



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

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

Application Number	23/00440/OUT
Location	Land north of Willow Grove, Maldon Road, Mundon
Proposal	Outline planning application (with all matters of detail reserved for future determination except for means of access) for the erection of up to two dwellings.
Applicant	Mr Bishop
Agent	Mrs Alex Eatough – Plainview Planning Ltd
Target Decision Date	10.07.2023
Case Officer	Lisa Greenwood
Parish	MUNDON
Reason for Referral to the Committee / Council	Member call-in by Councillor A S Fluker, regarding Policies S1, S8 and D1 of the Local Development Plan (LDP).

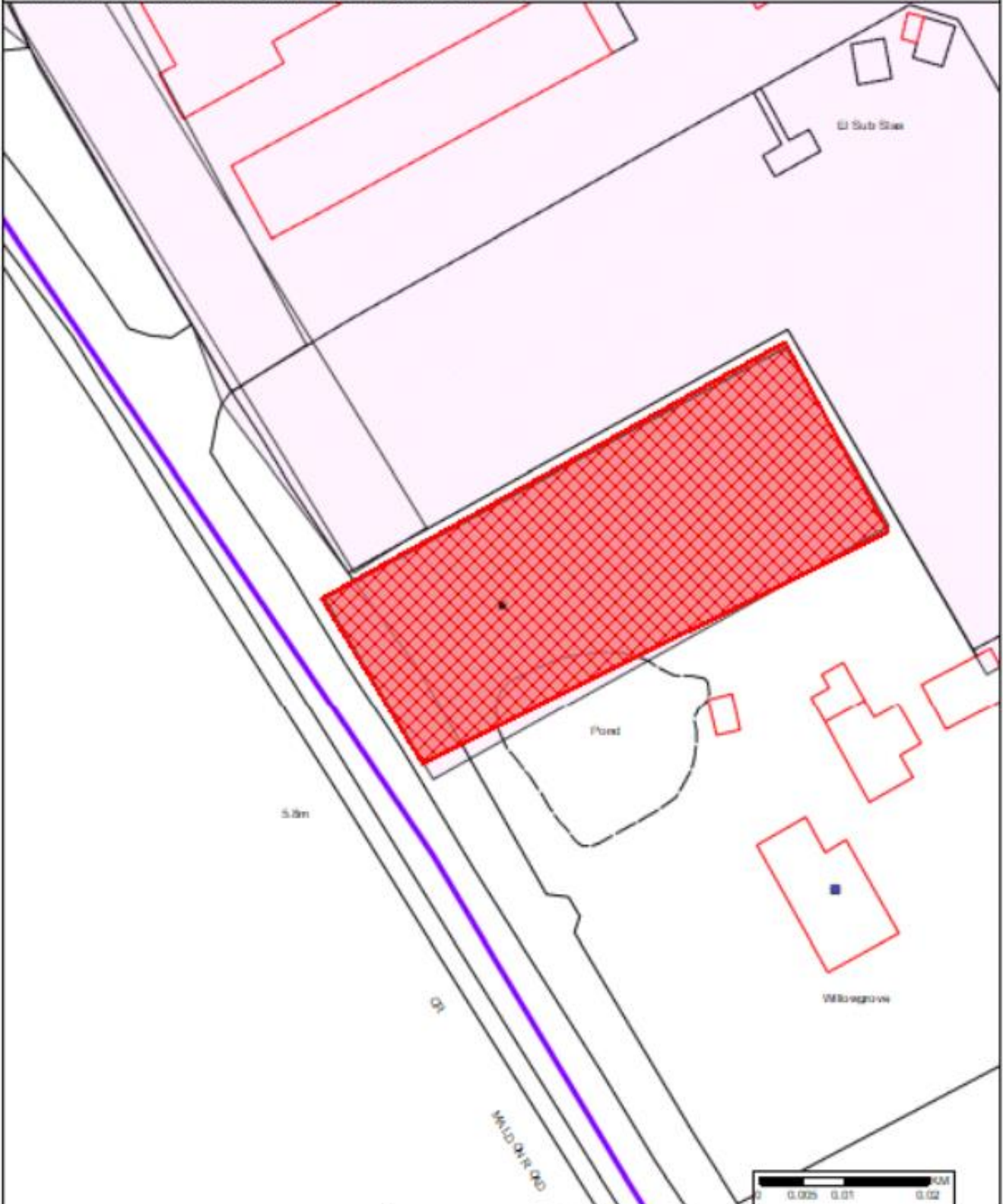
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

