



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
12 APRIL 2023**

Application Number	22/01135/FUL
Location	Loftmans Farm Maldon Road Steeple CM0 7RR
Proposal	Construction of a two-storey detached rural workers dwelling. Change of land use to C3.
Applicant	Mr and Mrs Steven Massenhove
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	EOT to 22.02.2023
Case Officer	Tim Marsh
Parish	STEEPLE
Reason for Referral to the Committee / Council	Member call in from Councillors Mrs P A Channer and M W Helm Reason: S1 - Sustainable growth, S8 - Settlement Boundaries and the Countryside and D1 - Design Quality and Built Environment, H7 – Agricultural and Essential Workers Accommodation, E4 - Agricultural and Rural Diversification

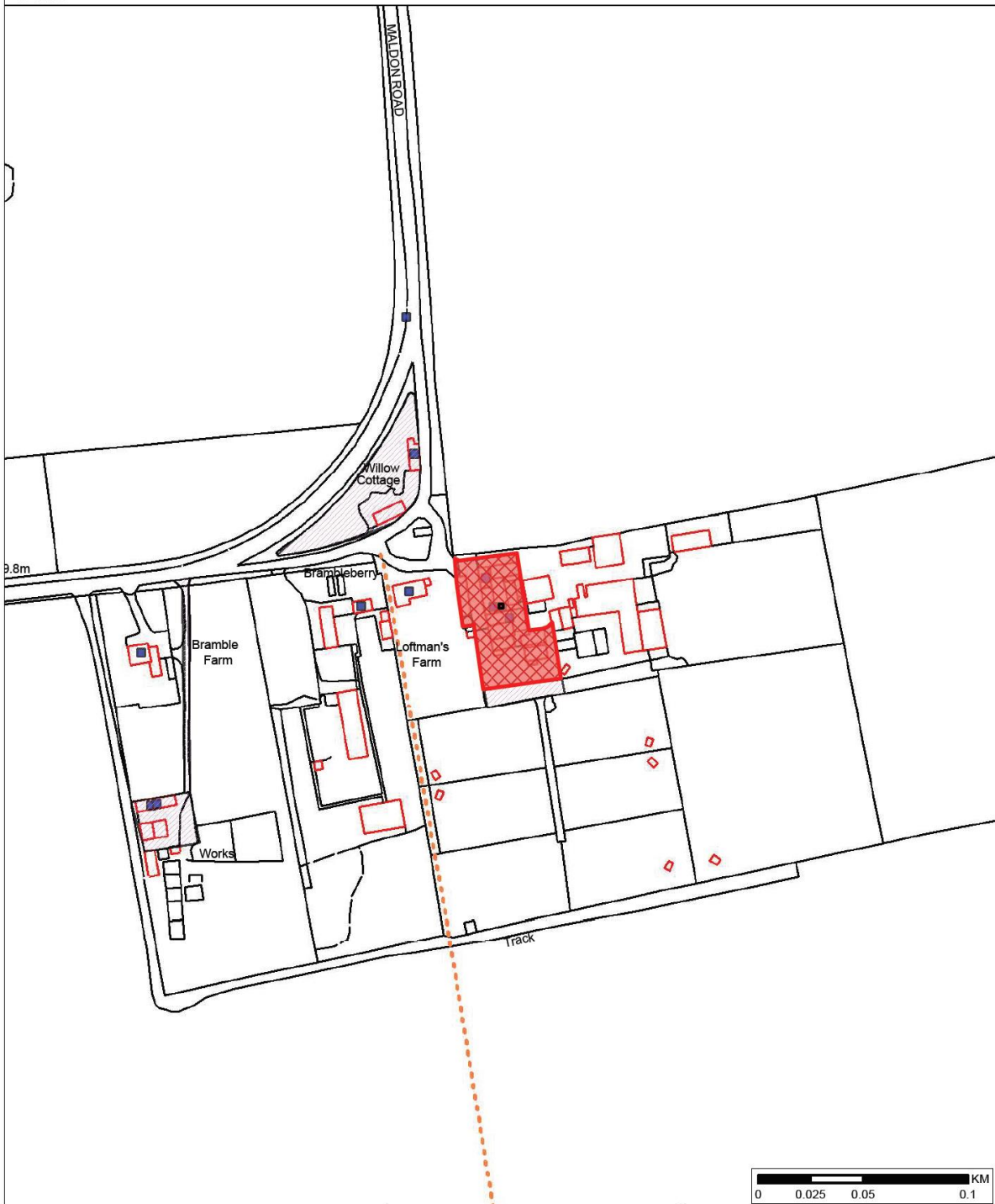
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

