



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
15 FEBRUARY 2023**

Application Number	22/01180/FUL
Location	Mapledean Pig Farm, Mapledean Chase, Mundon
Proposal	Construction of a chalet bungalow
Applicant	Mr & Miss Dean Cardy & Leah Foss
Agent	Cussen Construction Consultants
Target Decision Date	19 th January 2023
Case Officer	Lisa Greenwood
Parish	MUNDON
Reason for Referral to the Committee / Council	Called in by Councillor A S Fluker, with regard to Policy D1.

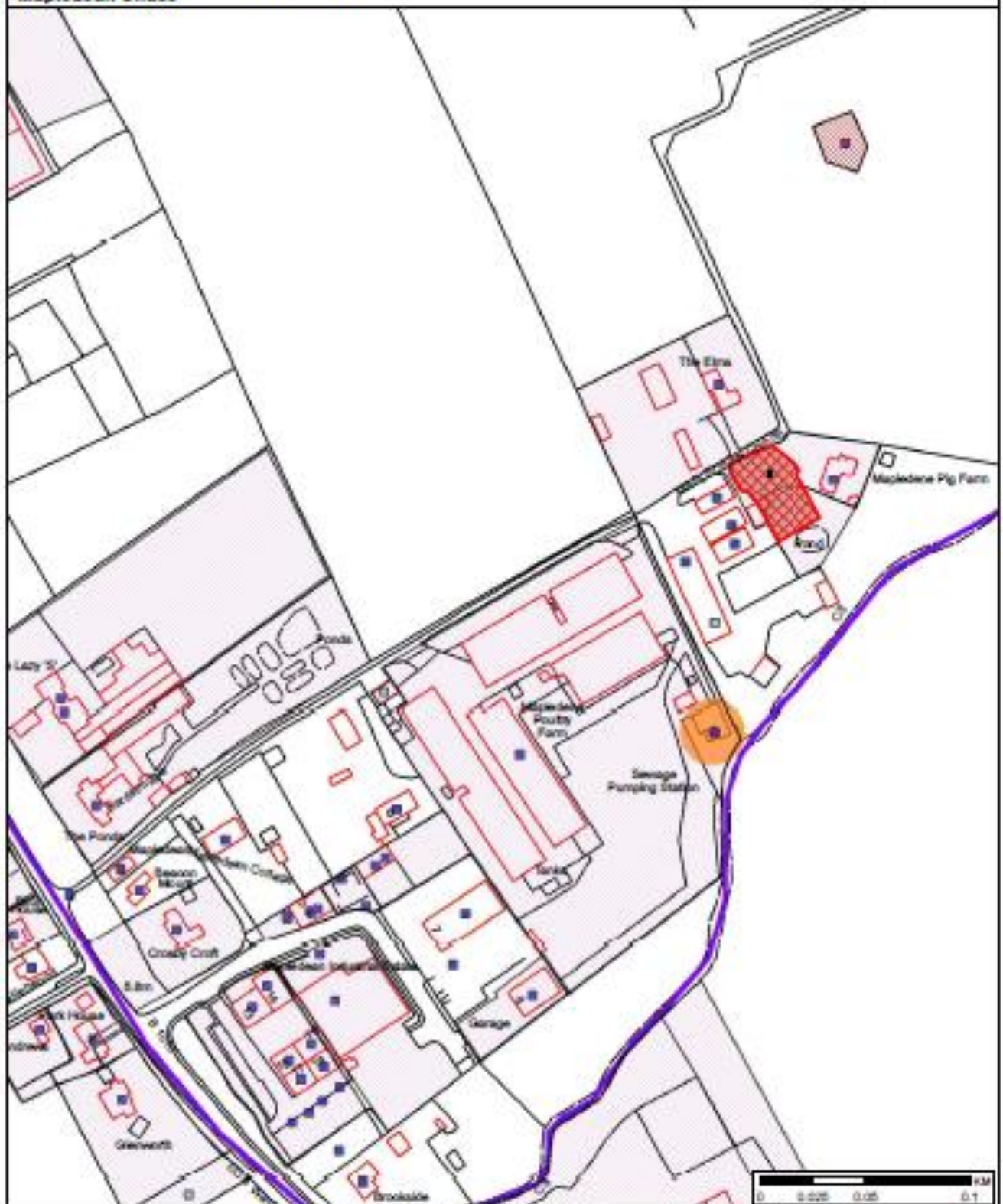
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

Land at Mapledean Pig Farm
Mapledean Chase



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 Maldon District Council 100018588 2014



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Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	Latchingdon
Date:	23/01/2023
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information and related planning history

