



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

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

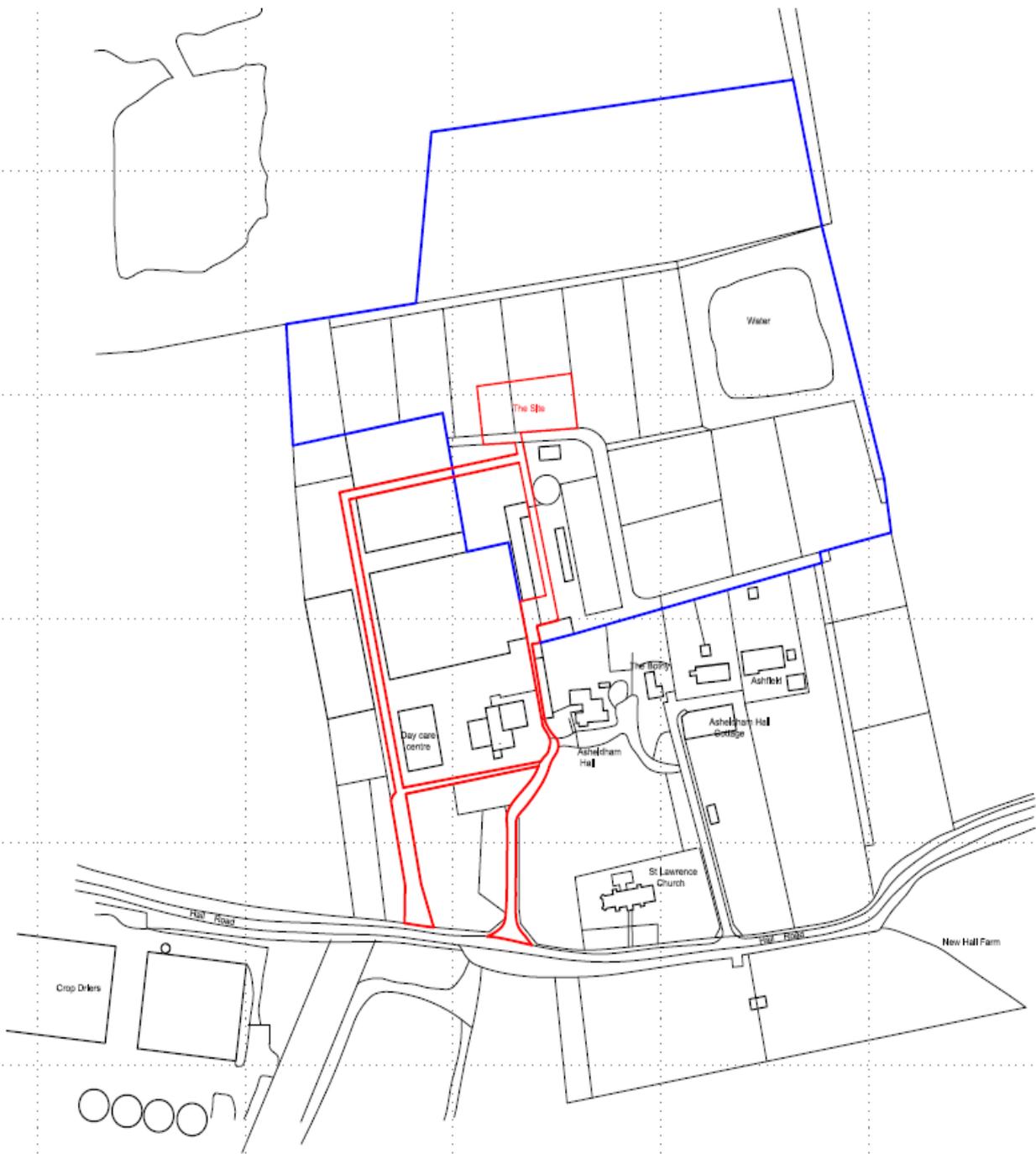
Application Number	22/00595/FUL
Location	Hall Meadows Hall Road Asheldham CM0 7JF
Proposal	Construction of a chalet style rural workers dwelling.
Applicant	Mr and Mrs David and Linzie Nenson
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	07.07.2022 EOT Requested
Case Officer	Hannah Bowles
Parish	ASHELDHAM
Reason for Referral to the Committee / Council	Member call in from Councillor A S Fluker Reason: D1, E4 and H7

