



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
2 FEBRUARY 2022**

Application Number	21/01071/OUT
Location	Land North of Poplar Grove Chase, Great Totham
Proposal	Application for outline planning permission for one detached 3-bedroom dwelling with all matters reserved
Applicant	Mr A Lawson
Agent	Mrs Melanie Bingham-Wallis – Foxes Rural Consultants
Target Decision Date	EOT 09.02.2022
Case Officer	Devan Hearnah
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Member Call In: - Councillor J V Keyes. Policies D1 and H4 & S1.

1. RECOMMENDATION

REFUSE for the reasons set out in Section 8 of this report.

2. SITE MAP

Please see below.

21/01071/OUT
NWAC



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	<p>www.maldon.gov.uk</p>	<p>Organisation: Maldon District Council</p> <p>Department: Department</p> <p>Comments:</p> <p>Date: 12/01/2022</p> <p>MSA Number: 100018588</p>

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the western side of Broad Street Green Road, to the rear of The Old Dairy, a commercial premise. The site currently comprises a dilapidated stable building, trees and scrub. The site shares an access with The Old Dairy, which is taken from the western side of Broad Street Green Road. The site also lies to the north of Poplar Grove Chase, within a paddock. There is a barn to the northwest of the application site which was developed under approval 18/00056/FUL.
- 3.1.2 It is also worth noting that there is outline permission to replace an existing commercial building to the east of the application site with up to three dwellings. This site is directly adjacent to the application site and there is a small area of intervening land between the neighbouring site and the application site.
- 3.1.3 The surrounding area has a semi-rural nature. Aside from the barn, the area to the north of the application site is open countryside. As mentioned, there is a commercial premise to the east along with linear residential development fronting Broad Street Green Road and Poplar Grove Chase to the south. To the far west and south of the site is more open countryside/agricultural land.
- 3.1.4 Outline planning permission with all matters reserved is sought for a three-bedroom custom build and self-build detached dwelling. In this context, as all matters are to be reserved for future consideration, the following description of the proposal in terms of the access, appearance, layout, landscaping and scale of the development are indicative only.
- 3.1.5 The indicative plans show a traditionally designed, two storey residential dwelling, with an eaves height of 4.8m and a ridge height of 7.8m. The dwelling would have a gable roof running east to west with the principal elevation facing north. The dwelling would have a width of 9m and a depth of 7m. There would be two parking spaces to the front of the property and an area of private amenity space to the south.
- 3.1.6 The application follows the dismissal of two appeals at the site (16/00743/FUL and 18/01191/FUL) both of which were for a single dwelling, albeit larger than what is being proposed as part of this application (7 bedrooms and 5 bedrooms respectively) and on a larger site, which included the application site.
- 3.1.7 The 2018 scheme was of a lesser scale than the 2016 dismissed scheme, but larger than what is being proposed as part of this application. In determining the 2018 appeal the Inspector dismissed the proposal on the basis that the proposal would be unrelated to the existing ribbon development along Poplar Grove Chase, and Broad Street Green Road, and that the form of the proposed dwelling would not have followed that of other semi-detached and detached dwellings, which generally have limited footprints within smaller plots. This was also concluded by the previous Inspector relating to the 2016 scheme. The Inspector also acknowledged that although the site was surrounded by built form to a degree, there are sufficient gaps connecting the site with the truly open countryside to give it an open field character and appearance. It was considered that the North Heybridge Garden Suburb would only add value to the appeal site as an element of countryside as a built-up area and the presence of the barn to the north did not undermine that finding. Although the revised scheme would have been less visible from the public realm than the 2016 scheme, it was noted that the development would still be prominent from the surrounding properties. In concluding the Inspector found that not only is the proposal outside of the defined settlement boundary and had been found to be

unsustainable in terms of accessibility and unable to be likely to assist greatly in maintaining the vitality of rural communities, but it was also found to cause harm to the character and appearance of the area, contrary to local and national policy. Therefore, the social and economic benefits of a single house, together with the delivery of a self-build plot, did not outweigh the environmental harm.

3.1.8 For clarification purposes the site plan for the 2018 scheme and the proposed scheme have been provided below to show the differences in the site size. Whilst the site has been reduced in size, the above findings are directly applicable to the application site and form a material consideration in assessing this application. Therefore, these matters will be revisited in the assessment below.

