



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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**to  
SOUTH EASTERN AREA PLANNING COMMITTEE  
25 MAY 2023**

<b>Application Number</b>	<b>23/00080/FUL</b>
<b>Location</b>	Land between 45 Steeple Road and 1 Mill Road, Mayland
<b>Proposal</b>	Construction of a 1.5 storey chalet style 4-bedroom dwelling, access and landscaping
<b>Applicant</b>	Mr and Mrs Paul Lee
<b>Agent</b>	Mr Antony Cussen
<b>Target Decision Date</b>	2 June 2023 (EOT agreed)
<b>Case Officer</b>	Lisa Greenwood
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor M W Helm Policies S1, D1, T2

**1. RECOMMENDATION**

**REFUSE** for the reasons as detailed in Section 9 of this report.

**2. SITE MAP**

Please see below.

**Land between 45 Steeple Road and 1 Mill Road**  
**Mayland**



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Scale: 1:1,250

Organisation: Malden District Council

Department: Department

Comments: Essex

Date: 17/03/2023

MSA Number: 100018588

### **3. SUMMARY**

#### **3.1 Site description**

- 3.1.1 The application site is located on the western side of Mill Road, which is accessed off Steeple Road to the south. Mill Road lies east off the main settlement of Mayland, with the application site positioned adjacent to the settlement boundary, which runs along the southern site boundary. The surrounding area is a mix of residential and undeveloped land, with an allocated employment site to the west. Directly south of the site are terraced bungalows, and a pedestrian and vehicle access to the rear of the bungalows extends this boundary, separating the site from the private amenity spaces associated with these dwellings. To the north of the site is a detached dwelling, no.1 Mill Road, 'Fiddlers Rest'. To the east of the site, beyond the highway, and to the south east, beyond the highway, is undeveloped land / open countryside.
- 3.1.2 The site itself measures approximately 0.13 hectares in area and is roughly rectangular in shape. The site comprises of grassland, established trees and vegetation, and has been cleared to some extent in recent months. The site is bound to the north and south by existing close boarded timber panel fencing, and at the frontage by security fencing. Trees are retained at the western boundary and have been felled to some extent at the frontage.

#### **3.2 The Proposal**

- 3.2.1 Planning permission is sought for the erection of a 1.5 storey chalet style 4-bedroom dwelling, with access and landscaping.
- 3.2.2 At ground floor level, the development would provide for a study, WC, hall, store, plant room, utility room, lounge and kitchen / dining room. At first floor level, there would be 4 bedrooms with en-suites, including a dressing room to the master bedroom, plus a linen cupboard and an airing cupboard are also proposed.
- 3.2.3 At ground floor level, the dwelling is proposed to measure between approximately 7.139 and 15.210 metres in depth and approximately 7.082 and 13.458 metres in width. A porch is proposed at the side (south) elevation. The first floor is to be set back from the ground floor rear elevation. The first floor proposes to measure between approximately 6.5 and 13.2 metres in depth and approximately 7 and 13.91 metres in width.
- 3.2.4 The dwelling proposes to provide for an intersecting / overlaid roof of a different design. At the north elevation, a mansard roof with dormer windows proposed and would measure 8.639 metres to the ridge and approximately 6.9 metres to the eaves. Part of a hipped roof is proposed across the ground floor dining room. This would extend part of the ground floor rear elevation and will measure 3.745 metres to the ridge and 2.662 metres to the eaves. An intersecting mansard roof with 1 dormer and roof lights is also proposed on the rear elevation and proposes to measure 7.131 metres to the ridge and approximately 5.5 metres to the eaves. At the southern (side) elevation the larger mansard roof is visible, as is the hipped roof extending the dining room, the dormer window serving the intersecting mansard roof, and the proposed porch. The porch measures approximately 3.3 metres to the ridge and 2.2 metres to the eaves of a hipped roof. At the eastern (front) elevation, 1 dormer and roof lights are proposed to serve the intersecting mansard roof extending the master bedroom. The dormer window proposed at the northern (side) elevation is also visible, as is the eastern (side) elevation of the proposed porch and the front elevation of the larger mansard.

