



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
24 MAY 2023**

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| <b>Application Number</b>                             | <b>23/00229/FUL</b>   |
| <b>Location</b>                                       | Land North of Poplar Grove Chase, Great Totham                      |
| <b>Proposal</b>                                       | Construction of stable block  |
| <b>Applicant</b>                                      | Mr and Mrs A Lawson   |
| <b>Agent</b>  | Mrs Melanie Bingham-Wallis – Foxes Rural Ltd                        |
| <b>Target Decision Date</b>                           | 31.05.2023  |
| <b>Case Officer</b>                                   | Devan Hearnah   |
| <b>Parish</b>   | <b>GREAT TOTHAM</b>   |
| <b>Reason for Referral to the Committee / Council</b> | Member Call In – Councillor J V Keyes Polices S1, D1, E1, E4 and H4 |

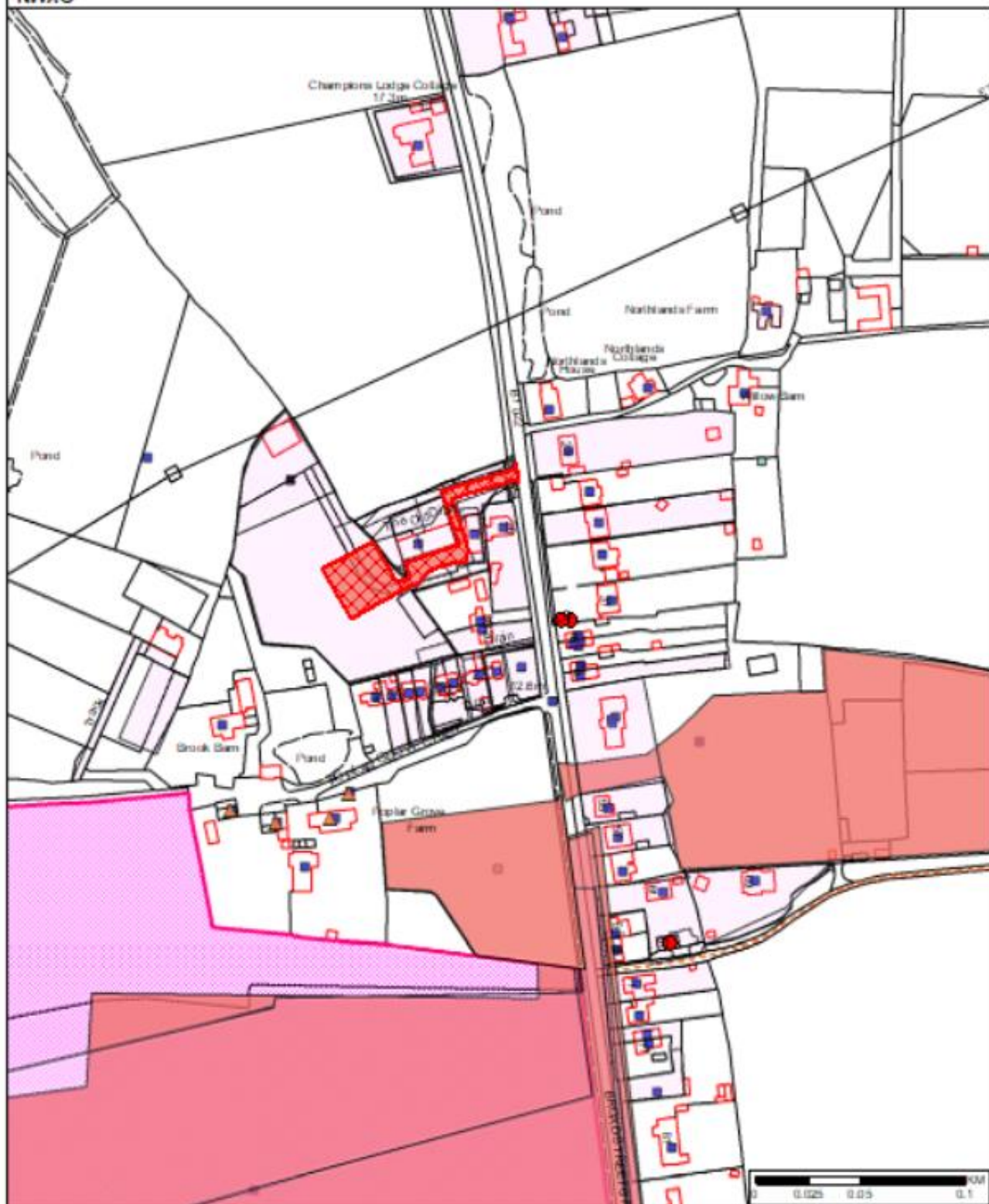
**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see below.