22/01135/FUL
SEAC



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Maldon District Council 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 29/03/2023

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the south east side of Maldon Road, in a rural location, outside of a defined settlement boundary but within a small, developed area comprising commercial and residential development. The site is approximately 0.2ha in size and comprises of a number of single storey buildings, most recently used as kennels, but these are currently not in use. The area of land immediately to the east, south and west of the site, falls within the ownership of the applicant and comprises a dwelling, further commercial outbuildings and paddocks.
- 3.1.2 Planning permission is sought for the construction of a detached two storey dwelling for a rural worker and change of land use to C3. The existing kennel buildings which currently occupy the site would be demolished. The proposed dwelling has an internal floorspace of approximately 240 sqm and measures approximately 13.7m wide, 14.25m deep, with an open sided veranda extending the depth a further 2.5m. The eaves height extends to 4.8m with an overall ridge height of 7.8m. The proposed dwelling would be sited towards the front of the spacious site with parking proposed to the front of the dwelling, and private amenity space to the rear. The existing access point and associated track would not be altered
- 3.1.3 A previous application, 22/00473/FUL, for a market dwelling to the same design as now proposed on the site, was refused by the South Eastern Area Planning Committee and the decision was issued on 6 September 2022.

3.2 Conclusion

- 3.2.1 The proposed development would result in the unjustified loss of a site with a lawful employment generating use. The applicant has not demonstrated the need for a permanent rural worker's dwelling at the site. The proposed residential use of the site would also result in harmful domestication and urbanisation of the area. Therefore, the first reason for refusal of the previous application has not been overcome and the proposal does not meet the requirements for it to be supported as a rural worker's dwelling. The application is therefore contrary to Local Development Plan (LDP) policies S1, S2, S8, D1, H4, H7 and E1 and related provisions of 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) 2021, including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-58 Planning Conditions and Obligations
- 78-80 Rural Housing
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment

- 189-208 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- H2 Housing Mix
- H4 Effective Use of Land
- H7 Agricultural and Essential Workers Accommodation
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The starting point for consideration of this application is the recent refusal of planning permission for an identical dwelling on the site. An assessment of the current proposal in relation to each of the three reasons for refusal of that application is set out below.

5.2 Reason for Refusal 1 Location, Need, Loss of Employment, and Character

- 5.2.1 The first reason for refusal reads as follows:

1 *The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council cannot demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework, however, the site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for Growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The site is poorly located relative to facilities, services and sustainable modes of transport. The proposed development would result in the loss of an employment use and it has not been demonstrated to the satisfaction of the LPA that there is no demand for an employment use at this site. Furthermore, the proposal would substantially alter the character of the countryside, particularly through the introduction of a domestic character a of residential development, the extent of the garden land and appearance of the proposed dwelling are considered to significantly add to the visual harm of the proposal. The development would therefore be unacceptable, does not constitute sustainable development, would result in the unjustified loss of an employment generating use and a detrimental visual impact, contrary to policies S1, S2, S8, E1, D1 and H4 of the Maldon District Local Development Plan (2017) and*

5.3 The four constituent parts of this reason for refusal are considered further below.

5.3.1 Location

5.3.1.1 The site is located outside of any defined settlement boundary, within a rural area, set in the open countryside approximately 640m from the edge of the settlement boundary of Steeple and 1300m from the edge of the settlement boundary of Mayland. The closest form of public transport is a bus stop located some 2415m from the application site, within the settlement of Mayland. The report to Committee on the previous application concluded that the site's location was therefore unsustainable, highlighting the absence of public footpaths or pavements leading from the site into the settlements and the site's location on a sharp bend in the road off the busy, 60mph road with thin grass verges and no streetlights. Therefore, the site was found to be contrary to LDP policies S1, S2, S8 owing to its inaccessible location where future occupiers of the proposed dwelling would be heavily dependent on the use of private vehicles to gain access to all day-to-day services and facilities such as schools, shops, medical services and employment.