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 to the north of Hall Road, north of Asheldham Hall Farm. The application site consists of a menage, part of a paddock and two access tracks that link the site to Hall Road. The access track forms a long finger of land that measures 250 metres long and connects to the public highway off Hall Road with a separate branch at a point 80 metres from the south boundary that is 'dog-legged' and also connects to the public highway.
- 3.1.2 The application site is part of a larger area of land that is shown to be within the applicant's control which hosts a livery business and accommodates stables and grazing land associated with the equestrian use of the site. The applicant states that the site currently stables 24 horses. There is an existing temporary residential unit in the form of a mobile home, sited to the south of the application site approved under the terms of applications 18/01111/FUL and 21/01103/FUL as rural workers temporary accommodation.
- 3.1.3 A number of large sized storage units are sited to the southeast of the application site. To the south of the application site there are four detached dwellinghouses, one of which is a Grade II listed building (Asheldham Hall).
- 3.1.4 Planning permission is sought for the erection of a chalet style rural worker's dwelling.
- 3.1.5 The Applicant has set out in the submitted planning statement that the proposed dwelling would replace the existing temporary residential mobile unit currently on site.
- 3.1.6 The dwelling would have a T-shape, including a small forward gable projection and it would measure 16.1 metres wide, a maximum of 14.7m deep, with the front porch projecting 2.2m beyond the main front building line. The height to the eaves would be 2.8 metres and the maximum height to the top of the ridge of the roof would be 7.3 metres.
- 3.1.7 The dwelling would have a main gabled roof section running in an east-west direction and a gable projection to the north. Hipped roof dormers are proposed to all roof planes. In particular, three dormers are proposed to the front of the dwelling, two to the rear and an additional three to the rearward projection.
- 3.1.8 The materials would consist of red stock facing brick, antique blend red and brown plan clay roof tiles and UPVC windows and doors.
- 3.1.9 Internally the dwelling would accommodate a kitchen, a utility room, a yard office, a lounge/dinner, a WC and a coats room at ground floor, while at first floor there would be three bedrooms (one en-suite) and a bathroom. Overall the dwelling would measure 319sqm.
- 3.1.10 Three parking spaces are proposed to be provided to the front/side curtilage of the dwelling and a turning area, which will be finished in gravel. The site would be accessed off of Hall Road.
- 3.1.11 Two spaces to the east and west of the proposed dwelling would form the amenity space of the dwelling, which would measure 598sqm.

3.1.12 The application follows a number of previous applications, which are set out within Section 6 of this report. Most recently application 21/01103/FUL approved the retention of the existing temporary rural workers dwelling for a further period of 3 years, concluding;

'Having taken all material planning consideration into account, it is considered that sufficient information has been submitted to demonstrate an essential need for the extension of the time period of the stationing of the temporary rural workers accommodation in this location'.

3.1.13 This application represents a re-submission of application 21/00571/FUL which was refused on 25.08.2021 for the following two reasons:

1. *'Insufficient information has been submitted to demonstrate the essential need for a permanent worker's accommodation in this location and therefore it is not considered appropriate to allow an exception for an agricultural workers dwellings in this rural location. The proposed development, by reason of its location and residential nature would substantially alter the rural character of the area and have an unacceptable and unjustifiable visual impact on the countryside through the urbanisation and domestication of the site. If developed, the site by reason of its location, would be disconnected from the existing settlements, where the majority of services and facilities are provided and it would be provided by poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development"; the poor sustainability credentials of the site and the unjustifiable harm caused to the countryside 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, H4, H7 and T2 and Government advice contained within the National Planning Policy Framework (2021).*
2. *In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.'*

3.1.14 The proposed dwelling has not been altered under the terms of this application. However, the following supporting documents have been submitted/amended under the terms of this application in order to address the above reasons for refusal.