2018 refused scheme (18/01191/FUL)



Current proposed scheme



3.2 Conclusion

3.2.1 Having taken all material planning considerations into account, an objection is raised to the visual impact of the development on the character and appearance of the site and the surrounding area. The development would represent an unwelcome visual intrusion into the site and would result in an unacceptable form of backland development which would urbanise the site. The limited social and economic benefits of the proposal would not outweigh the environmental harm, it would therefore be contrary to the National Planning Policy Framework (NPPF) and the policies of the Local Development Plan (LDP).

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2021 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
- 54-58 Planning Conditions and Obligations
- 60-80 Delivering a sufficient supply of homes

- 92–103 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 152–169 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment

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
- D2 Climate Change and Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) 2017 SPD
- Maldon District Vehicle Parking Standards (VPS) SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The 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 proposed development is for the construction of one, three-bedroom house.

5.1.3 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). The Council has published an up-to-date 5YHLS which concludes that the Council cannot currently demonstrate a 5YHLS.

5.1.4 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 8 - 8 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)

- 5.1.5 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 those 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).
- 5.1.6 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’.
- 5.1.7 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.
- 5.1.8 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP 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 LPA 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.
- 5.1.9 Paragraph 79 of the NPPF states that:
- 5.1.10 *‘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’.

5.1.11 Whilst it is acknowledged that the two previous Inspectors deemed the site not to be accessible in sustainability terms, there have been more recent planning decisions within the vicinity of the site that have found the immediate surrounding area to be accessible and therefore, these form a material consideration in determining the application. Those permissions are:

Application Number	Description	Location
20/01000/OUT	Replacement of a commercial building with up to three dwellings	Building At The Old Dairy Broad Street Green Road Great Totham Essex (east of the application site)
20/00043/FUL	Proposed two bed dwelling	Land Adjacent 1 Poplar Grove Chase Great Totham Essex (towards the southeast of the appeal site)

5.1.12 Given the abovementioned permissions are more recent than the appeal decisions at the site and having regard to their proximity to the application site, it would not be considered reasonable to reach a different conclusion in relation to accessibility. Therefore, as it was found as part of the abovementioned applications that there was suitable access to public transport and thus services and facilities it is considered that the site is accessible. However, accessibility is not the only aspect of sustainability and the environmental and social aspects of sustainability also need to be considered. This will be addressed in the sections below.

5.2 Housing Need and Supply

5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy 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, the NPPF states that LPAs 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.

5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.

5.2.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and NPPG, and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need

for specific groups and the need to provide housing for specific housing market segments such as self-build housing.

- 5.2.4 The proposal would comprise one three bedroom dwelling. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement being for 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds. Therefore, the proposal would meet this policy requirement. Nevertheless, it is considered that the benefits of providing one additional dwelling would make a minimal contribution to the Districts housing need. This minimal benefit will need to be weighed against the harm of the development as discussed in section 5.8.

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;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

- 5.3.5 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 Although the submitted layout is indicative, given the limited size of the application site, the fact that the site will utilise the existing access and that the dwelling will need to be of a certain size to provide three bedrooms, it is considered unlikely that there is much scope for alteration to the layout as shown.
- 5.3.7 Whilst the application site and the dwelling as shown is of a much smaller scale than the previously refused schemes, as outlined above, the previous Inspectors raised concerns over the fact that the development would not accord to the existing ribbon pattern of development and that it would be visible from public vantage points as well as from the neighbouring residential dwellings. Whilst the dwelling would be less visible from public vantage points, it would still constitute a backland form of development that would have no active frontage with the existing streetscene and would not accord with the linear form of residential dwellings in the surrounding area. Furthermore, the proposed dwelling would still be visible from neighbouring residential dwellings, most notably those along Poplar Grove, as it would be partially screened from the dwellings along Broad Street Green Road by existing vegetation. Therefore, whilst the degree of harm is less than that which was considered as part of the previous dismissed appeals, the development as proposed would still represent an unacceptable form of backland development which fails to conform with the surrounding grain of development. As discussed above it is unlikely that there are many other options of layout to explore at the site and none of which are likely to overcome these matters raised as the development will always be set behind the existing building line.
- 5.3.8 Although it is noted that three dwellings could come forward in the future on the site to the east and these would also be sited behind existing residential dwellings, with no active road frontage, they would still be contained within the existing building line and amongst the existing built form. In contrast a dwelling within the application site would appear as an awkward bolt on to the rear of the site, which cannot be mitigated by the presence of the existing barn building to the north as it is a rural outbuilding and is considered in its own context. The detachment between the application site and the neighbouring site would also be exacerbated by the fact the two sites are separated by an intervening piece of land which is densely vegetated and contains a ditch, thereby further detaching the proposal from the existing built form.
- 5.3.9 Whilst the design of the dwelling as shown when considered in isolation is not objected to due to its traditional form and style, this does not overcome the harm relating the positioning of the proposal discussed above. Furthermore, the addition of a dwelling at the site would result in the urbanisation of the site which would be exacerbated by the loss of vegetation to facilitate an extension to the existing access and also the associated residential paraphernalia which comes with residential living. This refers to outbuildings, boundary treatments, garden furniture etc. Most notable is the provision of parking, which as shown would create a harsh car dominated frontage to the development. Parking to the front of dwellings is resisted under section C 10 of the MDDG. Although this element would not be highly visible from the public realm, the lack of visibility alone does not set aside the requirement for high quality development. Furthermore, there is nothing to ensure that the screening to the north of the site, outside of the site boundary will remain in perpetuity and there would likely be views from the neighbouring development to the east if that site were to come forward in the future.