Application site

- 3.1.1 The application site is located to the south east of Mapledean Chase, which is a private road, unadopted by the Highways Authority, and is outside of a defined settlement boundary. Access to Mapledean Chase is at Maldon Road. The application form submitted to support the proposal confirms that the site measures 0.11 hectares, and forms land associated with Mapledean Pig Farm, which has an overall area of 0.66 hectares.
- 3.1.2 The site is roughly rectangular in shape and comprises an area of cultivated garden land, which includes some trees and established vegetation.
- 3.1.3 The site is located at the very end of the unadopted road (circa 400 metres), to the east of the Essex Pet Crematorium, the Mapledene Poultry Farm and a Sewage Pumping Station. Beyond Mapledean Poultry Farm is the Mapledean Industrial Estate (an employment area, as defined by the Local Development Plan (LDP)). To the north west of the site is a large polytunnel, 1no. greenhouse and 1no. outbuilding. Residential development at Mapledean Chase is sporadic and comprises 'The Elms' to the north west, and Mapledean Pig Farmhouse, to the east. Beyond the 2no. plots of residential development is open countryside. The character at Mapledean Chase is mixed (predominantly industrial to the west), however, the existing residential development to the eastern side of Mapledean Chase is surrounded by open countryside, and the character at this section of Mapledean Chase is rural. A pond is located to the north east of the site, beyond the rear boundary.
- 3.1.4 In terms of accessibility, the site is located in excess of 800 metres (as the crow flies) from the settlement boundary of Latchingdon, and in excess of 1.2 km (as the crow flies) from the settlement boundary of Mundon.
- 3.1.5 The site is located entirely within Flood Zone 3a.

The Proposal and Background Information

- 3.1.6 Planning permission is sought for the construction of a chalet bungalow.
- 3.1.7 The proposed bungalow is rectangular in shape, and is proposed to measure 11.020 metres in width, 8.620 metres in depth and approximately 7.3 metres to the ridge of a hipped roof (3.611 metres to the eaves).
- 3.1.8 The ground floor proposes to provide for 1no. kitchen, 1no. hallway, 1no. technical room, 1no. bathroom, 1no. gym, and 1no. living / dining room. The first floor proposes to provide for 2no. bedrooms (1no. with an en-suite), 1no. bathroom and 1no. landing area.
- 3.1.9 Parking for 2no. vehicles is proposed at the frontage. An area of private amenity space is proposed to the side (east) and rear.

3.2 Conclusion

- 3.2.1 The proposed development is location outside of a defined settlement boundary and is in open countryside. Access to the nearest settlement is via an unlit, poorly

maintained, single track private road, which measures approximately 400 metres in length. This is deemed unsafe for pedestrians and cyclists, particularly during the hours of darkness and in inclement weather. Future occupants of the site will be required to use the private car, and this does not promote sustainable travel. Furthermore, by virtue of the domestication and urbanisation of the site, the proposed development is considered to appear as an incongruous form of development that is out of keeping and will erode the intrinsic beauty of the open countryside.

- 3.2.2 Further, the proposal has not considered the context within which it will sit and the dwelling proposed is of poor architectural merit, which would be highly visible at the street scene. This will appear as visually intrusive and cause harm to the character and appearance of this rural section of Mapledean Chase.
- 3.2.3 A completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards the 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.
- 3.2.4 Of great concern is the fact that the proposed development is located within Flood Zone 3a and the site therefore has a higher probability of flooding. The proposal is for the provision of 1no. dwelling, which is classified as 'more vulnerable' development. The policies and guidance in the National Planning Policy Framework (NPPF) (2021) and Policy D5 of the Maldon District Local Development Plan (MDLDP) (2017) seek to direct development to areas with a lower risk of flooding. The applicant has submitted insufficient information to allow the Local Planning Authority (LPA) to determine whether or not the proposal passes the Sequential Test and the Exception Test. Further information is also required with regard to flood risk mitigation measures. In accordance with comments received from the Environment Agency, to comply with national policy the proposal is required to pass the Sequential Test and the Exception Tests and it has failed to do so.
- 3.2.5 It is therefore recommended that planning permission for the proposal is refused.

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 – 59 Planning conditions and obligations
- 92-97 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 173 Meeting the challenge of climate change, flooding and coastal change

- 170 – 183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG) (first released in 2014, but regularly updated)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).

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 the 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 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 - 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 74).

- 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 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).
- 5.1.5 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 Paragraph 79 of the NPPF states that:

‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’.

