



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
8 FEBRUARY 2023**

<b>Application Number</b>	<b>22/01012/FUL</b>
<b>Location</b>	Harmony Kennels, Brook house, Spar Lane, Purleigh
<b>Proposal</b>	Proposed single storey dwelling and cartlodge replacing existing outbuildings
<b>Applicant</b>	Mr John Lawrence and Ms Toni Moore
<b>Agent</b>	
<b>Target Decision Date</b>	18.11.2022
<b>Case Officer</b>	Vikki Bowles
<b>Parish</b>	<b>PURLEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2017

**1. RECOMMENDATION**


**REFUSE** for the reasons as detailed in Section 8.

**2. SITE MAP**

Please see below.

**Harmony Kennels**  
22/01012/FUL



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	Department:	Department
	Comments:	Not Set
	Date:	22/12/2022
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www.maldon.gov.uk		

### 3. **SUMMARY**

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

3.1.1 The application site is located to the north of Rudley Green Lane and to the east of Spar lane, outside of any defined settlement boundary. The site is currently occupied by former kennel and stable buildings that are central to the site. There is an existing access to the application site off of Spar Lane.

3.1.2 It is noted that land to the south west of the site is also within the applicant's ownership and benefits from planning permission to construct 2No. detached dwellinghouses. These dwellings were allowed on appeal under references APP/X/1545/W/18/3201224 (2No. detached dwellings with attached garages with first floor accommodation above) and APP/X/1545/W/18/3214188 (2No. detached dwellinghouses with detached single-storey cartlodes). However, a previous application on the current site, ref: 20/00444/FUL, for a detached dwelling was refused and the subsequent Appeal dismissed.

3.1.3 Planning permission is sought for the demolition of the existing single storey structures on site and the construction of one detached dwelling with a detached cart lodge. This application is a re-submission of a previously refused application, 20/00444/FUL. The application was refused for the following reasons:

- 1 *The application site is located outside the defined development boundary of Purleigh and within the countryside where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. 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 Local Development Plan to meet the objectively assessed needs for housing in the District. If developed, the proposed development would fail to protect and enhance the character and appearance of the rural area and the built form would have an urbanising effect resulting in an unwelcome visual intrusion into the undeveloped countryside, to the detriment of the character and appearance of the rural area. The proposed development, as a result of the intended residential use would result in the domestication of the countryside to an unacceptable degree to the detriment of the character and appearance of the area. Furthermore, if developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018)*
- 2 *The proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework, particularly in terms of the environmental element of sustainability, would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would*

*therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as 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, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.*
- 4 *Insufficient evidence has been submitted to show that the development would not have an unacceptable impact in terms of ecology. The proposal is therefore considered to be contrary to policy D1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.*

- 3.1.4 A subsequent appeal, APP/X1545/W/20/3260927, was dismissed for the following reasons:

*The appeal site would not be suitable for the development proposed. It would therefore fail to comply with Policies S1, S2, S8, D2 and H4 of the LDP, which taken together, establish the strategic growth requirements and settlement hierarchy for the district, and promote sustainable development.*

*Due to the scale and overall bulk of the proposed dwelling, I conclude that the proposal would harm the character and appearance of the surrounding environment. On this basis, it would fail to accord with Policies S1, S8, D1 and H4 of the LDP, which taken together, seek amongst other things, sustainable development which respects and enhances character and local context.*

- 3.1.5 It is noted that the reasons for refusal 3 and 4 of planning application 20/00444/FUL were not supported at appeal. It is also noted that the applicants have submitted a Unilateral Undertaking (UU), however the Council has not been able to ascertain that this is legally compliant as the document was unreadable, although the checking and monitoring fee has been paid.
- 3.1.6 The proposed single storey dwelling would have a maximum ridge height of approximately 4.9 metres with an eaves height of approximately 2.3 metres, a width of 19.2 metres and a depth of 7.8 metres. The main part of the dwelling would have a hipped roof form with a central gable projection to the front and rear. The materials would be facing soft red brickwork, black weatherboard with clay pantiles to the roof. The windows would be black Upvc with an oak entrance door to the front elevation and aluminium folding or sliding doors to the rear.
- 3.1.7 The proposed cart lodge would be located to the west of the dwellinghouse and would have an approximate maximum height of 4.9 metres with an eaves height of 2.3 metres, a depth of 7.4 metres and a width of 6.5 metres.
- 3.1.8 Other works proposed are to replace the existing concrete access with one constructed of permeable materials and of an appearance befitting of the rural location of the site. However, limited details have been provided in relation to this.