- End of year Accounts for 2020-2021 and 2021-2022
- Three Year Budget
- Financial Supporting Statement
- Planning Support Statement prepared by Susan Paton BHSAl dated 08.04.2022
- Updated Design and Access and Planning Support Statement to address the reasons for refusal of application 21/00571/FUL.
- Supporting letters from interested parties

3.2 Conclusion

- 3.2.1 Having taken all material planning consideration into account, an objection is raised to the principle of the proposed development, which by reason of its location and residential nature would result in an unacceptable and unjustifiable domestication of the site to the detriment of the rural character of the area. If approved the development would be disconnected from existing settlements where services and facilities are provided and be provided by poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. There is insufficient evidence to demonstrate the long term viability of the full livery business and the proposed size and scale, which is considered to exceed what is necessary, and therefore, the development fails to comply with Policy H7 of the Local Development Plan (LDP). Furthermore, in the absence of a signed legal agreement the required mitigation of the adverse impacts of the proposal on European designated nature conservation sites cannot be secured.

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
- 55-58 Planning conditions and obligations
- 60-80 delivering a sufficient supply of homes
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 104-113 Promoting sustainable transport
- 174-188 Conserving and enhancing the natural environment

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- H2 Housing Mix
- H4 Effective Use of Land
- H7 Agricultural and Essential Workers' Accommodation
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its 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 making 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 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.
- 5.1.8 The site lies outside the defined settlement boundaries. The nearest village to the application site is Southminster, which is approximately 3km away from the application site.
- 5.1.9 Policy S1 of the LDP states that "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, inter alia, the following key principles in policy and decision making:
- 2) Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations
 - 3) Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;
 - 4) Support growth within the environmental limits of the District;
 - 5) Emphasise the importance of high quality design in all developments;
 - 6) Create sustainable communities by retaining and delivering local services and facilities;
 - 12) Maintain the rural character of the District without compromising the identity of its individual settlements;
 - 13) Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community"
- 5.1.10 Policies S1 and Policy S8 of the approved Maldon District Local Development Plan (MDLDP) seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.11 The abovementioned polices are in compliance with the NPPF which in order to promote sustainable development in rural areas, suggests that housing should be

located where it will enhance or maintain the rural communities. It is also stated that development of isolated homes in the countryside should be avoided, unless special circumstances indicate otherwise, such as in case there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. This is supported by policies H7 and S8 which support agricultural and essential workers accommodation in certain circumstances.

5.1.12 Policy H7 of the MDLDP states that “Permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:

- 1) Evidence has been submitted to the satisfaction of the Council that there is an existing agricultural, forestry, fishery or other commercial equine business-related functional need for a full-time worker in that location;
- 2) There are no suitable alternative dwellings available, or which could be made available in the area to serve the identified functional need;
- 3) It can be demonstrated that the enterprise is, or will be in the case of new businesses, a viable business with secure future prospects;
- 4) The size and nature of the proposed structure is commensurate with the needs of the enterprise concerned; and
- 5) The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area and is acceptable when considered against other planning requirements.”

5.1.13 It further continues stating that “In addition to the above requirements, where on-site accommodation is essential to support a new agricultural or forestry or other rural business-related enterprise, permission will only be granted in the first instance for a temporary structure which can easily be removed within three years of the date of planning consent. Any further proposals following this period will be considered using the criteria above.”

5.1.14 As set out above the application site has been subject to previous applications most recently, 21/00571/FUL which previously refused the proposal subject of this application and 21/01103/FUL and which approved the retention of the existing temporary rural workers dwelling for a further period of 3 years.