- 5.1.9 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that “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 is supported by the update of the Government’s Policy Paper, ‘Strategic road network and the delivery of sustainable development’ (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that “new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable.”
- 5.1.10 The site lies outside of any defined settlement boundary and is within the open countryside. As the crow flies, the site is in excess of 800 metres from the settlement boundary of Latchingdon. Policy S8 of the LDP classifies Latchingdon (the closest settlement in terms of distance) as a “smaller village.” The post-amble to this Policy defines smaller villages as “defined settlements containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities.” Moreover, as aforementioned, Mapledean Chase is a private, unadopted road, measuring circa 400 metres in length (the application site is located at the very end of this road). Upon visiting the site, the Officer noted that this road is of a single track, is poorly maintained, and is unlit. Large vehicles / lorries serving the adjacent industrial and industrial / employment uses also access the road, restricting safe access for pedestrians and cyclists. The only way for future occupants of the site to access the settlement, or bus stops at Maldon Road, would be via this road. All of these factors would mean that future occupants would be heavily reliant on the use of the private vehicle, as access to Maldon Road is not considered safe for pedestrians or cyclists, particularly at times of inclement weather, or during the hours of darkness.
- 5.1.11 Whilst it is acknowledged that residential development is present at Mapledean Chase at ‘The Elms’ and ‘Mapledean Pig Farmhouse’, both of these properties were erected initially as agricultural worker’s dwellings (planning references MAL/666/77 and MAL/837/88) and are therefore not a direct comparison to the proposal the subject of this report. Notwithstanding this, all applications are assessed on their own merits.
- 5.1.12 The applicant has provided a “village amenities map”, however, as stated, the village can only be accessed by unsafe and unsustainable / unsafe means and the village is classified as a “smaller village”, and therefore future occupants will still be required to use the private car to access day to day facilities such as supermarkets etc.
- 5.1.13 Owing to the inaccessible location of the site, it is not considered that the proposal constitutes a form of sustainable development and this is contrary to local and national planning policy and guidance.
- 5.1.14 The Council’s spatial strategy is to focus new development within settlement boundaries (Policies S1 and S8). Policy S8 states that, outside of the defined development boundaries and other defined areas, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for development within a limited list of criteria.

- 5.1.15 It is not considered that the proposal satisfies any of the criterion listed at Policy S8. The site has not been identified for development in an adopted neighbourhood plan. The development will not generate employment proposals, nor will it provide community services and facilities to meet a local need, or agriculture and forestry and related development. The development will not re-use a redundant or disused building, and will not involve rural diversification, recreation and tourism. The development will not provide agricultural and essential workers' accommodation, nor does it constitute a rural exception site for affordable housing, or travellers and travelling show people accommodation. The proposal does not provide green infrastructure, open space, or sports facilities. It does not provide utility and highway infrastructure, nor will it facilitate the delivery of a new Community Hospital or healthcare facility. As is stated within the body of this report, the proposal is also contrary to policies within the LDP.
- 5.1.16 With regard to the impact on the intrinsic beauty and character of the countryside, the site is outside of what can reasonably be considered as the residential curtilage for Mapledean Pig Farmhouse. The proposal will introduce additional residential development and paraphernalia that would be harmful to the intrinsic character and beauty of the open countryside. The site would become more domesticated with its own residential garden, boundary treatments, artificial lighting, hardstanding, and associated paraphernalia, linked with a residential use, and the scope for integrating the development into its surroundings is limited. This would urbanise the site, materially altering its character, and causing harm to the intrinsic beauty and character of the open countryside.
- 5.1.17 In addition, the proposed dwelling is considered to be of poor design, and this is discussed further at Paragraph 4.3 of this report. The development would, therefore, appear as incongruous and at odds with its setting. Whilst it is acknowledged that the use of materials could be influenced via the imposition of a suitably worded planning condition and permitted development rights could be removed for extensions to the new dwellings, and for outbuilding to gardens, etc., however, this would not significantly diminish the harm caused.
- 5.1.18 As stated by the Inspector at appeal reference APP/X1545/W/17/3172993, by Mr & Mrs Breet against the decision of Maldon District Council, "Latchingdon is a predominantly linear settlement. As such, there is a clear distinction between the built form of the settlement and the surrounding countryside." In accordance with the NPPF (2021), planning decisions should recognise "the intrinsic character and beauty of the countryside", and in accordance with Policy S8 of the LDP, as aforementioned, "planning permission will only be granted where the intrinsic character and beauty of the countryside if not adversely impacted upon."
- 5.1.19 For the reasons aforementioned, the proposal has been found to be contrary to Policies S1, S8, D1, H4, T1 and T2 of the MDLDP (2017), and the policies and guidance in the NPPF (2021). The principle of development at the site is therefore not acceptable.