Application reference 23/00440/OUT
Land north of Willow Grove, Maldon Road, Mundon



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Scale:	1:625
Organisation:	Maldon District Council
Department:	Department
Comments:	Not Set
Date:	27/06/2023
MSA Number:	100018588

3. SUMMARY

3.1 Site Description

- 3.1.1 The application site is located to the north east of Burnham Road, approximately 1.2km to the north west of the settlement of Latchingdon, and approximately 1km to the south west of the settlement of Mundon. The site is rectangular in shape, and the application form submitted to support the proposal confirms that the site measures 0.2 hectares in area. The site comprises of established trees, vegetation and grass land. A large pond is located directly to the to the south west at 'Willowgrove'. A row of trees are present at the northern and eastern boundary.
- 3.1.2 The site is neighbored to the north and north east by an employment use, 'Desch Plantpak Ltd.' 'Desch Plantpak Ltd' is a production firm that serves the horticultural industry. To the south is 'Willowgrove', a residential development. The site is surrounded on all remaining sides, and beyond the highway, by open countryside. Notwithstanding the commercial site to the north and north east, the character at the site is rural.
- 3.1.3 There is no existing access point to the site. There is also no footway to connect Burnham Road to the settlements of Latchingdon or Mundon. There is also no street lighting at this section of the highway. The speed limit here is the national speed limit of 60 miles per hour (Burnham Road is a single carriageway and there is no street lighting).
- 3.1.4 In planning policy terms, the site is outside a defined Settlement Boundary and is in open countryside.

3.2 The Proposal

- 3.2.1 Outline planning permission (with all matters of detail reserved for future determination except for means of access) is sought for the erection of up to two dwellings.
- 3.2.2 The application form submitted to support the proposal has identified that this application is to consider the principle of development and access only. Appearance, landscaping, layout and scale arrangements are to remain as reserved matters however, plans have been submitted with regard to these matters and comments provided in the body of this report.
- 3.2.3 The site would be accessed via a new access at Burnham Road. The access would be constructed at right angles to the highway boundary. The proposal also proposes a new footway, which would be located outside of the boundary for the application site on highway land. The applicant proposes that a grampian condition is placed on any forthcoming permission requiring the implementation and completion of the footway prior to the first occupation of the dwelling (this would be subject to obtaining consent at the reserved matters stage).
- 3.2.4 Should outline planning permission be forthcoming, the considerations of appearance, landscaping, layout and scale arrangements would form a subsequent reserved matters application(s). Nevertheless, all material planning considerations are relevant where applicable to this application, including the impact on highways, ecology and trees.

3.3 Conclusion

- 3.3.1 The application site is located outside of a defined Settlement Boundary and is in open countryside. Safe access cannot be provided for pedestrians and cyclists to the nearest settlements therefore, occupants of the site would rely heavily on the use of the car. Furthermore, Latchingdon and Mundon are considered to be smaller villages, and future occupants of the site would have to travel to larger settlements / towns to fulfil the requirements of day-to-day living (shopping, education, etc.).
- 3.3.2 The proposal would introduce an incongruous form of development that is out of keeping with, and would cause harm to, the intrinsic character and beauty of the open countryside. The proposal has not considered the context within which the proposal would sit, and the proposal would result in the creation of urban sprawl.
- 3.3.3 Whilst not stated as a reason for refusal, concern is raised with regard to the impact of the adjoining employment site, Desch Plantpak Ltd, on the future occupiers of the site. Mitigation measures would need to be considered at the design stage regarding noise and nuisances, and it may well be that Desch Plantpak Ltd has an 'Agent of Change' defence against any potential future complaints in this regard.
- 3.3.4 Insufficient information has been submitted with regard to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), and the necessary financial contributions have not been secured.
- 3.3.5 For the reasons stated, it is therefore recommended that outline 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 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 homes
- 92-103 Promoting a safe and healthy community
- 104-109 Promoting sustainable transport
- 119-123 Making effective use of land
- 124-125 Achieving appropriate densities
- 126-136 Achieving well designed places
- 152-173 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- Policy S1 Sustainable Development
- Policy S2 Strategic Growth
- Policy S8 Settlement Boundaries and the Countryside
- Policy H2 Housing Mix
- Policy H4 Effective Use of Land
- Policy D1 Design Quality and Built Environment
- Policy D2 Climate Change & Environmental Impact of New Development
- Policy D5 Flood Risk and Coastal Management
- Policy N1 Green Infrastructure Network
- Policy N2 Natural Environment, Geodiversity and Biodiversity
- Policy T1 Sustainable Transport
- Policy T2 Accessibility
- Policy I1 Infrastructure Services
- Policy I2 Health and Wellbeing