- 3.2.5 The walls are to be constructed with stock facing brickwork cement render, with plain interlocking clay tiles to the roof is to be constructed with plain interlocking clay tiles, and the windows and doors will comprise of UPVC sealed double glazed units. The boundary treatments are proposed to comprise of close boarded and panelled timber fencing, with the existing close boarded and panelled timber fencing retained and augmented where required. The vehicle access and hard standing would be constructed with permeable stone / gravel surfacing.
- 3.2.6 1 double door and 1 window are proposed at the ground floor side (south) elevation, with 1. Velux window at first floor level. 2. quadruple and 1 single window at the front (east) ground floor elevation, with 1. dormer window, roof lights and 2 double windows above. 1 single window and 2 doors are proposed at the ground floor (north) elevation, with 2. small dormer windows above. sets of bi-fold doors and 3. roof lights at the ground floor rear (west) elevation, with 2 double windows, 1 dormer window and roof lights above.
- 3.2.7 The dwelling would be set back from the highway by approximately 20 metres. Parking for 3no. vehicles is indicated at the frontage. An area of private amenity space is proposed to the west of the site, and a wildlife pond is indicated at the rear / western boundary. The dwelling would be separated from the shared boundary to the north by between 2.748 and 3.995 metres, and the boundary to the south by 2.738 metres.
- 3.2.8 This application follows the refusal of planning permission for the erection of a detached dwelling with associated access and landscaping (planning reference 22/00472/FUL), the withdrawal of planning application reference 21/01186/OUT, which was an outline application for the construction of 2no. dwellings at the site, and the refusal of planning application reference 22/00925/FUL, which sought planning permission for the erection of a detached dwelling and associated access and landscaping. Subsequently, the agent has engaged with the Local Planning Authority (LPA) to discuss a way forward and agree a suitable scheme. It should be noted that a second application for the construction of two storey 4-bedroom dwelling, access and landscaping has also been submitted for consideration to the LPA, at this South East Committee (planning application reference 23/00079/FUL).

### **3.3 Conclusion**

- 3.3.1 The revised proposal has not addressed concerns with regard to design. As is set out in detail at Paragraph 5.3 of this report, whilst the current scheme has made attempts to reduce the impact on the neighbours to the south of the site, this has been compromised by the proposed design. In particular, the intersecting mansard roof design is problematic. The tallest roof slope appears as a dominant feature, and the numerous roof forms, dormer windows and roof lights appear as inconsistent. The access to the dwelling is also at the side elevation, which compromises the legibility of the scheme. When viewed at the street scene, the proposal appears as an incongruous form of development that is out of keeping with the built form within the locality. It is therefore recommended that planning permission 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 (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
- 60-80 Delivering a sufficient supply of new homes
- 104-113 Promoting sustainable travel
- 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
- 174-183 Conserving and enhancing the natural environment

##### **4.2 Maldon District Local Development Plan (2017)**

- 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
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

##### **4.3 Relevant Planning Guidance / Documents:**

- Vehicle Parking Standards (2018)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG) (2017)
- Local Housing Needs Assessment (2021)

#### **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 National Planning Policy Framework (NPPF) require that planning applications are determined in accordance with the

Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).