3.1.9 The applicant has made changes to the proposal to try and address the reasons for refusal which are listed below:

- The proposed dwelling is single-storey as opposed to two-storey and has been reduced in height by approximately 3.4 Metres and depth by approximately 6.2 metres.
- It has increased in width by just under 2 metres.
- Reduction in palette of materials:

From	To
<u>Roof</u> Clay pan tiles Natural slate	<u>Roof</u> Clay pan tiles
<u>Walls</u> Multi stock facing brickwork Black stained timber weatherboarding	<u>Walls</u> Facing soft red brickwork Black stained timber weatherboarding
<u>Windows/Doors</u> Painted timber double glazed windows Painted timber external doors Oak main entrance door	<u>Windows/Doors</u> Black Upvc windows PPC aluminium folding/sliding doors Oak main entrance door

- Ecological appraisal has been submitted

### 3.2 Conclusion

3.2.1 Despite a reduction in the scale and bulk of the dwelling, the proposed development would still result in the domestication of the countryside to the detriment of the character and appearance of the area. In addition, it is considered that the site is in an unsustainable location outside of a defined settlement boundary. Therefore, the proposal is contrary to policies S1, S8, H4 and D1 of the Maldon District Local Development Plan (MDLDP) and the National Planning Policy Framework (NPPF).

## 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) 2019, including paragraphs:

- 7-8 Achieving sustainable development
- 11 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-57 Planning conditions and obligations
- 59-79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-118 Effective use of land
- 124-132 Achieving well-designed places

### 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 & Environmental Impact of New
- Development
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity

#### 4.3 Relevant Planning Guidance / Documents:

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

## 5. 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 Local Development Plan (LDP).
- 5.1.2 The application site is located within the countryside approximately 565 metres beyond the defined settlement boundary for Purleigh, which is the closest village to the application site. In accordance with LDP Policy S8 development is only permitted outside of settlement boundaries where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for one of the exception reasons listed in the policy. The proposal put forward does not fall within one of the exceptions listed in policy S8 and would therefore represent a departure from the LDP.
- 5.1.3 However, all planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. 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; known as the Five Year Housing Land Supply (5YHLS).
- 5.1.4 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

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

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

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

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

*Footnote 8 - 8 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)*

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

*Purleigh village is classed as a smaller village containing few or no services and facilities, with limited access to public transport and sources of employment. The supporting statement provided denotes the closest bus stops and shops to the site in support of the sustainability of the proposal. There are no footpaths along Spar Lane*



*leading to Chelmsford Road for the future occupiers of the site to safely access the surrounding amenities. Although, services and facilities would be within reasonably convenient cycling distance, the route would be unlikely to be attractive to pedestrians due to lack of footpaths and street lightings. Consequently, it is likely that future occupiers of the proposed dwellings on this site would be reliant on trips by private car for most of their day to day needs.*

*Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 17 of the NPPF which sets out a core planning principle as part of the sustainability agenda, stating that planning should “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”. The proposal would also fail to accord with Policy T2 of the LDP.*

5.1.10 Furthermore, within appeal ref: APP/X1545/W/20/3260927 the inspector stated:

*I conclude that the appeal site would not be suitable for the development proposed. It would therefore fail to comply with Policies S1, S2, S8, D2 and H4 of the LDP, which taken together, establish the strategic growth requirements and settlement hierarchy for the district, and promote sustainable development.*

5.1.11 There have been no changes to the site or facilities in the area which would change the stance of the Council in relation to the previous assessment and therefore, the principle of development on the application site is not acceptable.

## **5.2 Housing Need and Supply**

5.2.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.

5.2.2 Policy H2 of the LDP and its preamble, which when read alongside the evidence base from the SHMA, shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units, and around 71% of all owner occupied properties having three or more bedrooms.

5.2.3 The Council is therefore encouraged in policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal would result in a two bed dwelling being created; the proposal would contribute to the housing need by only one house and this benefit is of minimal weight in the assessment of the application,