5.2 Housing Need and Supply

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that LPAs should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts

of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.
- 5.2.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF (2021) and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build.
- 5.2.4 Whilst it is acknowledged that the Design and Access Statement asserts that the proposal will provide for 1no. 2-bedroom dwelling, the floor plans provided (drawings no. 02 and 03) show that the proposed dwelling has at least 3no. rooms capable of use as a bedroom, and that the first floor plan shows 'bedroom 3' as labelled.
- 5.2.5 The LHNA states that the greatest mix needed for market housing is for 3-bedroom dwellings (40-50%), however, as the proposal is for 1no. dwelling, the contribution to the housing mix is considered to be nominal, and this would not outweigh the concerns within this report.

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 any local design standards or style guides in plans or supplementary planning documents".*
- 5.3.3 The basis of Policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

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

5.3.5 As aforementioned, Policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

5.3.6 The proposal seeks to erect 1no. chalet dwelling on land associated with Mapledean Pig Farmhouse. As residential development at Mapledean Chase is sporadic, there is no set residential building line. The proposed dwelling will sit forward of its host, fronting Mapledean Chase, adjacent to the neighbouring Pet Cemetery.

5.3.7 The proposed dwelling is rectangular in shape and of a single storey, with roof lights and windows at the first floor side elevations serving the habitable loft space. Drawings 05 and 06 confirm that the dwelling would be rendered white, and the roof would be constructed with concrete tiles. The doors and windows are proposed to comprise of white UPVC. Parking is proposed at the frontage.

5.3.8 When viewed at the street scene, it would appear as though the proposed dwelling has taken design cues from the neighbouring buildings at the Pet Cemetery, which are also of a single storey design, with white rendered walls. It should be noted that Mapledean Pig Farmhouse is set well back from Mapledean Chase and is not readily visible from the adopted road. The dwelling proposed is to be sited in a visually prominent location. Whilst in keeping with the commercial / industrial uses to the west of the site, this is at odds with the rural setting to the east of Mapledean Chase.

5.3.9 In addition, the basic design of the proposed development lacks any architectural merit, and the further domestication of the site is considered to erode the intrinsic beauty and character of the rural area and urbanise the site. The development would, therefore, appear as incongruous and at odds with its rural setting. Whilst it is acknowledged that the use of materials could be influenced via the imposition of a suitably worded planning condition and permitted development rights could be removed for extensions to the new dwellings, and for outbuilding to gardens, etc., however, this would not significantly diminish the harm caused, and would impact the

relationship between the commercial / industrial area and the open countryside, appearing as an extension to such uses.

- 5.3.10 For the reasons aforementioned, the proposal has been found to be contrary to Policies S1, S8, D1 and H4 of the MDLDP (2017), and the policies and guidance in the NPPF (2021). In accordance with Paragraph 134 of the Framework, “development that is not well designed should be refused.”

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 closest residential dwelling to the proposed development is Mapledean Pig Farmhouse, which is located approximately 25 metres to the east of the site. Owing to the separation distance between the proposed development and Mapledean Pig Farmhouse, the proposal would not result in a loss of daylight or sunlight to this neighbour, nor would the proposal appear as overbearing. With regard to any potential loss of privacy, it is acknowledged that 1no. window is proposed at the first floor side (east) elevation. This window is proposed to serve 1no. bedroom. This window would afford future occupants a view of the neighbouring driveway, and this feature is not such as to warrant a reason for refusal.
- 5.4.3 With regard to the neighbour at ‘The Elms’, the proposed development is to be located in excess of 30 metres from the neighbouring dwelling. A private road, Mapledean Chase, intersects the proposed development from the neighbouring site. Owing to the siting of the proposed development, the proposal would not result in a loss of daylight or sunlight to this neighbour, nor would the proposal appear as overbearing. With regard to any potential loss of privacy, the proposal is for a chalet bungalow, that appears as a single storey dwelling, with roof lights to serve the first floor. Parking is proposed at the frontage. Any view of ‘The Elms’ from the proposed development would be obstructed by parked vehicles, and the unadopted road. Owing to the separation distance proposed, it would not be reasonable to recommend a refusal on this basis.
- 5.4.4 Neighbour objections have been received with regard to the noise levels at the site. This noise is in relation to HGV lorries and trucks and would apply to the construction phase of the proposed development. Should planning permission be forthcoming, a construction management plan could be requested to ensure that construction only took place during certain times of the day, and this could aid with noise mitigation. It is not considered that the proposed development would result in an unacceptable level of noise beyond the construction phase.
- 5.4.5 With regard to the impact on the future occupants of the site, the Council’s Environmental Health Officer has reviewed the proposal and has noted that the site is located next door to a pet crematorium. Breakdowns cannot be ruled out and this may give rise to short term releases of smoke. Further activities at the wider site may also give rise to noise. Whilst this would not warrant a reason for refusal, future occupants of the site should be made aware of the potential impact to their amenity.