23/00229/FUL  
NWAC



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|---|---------------|-------------------------|
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|   | Organisation: | Maldon District Council |
|   | Department:   | Department              |
|   | Comments:     | Not Set                 |
|   | Date:         | 26/04/2023              |
| www.maldon.gov.uk   | MSA Number:   | 100018588               |



### **3. SUMMARY**

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

##### Application site

- 3.1.1 The application site is located on the western side of Broad Street Green Road, to the rear of The Old Dairy, a commercial premises. The site currently comprises of a dilapidated stable building, trees and scrub. The site shares an access with The Old Dairy, which is taken from the western side of Broad Street Green Road. The site also lies to the north of Poplar Grove Chase, within a paddock. There is a barn to the northwest of the application site which was developed under approval 18/00056/FUL.
- 3.1.2 It is also worth noting that there is outline permission to replace an existing commercial building to the east of the application site with up to three dwellings. This site is directly adjacent to the application site and there is a small area of intervening land between the neighbouring site and the application site.
- 3.1.3 The surrounding area has a semi-rural nature. Aside from the barn, the area to the north of the application site is open countryside. As mentioned, there is a commercial premises to the east along with linear residential development fronting Broad Street Green Road and Poplar Grove Chase to the south. To the far west and south of the site is more open countryside/agricultural land.

##### Proposal

- 3.1.4 Planning permission is sought for the construction of a 'U' shaped stable block along the western boundary of the site. The building is proposed to house rescue donkeys and would be in private use, with no commercial activities. The stables would measure a maximum width of 14.4m and a maximum depth of 11.3m. It would have a hipped to gable roof with an eaves height of 2.2m and a ridge height of 3.7m. There would be a window on each gable end of the 'U-shaped' structure and three windows on the front and two side elevations. There would be two roof lights on the northern elevation and one on the southern. The finish materials would consist of wooden shiplap timber walls, timber doors, metal roof sheets and transparent polycarbonate roof sheeting for the rooflights.
- 3.1.5 The building would accommodate four stables, a hand washing area, tack room, hay and straw store, equipment store and feed room.
- 3.1.6 No information in relation to hard and soft landscaping has been proposed.

##### Background

- 3.1.7 The application follows three previous applications at the site for single dwellings (16/00743/FUL, 18/01191/FUL and 21/01071/OUT), all of which were dismissed at appeal. Whilst the development is for stables, the previously dismissed proposals are relevant to the application because they discuss the contribution that the site makes to the character and appearance of the rural area. The findings of the Inspector are discussed where relevant below.

#### **3.2 Conclusion**

- 3.2.1 It has not been demonstrated that there is a justifiable and functional need for the proposed development. Furthermore, as a result of its scale, bulk and design the development would result in the provision of a large building with a domestic

appearance being sited within a rural location outside of any residential site. This would substantially alter the character of the area and have an unacceptable visual impact on the countryside and surrounding area through the urbanisation of the site. This would cause unacceptable harm to the character and appearance of the rural area contrary to policies S1, S8, E4 and D1 of the Local Development Plan (LDP) and the guidance contained within the National Planning Policy Framework (NPPF) (2021).