- 5.1.2 Policy S1 of the LDP states that *“When considering development proposals the Council will take a positive Policy S1 of the LDP states that ‘When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF’”* and apply a number of key principles in policy and decision making set out in the Policy.
- 5.1.2 Policy S8 of the LDP steers new development towards the existing urban areas. This Policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential properties but does allow (m) development which complies with other policies of the LDP. Policy I2 states that suitable types of residential development which cater for the ageing population and support healthy and independent lives will be provided. Policy H3 also supports the provision of housing for ‘specialist’ needs.
- 5.1.3 As per Paragraph 74 of the NPPF, the Council as the LPA for the Maldon District is expected to *“identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.”* To this end, Maldon District Council (MDC) prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the Local Development Plan (LDP) 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.4 Work is being carried out by the Council in reviewing the suitability of the methodology used in calculating its 5 Year Housing Land Supply (5YHLS) through its 5YHLS Working Group established in August 2022. The group has yet to conclude the work and present its recommendations to Council. As such, the methodology used for calculating the housing land supply at this point in time is therefore the same as was used in 2021/2022. The last published position was 3.66 years in April 2022. On 30 March 2023, an Officer statement was delivered to Council advising that the 5YHLS, as of 30 March 2023, calculated using the same methodology as 2021/2022 stood at 5.1 years: an increase of 1.44 years. The statement to Council was caveated that this updated supply was still subject to the required further checks and verification activities associated with the methodology, which could mean it either increases or decreases by the time it is presented to Council for approval, in line with the Council decision taken on the 23 February 2023 that the annual land supply statement must now be reviewed and agreed by Council prior to publication.
- 5.1.5 Where a LPA is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnotes, of the NPPF which states:

*“For decision making this means:*

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

*“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or  
“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

*‘Footnote 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).*

- 5.1.6 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.1.7 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’.
- 5.1.8 On the basis of the above, the Council’s official 5YHLS figure stands at 3.66 years and therefore, having regard to the annually published figure, the Council cannot currently demonstrate a 5YHLS. However, the information in paragraph 5.1.5 above reflects that the Council has clearly adopted a more proactive approach to housing delivery by approving housing developments outside the settlement boundaries, in addition to both within settlement boundaries and on the Strategic sites where they can be deemed sustainable. The likelihood of the forthcoming published 5YHLS figure negatively deviating significantly from the five-year mark is considered unlikely given that the figures were last calculated one day prior to the end of the monitoring period. Therefore, whilst the titled balance still applies, it is reasonable to determine that the 5YHLS is now more level than it was previously. Therefore, the Council acknowledge the importance of delivering homes given the backdrop of a national shortage of housing, and particularly appropriate homes for the residents of the District through a positive approach to decision making, noting also that the 5YHLS is not a ceiling for approving housing development. However, this increase in supply allows the Council to be less constrained in our consideration of the most sustainable developments and of those that carry the greatest benefits to ensure that developments are sustainable for the District.
- 5.1.9 In judging, therefore, whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in contributing towards and maintaining a healthy and consistent 5YHLS, particularly in light of the currently official 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.

5.1.10 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 Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development although triggered by the tilted balance, does not change the statutory status of the development plan as the starting point for decision making. However, given the balanced nature of the five year housing land position at this point in time, together with the published five year housing land figure as being less than five year supply of deliverable housing, sites outside of the defined development boundaries could still be judged to be 'sustainable development' through the three dimension tests of the NPPF'. The LPA is, however 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. 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.”*

5.1.11 The application site is located just outside of the defined settlement boundary of Mayland, an area that is classified as one of the 'larger villages' within the District, as detailed within Policy S8 of the LDP. 'Larger villages' are defined as "settlements with a limited range of services and opportunities for employment, retail and education. They serve a limited local catchment and contain a lower level of access to public transport.'

5.1.12 With regard to the service and facilities within Mayland, it is noted that the site is located approximately 2.4km away from Mayland's parade of shops, where there is also a chemist and a doctor's surgery. Closer to the application site, along Steeple Road, there is a petrol station with a convenience store and the Mayland Mill former public house, which now operates as a restaurant. With regard to public transportation, the nearest bus station to the site is sited around 150 metres away. The bus service is limited, albeit this is typical in rural locations. Paragraph 105 of the NPPF (2021) states that *"sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."*

5.1.13 In assessing the accessibility credentials of the site, consideration should be given to applications for residential development at the Whitecap Mushroom Farm (planning reference 16/00224/OUT) and Mayflower Nursery (planning application reference 18/00833/FUL), both of which are in close proximity to the application site (approximately 100m and 200, further north). Although the Whitecap Mushroom Farm application was dismissed at appeal in 2018, the accessibility of the site to public transportation, services and facilities was not a reason for dismissal. Similarly, the application for the erection of residential development at Mayflower Nursery, although also refused, was not considered to be unacceptable with regard to accessibility. The sites were both considered to benefit from some sustainability credentials.