- 5.3.10 For the reasons given it is considered that the proposal would result in demonstrable harm to the character and appearance of the area by creating a contrived and awkward form of backland development which would be visible from neighbouring properties. Therefore, the development is considered contrary to policies S1, S8, D1 and H4 of the LDP.
- 5.3.11 The planning statement suggests that the development proposed is comparable to that approved under application 18/00843/RES at Land Rear of Broad Street Green Road in that it was backland development. However, it is relevant to note that the development subject of 18/00843/RES cannot be considered in the same context as it was not enclosed by ribbon development and fronts an access track.

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 application is outline in nature, with matters relevant to the impact of the development on the neighbouring residential occupiers, such as scale, appearance and layout, being reserved for future consideration. Although it should be noted that if this application were approved there would be little scope for broadscale amendments to the layout as the plot size and shape largely dictates the location of the dwelling and thus the layout of the site. Nevertheless, given that the matters mentioned above are subject to submission and revision, it is not possible to fully assess the impact of the proposal on residential amenity.
- 5.4.3 Notwithstanding the above, the indicative layout shows that the rear of the dwelling would face south, towards the rear of the properties on the northern side of Poplar Grove Chase. However, as the rear of the application site is located at least 35m from the rear of the properties to the south, it is likely that a back-to-back distance of 25m can be achieved at the site regardless of the layout.
- 5.4.4 Currently there are no other residential properties surrounding the application site, albeit it is noted that there is outline permission for three dwellings to the east. Whilst the layout of that scheme is not yet known due to it only having outline permission, given the presence of the intervening area of vegetation and distance between the sites (8m) it is likely a layout can be achieved for both developments that do not cause demonstrable harm to neighbouring amenity. Therefore, it is considered that subject to design, scale and specific layout, a dwelling of a similar scale to what has been shown could be accommodated within the site without any significant loss of amenity, overlooking or loss of privacy to neighbouring occupiers or between the proposed dwelling.

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 Council's adopted VPS SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.5.3 The adopted vehicle parking standards state that a three bedroom dwelling should provide two vehicle parking spaces measuring 2.9m x 5.5m.
- 5.5.4 Vehicle parking provision would be dealt with in detail by way of a reserved matters submission if permission were to be granted. However, the illustrative site plan shows that the dwelling would be served by two vehicle parking spaces immediately to the north of the dwelling. Therefore, there is no objection in relating to car parking provision.
- 5.5.5 Whilst access is also a reserved matter, it is noted that it is intended for the development to make use of the existing access. Given that there would only be one additional dwelling served by the access, it is not considered that its use would be over intensified. Furthermore, the Local Highway Authority have been consulted and raise no objection subject to conditions relating to the provision of any gates at the access, the provision of off-street vehicle and cycle parking. If the application were to be approved these conditions would be included. However, given the scale of the development, the distance from the highway and the fact that the access is existing it is not considered reasonable or necessary to impose conditions relating to a residential travel pack, surface materials of the access or the discharge of surface water onto the highway.

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 Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sqm of private amenity space for dwellings with three or more bedrooms.
- 5.6.2 Private amenity space issues would be dealt with in detail by way of a reserved matters submission, if permission were to be granted. However, the development as shown on the indicative plan could provide a garden space in excess of 100m². Therefore, the development would provide adequate amenity space in accordance with Policy D1.
- 5.6.3 Landscaping would also be dealt with at reserved matters and it would be expected that a full landscaping scheme would be provided.