5.5 Access, 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 proposal has been reviewed by the Highways Authority, noting that Mapledean Chase is a private, unadopted road. As such, they raise no objection to the proposal. Advisory comments have been provided, and can be issued as an informative, should planning permission be forthcoming.
- 5.5.3 With regard to parking, the proposal seeks to provide for 3no. rooms capable of use as a bedroom. In accordance with the Council's Parking Standards SPD (2018), 2no. parking spaces must be provided, and the spaces must measure 2.9m x 5.5m. Drawing no. 1229/02 shows that parking for 2no. vehicles can be achieved at the frontage, however, the size of the parking spaces provided do not adhere to the Standards. Notwithstanding this, ample space for parking can be achieved at the site. Should planning permission be forthcoming, additional information with regard to the parking at the site would be sought.

5.6 Landscaping and tree impact

- 5.6.1 Policy D1 of the LDP states that all development must respect and enhance the character and local context and make a positive contribution in terms of landscape, setting, townscape setting and skylines and in terms of the natural environment.
- 5.6.2 The proposal has been reviewed by the Council's Arboricultural Consultant, who has advised that there are no trees on site that are considered to be significant, and their removal or potential impact by construction would not be an issue. However, should planning permission be forthcoming, a suitably worded condition would be required to ensure the applicant provides a tree protection method statement for trees to be retained and a soft landscaping plan to include suitable planting to complement the scheme, biodiversity, and wider public amenity.

5.7 Private Amenity Space

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms. It is considered that the proposed dwelling has 3no. rooms capable of use as a bedroom.
- 5.7.2 Sufficient space has been provided within the site to accommodate the minimum area of private amenity space required (100m² per dwelling).

5.8 Nature Conservation and Biodiversity

- 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 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. LDP Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.8.4 A Preliminary Ecological Appraisal has been submitted to support the proposal (Arbtech, October 2022). The proposal has been reviewed by the Council's Ecological Consultant, who has noted that there is sufficient ecological information available to determine the application. The Consultant acknowledges that the site falls within the evidenced recreational Zone of Influence (Zoi) of the Blackwater Estuary Ramsar and SPA. A Habitats Regulation Assessment is required, and a per dwelling tariff secured by way of a legal agreement. This is addressed below. The mitigation measures identified in the Preliminary Ecological Appraisal should be secured by the imposition of a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species, particularly Great Crested Newt, badger and hedgehogs.
- 5.8.5 In addition, the Consultant also supports the proposed reasonable biodiversity enhancements of 2no. bat boxes, 2no. bird boxes, hedgerow planting, pond enhancement, wildflower grassland creation, and the creation of hibernacula / refugia for amphibians, reptiles and hedgehogs, which have been recommended in the Appraisal, in order to secure net gains for biodiversity. The reasonable enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 5.8.6 The Appraisal also highlights that it is likely that bats could be foraging / commuting within and around the site. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:
- Light levels should be as low as possible as required to fulfil the lighting need.
 - Warm white lights should be used at less than 3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
 - The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
 - Lights should be designed to prevent horizontal spill, e.g. cowls, hoods, reflector skirts or shields.
- 5.8.7 This will enable the LPA to demonstrate its compliance with its statutory duties, including its biodiversity duty under s40 of the NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the imposition of such conditions based on BS42020:2013.
- 5.8.8 The development of 1 no. dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and strategy advice, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European

site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment, are listed below:

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

Is the development within the Zone of Influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes, the development is for 1no. dwelling, and therefore the net increase of dwellings at the site is 1no. dwelling.

Test 2 – The integrity test

Is the proposal for 100 houses + (or equivalent)? No.

Is the proposal within or directly adjacent to one of the above European designated sites? No.

- 5.8.9 As the answer is no, it is advised that, should planning permission be forthcoming, a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the named European sites from recreational disturbance, when considered ‘in combination’ with other development. NE does not need to re-consult on this Appropriate Assessment.
- 5.8.10 The Essex Coastal Recreational Avoidance and Mitigation Strategy has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £131.71 (2022-2023 figure) and thus, the developer contribution should be calculated at this figure. However, in the absence of a signed legal agreement to secure the aforementioned contribution, the impact of the development may not be able to be mitigated and thus, this would constitute a reason for the refusal of this application.