5.1.14 On balance, whilst the application site is outside of the settlement boundary for Mayland which is a 'larger village', it is considered that the proposed development is acceptable with regard to accessibility to local amenities and alternative and sustainable modes of transport. Giving appropriate weight to the guidance in the NPPF (2021), the proposal is therefore acceptable in this regard.



5.1.15 The proposal is an infill development to which Policy H4 of the LDP acknowledges that backland and infill development will be considered on a site-by-site basis to take into account local circumstances, context and the overall merit of the proposal. Backland and infill development will be permitted if a closed list of criteria are met, as follows:

- “1) *There is a significant under-use of land and development would make more effective use of it;*
- 2) *There would be no unacceptable material impact upon the living conditions and amenity of nearby properties;*
- 3) *There will be no unacceptable loss of land which is of local social, economic, historic or environmental significance; and*
- 4) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests.”*

5.1.16 With respect to criteria 1, the site comprises of grassland, and the Design and Access Statement submitted to support the proposal confirms that the site was previously used as domestic garden land, belonging to no.1 Mill Road. Whilst the proposal would make a more intensive use of the land, the site is not under-used. Neighbour comments have been received with regard to fly tipping at the site, and the site is currently vacant and neglected, and the proposal would make a more effective use of the land. Criteria 2 will be discussed at Section 5.4, and neighbour objections have been taken into account; however, the proposal would not result in a harmful impact on neighbouring sites. In relation to criteria 3 and 4, an objection has been raised with regard to the lack of an arboricultural report and the clearance of the site.

5.1.17 As is set out at Paragraph 5.6 and 5.8 of this report, the proposal has been reviewed by the Council’s Arboricultural Consultant and Ecological Consultant and found to be acceptable. The Consultant has a working knowledge of the site, having commented on the previous applications. Whilst the site has been cleared, the Consultant can only assess the information presented. The proposal would not cause any harm to social, economic, heritage or ecological interests at the site and therefore there would be no conflict with these criteria. For the reasons aforementioned, the principle of development cannot be reasonably objected to, and any neighbour objections with regard to the fact that the proposed development is located outside of the settlement boundary have been overcome, and no objection has been received in this regard from the Parish Council.

## **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 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 Local Authorities 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 Housing Needs Assessment (HNA) (2021) is an assessment of housing need for Maldon District as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The HNA is wholly compliant with the latest NPPF (2021) and Planning Practice Guidance and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the 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 housing.
- 5.2.4 The proposal seeks to provide for 1no. 4-bedroom dwelling. The Maldon District Local Housing Needs Assessment (2021) concludes that the District has a need for smaller dwellings, with the biggest requirement for 3no. beds (40-50%), followed by 2no. beds (25-35%). Therefore, as the proposal is for 1no. 4-bedroom dwelling, the development would not contribute to the Council's most required housing need.

### **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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.
- 5.3.2 The basis of Policy D1 of the 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;*
  - b) Height, size, scale, form, massing and proportion;*
  - c) Landscape setting, townscape setting and skylines;*
  - d) Layout, orientation, and density."*
- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG. In addition, Policy H4 requires all development to be design led and to seek to optimise the use of land having regard, among other things, 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 of the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the surrounding area and does not involve the loss of any important landscape, heritage features, or ecology interests.
- 5.3.4 The application site fronts onto Mill Road to the east. The dwellings along Mill Road are generally positioned in alignment, however, there is a site to the north which consists of many non-residential outbuildings which extend west past the main building line.