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Vehicle Parking Standards Supplementary Planning Document (SPD) (VPS)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Local Housing Needs Assessment (2021)

5. MAIN CONSIDERATIONS

5.1 Background to the application

5.1.1 The planning history for the site is a material consideration.

5.1.2 In October 2022, planning permission was refused at the site for the erection of two detached dwellings with integral garages, new access driveway and garden outbuildings (reference 22/00409/FUL). The application was refused for the following six reasons:

- “1. The site is outside of a defined Settlement Boundary and is in open countryside. There is no footpath provided at the front of the site to connect the site to a nearby settlement or bus stop. The adjacent highway is unlit, with a speed limit of 60 miles per hour. The closest settlements are classified as ‘smaller villages’, providing limited services. Future occupants of the site would therefore be heavily reliant on the use of the car, and the proposal therefore does not provide a sustainable form of development. The proposal is therefore contrary to Policies S1, S8, D1, H4, T1 and T2 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).
2. The proposed dwellings, as a result of their design, scale, siting and height, would result in a cramped and contrived, incongruous form of development that would cause significant and undue harm to the intrinsic beauty and

character of the open countryside. The proposal does not consider the context within which it will sit and represents a form of overdevelopment. This is 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).

3. The proposed development, as a result of the arrangement, height and close proximity of the dwellings to each other, would result in a loss of outlook and overshadowing to the occupiers of 'Plot 2.' Therefore, the proposed development would represent an unneighbourly form of development which would cause material harm to the amenity of the occupiers of this property. Due consideration has also not been given to the impact of the neighbouring commercial unit in terms of noise, odour and lighting, on future occupants. Insufficient information has been submitted in this regard (a full BS4142 noise report is required). The proposal is therefore contrary to Policies D1 and H4 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).
4. In the absence of an up-to-date ecological assessment, it is not possible for the Local Planning Authority to undertake a robust assessment with regard to the potential impact caused by the development to the ecology on, and within close proximity to, the site. Further, insufficient information has been provided to demonstrate how the proposal will secure a net gain in biodiversity. The proposal is therefore contrary to Policy S1, S8 and N2 of the Maldon District Local Development Plan (2017) and the guidance within the National Planning Policy Framework (2021) and the National Planning Practice Guidance (first published in 2014, but regularly updated).
5. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan (2017) and the guidance set out in the National Planning Policy Framework (2021).
6. In the absence of an up-to-date Tree Survey and Arboricultural Impact Assessment, it is not possible for the Local Planning Authority to robustly assess the impact the proposed development may have on the existing trees and if any overshadowing may occur to the dwellings proposed. The proposal is therefore contrary to Policies S1, S8 and N1 of the Maldon District Local Development Plan (2017) and the guidance within the National Planning Policy Framework (2021) and the National Planning Practice Guidance (first published in 2014, but regularly updated).

5.1.3 The applicant has chosen to appeal the decision of Maldon District Council (MDC), and the appeal is in progress and a decision has not yet been reached (appeal reference APP/X1545/W/23/3319552).

5.2 Principle of Development

5.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990), and paragraph 47 of the NPPF require that planning decisions are to be made in accordance with the Development Plan (LDP) unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).

- 5.2.2 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.
- 5.2.3 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.