5.9 Archaeology

- 5.9.1 Policy D3 of the LDP requires that, where development might affect geological deposits, archaeology, or standing archaeology, an assessment from an appropriate specialist should be carried out. This has not been recommended in this instance.
- 5.9.2 The proposal has been reviewed by the Council’s Archaeological Consultant, who has advised that there is no known archaeology on the site, and the scale of the proposed development is unlikely to significantly impact any unknown archaeology that might be present. No archaeological recommendations will be made with respect to this proposal.

5.10 Flood risk and drainage

- 5.10.1 Policy D5 of the LDP sets out the Council’s approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximise opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).

5.10.2 The site is entirely within Flood Zone 3a and as such, the Environment Agency (EA) has been consulted for comment. The EA confirms that it raises no objection, subject to the fact that the LPA take into account its responsibilities. The Agency has made the following comments:

“Our maps show the site lies within Tidal Flood Zone 3a, as defined by the Planning Practice Guidance: ‘Flood Risk and Coastal Change’ as having a high probability of flooding. The proposal is for the construction of a chalet bungalow, which is classified as a ‘more vulnerable’ development, as defined in Annex 3: Flood Vulnerability classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).”

5.10.3 Paragraph 7 of the FRA states that “the sequential test is applied to developments in areas identified as being at risk of any source of flooding now or in the future. The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account.” Whilst the FRA considers the proposal to be suitable with regard to flood risk, it clearly states that this is “subject to the implementation of the Sequential Test and the Exception Test.”

5.10.4 In order to complete the Sequential Test, applicants must provide the name and location of the site that is proposed for development, and an explanation of why this specific site has been chosen for development. Applicants must contact the LPA to discuss alternative sites, to estimate the capacity of each potential site and provide information to the LPA with regard to the alternative site’s name and address, whether it has been allocated in the local plan, any issues that would prevent development on the site and whether these issues can be overcome, the estimate of the capacity of the site, the status of the local plan and any supporting documentation about the alternative sites, e.g., local plan background and evidence base documents or housing and economic land available assessments. The risk of flooding at the application site should be compared to that of the alternative sites. It must then be concluded whether any of the alternative sites identified have a lower risk of flooding than the application site. The sequential test must be submitted to the LPA alongside an FRA.

5.10.5 Only if the sequential test shows that it isn’t possible to use an alternative site, should the Exception Test be applied. The Exception Test should set out the sustainability benefits of the development to the community, and how this outweighs the flood risk. It also needs to be demonstrated that the development will be safe for its lifetime taking into account the vulnerability of its users and that it would not increase flood risk elsewhere. The Exception Test must be submitted to the LPA alongside the Sequential Test and an FRA.

5.10.6 Turning firstly to the application of the Sequential Test, Paragraph 9.08 of the Design Access and Planning Support Statement acknowledges that Paragraph 168 of the NPPF (2021) confirms that some minor developments and changes of use should not be subject to the sequential test. This is contrary to the findings of the FRA submitted to support the proposal, which state that residential development of this nature within Flood Zone 3 will require a Sequential Test. For clarity, Paragraph 168 of the NPPF states:

“Applications for some minor development and changes of use⁵⁶ should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 55.”

Footnote 56 defines those minor developments and changes of use that do not be subject to the sequential test as follows:

“householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.”