5.1.15 Under the terms of application 21/00571/FUL, an objection relating to the principle of the development was raised, on the basis that:

- Insufficient information had been submitted to demonstrate the essential need for a permanent worker’s accommodation in this location and therefore it is not considered appropriate to allow an exception for an agricultural workers dwelling in this rural location.
- The proposed development, by reason of its location and residential nature would substantially alter the rural character of the area and have an unacceptable and unjustifiable visual impact on the countryside through the urbanisation and domestication of the site.
- If developed, the site by reason of its location, would be disconnected from the existing settlements, where the majority of services and facilities are provided and it would be provided by poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership.

5.1.16 The application should not be approved unless the above reasons for refusing application 21/00571/FUL have been overcome.

- 5.1.17 The first criterion of Policy H7 relates to a functional need and the existence, or future existence of a viable enterprise.
- 5.1.18 As part of the originally approved application 18/01111/FUL, which granted permission for the stationing of a mobile home for rural workers for a temporary period of 3 years, the rationalisation of the existing livery business to form part livery and full livery and the erection of 5 stables with associated tack room and feed store was previously approved by the South Eastern Area Planning Committee in January 2019. At that time it was considered that the proposed new stables and the full livery service proposed (in place of the 'do it yourself' livery) satisfactorily justified the functional need for a temporary workers dwelling to be provided at the site.
- 5.1.19 It was concluded under the terms of application 21/00571/FUL that as the 'full livery service' proposed under the terms of 18/01111/FUL had not been fully implemented that the functional need for a permanent workers dwelling was not satisfactorily demonstrated, having regard for the fact that this proposed use, was the basis for originally allowing the temporary accommodation.
- 5.1.20 Following the refusal of application 21/00571/FUL, application reference 21/01103/FUL was submitted for the retention of the existing temporary rural workers dwelling for a further period of 3 years. This application was approved, the following was concluded:

'Although it is acknowledged that the full livery has not yet been fully implemented, a level of need for a worker on site to operate the part livery business was recognised. Furthermore, consideration is given to the impact that the business had due to the Coronavirus restrictions, as stated in the submitted Equine related planning statement, dated 18 October 2021. It should be noted that the current application is for the retention of the existing mobile home for an additional temporary period of three years, and this is considered materially different to a proposal for the construction of a permanent dwelling, as the one previously refused under the terms of application 21/00571/FUL, due the nature of the structure being proportionate to the needs identified. The proposal is for a temporary permission and if at the end of the additional three-year period the original business plan for a full livery business has not been implemented then this structure can be removed, as opposed to the recently refused permanent dwelling'.

- 5.1.21 It is pertinent to note that the fact that the temporary accommodation is of an appropriate scale and is temporary in nature was given significant weight in the determination of application 21/01103/FUL. The Council require a business to demonstrate that it is viable over a period of three years, within the assessment of 21/01103/FUL this point was reiterated *'Policy H7 clearly states that the provision of a worker's accommodation where it relates to a new enterprise would only be granted permission as a temporary structure, which would be able to be removed within a period of three years. It is only after this period when a permanent structure could be considered acceptable, should it comply with all the above-mentioned criteria. Although the three-year period of the temporary structure on site comes to an end, for the reasons stated above, it is considered that due to the evidence submitted and the resultant impact to the business due to the Corona Virus pandemic, the extension of the time period of the temporary accommodation for an additional three-year period are acceptable circumstances in this instance'*. As set out above, the full livery business, which is the basis for the functional need of an essential workers dwelling, has not been fully operational for three years. Whilst it appears from the submitted documents, that the full livery business is now operational, extremely limited details have been provided regarding the operation of the full livery business and the viability of the business remains to be tested over a three year period, it is

considered, for the reasons set out above, that the application for a permanent essential workers dwelling at the site is premature at this time and an objection to the principle of the development in this respect remains.