## **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 This principle has been reflected in the approved LDP. 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;*
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.6 The proposed dwelling has changed in size and design compared to the previous dwelling as set out in paragraph 1.2.7. The dwelling would be set back in excess of 66 metres from Spar Lane and in excess of 63 metres from Rudley Green Lane. The site is situated within what the applicants have called ‘a paddock area’ and is surrounded by open countryside. The pattern of development to the northern side of Rudley Green Road is sporadic, with the majority of development at the junction with Chelmsford Road. Properties along Spar Lane generally have set backs between 6 metres (Bramley Cottage) and 9 metres (Gardeners Cottage). The location of the proposed dwelling in itself is considered to be in a backland location that would intrude into the open countryside and is not reflective of the existing pattern of development from either road. Therefore, the introduction of a new dwelling and the associated residential paraphernalia would result in a shift in appearance of the site to a wholly residential use. Policy S1 of the LDP states that the countryside should be protected, including its natural beauty, tranquillity and distinctiveness and it is essential that any new development does not cause harm to these features of the landscape and rural environment.
- 5.3.7 It is noted that the Inspector found there would be no unacceptable visual impact in relation to Appeals APP/X/1545/W/18/3201224 and APP/X/1545/W/18/3214188. However, the location of the development which was the subject of these appeals, as stated above, is materially different and therefore, little weight is given to the

Inspector's findings in the assessment of this application. Further, in relation to the dismissed appeal for the previous application on the application site, the Inspector found that the location of the appeal site is such that the proposal would be somewhat visually removed from other existing dwellings when viewed from Spar Lane, including the dwellings recently allowed at appeal. He states that the proposal would have the effect of appearing to extend the built form into the open countryside to the detriment of the pattern of development.

- 5.3.8 Whilst there is existing built form at the application site, including stables and single storey buildings used in relation to the use as kennels, such buildings are a common feature within the countryside and would be read in context within the surrounding area. The single storey buildings are not of the same scale or design of the development the subject of this application. The proposed dwelling would represent a detached property with a detached cartlodge which would urbanise the site to the detriment of the visual amenity of the rural area. Whilst it is acknowledged that the scale of the proposed development has been reduced, due to its backland location and projection beyond existing dwellings in the area, the proposal would result in an unacceptable sprawl of development within the countryside. This is further exacerbated by the introduction of formal boundaries which would lead to additional urbanisation of the plot.
- 5.3.9 It is noted that the external materials of the development are similar to those commonly found within the countryside. However, due to the concerns as mentioned above, this, of itself, would not overcome the impact proposal on the character and appearance of the open countryside.
- 5.3.10 Taking into account the above, the development of the site would introduce residential development, paraphernalia and urban sprawl into the countryside to the detriment of its character and appearance, and the general settlement pattern of the area contrary to policies S1, S8, D1 and H4 of the LDP.

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

- 5.4.1 The basis of Policy D1 of the 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). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 Land to the south west of the application site benefits from permission to construct two detached dwellings. The proposed dwelling would sit 12.4 metres from the shared boundary with the northern dwelling and over 50 metres from this property. Due to this substantial degree of separation, it is not considered that the proposed dwelling would result in an overbearing impact on this neighbouring property or that it would result in an unacceptable loss of light to these neighbouring occupiers. Furthermore, the proposal is a single-storey dwelling and therefore, there are no concerns in relation to a loss of privacy to this neighbouring property.
- 5.4.3 Therefore, it is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of D1 of the LDP.

#### **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 development would result in a two-bedroom property and therefore, the minimum parking provision required on-site is between one and two spaces. There is adequate hardstanding to the front of the site to accommodate parking provision for at least three vehicles alongside the proposed cartlodge. Therefore, there are no concerns in relation to parking.

5.5.3 The proposed development would utilise the existing access to the site it is considered that the intensification of the access and roadway by the proposed development would not result in a detrimental impact on highway safety of the free flow of traffic and is therefore in accordance with the LDP.

## **5.6 Private Amenity Space and Living Conditions of the Future Occupiers**

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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100 square metres of private amenity space for dwellings with three or more bedrooms, 50 square metres for smaller dwellings and 25 square metres for flats.

5.6.2 The proposed development would be a two-bedroom property and would therefore require a private amenity space of at least 50m<sup>2</sup>, due to the spacious nature of the site, the property would benefit from an amenity space in excess of this requirement and therefore, there are no concerns in relation to this aspect.

5.6.3 The block plan provided denotes that to the southern and eastern boundaries a 1.2-metre-high post and wire fence would be constructed with a native mixed thorn hedge to be planted on the 'field side', it is also proposed that new native hedging to the northern boundary would be planted, replacing G2 cherry plum. There are no concerns in relation to the proposed boundary treatments. Further details in relation to ensuring the planting scheme is implemented could be secured via condition should the application be approved. Furthermore, the proposal includes the replacement of the existing access materials with a permeable material, although, insufficient information has been provided as part of this application. However, should the application be approved, this information could be secured via condition.

