the development on the surrounding area and any environmental impact that may be caused. As stated within section 5.4 of this report, it is considered that the provision of up to three dwellings in this location would go against the existing grain of development in this location and would have a detrimental impact on the character and appearance of the surrounding area. Therefore, taking both into consideration it is not considered that the proposed development is acceptable in environmental terms.

- 5.9.7 Having regard to the poor sustainability credentials of the site and the fact that there are limited public benefits to the scheme, i.e. the proposal would be for market housing and not affordable, it cannot be determined whether the dwelling would make a positive contribution in terms of housing mix and the proposal is contrary to Policies S1, S8, D1 and H4 of the LDP, it is not considered that there are benefits that outweigh the harm on the character and appearance of the area.

## 6. ANY RELEVANT SITE HISTORY

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
<b>91/00293/FUL</b>	Closure of existing vehicular access and formation of new access.	Approved
<b>09/00532/FUL</b>	Change of use from Milk Depot to employment and light industrial (B1). Extensions and alterations to existing building. .	Approved
<b>13/00292/HOUSE</b>	Erection of a timber framed single storey garage	Approved
<b>14/00554/COUPA</b>	Conversion of office to residential units	Refused
<b>15/01200/FUL</b>	Replace existing B1 industrial building with proposed children's day nursery and one dwelling.	Refused Appeal Dismissed
<b>16/00743/FUL</b>	One dwelling	Refused Appeal Dismissed
<b>16/01231/FUL</b>	Extension to office building to form an attached live/work unit	Refused Appeal Dismissed
<b>17/01272/FUL</b>	Extension to office building to form an attached live/work unit	Refused Appeal Dismissed
<b>19/01233/FUL</b>	Extension to office building to form an attached live/work unit.	Refused
<b>20/00987/LDE</b>	Claim for lawful development certificate for the existing use of building for B1(a) office purposes in breach of condition 3 imposed upon planning permission FUL/MAL/09/00532/FUL	Refused

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Great Totham Parish Council.	No response at the time of writing this report	N/A

### 7.2 Internal Consultees

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

### 7.3 External Consultees

Name of External Consultee	Comment	Officer Response
Essex Highways	No response at the time of writing this report	N/A

## 8. REASONS FOR REFUSAL

1. The proposed development, by reason of its location and position would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site, against the existing grain of development in the surrounding area. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012).
2. The proposed development would result in the loss of an employment use and it has not been demonstrated to the satisfaction of the LPA that there is no demand for an employment use at this site. The development would therefore be unacceptable and does not constitute sustainable development and is contrary to policies S1, S8 and E1 of the LDP and guidance contained within the NPPF.
3. 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.