5.1.22 With regard to the second criterion, it is stated that there are no other existing dwellings in the area that are available. Although no evidence has been submitted in that respect, due to the limited number of dwellings in the vicinity of the site and their connection to existing agricultural uses is considered that this is likely to be the case. Furthermore, officers have no evidence to suggest otherwise. It is not considered this shortfall, alone, in this instance would be an appropriate reason for refusal.

5.1.23 With respect to criterion three, additional information has been submitted in this respect when compared to the previously refused application 21/00571FUL. The following documents have been submitted:

- End of year Accounts for 2020-2021 and 2021-2022,
- Three Year Budget
- Financial Supporting Statement
- Planning Support Statement prepared by Susan Paton BHSAl dated 08.04.2022

5.1.24 The Financial Supporting Statement succinctly concludes the following:

'Net profit for the tax year 2020 - 2021 was £28736 against £9,063 for the 2019 – 2020 tax year.

This is an increase in net profit of 217%, proving that the business is not only sustainable through the most difficult of times, but also remains profitable.

Net profit for the tax year 2021 – 2022 was £39,108.

This is an increase in net profit of 36% from the 2021 accounts, proving that the business is still sustainable. Gross and net profits show substantial growth year on year.

...The pandemic had forced us to deviate from the gross margin forecast going forward, taking into account the change in need and circumstance for our clients. We will continue to adapt and change our business model to accommodate future challenges that may be presented from Covid or the like.

Our year 2 net profit of £39,108 has exceeded our year 2 profit target of £24,407 and has also exceeded our year 3 profit target of £36,237'.

5.1.25 Given the above and the supporting figures that have been supplied, it is considered that sufficient information to satisfy the Council has been submitted to indicate that the business is viable. However, as set out above, given that the full livery business is the element of the business that is considered to require the functional need for an essential worker to reside at the site, it is considered essential that this element of the business is appropriately tested over a three year period prior to the construction of a permanent dwelling at the application site and as per policy H7. Therefore, notwithstanding the figures supplied, this is not considered to justify the construction of a permanent dwelling at the site.

5.1.26 On the basis of the above, it is accepted that the business provides yearly profits which are expected to increase in the following year, it is considered relevant that the returns would cover a reasonable living wage enough to sustain a household. Although there is no specific threshold of the required profitability levels for this business, concerns are still raised as it has not been demonstrated that the profits

from the last three years presented to the Local Planning Authority or those expected for the following year are economically viable to be able to sustain the proposed dwelling.

- 5.1.27 In relation to criterion 4, the applicant states that the proposed dwelling would house the applicant, his wife and his family, including two children. The proposed development is for the erection of a three-bedroom dwelling and thus, no objection is raised regarding the number of bedrooms proposed. However, the proposed dwelling would measure 319sqm; this is more than three times larger than the minimum size of a three bedroom, 6 persons two-storey dwelling as defined in the Technical housing standards – nationally described space standards. Even though the Council has not adopted these standards, this is an indication of what is considered being a reasonable sized dwelling for this number of bedrooms. It is therefore considered that the proposal goes against one of the core planning principles of the NPPF, which is to make effective use of land. Furthermore, criterion (4) of policy H7 necessitates the size and nature of the proposed structure to be commensurate with the needs of the enterprise concerned. In this instance taking into consideration the on-site need for one worker it is not considered that the proposed dwelling would be proportionate to the needs of the enterprise.
- 5.1.28 The application is accompanied by a S106 agreement restricting the occupation of the dwelling to the applicant or any other future owner that is employed by the livery business, contracted to work for the livery business or has taken over the ownership of the business. This restriction of the occupation of the dwelling to a person solely or mainly working in association with the use of the site as livery business (not necessarily the applicant, as such condition would have been too onerous) would have been imposed should permission be granted.
- 5.1.29 In relation to the fifth criterion, this matter will be fully assessed in the ‘design’ section below, but as the proposal relates to a permanent large sized dwelling in the countryside, concerns are raised with regard to the level of impact which would be irreversible.
- 5.1.30 Policy H7 clearly states that the provision of workers accommodation where it relates to a new enterprise would only be granted permission as a temporary structure, which would be able to be removed within a period of three years. As the full livery business has not been running for three years, and limited information regarding the amount and length of time it has been running, it is considered that this application is premature.
- 5.1.31 Where the proposal does not accord with the exception policy H7, it is considered that the proposal must be assessed as a conventional dwelling within the countryside. As noted above the site is located outside the settlement boundaries, approximately 3km distance away from Southminster, which is the nearest village to the application site. The nearest bus stop from the site is located approximately 1km distance away from the application site. The bus stop has no frequent links with main employment opportunities or areas providing local services and amenities, considering that there are only two bus connections to Burnham-on-Crouch and Southminster, providing 9 services per day between 7.25am and 6.23pm. Although the applicant would no longer have to commute, this is not considered to be an attractive or favourable option and it is considered unlikely that the future occupiers would use public transportation for their day to day needs.
- 5.1.32 In light of the above assessment, it is considered that the location of the site would fail to discourage the use of private cars. Paragraph 105 of the NPPF sets out a core planning principle as part of the sustainability agenda, stating that planning should