## **5.7 Ecology**

5.7.1 The NPPF states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

5.7.2 Due to the rural nature of the site, the removal of existing structures, the number of trees at the site and the native hedging an ecology report has been submitted. The report noted that it was possible that bats would utilise the tree line on the northern perimeter of the site. However, no active or inactive badger setts were found and it was not considered reasonably likely that reptile or great crested newt species would be adversely affected by the development proposals. Having consulted with Place Services there is sufficient ecological information and there is no objection to the proposal subject to conditions to ensure bio-diversity net gain

## **5.8 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS**

- 5.8.1 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.'*
- 5.8.2 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.
- 5.8.3 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.
- 5.8.4 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 'Zol' of these sites cover the whole of the Maldon District.
- 5.8.5 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 Zol constitute 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.
- 5.8.6 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.
- 5.8.7 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 £ 137.71 per dwelling.

- 5.8.8 To accord with NE's requirements, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

Is the development within the Zol for the Essex Coast RAMS with respect to the previously listed 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 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, mitigation, in the form of a financial contribution of £137.71 is necessary. Whilst signed S106 unilateral Undertaking has been submitted, the Council has been unable to verify this as it is currently in an unreadable format. Nevertheless, a payment has been made to secure the S106 to cover the checking and monitoring fee.

- 5.8.9 Therefore, subject to satisfactory checks, it is considered that mitigation has been secured in accordance with policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

## **5.9 Other Matters**

- 5.9.1 Within the NPPF there 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 changes to the planning system and emphasises the need to plan positively for appropriate new development. In this regard, there are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the LDP which emphasises the need for sustainable development.
- 5.9.2 In economic terms, given that the development is for a single unit, the benefits would be extremely limited given the scale of the development. Equally, there is no guarantee that the construction works would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minimal. 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.

- 5.9.3 In social terms, development should assist in supporting a strong vibrant and healthy community. The application site lies in excess of 500 metres from the defined development boundary of Purleigh. It is noted that there are three bus stops within the vicinity of the application site (approximately 0.16km, 1.13km and 1.5km) with regular access to Chelmsford, Maldon and Southminster. To access this, residents would have to walk along Spar Lane which is a single track, unlit road without a footway. As such, the site is remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the LDP.
- 5.9.4 In environmental terms the inaccessible location would not help to reduce reliance on private vehicles. In addition, the dwelling would have an unacceptable impact on the character of the area.
- 5.9.5 Overall, due to the concerns raised, it is not considered that there are any benefits that would outweigh the concerns. The development cannot therefore be found to be sustainable.

## **6 ANY RELEVANT SITE HISTORY**

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
62/00097/MAR	Demolish existing – construct shop/café	Refused
62/00347/MAR	3 detached bungalows	Refused
63/00543/MAR	Outline- Kenneling for dogs	Approved
63/00543/1/MAR	Details – Kenneling for dogs	Approved
64/00539/MAR	Demolish existing – erect new dwelling	Refused
70/00396/MAR	Caravan – Expired 31.12.1971	Approved
78/00960/MAL	Site Caravan	Refused
85/00322/MAL	2 Bungalows	Refused
85/00824/MAL	Replacement Kennels Agricultural condition	Approved
85/00824/A/MAL	Amended Plans	Approved
85/00824/B/MAL	Relocation of Kennel building	Approved
20/00444/FUL	New two storey dwelling and cartlodge	Refused

## **7 CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Purleigh Parish Council	The development would improve the appearance of a brownfield site	This is not a material consideration

### **7.2 Statutory Consultees and Other Organisations**

<b>Name of External Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Highways	No objection subject to conditions	Noted
Ecology – Place Services	No objection subject to conditions	Noted
Tree Consultant	Sufficient detail has not been provided to demonstrate how these trees will be suitably	Noted

Name of External Consultee	Comment	Officer Response
	protected from construction pressures, during the build or landscaping. Also soft landscape scheme should be provided. Should the application be approved these could be secured via condition.	

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	The planning statement dismisses the necessity for a contamination assessment however it is considered a Phase 1 Desk Study should be submitted as a minimum. No objection subject to conditions	Comments noted

### 7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received in relation to the proposed development.

## 8 REASONS FOR REFUSAL

1. The application site is located outside the defined development boundary of Purleigh and within the countryside where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. 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 Local Development Plan to meet the objectively assessed needs for housing in the District. If developed, the proposed development would fail to protect and enhance the character and appearance of the rural area and the built form would have an urbanising effect resulting in an unwelcome visual intrusion into the undeveloped countryside, to the detriment of the character and appearance of the rural area. The proposed development, as a result of the intended residential use would result in the domestication of the countryside to an unacceptable degree to the detriment of the character and appearance of the area. Furthermore, if developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018)



2. The proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework would significantly outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as contained within the National Planning Policy Framework.