5.3.1.2 The site's unsustainable location weighs heavily against the proposal and the only instance in which new dwellings in such locations might be supported is where they serve the need for an essential rural worker under the terms of LDP policies S8 and H7. Although the Council cannot currently demonstrate a five-year housing supply, this does not mean that planning permission should be granted for new dwellings in inaccessible locations and the first reason for refusal of the previous application highlights this accordingly. It follows that for this aspect of the previous refusal to be overcome then an essential need for the proposed new dwelling must be demonstrated. This is considered further below.

5.3.2 Need

5.3.2.1 LDP policy H7 states that "Permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:

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

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

5.3.2.3 The position with the proposal in relation to the above requirements of policy H7 is as follows:

1) Evidence of agricultural need

5.3.2.4 There is evidence that there is an existing agricultural enterprise at the farm and the applicant states that the primary business of the farm is the breeding and sale of Alpacas. Financial information has been supplied and shows a loss for the years 2018/19 and 2020/21 and a modest profit for the year 2021/22. This has been achieved with the applicant living 2.5 miles away. It is stated that there is an intention to increase the herd and this would require a person on site to attend. This is backed up by a letter from Westpoint Farm Vets in which it states that *“a dwelling on site will mean that animals in need of assistance giving birth will have more immediate attention, decreasing the likelihood of preventable death of both dam and young.”* A further letter from the Director of the British Alpaca Society states that *“Any commercially run breeding herd of alpacas must have a dwelling located near the farm office and barn in order to effectively and efficiently take care of the herd under all conditions.”* However, the herd has been successful without this facility in place for the past three years and it is therefore not considered that there is an existing need to have a full-time worker in that location.

2) Alternative dwellings

5.3.2.5 There is a dwelling at the farm in which the applicant’s mother lives and information has not been supplied as to why this would not be a suitable alternative dwelling.

3) Viability of business and future prospects

5.3.2.6 The intention of the applicant is to expand the alpaca herd. Having considered the financial information supplied, the current business appears viable. However, there is no detailed business plan to illustrate possible future growth and therefore there is not enough information to satisfy the Council that the business would be viable to expand. The applicant claims that the intention is to expand the herd and that the ability to reside on site would enable the stock to expand 300% over three to four years. The applicant could consider making an application for a temporary structure although additional information in regard to the business plan would have to be submitted to satisfy the current criteria. This has not been provided. It is also considered that the size and nature of the proposed dwelling is not commensurate with the needs of the enterprise concerned. It is a large four bedroomed house, and no information has been supplied to explain why such a large dwelling would be needed in relation to the business.

4) The size and nature of the proposed structure and impact upon the character and appearance of the area

5.3.2.7 The first reason for refusal of the previous application for an identical dwelling included reference to the proposal substantially altering the character of the countryside, particularly through the introduction of a domestic character of residential development, the extent of the garden land and appearance of the proposed dwelling. It cannot be argued that the dwelling has been *“designed to minimise adverse impact upon the character and appearance of the area”*.

5.3.2.8 It is evident from the above that the applicant has not provided sufficient evidence to satisfy the necessary requirements of LDP policy H7 and has failed to justify the need for a rural worker’s dwelling on the site.

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

5.3.3 Loss of Employment Use

5.3.3.1 LDP policy E1 states that proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:

- 1) *The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
- 2) *The site would have a greater benefit to the local community if an alternative use were permitted; or*
- 3) *The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.*

5.3.3.2 With regards to these requirements:

5.3.3.3 Although the existing outbuildings were last formally used as a boarding kennels, in 2010, There is no evidence to suggest that the present use and activity on site significantly harms the character and amenity of the adjacent area.