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

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

##### **4.1 National Planning Policy Framework 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
- 81-85 Building a strong and competitive economy
- 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 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D5 Flood Risk and Coastal Management
- E1 Employment
- E4 Agriculture and Rural Diversification
- 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)
- National Planning Policy Guidance (NPPG)
- Maldon District Vehicle Parking Standards
- Maldon District Design Guide SPD (MDDG)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 The NPPF is clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three interdependent objectives that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental objectives. This requirement is carried through to local policies via policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.3 Along with Policies S1 and S2, Policy S8 of the approved LDP seeks to direct development within settlement boundaries in order to protect the intrinsic beauty of the countryside. The policy states that "*The Council will support sustainable developments within the defined settlement boundaries*". The policy goes on to state that "*development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for either [inter alia] ... f) rural diversification, recreation and tourism proposals (including equestrian and related activities) proposals in accordance with Polices E4 and E5*".
- 5.1.4 Policy E4 supports the development of new buildings associated with land-based rural businesses where:
- 1) There is a justifiable and functional need for the building/activity
  - 2) The function of the proposed building/activity is directly linked, and ancillary to, the existing use; and
  - 3) The building/activity could not reasonably be located in existing towns, villages or allocated employment areas.
- 5.1.5 Whilst the development is located outside of a defined development boundary, within the rural countryside, it is considered reasonable to support the provision of structures that are ancillary to existing outdoor recreational facilities, such as the keeping of donkeys, in rural locations within the District. Furthermore, the supporting statement states that the stable building is required in order to house two donkeys which the Applicant is looking to acquire from the Rescue Sanctuary. The statement acknowledges that the barn located in the north of the site includes stable facilities allowed under application 18/00056/FUL, but suggests it is not large enough to house the two additional donkeys. This, therefore, evidences a need for a stable building and also an ancillary link to the existing use. Notwithstanding this, it has not been justified that a building of the scale proposed with four stables is required given that the existing need is met through the existing stables to the north of the site. Therefore, whilst the provision of a stable building is not objected to, one of this scale would not meet the requirements of Policy E4.

### **5.2 Design and Impact on the Character of the Area**

- 5.2.1 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.

- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 of the LDP and is found within the MDDG (2017).
- 5.2.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.4 The proposed building by way of its scale and bulk would be a large addition to the site and would be a much larger addition in terms of footprint than the dwelling proposed as part of the previously dismissed appeal scheme (21/01071/OUT). As part of the previous appeal decision the Inspector found that *'the new building would encroach into the paddock area, changing its essentially rural character and extending the built-up enclave in a haphazard way. Even though the new house would be largely screened from public views, it would be obvious from properties in Poplar Grove Chase, to the south. Even well screened development may not necessarily be acceptable in principle, of course.'*
- 5.2.5 Although the proposed building is for a use that is appropriate in a rural area, the design of the building has a residential character largely because of its roof form and the number of windows proposed, including roof lights, and their arrangement. Therefore, the development would change the rural character of the area and would add built form of a more urban character to this rural site. Whilst the materials would reduce the impacts to a certain degree because they would be more reflective of the use of the building, the footprint and residential design of the stable block alone would likely result in material harm to the character and appearance of the site and the countryside. The footprint of the building would extend much further to the west than the existing building on site and the previous appeal scheme for a dwelling, causing encroachment into the countryside. The development would therefore add a significant and inappropriate bulk of development to the site, a site which the Inspector considering the 2016 application noted had an open field character and appearance with a connection to the truly open countryside.
- 5.2.6 It is also noted that the building would largely be screened from public views. However, as acknowledged by the previous Inspector it would be obvious from properties in Poplar Grove Chase to the south, and good screening is not necessarily a reason for determining a development is acceptable in principle. Furthermore, the views from the neighbouring dwellings of Poplar Grove Chase would not be of the stable doors but would be of the side of the building where it would appear most residential in appearance.
- 5.2.7 Whilst it is noted that a stable building could be found to be a more acceptable form of development in the rural area than housing development, the building proposed has a residential appearance and is of a scale and bulk greater than what has reasonably been justified at the site. Therefore, the development would be contrary to policies S1, D1 and E4 of the LDP.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking,

outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

5.3.2 The closest residential properties on Broad Street Green Road and on Poplar Grove Chase are located at least 40m from the proposed stable building. Due to the scale and nature of the development as well as its distance from the adjacent neighbouring residential properties, it is unlikely that there would be detrimental harm to the amenity of those properties in terms of a loss of privacy or the development being overbearing in nature. It is also unlikely that there would be any adverse impacts in terms of noise and odour as there is an existing stable within the wider site that does not create any adverse noise or odour impacts.