Five Year Housing Land Supply (5YHLS)

- 5.2.4 As per Paragraph 74 of the NPPF, the Council as the Local Planning Authority (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, MDC prepares and publishes a Five Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.2.5 Following a review into the suitability of the 5YHLS methodology through its 5YHLS Working Group established in August 2022, the Council has confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021 / 22 of 3.66 years. This means that the Council’s presumption in favour of sustainable development position against paragraph 11 (d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the LPD), the provision of the most suitable types of housing for the district, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.

Accessibility

- 5.2.6 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. As stated, the LDP through Policy S1 re-iterates the requirements of the NPPF Policy S1 allows for new development within the defined development boundaries. 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.”

- 5.2.7 The site is located approximately 1.2km to the north west of the settlement of Latchingdon and approximately 1km to the south west of the settlement of Mundon.

The site is outside of a defined settlement boundary and is in open countryside. The villages of Latchingdon and Mundon are categorised by Policy S8 of the Maldon District LPD (2017) as 'smaller villages.' The post-amble for this Policy defines smaller villages as Defined settlements containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities.

- 5.2.8 This section of Maldon Road has a 60mph speed limit, is unlit, and is not served by a formal footway. Upon visiting the site, the speed of the traffic is apparent. The grass verges described do not provide safe access to the stated bus stop nor the nearby settlements, particularly during the hours of darkness or during times of inclement weather, or for users of wheelchairs, or for adults with young children.
- 5.2.9 Paragraph 79 of the NPPF acknowledges that "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities". The application site is disconnected from the nearby settlements and the proposed development would not support the pattern of development set out by the Local Development Framework, nor the vitality of nearby communities.
- 5.2.10 It is acknowledged that 'Desch Plantpak Ltd' is located within close proximity to the site, however, this does not offer future occupants a variety of employment choices across a range of sectors, and does not overcome the highway safety issue, nor the fact that future occupants will have to travel to meet their day-to-day needs.
- 5.2.11 For the reasons stated, the proposal has been found to be contrary to Policies S1, S2, S8, D1, H4, N2, and T2 of the Maldon District LDP and the guidance contained in the NPPF. The principle of development has been found to be unacceptable. For completeness, the merits of the scheme are assessed below.

5.3 Housing Mix

- 5.3.1 The Local Housing Needs Assessment (LHNA) (2021) is an assessment of housing need for Maldon District as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and up to date Planning Practice Guidance and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build.
- 5.3.2 The LHNA concludes that the District has a need for smaller dwellings, with the largest requirement for three-bed dwellings; specifically, 25-35% two-bedrooms, 40-50% three-bedrooms, and 15-25% for 4+ bedroom market dwellings.
- 5.3.3 The proposal seeks outline planning permission for the erection of up to 2no. market dwellings. The proposal would not provide for any affordable units. The application form submitted to support the proposal confirms that it is the applicant's intention to seek planning permission at the reserved matters stage for 2no. 3 bedroom dwellings. The proposal would therefore contribute to the District's housing mix, albeit only marginally.

5.4 Design and Impact on the Character of the Area

- 5.4.1 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. Policy D1 of the LDP and The MDDG (2017) are relevant in this respect.