- 5.10.7 The proposed development is not a householder development, nor a small non-residential extension. It is therefore clear that the Sequential Test and Exception Tests should be applied, as appropriate, and satisfied, before planning permission can be granted. This is in accordance with the advice from the EA.
- 5.10.8 The applicant has failed to apply the Sequential Test and provide such information to the LPA. It is therefore not known if alternative sites within the District are available, however, based on the reasons why the principle of development has been found to be unacceptable, it is considered that there could be alternative sites available, and these should be explored. Notwithstanding this, should it have been found that there were no other sites available, and the Exception Test applied, the sustainability benefits of the development to the community have not been appropriately justified, and the proposal would therefore not satisfy the requirements of the Exception Test.
- 5.10.9 In order to assist the LPA in making an informed decision about the flood risk affecting this site, the EA summarised the key points to note from the submitted FRA and government policy and guidance. Many of the points made require the submission of additional information, for example, supporting information and calculations to ensure the certainty that the buildings will be constructed to withstand the pressure and forces associated with flood water. As the principle of development has been found to be unacceptable, no further information has been sought in this regard and this has not been satisfied.
- 5.10.10 In the absence of a Sequential Test, nor information to support the Exception Test, the LPA is not able to make an informed decision about the flood risk affecting this site. This is supported by comments made by the EA, who clearly state that the chalet bungalow proposed is classified as “more vulnerable” and “to comply with national policy the application is required to pass the Sequential and Exception Tests.” Additional information is also required to ensure the risks are fully considered. The proposal has therefore been found to be contrary to Policies S1 and D5 of the LDP and the objectives of the NPPF (2021) and the National Planning Practice Guidance (as updated).
- 5.10.11 With regard to drainage, owing to the size of the site, the Council’s Development and Flood Risk Officer does not wish to comment with regard to drainage, however, the Officer reiterates the fact that the site is within Flood Zone 3a and the EA must be consulted. The Council’s Environmental Health Officer, however, has noted that should planning permission be forthcoming, conditions should be imposed regarding surface water and foul drainage.
- 5.10.12 The Design and Access and Planning Support Statement acknowledges that “at construction stage, the site has the benefit of being able to process and dispose of both foul water drainage via a package treatment plant and storm water via a sustainable drainage system.” No further information has been provided in this regard. Should planning permission be forthcoming, a condition is required to secure such details.

5.11 Planning Balance and Sustainability

- 5.11.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration
- 5.11.2 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.11.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate' to consider as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.11.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.11.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional units may support local businesses within the settlement such as shops and services. This would however be very limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal.
- 5.11.6 In social terms, the site is not located within an area where there is safe access to local facilities. Whilst it is acknowledged that the proposal does provide for 1no. three bedroom dwelling, future occupants of the site would be highly reliant on the use of the private car, and could travel outside of the District, if desired, to utilise facilities and services. The social contribution of the proposed development is therefore also considered to be nominal, as the dwellings would not support a thriving local community.
- 5.11.7 As aforementioned, in environmental terms, the application site is not sited within an accessible location. Future occupants would be highly reliant on the use of the private car. This does not support the objectives of the LDP (2017), the NPPF (2021), nor the recently updated Government Policy Paper, 'Strategic road network and the delivery of sustainable development' (Updated 23 December 2022), which heavily emphasises the need for development to reduce the use of the private car. The proposal does not represent a sustainable form of development.
- 5.11.8 The adverse impacts of granting planning permission have been found to significantly and demonstrably outweigh the benefits, when assessed against the policies in the LDP, associated guidance, and the NPPF when taken as a whole.

6. OTHER MATTERS

6.1 Personal circumstances

6.1.1 A Design and Access and Planning Support Statement has been submitted to support the proposal. The Statement includes a personal statement, with regard to the personal circumstances of the applicant. Whilst it is acknowledged that the applicant has attempted to set out the reasons why they consider the dwelling to be acceptable, and the personal benefits to them (this includes the fact that the proposed development will enable them to “step onto the housing ladder”) these are not planning benefits. The contribution of 1no. dwelling is nominal, and as the proposed development is to be located outside of the settlement boundary, is of poor design, would render future occupants highly reliant on the use of the private car, and flood risk and ecological matters have not been satisfied, the proposal does not demonstrate a form of sustainable development. The lifetime of the proposal has to be considered in its perpetuity, and not against the personal circumstances of the applicant in this instance.

6.2 Neighbour objections / comments

6.2.1 1no. neighbour objection and 1no. neighbour comment have been received that centre around the impact of additional lorries and HGVs accessing Mapledean Chase. It is considered that damage could occur to the road, the vehicles could be a threat to highway safety and an increase in noise could be experienced.

6.3. As set out at Paragraph 4.5 of this report, Mapledean Chase is a private, unadopted road, therefore the Highways Authority raises no objection to the proposal. Should planning permission be forthcoming, a suitably worded condition could be imposed with regard to the submission of a suitable construction management plan, that would include the hours of work. With regard to highway safety, this has been raised as an issue at Paragraph 4.1 of this report, and forms part of the reason why the proposal cannot be considered to represent a form of sustainable development.

6.4 As aforementioned, the proposal has been reviewed by the Council’s Environmental Health Officer, who has noted that should planning permission be forthcoming, informatives should be included with regard to refuse and recycling, land contamination, construction, small sewage treatment plants, alterations to an ordinary watercourse and the timing of submission details.