5.3.3 A condition limiting use of the stables to private use only would safeguard the amenity of neighbouring occupiers from any unacceptable levels of noise and/or disturbance resulting from a commercial use. Furthermore, conditions to prevent the burning of waste on site, one preventing the installation of external lighting and one requiring the details of the arrangements for the storage, drainage and disposal of manure and bedding would protect the neighbouring occupiers from pollution.

#### **5.4 Access, Parking and Highway Safety**

5.4.1 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.

5.4.2 The existing entrance to the site is to be retained as part of the application. On this basis, the proposal is not considered to result in any demonstrable harm by way of highway safety. The planning application form states that there are no parking spaces proposed. However, given that the use is already occurring at the site it is unlikely that there would be a need for increased parking requirements at the site.

#### **5.5 Other Material Considerations**

##### Donkey and Horse Welfare

5.5.1 Consideration has been given to the welfare of the donkeys and whether the proposed facilities and land area could be compliant with the Department for Environment Food and Rural Affairs (DEFRA) Code of Practice. The Code of Practice states that as a general rule, each donkey requires a minimum 0.2-0.4 hectares of grazing of a suitable quality if no supplementary feeding area is provided. Donkeys should have constant access to feed-quality straw with restricted access to grass, hay or haylage dependent on individual circumstances. The guidance also states that donkeys require a minimum stable size of 3.05m x 3.05m and 3.05m x 3.65m for large donkeys. Average size donkeys kept in pairs require 9m<sup>2</sup> of covered space.

5.5.2 Two of the four stables would not provide sufficient space for a donkey, only measuring 3m x 2.5m. However, the two stables that measure 3.3m x 3.5m would be sufficient for housing a regular size donkey. Furthermore, it has been demonstrated within the Planning Statement that the donkeys will have access to suitable grazing areas on a daily basis, as well as being supplementary fed. Therefore, no objection is raised in relation to animal welfare.

##### Ecology and Trees

5.5.3 The application site does not fall within or in close proximity to nature conservation sites. However, policy N2 of the LDP states that "*All development should seek to*



*deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.”* Conservation and enhancement of the natural environment is also a requirement of the NPPF.

- 5.5.4 The application has been supported by a Preliminary Ecological Appraisal (Hybrid Ecology, November 2021) (PEA) which outlines the likely impacts of the development on designated sites, protected and Priority species and habitats, whilst also identifying mitigation measures. Following consultation with the Council's Ecological Consultant the mitigation measures identified in the PEA are acceptable and should be secured by way of a condition in order to conserve and enhance protected and Priority species, particularly nesting birds. Likewise, a sensitive lighting condition should be imposed if the application were to be approved in order to protect foraging and commuting bats.
- 5.5.5 The submission also includes reasonable biodiversity enhancements. A Biodiversity Enhancement Strategy should be secured by a condition in order to secure net gains.
- 5.5.6 There are trees within adjacent to the proposed construction and demolition zone that could be impacted if not suitably protected. Therefore, if the application were to be approved then a pre-commencement condition would be required to secure a Tree Protection Method Statement. However, it would be feasible to implement the proposal and protect the trees and therefore, the condition would be reasonable.