5.3.3.4 The provision of a new dwelling for which an essential need has not been demonstrated would not be of benefit to the wider community.

5.3.3.5 The applicant has submitted limited information to justify the loss of the employment use of the site, maintaining that the use of the site as kennels would require a significant investment in new building. They have also submitted a Building Survey Report by a chartered surveyor which provides a detailed assessment of the structural integrity of the existing kennel buildings and concludes that it would not be economically viable to seek to repair and overhaul the existing structures. However, no marketing evidence has been submitted for its existing use, or as a redevelopment opportunity for other employment uses and it has not been demonstrated that the continuous use of the site for employment purposes is no longer viable.

5.3.3.6 It is evident from the above that the applicant has not provided sufficient evidence to satisfy the necessary requirements of LDP policy E1 and has failed to justify the loss of an existing employment site.

5.3.4 Character

- 5.3.4.1 Significant concerns were raised with the visual impact of the previous application, and the design, scale and form of the proposed dwelling are unchanged. It remains the case therefore that the proposed residential use of the site would result in domestication and urbanisation of the site and the extent of the garden land and appearance of the proposed dwelling would add significantly to the visual harm of the proposal, contrary to policies D1 and H4 of the LDP.

Conclusion – Reason for Refusal 1

- 5.3.5 It is evident from the above that the first reason for refusal of the previous application has not been overcome and that therefore the application, which is the subject of this report, does not meet the requirements of LDP Policy H7 necessary for it to be supported as a dwelling for a rural worker with an essential need. The proposal is therefore contrary to LDP policies S1, S2, S8, D1, H4, H7 and E1 and related provisions of the NPPF.

5.4 **Reason for refusal 2 - Impact on Protected Species**

- 5.4.1 A preliminary ecological report has now been submitted which concludes that the proposal would not have an adverse impact upon protected/priority species and habitats and that any potential significant impact could be mitigated or compensated in a satisfactory way. The proposed development therefore now accords with LDP policies S1, D2 and N2 and relevant guidance in the NPPF since conditions could be imposed to ensure appropriate protection measures are followed.

Conclusion – Reason for Refusal 2

- 5.4.2 It is evident from the above that the second reason for refusal of the previous application has now been overcome and that therefore it does not apply to the application subject of this report.

5.5 **Reason for Refusal 3 – Lack of s106 Legal Agreement**

- 5.5.1 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. 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. To accord with Natural England's requirements, an Essex Coast Recreational disturbance Avoidance & 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, as follows:

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

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

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

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

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

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

- 5.5.3 Summary of Appropriate Assessment – as a competent authority, the Local Planning Authority (LPA) concludes that the project will have a likely significant effect on the sensitive interest features of the European designated sites as the necessary mitigation, in the form of a financial contribution, has not been secured but the applicants have indicated their willingness to pay the fee to ensure mitigation should the application be approved. The necessary mitigation, in the form of a financial contribution, would therefore be secured through a Unilateral Undertaking (UU), however as the application remains unacceptable for other reasons, a signed UU has not been provided.

Conclusion – Reason for Refusal 3

- 5.5.4 It is evident from the above that the third reason for refusal of the previous application could be overcome but in the absence of a signed s106 UU this reason for refusal continues to apply.

5.6 Other Considerations

- 5.6.1 The design, form scale, siting and layout of the proposed dwelling is the same as the previous refused application which was found to be acceptable in terms of impacts on residential amenity, access, parking highway safety, and private amenity space. It follows that the proposed dwelling subject of this report accords in these respects with the relevant provisions of LDP policies D1, and T2 that apply to these considerations.

- 5.6.2 The call in of the application to Committee refers to LDP policy E4. This policy is however not relevant because it does not apply to proposals for new dwellings which are dealt with under LDP policy H7 (see “Need” above under consideration of Reason for Refusal 1 of the previous application).