7. ANY RELEVANT SITE HISTORY

7.1 There is no relevant site history for the immediate site, however, the planning history for Mapledean Chase Pig Farm is noted below:

Application number	Description	Decision
19/00930/FUL	Demolition of existing domestic storage building and erection of replacement domestic storage building.	Approved.
15/00240/HOUSE	Single storey side extension and conservatory to side and rear.	Approved.
06/00119/PE	Certificate of Lawfulness for use of land and small	

	incinerator for disposal of small animal carcasses imported on the site.	Closed.
06/00473/LDE	Occupation of the dwelling in breach of agricultural occupancy condition of MAL/837/88 for a period in excess of ten years.	Approved.
06/00267/LDE	Continued use of incinerator for disposal of animal carcasses from offsite.	Application withdrawn.

7.2. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.2.1 Representations received from Parish/Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mundon Parish Council	No objection.	Noted.
Latchingdon Parish Council	No comments received.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Officer	Future occupants of the site should be made aware of potential noise arising from neighbouring uses. Conditions should be imposed re drainage, if permission is granted.	Noted, and discussed at Sections 4.11, 4.45 and 6.3 of this report.
Tree Consultant	No objection, however, a condition is required to secure a tree method statement and landscaping scheme.	Noted, and discussed at Section 4.6 of this report.

7.4 Representations received from external consultees:

Name of Internal Consultee	Comment	Officer Response
Archaeology	No recommendations.	Noted, and discussed at Section 4.10 of this report.
Sustainable Drainage Systems	No comment, however, the site is within Flood Zone 3 and the Environment Agency must be consulted.	Noted, and discussed at Section 4.11 of this report.
Highways	No objection, the road is unadopted.	Noted, and discussed at Section 4.5 of this report.
Ecology	No objection, subject to the securing of RAMS tariff and the imposition of conditions.	Noted, and discussed at Section 4.8 of this report.

Name of Internal Consultee	Comment	Officer Response
Environment Agency	The proposal must pass the Sequential and Exception Tests to comply with national policy. Further information is required.	Noted, and discussed at Section 4.11 of this report.

7.5 Representations received from Interested Parties

7.5.1 1no. letter of **objection** has been received, summarised as follows:

Objecting comment	Officer response
Noise, impact on unmaintained road (lorries, HGVs and other vehicles). Improvements required to the road.	Noted, and discussed at Section 4.5 and 6.2 of this report.

7.6 Representations commenting on the application

7.6.1 1no. neutral **comment** has been received, summarised as follows:

Objecting comment	Officer response
Comment received regarding the impact on the private road. Damage, traffic, noise etc.	Noted, and discussed at Section 4.5 and 6.2 of this report.

8. REASONS FOR REFUSAL

- The proposed development is located outside of a defined settlement boundary and is in open countryside. The site is not considered to be in an accessible location and does not promote sustainable travel. Furthermore, by virtue of the domestication and urbanisation of the site, the proposed development is considered to appear as an incongruous form of development that is out of keeping and will erode the intrinsic beauty of the open countryside. The principle of development has, therefore, been found to be unacceptable. The proposal is therefore contrary to Policies S1, S8, D1, H4, T1, T2 and D2 of the Maldon District Local Development Plan (2017), the Maldon District Design Guide (2017), and the policies and guidance in the National Planning Policy Framework (2021)
- The proposed development has not considered the context within which it will sit and will introduce a residential development of poor architectural merit, with associated domestic paraphernalia, that will be highly visible at the street scene. The residential use will appear as visually intrusive and out of keeping and will cause material harm to the character and appearance of this rural section of Mapledean Chase. The proposal is therefore contrary to Policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (2017), the Maldon District Design Guide (2017), and the policies and guidance in the National Planning Policy Framework (2021).
- 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 the 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 (2017), and the policies and guidance in the National Planning Policy Framework (2021).

4. The proposed development is located within Flood Zone 3a and the site therefore has a higher probability of flooding. The proposal is for the provision of 1no. dwelling, which is classified as 'more vulnerable' development. The policies and guidance in the National Planning Policy Framework (2021) and Policy D5 of the Maldon District Local Development Plan (2017) seek to direct development to areas with a lower risk of flooding. The applicant has submitted insufficient information to allow the Local Planning Authority to determine whether or not the proposal passes the Sequential Test and the Exception Test. Further information is also required with regard to flood risk mitigation measures. In accordance with comments received from the Environment Agency, to comply with national policy the proposal is required to pass the Sequential Test and the Exception Tests; it has failed to do so. The proposal is therefore contrary to Policies S1 and D5 of the Maldon District Local Development Plan (2017), the policies and guidance in the National Planning Policy Framework (2021) and the National Planning Practice Guidance (first published in 2014, but regularly updated).