“actively manage patterns of growth in support of these objectives. 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. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.” Whilst it is recognised that the level of access to sustainable modes of transport will differ between urban and rural areas, it is considered that in this instance the proposed dwelling due to its location would be disconnected from areas where necessary everyday services and facilities are provided, and the occupants would be provided with very poor quality and limited access to sustainable and public transport. The proposal would therefore be contrary to the guidance contained within the NPPF as well as the policy T2 of the LDP.

- 5.1.33 Although, as noted in detail above, the Council cannot demonstrate a five year housing land supply of deliverable homes, it is considered that policies H7 and T2 are still up to date regarding the assessment of the proposed development and the adverse impacts identified above would outweigh any minimal benefits that one additional dwelling would bring in terms of supporting the housing need.

Summary

- 5.1.34 For the reasons stated above, an objection is raised to the principle of the proposed development. The development would be against the objectives of the relevant development plan policies and guidance.

5.2 Housing Need and Supply

- 5.2.1 Following a number of recent amendments to the national policy and guidance, the Council has recently reviewed its housing needs evidence to inform the LDP. For market housing the evidence shows a need for 40-50% three-bedroom dwellings, which is the highest percentage of all different property sizes. Although the proposed development would support the supply of the dwelling size that is currently in greater need in the district, it is considered that the benefits would be minimal as there would be a net gain of only one dwelling and therefore, this is given limited weight.

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.
- 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: -

Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;

Height, size, scale, form, massing and proportion;

Landscape setting, townscape setting and skylines;

Layout, orientation, and density;

- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.3.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.6 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area.
- 5.3.7 Furthermore, policy H7 for new rural workers' dwellings requires that *"the development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area, and is acceptable when considered against other planning requirements"*.
- 5.3.8 As set out above the dwelling proposed at the time of the previous application has not been altered. Given that the site and surrounding area has not substantially changed since the determination of application 21/00571/FUL, the assessment undertaken at the time of the previous application is still considered to be relevant.
- 5.3.9 The proposed dwelling would be located outside the defined settlement boundaries where development is dispersed and sporadic. A handful of dwellings are sited to the southeast of the application site. The development would further encroach on the open countryside and by reason of its siting and residential nature would appear at odds and out of keeping with the rural and open character of the area. The dwelling together with its associated domestic paraphernalia would result in the unacceptable domestication of the area, detracting from the prevailing rural character of the area. In terms of the siting and layout of the proposed dwelling, by reason of its location would appear remote from the existing dwellings to the southeast. This would be harmful to the distinctive character of the area, resulting in an unacceptable impact on its surrounding, thereby causing domestication and urbanisation that is contrary to the abovementioned policies.
- 5.3.10 Although it is accepted that a temporary mobile home is currently located on site, still representing urbanisation and domestication of the site, this was previously accepted due to the assessment of the principle of development, which was found to be acceptable on the basis of the information provided to the LPA at the time and its association with and necessary for a rural enterprise. Furthermore, the structure approved on site was temporary and therefore, whilst not having an appearance that would be supported in the long-term, it was deemed to be of adequate appearance for the period that it would be at the site.

