



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
17 AUGUST 2022**

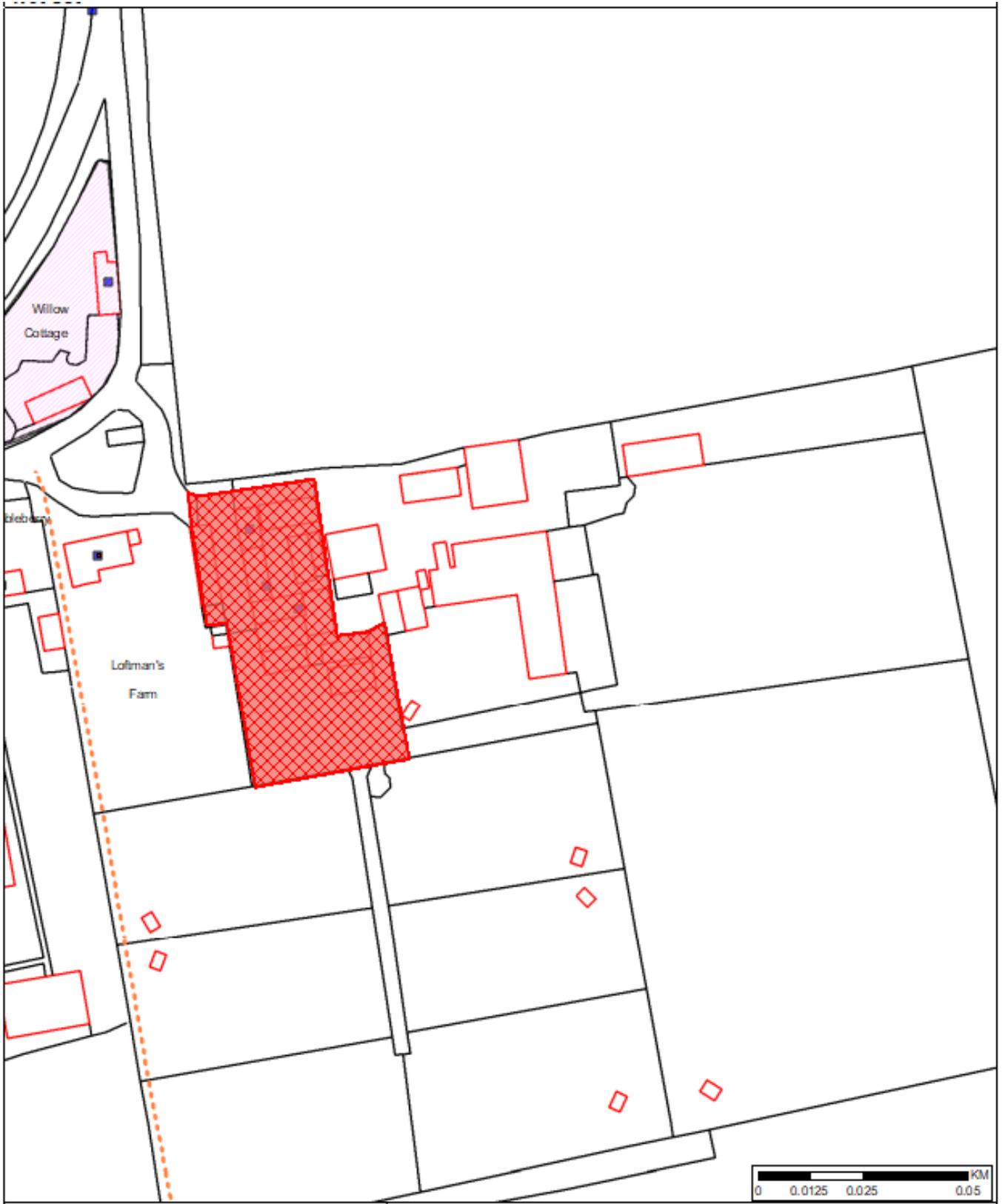
<b>Application Number</b>	<b>22/00473/FUL</b>
<b>Location</b>	Loftmans Farm Maldon Road Steeple CM0 7RR
<b>Proposal</b>	Construction of a two storey detached dwelling. Change of land use to C3.
<b>Applicant</b>	Mr Steven Massenhove
<b>Agent</b>	Mr Anthony Cussen - Cussen Construction Consultants
<b>Target Decision Date</b>	20.05.2022 EOT Requested
<b>Case Officer</b>	Hannah Bowles
<b>Parish</b>	<b>STEEPLE</b>
<b>Reason for Referral to the Committee / Council</b>	Member call in from Councillor Mrs P A Channer Reason: S1 - Sustainable growth, S8 - Settlement Boundaries and the Countryside and D1 - Design Quality and Built Environment.