- 5.4.2 The application site lies outside of a defined settlement boundary and is in open countryside. The site comprises of established trees, vegetation and grass land. A pond is directly to south at 'Willowgrove'. A row of trees is present at the north and eastern boundary.
- 5.4.3 To the south east of the site is a residential use, 'Willowgrove'. 'Willowgrove' occupies a large plot and comprises of 1no. detached dwelling, with associated outbuildings. Whilst it is a substantial dwelling, it is partially screened by established trees and vegetation. It is also set well back from the highway and is not a dominant feature within the streetscene.
- 5.4.4 To the north and north east is an employment use; this is visible at Burnham Road, however, the visibility of the employment units are screened by the existing vegetation present at the application site. The employment use ('Desch Plantpak Ltd) wraps itself around the application site, lying adjacent to the north and north eastern boundaries, extending in excess of some 160 metres to the north and north east in depth, and circa 100 metres in width.
- 5.4.5 An objection to the proposed development has been received from both the residential and the employment use.
- 5.4.6 The site is surrounded on all remaining sides by open countryside, and the character at the site is rural, and residential development is sporadic.
- 5.4.7 One of the reasons for the refusal of application reference 22/00409/FUL was owing to design and the impact on the character and appearance of the area. Whilst it is acknowledged that the refused application sought full planning permission for the erection of two dwellings, and the application the subject of this report seeks outline planning permission for up to two dwellings, it is not considered that this has overcome the previous reason for refusal.
- 5.4.8 The site provides a visual break between the residential development at 'Willowgrove' and the employment use, 'Desch Plantpak Ltd.' It does not represent a residential infill site but instead represents a punctuated gap within the open countryside. The established trees and vegetation add to the site's rural character and minimise the potentially harmful impact of the existing adjacent development on the intrinsic character and beauty of the open countryside. Introducing residential development would urbanise the site, creating a form of urban sprawl, and this is wholly out of keeping.
- 5.4.9 The site is also constrained. The pond located to the south, which did form part of the application site for the previously refused scheme, has now been excluded from the site the subject of this report. However, it is still in situ, and narrows the entrance to the site, limiting the design options available. It was previously not considered acceptable to introduce 2no. dwellings at the site, as the design presented was contrived, and the development appeared as cramped, and the site overdeveloped.
- 5.4.10 For the reasons stated, residential development at this location would appear as incongruous and the proposal has not considered the context within which it would sit. The proposal is therefore contrary to Policies S1, D1 and H4 of the LDP (2017),

and the principles of the MDDG (2017) and the policies and guidance within the NPPF. In accordance with Paragraph 134 of the Framework, “development that is not well designed should be refused.”

5.5 Impact on Residential Amenity

- 5.5.1 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).
- 5.5.2 The application is outline in nature with all matters relevant to the impact on neighbouring residential amenity such as privacy, daylight and sunlight etc. being reserved for future consideration. A broad assessment has therefore been provided.
- 5.5.3 The revised scheme would result in the development of up to 2no. dwellings at the site. As stated, the site abuts residential development to the south. It was not considered that the previously refused scheme would result in a loss of residential amenity to this neighbour, and an appropriate layout could be achieved.
- 5.5.4 Notwithstanding this, concern was raised with regard to the impact on the residential amenity of future occupants and this constituted one of the reasons for the refusal of the application.
- 5.5.5 The proposal has been reviewed by the Council’s Environmental Health Officer, who advises that a Noise Impact Assessment (Healthy Abode, February 2023) has been submitted to support the proposal. Appropriate sound and insulation windows and mechanical ventilation are recommended, as well as an acoustic barrier to the north and eastern boundary of a minimum of 2 metres in height to achieve guideline values.
- 5.5.6 The adjoining factory operates 24 hours a day and 7 days a week. Attended monitoring was carried out over 3 x one hour periods in a single 24 hours. This is not considered to give a representative view of the extent and frequency of potential noise activities from the site. Disturbance from vehicle movements involved with collections and deliveries has not been explored other than electric forklift trucks, but presumably there will be HGVs (Heavy Goods Vehicles) on site as well as activity associated with the turnover of staff shifts.
- 5.5.7 An objection has also been received from Desch Plantpak Ltd, which states that the site employs over 40 staff who are all local to the site and the process requires machinery to be operated and items moved within the site during all hours of operation. It is of concern to this employer that complaints could be lodged from the future occupiers of the site regarding lighting impacts, noise and nuisance and this could result in the hours of operation being forced to change, which would impact the viability of the business in a negative way.
- 5.5.8 The Environmental Health Officer has stated that the NPPF acknowledges that “the focus should be on what is the appropriate use of land and not on the control of processes or noise emissions”.
- 5.5.9 The Officer warns that should the development proceed, future occupiers may be subject to noise disturbance which is outside of the control of the Environmental Health Service.

- 5.5.10 Following a memo and telephone conversation between the Officer and the Noise Consultant, the Officer has issued revised comments, yet still stresses the concerns for mitigating the impacts of noise. The Officer refers to the 'Agent of Change,' which places the responsibility for mitigating impacts from existing noise and other nuisance generating activities or uses on the proposed new noise sensitive development ensuring that the development is designed to ensure that established and other nuisance-generating uses remain viable and can continue to grow without unreasonable restrictions being placed on them. This is set out at Paragraph 187 of the NPPF (2023).
- 5.5.11 The Officer, therefore, does not object to the proposal at outline stage, however, should outline planning permission be granted, consideration must be given to designing the layout to minimise the risk from other nuisances such as artificial light (from the factory). It is important to note that given the proximity of the factory, any other occupiers of the proposed development may be exposed to noise and other nuisances which would be very difficult to control. It may well be that Desch Plantpak Ltd has an 'Agent of Change' defence against any such complaints. Conditions would have to be carefully considered as to their extent of requirements and reasonableness, before imposition on any forthcoming outline consent, and if found to be reasonable, would be required to be satisfied prior to the commencement of development.