5.7 Impact on Ecology, Trees and Biodiversity

- 5.7.1 The application has been supported by a Preliminary Ecological Appraisal (Hybrid Ecology November 2021). The ecological appraisal includes precautionary measures for nesting birds and all retained trees and hedgerows. The development would involve the loss of a small section of vegetation to facilitate the access to the dwelling, but it is proposed to be replaced through additional planting. Furthermore, the ecological report states that all retained trees and hedgerows will be protected throughout the development in accordance with British Standard 5837 (2012).
- 5.7.2 Further to the above, it is noted that there is Horse Chestnut adjacent overhanging the eastern boundary of the site, which is not likely to be impacted by the development, particularly as there is already the stable building in place. However, it would need to be demonstrated as part of a reserved matters application that the forthcoming design has considered the tree constraints and that it would be suitably protected during any construction works.
- 5.7.3 In terms of ecological protection, it was found that the site was of limited scale and diversity and that there was no evidence of potential for legally protected species other than nesting birds. Therefore, works will only be carried out between October and February unless a negative nest check has been completed by an ecologist.
- 5.7.4 In terms of net biodiversity gain, in accordance with paragraph 174(d) of the NPPF and Policy N2 of the LDP, it is suggested that a new species-rich hedgerow could be planted along the southern edge of the access road and around the southern edge of the amenity space as shown. The development could also include habitat boxes for nesting birds and roosting bats. Whilst there is no objection to these measures, any forthcoming reserved matters application would also need to demonstrate as part of the landscaping scheme that any soft landscaping will enhance amenity and wildlife benefit.
- 5.7.5 Having regard to the above, subject to conditions to secure the mitigation and enhancement measures proposed there is no objection in relation to ecology, trees and biodiversity.

5.8 European Designated Sites

- 5.8.1 The application site falls within the 'Zone of Influence' (Zol) 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 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 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 the 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 (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes

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

5.8.3 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. NE does not need to be re-consulted on this Appropriate Assessment.

5.8.4 The Essex Coastal RAMS document has been adopted. A unilateral undertaking has been submitted with the application which secures the required contribution of £127.30 per dwelling will be provided along with the £30 checking fee which has been paid and the £50 monitoring fee. Therefore, there is no objection in this regard.

5.9 Other Material Considerations

Self-build register

5.9.1 The applicants are on the Council's Self-Build and Custom Housebuilding Register which is a material consideration in the determination of this application.

5.9.2 The 2015 Act (as amended) states that the Council has 3 years from the end of each base period in which to grant Permission in Principle (PiP) for the number of suitable plots of land for the entries in that base period. The three year time period for base periods one and two have now finished.

5.9.3 A review of the self-build register and appropriate sites that reflect the definition of self-build has been undertaken. The following data has been corroborated in this respect:

Summary table of number of individuals on Part 1/Part 2 of the Register:

Base Period	Base period	No. of individuals on Register part 1	No. of individuals on Register part 2
To 30/10/2016	1	1	0
31/10/2016-30/10/2017	2	4	0
31/10/2017-30/10/2018	3	5	0
31/10/2018-30/10/2019	4	0	5
31/10/2019-30/10/2020	5	1	2
31/10/2020-31/10/2021	6	4	2
	total	15	9

Summary table of number of permissions and number of individuals/groups on Part 1 of the Register:

	Base period 1	Base period 2	Base period 3	Base period 4	Base period 5	Base period 6	Total
No. of individuals on Part 1 of Register in each base period after Register review in September 2018	1	4	5	0	1	4	15
No. of groups on Part 1 of Register	0	0	0	0	0	0	0
Total No. entries on Part 1 of Register	1	4	5	0	1	4	15
Self-build permissions granted in each base period (no. dwellings)	0	7	5	6	3	3	24
Sites granted outline permission that would be suitable for self-build (no. dwellings)	2	9	6	6	1	4	28
Total sites granted planning permission (no. dwellings)	2	16	11	12	4	7	52

5.9.4 In all the base periods, the Council has granted the same number of, or more suitable development permissions than there are number of entries on Part 1 of the Register for that base period. Across the base periods there are 15 individuals on Part 1 of the Register. In comparison, 52 planning permissions for, or suitable for, self-build have been granted.

5.9.5 Given the above, this indicates that the Council has met its legal requirement.

5.9.6 Having regard to the guidance issued by the Secretary of State and that contained within the Planning Practice Guidance (PPG) and the above findings, it is considered the Council has met its need in respect of the Self Build Register. Therefore, limited weight is given in this respect in the determination of this application. Further, even if the identified need was not met, the harm identified in terms of impact on the character and appearance of the area would outweigh the benefit.