- 5.3.11 The applicant also states that there are large scale storage units near the site and that the proposed dwelling would not have a significant impact on the surrounding area. It is noted that the buildings in the vicinity of the site, although some are of a large scale, they are of a style and design that is typical in the countryside as they are compatible and associated with the existing agricultural uses in the surrounding area. Similarly, the existing stables represent development that is common in rural areas and therefore, it is not considered that the existing buildings near the application site are either comparable with the proposed domestic building or are harmful or out of keeping with the wider rural character of the area.
- 5.3.12 With regard to the scale of the proposed chalet style dwelling, it is noted that the dwelling would be a large scaled property; however, this would not be dissimilar to the size and scale of the existing dwellings to the southeast. Overall the traditional design of the property is considered acceptable. Whilst a large number of dormers are proposed to the roof plan, given that they would still appear incidental to the roof, no objection is raised in that respect. The roof design and level of fenestration is considered acceptable and it would not detract from the designs of the existing small number of dwellings in the surrounding area. The proposed finishing materials would be acceptable, given that the general character of the dwelling in the surrounding area is for red roof tiles and red brick finish. As such, no objection is raised to the proposed design and appearance of the dwelling per se. However, a clear objection is raised in relation to the resultant domestication impact that this unjustified development would have on the countryside.
- 5.3.13 By reason of the distance of the proposed development from the Grade II Listed Buildings to the south (Asheldham Hall and Church of St Lawrence) it is not considered that it would have a detrimental impact on the heritage assets that would warrant the refusal of the application on these grounds.
- 5.3.14 On the basis of the above, it is considered that the proposed development, by reason of its siting in an open rural area, would result in an unacceptable domestication of the site to the detriment of the character and appearance of the surrounding rural area.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG.
- 5.4.2 The proposal is to erect a detached chalet style dwelling to the north of Asheldham Hall Farm within the existing open countryside. The nearest residential dwelling to the application site sits more than 100 metres away and this separation distance is considered to be sufficient to mitigate any adverse impact caused to the nearby neighbours in terms of dominance, overshadowing or overlooking.
- 5.4.3 Although the development would result in a level of activity from the future occupants of the dwelling, given the separation distance to the nearest residential units, it would not result in a materially harmful impact on the nearby occupants' residential amenity, in terms of noise and disturbance.
- 5.4.4 The proposed development is not considered to have a detrimental impact on residential amenity.

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 proposed dwelling has three bedrooms and therefore two parking spaces are required. Three parking spaces measuring the required dimensions have been shown on the block plan and therefore there are no objections to the proposal in terms of parking provision.
- 5.5.3 The site would utilise an existing direct access onto Hall Road and thus, no objection is raised in that respect.
- 5.5.4 Overall, there are no objections to the proposal in relation to access, parking or highway safety.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.6.2 The amenity space for the proposed dwelling would split into two sections to the east and west of the site. The amenity space to the west would measure around 180sqm and to the east it would be approximately 410sqm. Overall, the amenity space would be in excess of the minimum required standards for proposed dwelling and due to their size and layout no objection is raised to the usability of the outdoor amenity space which is split into two areas.
- 5.6.3 In terms of soft landscaping native species hedge is proposed along the north, west and south boundaries. Furthermore, a number of trees have been shown to the proposed site plan, albeit no details of the trees have been submitted. In terms of hard landscaping, a gravel drive and parking area are proposed to the southwest of the dwelling, which is considered acceptable. In terms of boundary treatment, a post and rail fence is proposed to the east and south east boundaries. Overall, no objection is raised to the proposed hard and soft landscaping or the proposed boundary treatment. Should permission be granted, the details of the hard and soft landscaping and boundary treatment would have been secured by condition.