5.6 Access, Parking and Highway Safety

- 5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 As stated, matters of access are considered as part of this application. A footway is also proposed.
- 5.6.3 The proposal has been reviewed by the Highways Authority, who advise that from a highway and transportation perspective, the impact of the proposal is acceptable subject to a condition with regards to the construction of the vehicle access.
- 5.6.4 The applicant has proposed a footway to the north of the site. However, as the proposal has been found to be unacceptable in other regards, the LPA has not entered into discussions with the applicant regarding this matter, and whether or not this could be secured via the imposition of a grampian condition.
- 5.6.5 Matters in relation to layout and the provision of parking would be assessed at the reserved matters stage. The application form submitted to support the proposal has indicated that 3no. bedroom dwellings would be proposed. In accordance with the Council's Vehicle Parking SPD (2018), developments with three bedrooms are required to provide for two parking spaces. Parking bays are required to measure 2.9 metres x 5.5 metres. Parking could potentially be achieved across the frontage. Should outline planning permission be forthcoming, a condition would be required to be imposed on any consent to ensure that a satisfactory parking layout is submitted to and approved in writing by the LPA, and that once approved, the parking area would be implemented and remain in perpetuity.

5.7 Private Amenity Space and Landscaping

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms.
- 5.7.2 As stated, the layout for the site is to be provided at the reserved matters stage, however, owing to the site area the proposed development could provide sufficient private amenity space to meet the requirements of the MDDG (2017). Officers would expect any reserved matters application, should the application be approved, to provide garden space following the pattern of gardens adjacent.
- 5.7.3 The matters of landscaping would form a subsequent reserved matters application and are not for assessment at this stage.

5.8 Flood Risk and Drainage

- 5.8.1 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).
- 5.8.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.
- 5.8.3 The site is not located in a critical drainage area.
- 5.8.4 The proposal has been reviewed by the Council's Environmental Health Officer, who has stated that should outline planning permission be forthcoming, conditions are to be imposed with regard to surface water and foul drainage.

5.9 Ecology and Impact on European Designated Sites

- 5.9.1 Paragraph 174 of the NPPF (2023) 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'.
- 5.9.2 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.
- 5.9.3 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.

- 5.9.4 The proposal is supported by a Preliminary Ecological Appraisal (PEA) (T4 Ecology, January 2023), and a Reptile Survey Report (T4 Ecology, May 2023). The details have been reviewed by the Council's Ecological Consultant, who initially raised a holding objection due to insufficient information on European Protected Species (Great Crested Newts (GCN)). Further to this, the applicant has now submitted GCN District Level Licencing Impact Assessment & Conservation Payment Certificate – Enquiry No. DLL-ENQ-ESSX-00121 (Natural England, June 2023). The applicant has also agreed to make a contribution towards habitat delivery and the monitoring of GCN and recommend a copy of the GCN District Level Licence is submitted to the LPA, and this can be included as a condition on any consent. The mitigation measures identified in the Appraisal should also be secured by a condition and implemented in full. The biodiversity enhancements are also supported and should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition on any consent.
- 5.9.5 The Consultant has also advised that the site falls within the 'Zone of Influence' 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.
- 5.9.6 The development of up to 2no. dwellings falls below the scale at which bespoke advice is given from Natural England (NE). This has been confirmed in comments received by NE. To accord with NE's requirements and standard 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 the HRA Stage 1: Screening Assessment are listed below:

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

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

Does the planning application fall within the specified development types? Yes – The proposal is for up to 2no. dwellings

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

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for up to 2no. dwellings

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

5.9.7 Summary of Appropriate Assessment

- 5.9.7.1 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.