- 5.3.5 As stated, the site has been the subject of a number of planning applications. The most recent application reference 22/00925/FUL was refused for 2no. reasons, the first reason owing to the design, scale, bulk and height of the proposed dwelling, and the fact that the development would result in an incongruous and dominant development which would cause significant and undue harm to the character and appearance of the surrounding area. Since this time, the applicant has engaged with the LPA and received pre-application advice (planning reference 22/03185/PREAPP). A meeting between the Planning Officer and the applicant and agent has taken place, and written advice received.
- 5.3.6 Turning firstly to the siting of the proposed dwelling, this has now been brought forward and is sited more centrally within the plot and is separated from the boundary to the north by between 2.748 and 3.995 metres, and the boundary to the south by 2.738 metres. Whilst the front elevation does not explicitly follow the building line to the north, this is a welcomed response, as the previously refused scheme was set much further back into the site and was separated by just 1 metre from the shared boundary to the south. The site benefits from a generous plot, and the siting of the proposed dwelling no longer renders the site feeling cramped or overdeveloped.
- 5.3.7 During the pre-application process, the applicant was advised that whilst a bungalow would be preferred at the site, it was agreed that a sympathetically designed two storey dwelling could be acceptable, but that the roof forms would need to be consistent, the access should be located at the front elevation, and there should be a clear fenestration hierarchy. The materials should also be of a high quality.
- 5.3.8 Whilst attempts have been made to lessen the impact of the previous flank wall on the neighbouring bungalows, yet still provide the desired living space for future occupants, this has been compromised by the proposed design. The dwelling appears to have been designed for functional reasons, as opposed to taking design cues from neighbouring dwelling.
- 5.3.9 The intersecting mansard roof is expressly problematic. It appears as a dominant feature, particularly when viewed at the front and side (north) elevation from 1 Mill Road. The height of the roof is excessive, and disproportionate to the ground floor, appearing as an upward extension, rather than as part of the host dwelling. Furthermore, the 2 dormer windows at this elevation are disproportionately small.
- 5.3.10 The location of the dormer window proposed to serve the master bedroom also appears as an awkward addition to the intersecting roof slope, when viewed from the side elevation and the bungalows at Steeple Road. The access is also proposed at the side elevation, which compromises the legibility of the scheme. What is presented is an amalgamation of a bungalow / chalet and a two-storey dwelling.
- 5.3.11 The proposed materials used in the construction of the dwelling are typical for a dwelling in this location, and therefore there is no objection raised to the materials proposed. Should planning permission be forthcoming, a suitably worded planning condition would be imposed requiring samples / high quality photographs and full specifications of the materials to be provided to the LPA to ensure that they are of an appropriate quality.
- 5.3.12 Notwithstanding this, for the reasons aforementioned, the proposal is contrary to Policies D1 and H4 of the MDDG (2017) and the policies and guidance contained in the NPPF (2021). In accordance with Paragraph 134 of the NPPF (2021), "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 (2017).
- 5.4.2 The closest neighbours to be potentially impacted by the proposal are the neighbours to the north, at no.1 Mill Road, and to the south, at nos. 53-57 Steeple Road.
- 5.4.3 Turning firstly to the neighbour located to the north, in terms of a loss of privacy, 2no. dormer windows are proposed at the first-floor side elevation, and 2no. doors are proposed at the ground floor side elevation fronting the boundary shared with this neighbour. The first-floor windows will serve 2no. en-suite bathrooms, and the doors at ground floor level will serve a utility room and a plant room.
- 5.4.4 An existing close boarded fence (approximately 1.8 metres in height) is to be retained, and this can be secured by the imposition of a condition. By virtue of the height of the fence, and the fact that the doors do not serve habitable rooms, this will provide sufficient screening at ground floor level. The doors will therefore not result in overlooking to a level that is considered harmful. With regard to the dormer windows at the first floor, as stated, they will serve 2no. en-suite bathrooms. In order to ensure that neighbour amenity is protected, a condition shall be imposed to ensure that the glazing is obscured, and that the windows are of a non-openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level).
- 5.4.5 With regard to any potential loss of privacy to the rear of no.1 Mill Road, the proposed dwelling is orientated to the south west of this neighbour. Views from the rear of this dwelling will not be directly of the neighbouring garden. Furthermore, this arrangement is not dissimilar to the arrangement of no.1 Mill Road and its immediate neighbour to the north and will be no more harmful in terms of overlooking and is acceptable in this regard.
- 5.4.6 With regard to the impact on the neighbours to the south at nos.53-57 Steeple Road, there are no windows proposed at the first-floor side elevation. A rooflight is proposed, however, this is to provide light and will not afford any overlooking. 1no. set of double doors is proposed at the ground floor south elevation however, a close boarded timber panel fence provides screening at this boundary and this is to be retained. The proposed dwelling is also separated from these neighbours to the south by circa. 30 metres. Owing to the orientation of the proposed dwelling, future occupants will also not be afforded direct views of the neighbouring gardens. The proposal is therefore not considered to result in a loss of privacy to these neighbours.
- 5.4.7 Owing to the siting, orientation and separation distances from the proposed dwelling to the neighbouring dwellings to the north (circa 6 metres) and south (circa 30 metres) the proposal will not result in a loss of daylight and sunlight to these neighbours. It is also not considered that the proposal will appear as overbearing.
- 5.4.8 In terms of any potential noise generated by the development, the proposal has been reviewed by the Council's Environmental Health Officer, who raises no objection, but suggests the imposition of a condition with regard to the submission and approval in writing to the LPA of a Construction Management Plan, which will restrict the working hours on site, and the times of deliveries.