5.7 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS.

- 5.7.1 Paragraph 170 of the NPPF states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'
- 5.7.2 Strategic LDP 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.

- 5.7.3 In terms of off-site impacts, Natural England(NE) has advised that this development 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). 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.
- 5.7.4 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.
- 5.7.5 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites 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.
- 5.7.6 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.
- 5.7.7 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 £127.30 per dwelling.
- 5.7.8 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 (Zol) for the Essex Coast RAMS with respect to the previously listed sites? Yes (Blackwater Estuary SPA and Dengie SPA)

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 concludes that the project will, without mitigation, have a likely significant effect 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 £137.71 is necessary.

5.7.9 It is noted that in the absence of a formal legal agreement the appropriate mitigation cannot be secured.

6. **ANY RELEVANT SITE HISTORY**

- **02/01193/FUL** - Erection of stable building incorporating 10 loose boxes, a tack and a feed room. Construction of a menage. All to be used as a private DIY livery business between the hours of 8.00 - 18.00 on any day - **Approved**
- **04/00506/FUL** - Non-compliance with Condition No. 2 of planning permission 02/01193 (hours of use) to increase. Operational times to 8.00-20.00 Mon-Fri, 8.00-20.30 hours Sat and Sun (April to October) and 08.00-19.00 hours Sat and Sun (November to March). Planning permission granted
- **17/00840/FUL** - Erection of chalet bungalow. - **Refused**
- **18/00313/FUL** - Erection of chalet bungalow in association with livery business - **Withdrawn**
- **18/01111/FUL** - Stationing of mobile home for rural workers for temporary period of 3 years. Rationalisation of existing livery business to form part livery and full livery. Erection of 5 stables with associated tack room and feed store. – **Approved**
- **21/00571/FUL** - Construction of a chalet style rural workers dwelling. - **Refused**
- **21/01103/FUL** - Retention of the existing temporary rural workers dwelling for a further period of 3 years. – **Approved**

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Asheldham and Dengie Parish Council	Support.	Noted.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways	No objections.	Noted.
Archaeology	Conditions recommended.	Noted.
SuDS	No comment.	Noted.
Anglian Water	No comment.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No comment	Noted.

7.4 Representations received from Interested Parties

7.4.1 3 letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
The business has more than proven itself, and by nature such business tends to be in more rural location. However, I would take issue with the past reasons for refusal, this is in a sustainable area, the bus routes are within a few hundred meters of the proposed property, with one bus running straight past the site, and others being on call bus services.	Please see section 5.1.
Traffic has decreased due to temporary home and visual impact of a dwelling is genuinely minimal.	Please see sections 5.3 and 5.5.
It is essential that staff are on the site for the general security and welfare of the horses in their charge, in much the same was that it was essential for habitation on site at nearby Silver Lakes.	Please see section 5.1.
The proposed development is not out of keeping from a design and proportion perspective to other residential properties in the close vicinity and the design would blend in.	Please see section 5.3.
On site dwelling has improved the security of the site. The family business has shown over a number of years to be valued by local riders. I feel that a build of a permanent dwelling will be a positive move, and has our full support as residents of Asheldham, which backs on to the livery.	Noted.

8. REASONS FOR REFUSAL

- 1 Insufficient information has been submitted to demonstrate the long term viability of the full livery business and the proposed size and scale of the dwelling, which is considered to exceed what is reasonably necessary and therefore it is not considered appropriate to allow an exception for an agricultural workers dwellings in this rural location. The proposed development, by reason of its location and residential nature would substantially alter the rural character of the area and have an unacceptable and unjustifiable visual impact on the countryside through the urbanisation and domestication of the site. If developed, the site by reason of its location, would be disconnected from the existing settlements, where the majority of services and facilities are provided and it would be provided by poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development"; the poor sustainability credentials of the site and the unjustifiable harm caused to the countryside 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, H4, H7 and T2 and Government advice contained within the National Planning Policy Framework (2021).

- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.