**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.



### **3. SUMMARY**

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

- 3.1.1 The application site is located on the south east side of Maldon Road, in a rural location, outside of a defined settlement boundary. The application site is located within a small, developed area comprising commercial and residential development. A number of single storey outbuildings, formally used as kennels, currently occupy the site. The area of land immediately to the east, south and west of the site as outlined in red, falls within the ownership of the applicant and comprises a dwelling, further commercial outbuildings and paddocks.
- 3.1.2 Planning permission is sought for the construction of a two storey detached dwelling and change of land use to C3. The existing outbuildings which currently occupy the site would be demolished in favour of the proposed development.
- 3.1.3 The proposed two-storey dwelling would take the form of an American style property with a front veranda with two side projections at ground floor level. The dwelling would measure a maximum of 13.7m wide, 14.25m deep, with the open sided veranda extending the depth a further 2.5m. The eaves height extends to 4.8m with an overall ridge height of 7.8m. The spacious dwelling has labelled three rooms as bedrooms, with one bedroom on the ground floor of the dwelling and a large TV room /Office on the first floor.
- 3.1.4 The proposed dwelling would be sited towards the front of the spacious site, which amounts to 0.2 hectares. The proposed parking provision would be sited to the front of the dwelling, with the private amenity space to the rear. The existing access point and associated track would not be altered.
- 3.1.5 Notwithstanding the wording on the submitted plan, the proposed dwelling would be an open market dwelling, as indicated within the submitted application form.

#### **3.2 Conclusion**

- 3.2.1 The proposed development is contrary to guidance contained within the National Planning Policy Framework (NPPF), and the Council's policies within the Local Development Plan (LDP), as the development proposed is not located within a sustainable location in terms of its accessibility to facilities and services and sustainable transport modes. Further, given the sites lawful use as a boarding kennels, the proposal would result in the unjustified loss of an employment generating use. Objection is, therefore, raised to the principle of the development. It is also considered that the proposal would have a materially adverse impact on the character and appearance of the site and surrounding area. Further, the application has not been supported by any ecology information to ensure the proposal would not have an adverse impact on protected and priority species. Furthermore, a financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has not been secured and the necessary payment has not been made. Therefore, it is recommended that planning permission is refused on this basis.

### **4. MAIN RELEVANT POLICIES**

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

#### **4.1 National Planning Policy Framework (NPPF) 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
- 78-80 Rural Housing
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

#### **4.2 Maldon District Local Development Plan (LDP) 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 SPD
- Maldon District Vehicle Parking Standards SPD

### **5. MAIN CONSIDERATIONS**

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

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

5.1.2 The proposed development is for the construction of a new dwellinghouse and the demolition of the existing outbuildings, which were last formally used as boarding kennels, which ceased use in 2010.

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 Five Year Housing Land Supply 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 8, 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."*

- 5.1.5 Footnote 8 - 8 This includes, for applications involving the provision of housing, situations where the LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)
- 5.1.6 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 5 year housing land supply cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.1.7 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'.
- 5.1.8 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.
- 5.1.9 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 is 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.

5.1.10 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'.*

5.1.11 As stated above, the site is located outside of any defined settlement boundary, within a rural area, set in the open countryside which stretches between the settlements of Mayland and Steeple. The site is located approximately 640m from the edge of the settlement boundary of Steeple and 1300m from the edge of the settlement boundary of Mayland. The closest form of public transport is a bus stop located some 2415m from the application site, within the settlement of Mayland.