5.4.9 Whilst the comments received from neighbours have been carefully considered by the LPA, the proposal has not been found to impact neighbour amenity to a level that could be considered harmful, and any material concerns can be addressed by the imposition of planning conditions.

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

5.5.1 Policy T2 of the LDP 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 LDP seeks to include safe and secure vehicle and car parking, having regard to the Council's adopted Parking Standards and maximise connectivity within the development and to the surrounding areas.

5.5.2 The access will be taken from Mill Road, where the existing site entrance is located and therefore there are no concerns with such arrangements.

5.5.3 The Highways Authority raises no objection, subject to the imposition of conditions regarding the reception and storage of building materials to be identified clear of the highway, cycle parking provision and the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, which would be included were planning permission to be forthcoming.

## **5.6 Private Amenity Space and Landscaping**

5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with 3+ bedrooms.

5.6.2 The proposal seeks to provide in excess of 100m<sup>2</sup> of private amenity space. Therefore, the proposal is in compliance with Policy D1 of the LDP.

5.6.3 With regard to tree impact and landscaping, the proposal has been reviewed by the Council's Arboricultural Consultant who notes that there are no significant trees on site that are likely to be impacted. The site is low in quality scrub that would need to be cleared. In response to a neighbour objection in this regard, this supports the reasoning as to why an arboricultural report has not been requested.

5.6.4 Notwithstanding this, if planning permission is to be forthcoming, a condition would be imposed to ensure a robust soft landscaping scheme was provided. This scheme would include tree and shrub species suitable for the site, offering amenity and wildlife benefit, as well as having sufficient space to develop and be retained in perpetuity thereafter. Neighbour comments have been received with regard to the clearance of the site, and such comments are addressed at Paragraph 5.8 of this report.

## **5.7 Flood Risk and Drainage**

5.7.1 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).

5.7.2 The site is entirely within Flood Zone 1 and presents a low probability of flooding.

5.7.3 With regard to drainage, the proposal has been reviewed by the Council's Environmental Health Officer, who notes that should planning permission be forthcoming, conditions are required with regard to surface water drainage and foul drainage for the site.

## **5.8 Ecology and Impact on European Designated Sites**

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 The application site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.

5.8.5 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 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 Zol 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 1 no. dwelling, and therefore the net increase of dwellings at the site is 1 no. 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.