5.7 Planning Balance and Sustainability

- 5.7.1 It is important to recognise the balance between the LDP policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5-year housing land supply. The tilted balance is engaged in this case and hence the 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.
- 5.7.2 With regards to this, and the need under paragraphs 7 and 8 of the NPPF for development to be considered against economic, social and environmental objectives, 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 not mean that planning applications submitted for land, which is unallocated or located outside defined settlement boundaries, as set out in the LDP policies, can no longer be refused on those grounds alone. Therefore, 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.

- 5.7.3 In this case an essential need for the proposed dwelling has not been demonstrated such that it would lead to any discernible economic benefit and the proposal would lead to the unjustified loss of an existing employment site. In social terms the proposal would contribute to the Council housing stock, however the provision of a single large dwelling would not meet an established need and would be of negligible benefit. The proposal would result in environmental harm owing to its unsustainable location that would result in future occupiers of the dwelling being heavily reliant on private motor vehicles, and in terms of its adverse visual impact.
- 5.7.4 The application has been submitted following the recent refusal of an identical proposal for a new dwelling on the site. The previous application was refused for three separate reasons. One of these reasons has been overcome completely and a second could be addressed through the provision of a unilateral undertaking if the application were to be approved. However, for the reasons summarised above, although now supported by additional information on the viability of the business, this is not sufficient to overcome the main reason for refusal of the previous application and the proposal is therefore unacceptable. The harm it would cause outweighs the limited benefits that can be attributed to the scheme, and therefore the proposal is not sustainable development and is recommended for refusal accordingly.

6. ANY RELEVANT SITE HISTORY

Loftmans Farm as outlined in red and blue:

- **84/00008/MAL** – Change of use piggeries to kennels – Approved
- **86/00804/MAL** – Vary conditions of MAL/8/84 – Approved
- **92/00545/FULF** - Proposed workers dwelling on site to care for the immediate needs of the animals on site. It will be a detached agricultural dwelling of modest size. – Approved
- **93/00028/LDE** - Use of premises for the purpose of motor vehicle repairs – Withdrawn
- **94/00064/FUL** - Change of use of premises to motor vehicle maintenance and repair (regularising application) – Approved
- **96/00079/FUL** - Replacement of existing greenhouse by a building of comparable size used for the storage of motor vehicle spares in conjunction with the adjacent approved motor vehicle repair business – Approved
- **22/00473/FUL** - Construction of a two storey detached dwelling. Change of land use to C3 - Refused

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Steeple Parish Council	The scale, bulk and design is far too big and the outside space has to be defined better. The application needs an agricultural tie placed on the property. The applicants are trying	The application is for a rural worker's dwelling and if supported could be conditioned as such. The need for the dwelling and its excessive size have not been demonstrated. Hours of work is not

Name of Parish / Town Council	Comment	Officer Response
	to get two properties on one farm by converting the land application use to C3. The area of the buildings to be demolished is huge What are the times of work. Will any mud on road be removed and property disposal of waste materials must be addressed. Should the application for change of land use be a separate application?	relevant to this application. Mud on the road is a matter for County Highways.

7.2 Statutory Consultees and Other Organisations

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

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions in relation to contamination.	If supported then the requirements for dealing with any potential contamination could be satisfactorily addressed through suitably worded planning conditions.

8. REASONS FOR REFUSAL

- 1 The application site lies within a rural location outside of the defined settlement boundaries where policies of restraint apply. The Council cannot demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework, however, the site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for Growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The site is poorly located relative to facilities, services and sustainable modes of transport. The proposed development would result in the loss of an employment use and it has not been demonstrated to the satisfaction of the LPA that there is no demand for an employment use at this site. Furthermore, the proposal would substantially alter the character of the countryside, particularly through the introduction of a domestic character a of residential development, the extent

of the garden land and appearance of the proposed dwelling are considered to significantly add to the visual harm of the proposal. Insufficient information has been provided to demonstrate the current need for a rural workers dwelling, particularly of the size and scale proposed. The development would therefore be unacceptable, does not constitute sustainable development, would result in the unjustified loss of an employment generating use and a detrimental visual impact, contrary to policies S1, S2, S8, E1, D1, H4 and H7 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2021).

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