5.1.12 There are no public footpaths or pavements leading from the site into the settlements and the site is located off the busy, 60mph road with thin grass verges and no streetlights. Further, the site is set on a sharp bend in the road. The future occupiers of the site are considered extremely unlikely to undertake journeys by foot, given the distance of the site from the settlements and the limited facilities and services contained within Steeple and Mayland and given the dangerous conditions this would place them in, the speed of the road, restricted visibility round the corners and the lack of footpaths or pavements. Therefore, it is not considered that the site is in an accessible location and the occupiers of the site would be heavily dependent on the use of private vehicles to gain access to all day-to-day services and facilities such as schools, shops, medical services and employment.

5.1.13 Based on this assessment, the location of the site would fail to discourage the use of private cars. Paragraph 105 of the NPPF states that "The planning system should actively manage patterns of growth in support of these objectives [sustainable transport]. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes." The proposal would also not accord with Policy T2 of the LDP where it seeks 'to provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate'.

5.1.14 The proposal, therefore, would have a negative impact on the environmental dimension of sustainable development in relation to accessibility and an objection on this basis is raised.

#### ***Loss of an Employment Generating Use***

5.1.15 The proposal would result in the removal of several outbuildings which were last lawfully used as boarding kennels, which is considered to fall within a Sui Generis Use of an employment nature. The applicant has set out within their Design and Access Statement, that *'The dog boarding business was founded during the early part of the 1980s and operated until the owner's mother's retirement in the early part of 2010. It is therefore expected that the land that makes up the application site retains its original agricultural use although the council's office records were not available to the applicant at this time, may contain further information'.*

5.1.16 The Council's records show that the last lawful use of the site was as a boarding kennel approved under the terms of MAL/990/81. It is not clear why the applicant believes that the site would retain/revert to its original agricultural use following the cessation of the use as a boarding kennel, in the absence of any justification or information to confirm it is lawfully within an agricultural use, the Council do not consider this to be the case. Therefore, based on the records the Council holds, the lawful use is considered to be a boarding kennel, falling within a Sui Generis Use of an employment nature. The proposed would therefore result in a loss of an employment generating use.

5.1.17 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. Where appropriate and viable, proposals which will result in loss of significant employment space will be expected to provide mitigation measures in the form of contributions to local employment training and small business growth programmes supported by the Council'.*

5.1.18 With regard to Policy E1(1), application MAL/990/81 approved planning permission for the site to be used as a boarding kennel, subject to conditions. The boarding kennel ceased its use due to the retirement of the owner's mother in 2010. The use of the site as a boarding kennel was previously assessed and found to be acceptable and there is nothing before the Council that would contradict this. Therefore, it is not considered that the current use is harming the character or amenity of the surrounding area. Therefore, it is not considered that the present use and activity on site significantly harms the character and amenity of the adjacent area.

5.1.19 With regard to Policy E1(2) the proposal seeks to demolish the existing buildings which are within an employment generating use and replace them with a single dwelling. The residential use is not considered to provide any pertinent benefits to the local community that would weigh heavily in the proposals favour. Whilst benefits can be drawn from different elements of the proposal, there would be no directly greater benefit to the local community when considering the proposed development and change of use. Therefore, it is considered that a residential development would have a negligible benefit to the local community.

5.1.20 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. This has not been undertaken.

5.1.21 Therefore, given the above it is not considered that the proposed development is in compliance with Policy E1 of the LDP and an objection on the grounds of an unjustified loss of an employment generating use is raised.

5.1.22 Given the above assessments in relation to the accessibility credentials of the site and the unjustified loss of an employment generating use, it is not considered that the proposed development is acceptable in principle.

## **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 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.
- 5.2.2 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 Housing Needs Assessment (HNA) (2021) 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 HNA is wholly compliant with the latest NPPF and Planning Practice Guidance, 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 provide a three-bedroom dwelling. The Maldon District Local Housing Needs Assessment (May 2021) concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings: specifically, 25-35% 2-beds and 40-50% 3-beds. Whilst the proposed dwelling is labelled as a three-bed dwelling, as set out above, the spacious dwelling has one bedroom on the ground floor of the dwelling with an en-suite, dressing room and walk in wardrobe, which would suggest this ground floor room would be retained as a bedroom. The first floor provides a further two bedrooms on the first floor and a large TV room/Office. Given the level of accommodation provided within the dwelling, it is considered that the office/TV room is likely be utilised as a bedroom.
- 5.2.5 Therefore, as the proposal is for a single four-bed dwelling, the development would not contribute to the Council's greatest housing need and provides a negligible benefit in this respect.