- 5.8.6 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.
- 5.8.7 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £156.76 (2022-2023 figure) and thus, the developer contribution should be calculated at this figure.
- 5.8.8 The applicant has submitted a legal agreement and the relevant checking and monitoring fees to mitigate the impact of the development in terms of RAMS. The agreement has been reviewed by the Council's Legal Services Team and has been found to be acceptable. It is considered reasonable that the required mitigation can be provided.
- 5.8.9 The proposal has been reviewed by the Council's Ecological Consultant, who raises no objection, subject to securing a proportionate financial contribution towards the Essex Coast RAMS, and subject to the imposition of biodiversity mitigation and enhancement measures. The Consultant notes that such measures are necessary to conserve and enhance protected and Priority species particularly nesting birds and Badgers. As the site lies within an Amber Risk Zone for Great Crested Newts, and suitable habitats are present close to the site, it is considered that potential impacts upon GCN are managed under a precautionary method statement for the construction stage, including the storage of materials. This statement should be included in a Construction Environmental Management Plan for Biodiversity (CEMP:Biodiversity). The CEMP should also include the proposed reasonable biodiversity enhancements of bird boxes, and the creation of a wildlife pond, which are recommended in the Preliminary Ecological Appraisal (Plumb Associates, March 2022) to secure net gains for biodiversity. Such measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 5.8.9 In addition, the Preliminary Ecological Appraisal (PEA) highlights that the habitat onsite provides some foraging / commuting habitat. With this in mind, if there is any external lighting to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This can be secured by the imposition of a condition of any consent.
- 5.8.10 In relation to neighbour objections with regard to the submitted Ecology report being insufficient, and the author's qualifications not being provided. Additional information has been received from the applicant, in the form of a letter from Plumb Associates, dated 15 March 2023. The author of the report, Steve Plumb, confirms his qualifications. holding a BSc (Hons) in Environmental Science and an MSc in Landscape Ecology, Design and Maintenance. Mr Plumb also holds the Lantra Professional Tree Inspection certificate and has been a full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM) since 1995 and a Chartered Landscape Architect (CMLI) in the management and science division since

1996. In addition, Mr Plumb has been Chartered Environmentalist since 2007 and is an Associate of the Arboricultural Association and professionally employed in environmental assessment and management since 1986.

- 5.8.11 The letter confirms that the clearance of the site took place in October 2022, prior to the submission of the current applications. The consultant is not aware of mature trees on borders being removed, unless this is in reference to poor quality hedgerow fronting the property. It is confirmed that a few specimens of trees were larger enough to be considered a specimen (75mm) and provides a 2006 Google earth image, which shows that the area was maintained as a lawn containing few trees and shrubs at that time. Any trees in situ in 2022, therefore, could only be small and immature.
- 5.8.12 The Consultant confirms that the vegetation was assessed as part of the original PEA and was considered to be of generally low value. It is confirmed that there were no trees on the site that would have been classed higher than Category C – Low value if applying the BS5837:2012 assessment criteria.
- 5.8.13 The letter from the applicant also confirms that the site was cleared outside of bird nesting season (October). It is accepted that bird nesting season usually runs from April – August. Legal protection offered under the Wildlife and Countryside Act 1981 (as amended) only extends to disturbing birds that are actively nesting. The clearance of the application site, therefore, was undertaken with good practice.
- 5.8.14 The letter confirms that whilst the Mayland Nature Reserve is within 300m of the site as suggested, the site is not a statutory Local Nature Reserve or a Local Wildlife Site. The small scale of the proposal means it would not have any direct adverse effect on the ecological significance of the nature reserve.
- 5.8.15 The Consultant visited the site again on 14 March 2023 and confirmed that the scrub has been removed, but the trees on the rear boundary have been retained. At present, there are no features on site that would support any protected or important species.
- 5.8.16 The LPA is satisfied that the information provided is an accurate assessment of the site and accords with the comments also made by the Tree Consultant, particularly referring back to the first refused scheme at the site (planning reference 22/00472/FUL). At this time, the Consultant first visited the site and confirmed that no significant trees will be impacted by the proposal. A landscaping condition was recommended, as is the case with the application the subject of this report. It is therefore considered that the objections received in this regard have been suitably overcome.