5.9.8 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 (2023-2024 figure) and thus, the developer contribution should be calculated at this figure.

5.9.9 The applicant has not submitted the relevant checking and monitoring fees, nor a correctly completed and signed UU to ensure that this mitigation is secured. Whilst it is acknowledged that the applicant has stated that a UU would follow, this has not been received. As the application is unacceptable in other regards, this information has not been sought.

5.10 Other Matters

Tree Impact

5.10.1 A report has been submitted to support the proposal with regarding the impact on trees (John Cromar's Arboricultural Company Ltd, 2023). This has been reviewed by the Council's Arboricultural Consultant, who advises that overall, there is no arboricultural reason this application cannot progress.

6. ANY RELEVANT SITE HISTORY

Reference	Proposal	Status
APP/X1545/W/23/3319552	Erection of two detached dwellings with integral garages, new access driveway and garden outbuildings.	In progress
22/00409/FUL	Erection of two detached dwellings with integral garages, new access driveway and garden outbuildings.	Refused

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mundon Parish Council	Whilst Mundon Parish Council are willing to support this application, there is a preference for one large single dwelling on the land.	Noted.

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	The Officer does not object to the proposal at outline stage, however, should outline planning permission be granted, consideration must be given to designing the layout to minimise the risk from other nuisances such as artificial light (from the factory). It is important to note that given the proximity of the factory, any other occupiers of the proposed development may be exposed to noise and other nuisances which would be very difficult to control. It may well be that Desch Plantpak Ltd has an 'Agent of Change' defence against any such complaints. Conditions would therefore be imposed on any forthcoming outline consent and would be required to be satisfied prior to the commencement of development.	Noted, and discussed at Section 5.5 of this report.

7.3 External Consultees

Name of External Consultee	Comment	Officer Response
Highways Authority	No objection, subject to the imposition of a condition on any consent regarding the construction of the access.	Noted, and discussed at Section 5.6 of this report.
Ecological Consultant	No objection, subject to securing a proportionate financial contribution towards Essex Coast RAMS and biodiversity mitigation and enhancement measures.	Noted, and discussed at Section 5.9 of this report.
Arboricultural Consultant	No objection.	Noted, and discussed at Section 5.10 of this report.

7.4 Representations received from Interested Parties

7.4.1 **3 no.** letters were received **objecting** the application. The reasons for objections are summarised as set out in the table below:

Objecting Comment	Officer Response
Ecology – No contact has been made with regard to undertaking surveys at the adjoining pond. Impact on habitats and protected & Priority species.	Noted, and discussed at Section 5.9 of this report.
Does not accord with the Development Plan.	Noted, and discussed at Section 5.2 of this report.
Potential negative impact on the adjacent employment use, Desch Plantpak Ltd. Concern regarding noise and nuisance from future occupiers of the site.	Noted, and discussed at Section 5.5 of this report.

7.4.2 **6no.** letters were received supporting the application. The reasons for supporting the application are summarised as set out in the table below:

Supporting Comment	Officer Response
Use of site for family housing.	Noted, and discussed at Section 5.3 of this report.
Effective use of land. Site currently a waste ground.	Noted, and discussed at Section 5.2 of this report.
Site is sustainable.	Noted, and discussed at Section 5.2 of this report.
No impact on highway safety.	Noted, and discussed at Section 5.6 of this report.
Would contribute to shortage of homes.	Noted, and discussed at Section 5.1 of this report.
Would contribute to local economy.	Noted, and discussed at Section 5.2 of this report.

8. **PROPOSED REASONS FOR REFUSAL**

1. The site is outside of a defined Settlement Boundary and is in open countryside. Future occupants of the site would therefore be heavily reliant on the use of the car to gain access to everyday services and facilities, and the proposal therefore does not provide a sustainable form of development. The proposal is therefore contrary to Policies S1, S8, D1, H4, T1 and T2 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 (2023).
2. The proposed development has not considered the context within which it would sit and would introduce an incongruous form of development that would be out of keeping with the rural character of the area and would cause harm to the intrinsic character and beauty of the open countryside by the introduction of built form and associated changes such as the provision of a more engineered vehicular access and a footway. This is 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 (2023).

3. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan (2017) and the guidance set out in the National Planning Policy Framework (2023).