## **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 Maldon District Design Guide (MDDG) (2017).
- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.6 The proposal is for the demolition of the existing outbuildings and the erection of a large two storey dwelling.
- 5.3.7 The site as existing contains a number of outbuildings, which are currently in an employment generating use, the buildings were originally a former piggery on site converted into kennels and the range of buildings appear as low-level agricultural buildings. Given the small enclave of development in this area, the existing buildings, whilst fairly sprawling over the site, do not appear out of context or harm the character and appearance of the area.
- 5.3.8 Whilst the proposal would result in the demolition of the existing structures on site, the floor area of which exceeds that of the proposed dwelling, it is not considered that the scale, use and siting of these existing buildings justify the erection of a large two storey dwelling nor are comparable to that of the proposed dwelling, which would be significantly taller and more prominent form of development, in addition to being a use which is not compatible with the rural countryside location. The introduction of a dwelling to the site is considered to result in the domestication of the rural site and detract from the rural character and appearance of the site and the predominantly rural character and appearance of the local area. In reaching this view, it is noted

that there is a public footpath 30m to the west of the site, which would provide clear views of the 7.8m high dwelling.

5.3.9 Adding significantly to the harm of the proposal is the intrusion of the residential land into the undeveloped countryside and the appearance of the proposed dwelling. The land to the rear of the proposed dwelling, which would be utilised as garden land, extends in excess 1320sqm, beyond the existing developed area. This is considered to represent a harmful and unnecessary intrusion of a residential use into the countryside, given 100sqm is the minimum recommended garden size for a 3 or more-bed dwelling. Further, in terms of appearance, the dwelling is an American style property with a front veranda, this design is in stark contrast to the traditional dwellings observed within the area and is considered to represent an out of keeping form of development which fails to have regard to the existing development within the area.

5.3.10 Therefore, significant concerns are raised in respect of the visual impact of the proposal, the proposed residential use of the site would result in domestication and urbanisation of the site and the extent of the garden land and appearance of the proposed dwelling are considered to significantly add to the visual harm of the proposal, contrary to policies D1 and H4 of the LDP.

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

5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

5.4.2 The application site has one immediately adjacent neighbouring property, 'Loftmans Farm' which is a bungalow within the applicant's ownership, located to the west of the application site. There would be a 9.1m separation distance between the proposed dwelling and shared boundary and the proposed dwelling would be sited around 34m in a south-east direction from the neighbouring bungalow. Given the separation distance and orientation of the dwellings in relation to each other, it is not considered that the proposed development would result in a demonstrable impact in terms of overlooking, a loss of light or domination. Therefore, it is not considered that the development would represent an unneighbourly form of development.

#### **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 Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. The parking standard for four-bedroom dwellings is a minimum of three spaces per dwelling. The development would make adequate provision for off-street parking to the front of the dwelling, to comply with the adopted standards in the form of at least three parking spaces measuring 2.9m x 5.5m.

5.5.3 In terms of the access, the existing vehicular access onto/from Maldon Road and associated track would be retained and unaltered by the proposal. Essex County Council's(ECC) highways have raised no objection to the proposal.

5.5.4 Given the above, it is not anticipated that the development would cause harm to highway safety and no concerns in this respect are raised.

## **5.6 Private Amenity Space**

5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.

5.6.2 The proposed dwelling would be provided with private amenity space in excess of 100sqm. Therefore, no concerns in relation to the adequate provision of amenity space are raised, although concerns relating to the visual impact of the garden land are raised above.

## **5.7 Nature Conservation**

5.7.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network. Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

5.7.2 The development has the potential to have an impact on nature conservation interests both within the site and off-site.

5.7.3 The outbuildings present on the site have been in situ for many years and have allegedly been vacant since 2010. Therefore, they have potential to house protected or priority species. However, no ecological information has been submitted as part of this application. Therefore, the LPA is unable to determine that the proposed development would not have a significant impact upon protected and priority species, or the significant impact is such that it can be mitigated or compensated in a satisfactory way. Therefore, an objection on these grounds is raised.