5.10 Planning Balance and Sustainability

5.10.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the local planning authority must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.

5.10.2 The key priority 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.

- 5.10.3 Notwithstanding the considerations as contained in those paragraph's, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.10.4 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.
- 5.10.5 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 unit may support local businesses within Great Totham and/or Heybridge. This would however be limited given the scale of the proposal relating to one dwelling. Equally, although it is noted that it is intended that the property is constructed as a self-build there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. No details are provided within the application to this effect. Any economic benefits would therefore be considered nominal.
- 5.10.6 In social terms the proposal would provide limited benefits to the vitality of the local area due to the limited scale of the development. The application is for one family dwelling and therefore provides limited benefits in terms of the housing supply or mix.
- 5.10.7 In environmental terms, whilst there would be some ecological enhancements proposed, these would be limited, again given the scale of the development. The development would also harm the character and appearance of the rural area as a result of introducing an unacceptable form of backland development.
- 5.10.8 Overall, taking this into account, the development is not considered to be sustainable as the limited benefits do not outweigh the substantial harm outlined within the report above.
- 5.10.9 It is noted that the planning statement relies on the Inspector's decision relating to 20/00043/FUL (Land Adjacent to 1 Poplar Grove Chase), where it was considered that there were limited social and economic benefits of the scheme. However, the Inspector noted that these limited benefits could only be attributed limited weight and found that there were no adverse impacts that would significantly and demonstrably outweigh that limited weight. However, that is not comparable to this application as it was infill development, opposed to backland development and there is a greater degree of harm resulting from this proposal. Therefore, the limited benefits must be weighed against the harm and in this instance the benefits are not considered to outweigh the environmental harm.

6 ANY RELEVANT SITE HISTORY

- **FULF/MAL/91/00293** - Closure of existing vehicular access and formation of new access. Approved: 04.06.1991
- **FUL/MAL/09/00532** - Change of use from Milk Depot to employment and light industrial (B1). Extensions and alterations to existing building. Approved: 17.08.2009
- **HOUSE/MAL/13/00292** - Erection of a timber framed single storey garage. Approved: 18.06.2013
- **COUPA/MAL/14/00554** - Conversion of office to residential units. Refused: 06.08.2014

- **FUL/MAL/15/01200** - Replace existing B1 industrial building with proposed children's day nursery and one dwelling. Refused: 26.01.2016. Appeal dismissed: 11 April 2017 (reference: APP/X1545/W/16/3154913)
- **FUL/MAL/16/00743** – One dwelling. Refused: 25.08.2016. Appeal dismissed: 11 April 2017 (reference: APP/X1545/W/16/3162966)
- **FUL/MAL/16/01231** – Extension to office building to form an attached live/work unit. Refused: 12.07.2017. Appeal dismissed: 11.08.2017
- **FUL/MAL/17/01272** - Extension to office building to form an attached live/work unit. Refused: 07.03.2018. Appeal dismissed 22.07.2019
- **FUL/MAL/18/01191** - Extension to office building to form an attached live/work unit. Refused: 10.01.2019. Appeal dismissed 2.12.2019.
- **FUL/MAL/20/01000/OUT** – Replacement of commercial building with up to three dwellings. Approved 12.01.2021.

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	Backland development located outside of the development boundary	Addressed at section 5.3

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No objection subject to conditions	Addressed at section 5.5

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to drainage conditions	Noted, conditions should be included if the application were to be approved.
Ecology	No objection subject to conditions and securing a RAMS contribution	Addressed at section 5.7
Tree Consultant	There is a mature Horse Chestnut adjacent to the site that has not been considered in an arboricultural capacity. It is unlikely that the tree will be impacted by the proposal, but its constraints and the protection measures that will be implemented to ensure its protection and	Addressed at section 5.7

Name of Internal Consultee	Comment	Officer Response
	retention need to be provided as part of a detailed application. Soft Landscaping will also be required to show how it will enhance amenity and wildlife benefit, as well as including elements of secure by design where appropriate.	

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received to date.

8 REASON FOR REFUSAL

1. The application site lies within a rural location. The proposed development would represent an unacceptable form of backland development that fails to accord with the prevailing pattern of development within the area. The development would be visually prominent from surrounding properties and would result in an unwelcomed visual intrusion and urbanisation of the site, to the detriment of the character and appearance of the surrounding area. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.