## **6. PLANNING BALANCE AND SUSTAINABILITY**

- 6.1 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.
- 6.2 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.



- 6.3 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.
- 6.4 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.
- 6.5 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 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.
- 6.6 In social terms the proposal would not help to support a strong, vibrant and healthy community, as the proposal is for a 4-bedroom dwelling, which makes a negligible contribution to the housing need.
- 6.7 In environmental terms, the proposal would, for the reasons set out in this report, have a negative impact on the character and appearance of the area and be out of keeping and is not acceptable in this regard. The benefits of the scheme, therefore, do not outweigh the harm caused.

## **7. ANY RELEVANT SITE HISTORY**

- **23/00079/FUL** – Construction of a two storey 4-bedroom dwelling house, access and landscaping, application pending.
- **22/00925/FUL** - Application for erection of detached dwelling with associated access and landscaping, application refused on 7 October 2022.
- **22/00472/FUL** – Application for erection of detached dwelling with associated access and landscaping, application refused on 8 July 2022.
- **21/01186/OUT** – To construct 2 new houses with new road access and associated parking, application withdrawn on 1 December 2021.

## **8. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Mayland Parish Council	No objection, with regard to Policies D1 and S1.	Noted

## 8.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection, subject to the imposition of conditions.	Noted, and discussed at Paragraph 5.5 of this report.
Arboricultural Consultant	No objection, subject to the imposition of a condition securing a robust soft landscaping plan.	Noted, and discussed at Paragraphs 5.6 and 5.8 of this report.
Ecological Consultant	No objection, subject to condition.	Noted, and discussed at Paragraph 5.8 of this report.

## 8.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Officer	No objection, subject to the imposition of conditions re surface water drainage, foul drainage, and a construction management plan.	Noted, and discussed at Paragraphs 5.4 and 5.7 of this report.

## 8.4 Representations received from Interested Parties

8.4.1 5 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Site is located outside of the settlement boundary.	Noted, and discussed at Paragraph 5.1 of this report.
Design - scale, bulk and height.	Noted, and discussed throughout this report, but most specifically at Paragraph 5.3 of this report.
Ecology concerns. Report is insufficient. Question re the author's qualifications.	Noted, and discussed at Paragraph 5.8 of this report.
Report fails to reflect the clearance of the site or that there are no trees of hedges. Clearance of the site has failed to allow the LPA to accurately assess the environmental impact of the proposed development.	Noted, and discussed at Paragraphs 5.6 and 5.8 of this report.
Lack of an arboricultural report.	Noted, and discussed at Paragraph 5.6 of this report.
Impact on residential amenity. <ul style="list-style-type: none"> <li>- Prominent design</li> <li>- Overbearing</li> <li>- Proximity and scale cannot offer sufficient mitigation as proposed and would detract from a</li> </ul>	Noted, and discussed at Paragraph 5.4 of this report.

Objection Comment	Officer Response
<p>reasonable level of residential amenity</p> <ul style="list-style-type: none"> <li>- Proposed new first floor windows on the north elevation will overlook habitable rooms at Fidler's Rest</li> <li>- Fails to meet infill criteria based on unacceptable impact on living conditions and amenity of nearby properties, lack of an arboricultural report, applicant has failed to demonstrate that the clearance of the site has resulted in an unacceptable loss of land, development continues to have an adverse impact on the landscape.</li> <li>- Impact on health and wellbeing.</li> </ul>	
Impact on parking, access and highway safety.	Noted, and discussed at Paragraph 5.5 of this report.

8.4.2 **4** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
<p>Effective use of land. Design. Addition of a new dwelling.</p>	Noted.

## 9. **REASON FOR REFUSAL**

1. The proposed dwelling, as a result of its design, scale, bulk and height, would result in an incongruous and dominant development which would cause significant and undue harm to the character and appearance of the surrounding area. The proposal is therefore considered to be 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).