5.7.4 In terms of off-site impacts, Natural England (NE) has advised that this development 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). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to

secure any necessary mitigation and record this decision within the planning documentation.

- 5.7.5 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.6 NE anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitutes a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.7 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level HRA – NE has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.7.8 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a 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 and has currently been set at £137.71 per dwelling.
- 5.7.9 To accord with NE's requirements, an 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 specified development types? Yes

HRA Stage 2: Appropriate Assessment- 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.

Summary of Appropriate Assessment – as a competent authority, the LPA authority concludes that the project will have a likely significant effect on the sensitive interest

features of the European designated sites as the necessary mitigation, in the form of a financial contribution, has not been secured.

## **5.8 Planning Balance and Sustainability**

- 5.8.1 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 5-year housing land supply. 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.
- 5.8.2 The key priority within the NPPF, stated at paragraphs 7 and 8, 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.
- 5.8.3 Notwithstanding the considerations as contained in those paragraphs, 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.
- 5.8.4 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.
- 5.8.5 With regard to the 3 tests of sustainability, any economic benefits would be limited, it is reasonable to assume that the support for local trade from the development would be extremely limited as there is no guarantee that the limited construction works required for this development would be undertaken by local businesses; the economic benefits of the proposal are therefore considered minor. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 5.8.6 In social terms the provision of a dwelling, which would contribute to the Council housing stock, however given the provision of a single dwelling the proposal would have a negligible benefit.
- 5.8.7 The above assessment identifies the environmental harm the development would cause by way of the location of the site, which is considered to result in the future occupiers of the dwelling being heavily reliant private motor vehicles outweighs the limited benefits that can be attributed to the scheme.
- 5.8.8 Overall, the proposal is not considered to be sustainable development, and the development would therefore be unacceptable.

## 6. ANY RELEVANT SITE HISTORY

Loftmans Farm as outlined in red and blue:

- **84/00008/MAL** – Change of use piggeries to kennels – Approved
- **86/00804/MAL** – Vary conditions of MAL/8/84 – Approved
- **92/00545/FULF** - Proposed workers dwelling on site to care for the immediate needs of the animals on site. It will be a detached agricultural dwelling of modest size. – Approved
- **93/00028/LDE** - Use of premises for the purpose of motor vehicle repairs – Withdrawn
- **94/00064/FUL** - Change of use of premises to motor vehicle maintenance and repair (regularising application) – Approved
- **96/00079/FUL** - Replacement of existing greenhouse by a building of comparable size used for the storage of motor vehicle spares in conjunction with the adjacent approved motor vehicle repair business – Approved

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Steeple Parish Council	No objections to this application. The previous planning history states that a dwelling was approved and granted for a granny annexe but Councillors would require that if this application is approved for a farm worker then the dwelling should have an agricultural tie attached to the application. 2 large houses on a small plot of land seems excessive.	The comments are noted. However, the Council would like to clarify that a garage with annexe accommodation was approved at Loftmans Farmhouse in 1992 and has little relevance in the determination of this application. Further, the dwelling proposed, as set out in the application form is for Market Housing and not an agricultural worker dwelling. Furthermore, only one dwelling is proposed, not two as suggested.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
County Highways	No objection.	Noted.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions in relation to contamination.	Noted.

### 8. REASONS FOR REFUSAL

- 1 The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council cannot demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework, however, the site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for Growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The site is poorly located relative to facilities, services and sustainable modes of transport. 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. Furthermore, the proposal would substantially alter the character of the countryside, particularly through the introduction of a domestic character a of residential development, the extent of the garden land and appearance of the proposed dwelling are considered to significantly add to the visual harm of the proposal. The development would therefore be unacceptable, does not constitute sustainable development, would result in the unjustified loss of an employment generating use and a detrimental visual impact, contrary to policies S1, S2, S8, E1, D1 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2021).
- 2 The proposed development has a potential significant impact upon protected and priority species. Insufficient information has been submitted to allow the Local Planning Authority to determine that the proposed development would not have significant impact upon protected and priority species, or the significant impact is such that it can be mitigated or compensated in a satisfactory way. The development is therefore unacceptable and contrary to policies S1, D2 and N2 of the Local Development Plan as well as guidance contained within the National Planning Policy Framework
- 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.