## 6. ANY RELEVANT SITE HISTORY

- **FULF/MAL/91/00293** - Closure of existing vehicular access and formation of new access. Approved: 04.06.1991
- **FUL/MAL/09/00532** - Change of use from Milk Depot to employment and light industrial (B1). Extensions and alterations to existing building. Approved: 17.08.2009
- **HOUSE/MAL/13/00292** - Erection of a timber framed single storey garage. Approved: 18.06.2013
- **COUPA/MAL/14/00554** - Conversion of office to residential units. Refused: 06.08.2014
- **FUL/MAL/15/01200** - Replace existing B1 industrial building with proposed children's day nursery and one dwelling. Refused: 26.01.2016. Appeal dismissed: 11 April 2017 (reference: APP/X1545/W/16/3154913)
- **FUL/MAL/16/00743** – One dwelling. Refused: 25.08.2016. Appeal dismissed: 11 April 2017 (reference: APP/X1545/W/16/3162966)
- **FUL/MAL/16/01231** – Extension to office building to form an attached live/work unit. Refused: 12.07.2017. Appeal dismissed: 11.08.2017
- **FUL/MAL/17/01272** - Extension to office building to form an attached live/work unit. Refused: 07.03.2018. Appeal dismissed 22.07.2019
- **FUL/MAL/18/01191** - Extension to office building to form an attached live/work unit. Refused: 10.01.2019. Appeal dismissed 2.12.2019.
- **FUL/MAL/20/01000/OUT** – Replacement of commercial building with up to three dwellings. Approved 12.01.2021.
- **OUT/MAL/21/01071/OUT** - Application for outline planning permission for one detached 3-bedroom dwelling with all matters reserved. Refused 09.02.2022. Appeal Dismissed 23.08.2021

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

| Name of Parish / Town Council | Comment   | Officer Response |
|-------------------------------|---|------------------|
| Great Totham Parish Council   | No response received at the time of writing this report | Noted            |

### 7.2 Statutory Consultees and Other Organisations

| Name of Statutory Consultee / Other Organisation | Comment   | Officer Response   |
|--|---|--|
| Local Highways Authority                         | No response received at the time of writing this report | Given that the development would not be of a scale to impact on the local highway network no response is considered necessary. |

### 7.3 Internal Consultees

| Name of Internal Consultee | Comment   | Officer Response  |
|----------------------------|---|---|
| Environmental Health       | No objection subject to three conditions:<br><ol style="list-style-type: none"><li>1. Stables to be used for private use and not for commercial reasons</li><li>2. Details of stables waste should be submitted to the Local Planning Authority (LPA)</li><li>3. No burning of waste</li><li>4. No flood lighting without permission from the LPA</li><li>5. No menage without permission from the LPA</li><li>6. Foul drainage scheme.</li></ol> | These conditions would be applied if the application were to be approved. |
| Ecology                    | The mitigation measures identified in the Preliminary Ecological Appraisal should be secured by a condition.<br><br>The provision of biodiversity enhancements including Sparrow  | Addressed at section 5.5  |

| Name of Internal Consultee | Comment   | Officer Response         |
|----------------------------|---|--------------------------|
|                            | <p>Terraces, bird boxes, bat boxes and bat roosting features, which have been recommended by the Preliminary Ecological Appraisal are supported to secure net biodiversity gains.</p> <p>An sensitive external lighting condition should be imposed to protect foraging and commuting bats.</p>                               |                          |
| Arboricultural Consultant  | <p>No objection but a Tree Protection Method Statement should be condition and should be a prior to commencement condition as there are trees adjacent to the proposed construction and demolition zone that could be impacted if not suitably protected. It is feasible to protect the trees and implement the proposal.</p> | Addressed at section 5.5 |

#### 7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

#### 8. REASON FOR REFUSAL

- 1 It has not been demonstrated that there is a justifiable and functional need for the proposed development which as a result of its scale, bulk and design would result in the provision of a large building which would be domestic in appearance being sited within a rural location outside of any residential site. This would substantially alter the character of the area and have an unacceptable visual impact on the countryside and surrounding area though the urbanisation of the site. This would cause unacceptable harm to the character and appearance of the rural area contrary to policies S1, S8, E4 and D1 of the LDP and the guidance contained within the National Planning Policy Framework (2021).