



**REPORT of  
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
26 JUNE 2024**

<b>Application Number</b>	<b>23/00070/OUT</b>
<b>Location</b>	Land At Silver Lake, Southminster Road, Asheldham
<b>Proposal</b>	Outline planning permission with all matters reserved for the erection of a 3 bed bungalow.
<b>Applicant</b>	Mrs Lisa Brown
<b>Agent</b>	-
<b>Target Decision Date</b>	03.07.2024
<b>Case Officer</b>	Hayley Sadler
<b>Parish</b>	<b>ASHELDHAM</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor A S Fluker has called in the application for the following policy reasons: LDP policy D1 (Design Quality and Built Environment) and S1 (Sustainable Development)

**1. RECOMMENDATION**

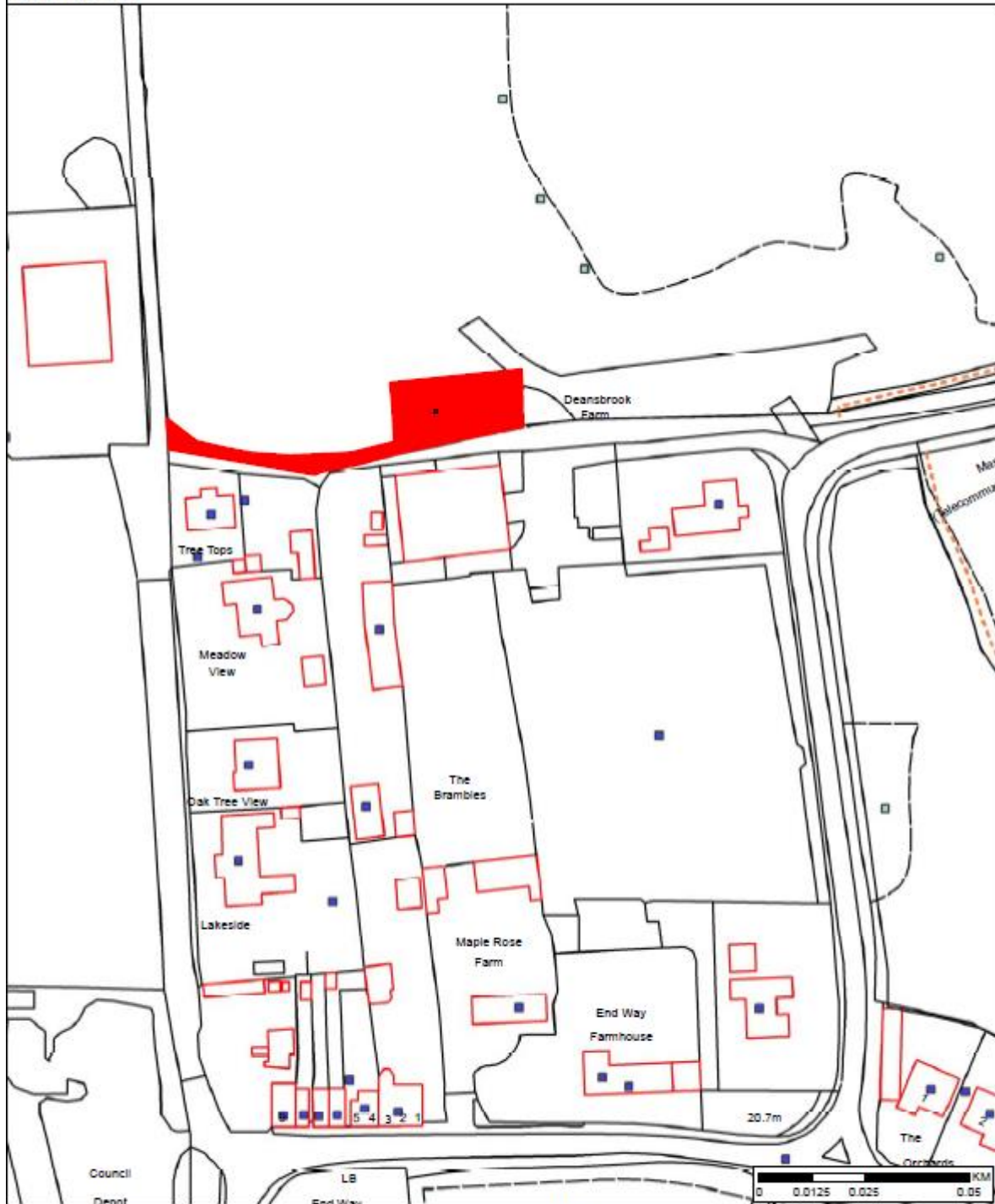
**REFUSE** for the reasons as detailed in Section 8 of this report.


**2. SITE MAP**

Please see below.

# Land At Silver Lake - Southminster Road - Asheldham

23/00070/OUT



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	South East Area Committee
	Date:	02/05/2024
	MSA Number:	100018588
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### **3. SUMMARY**

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

- 3.1.1 The application site is located to the northwest of Southminster Road and northeast of Rushes Lane outside the settlement boundary or Asheldham. It is located to the west of the main entrance to Silver Lake a local wildlife site, also within the applicant's ownership, which is used for outdoor activities including paddle boarding, crafting activities and well-being retreat days as well as for fishing. To the south of the site are some residential dwellings, a salvage premises and also Deansbrook Farm which is a care home. Silver Lake is a 30-acre woodland based in a former quarry, briefly managed by Essex Wildlife Trust and has been subject to replanting of trees to increase biodiversity with woodland trails provided and caters for waterborne activities and includes a craft centre. Asheldham Quarry is located on Tillingham Road to the south east of the application site.
- 3.1.2 The proposal seeks outline planning permission with all matters reserved for a new three-bedroom bungalow. The site measures 40 metres in width and 17 metres in depth and would have a total site area of 680m<sup>2</sup>.
- 3.1.3 The proposal would be accessed from Rushes Lane via an old vehicle access to the main site. Rushes Lane is a Private Road.

#### **3.2 Conclusion**

- 3.2.1 The application site is located in a rural area that is removed from all services, facilities and public transport options. Furthermore, the proposed dwelling would result in visual harm to the established character of Silver Lake and the surrounding rural area. Therefore, the development is contrary to the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG), and Policies D1, H4 and S8 of the Maldon District Approved Local Development Plan (LDP). It is therefore recommended that 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
- 10-14 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligations
- 60-84 Delivering a sufficient supply of homes
- 108-117 Promoting sustainable transport
- 123-127 Making effective use of land
- 128-130 Achieving appropriate densities
- 131-141 Achieving well-designed and beautiful places
- 180-194 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside

- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H2 Housing Mix
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I2 Infrastructure and Services

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

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) (2017) Supplementary Planning Document (SPD)
- Maldon District Vehicle Parking Standards SPD
- Planning Practice Guidance (PPG)
- Essex Coast Recreation Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (adopted August 2020)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 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.
- 5.1.3 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 use residential properties.
- 5.1.4 As per Paragraph 77 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 five 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 five years old.” To this end, Maldon District Council prepares and publishes a 5 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.
- 5.1.5 On the 28 May 2024, the Council confirmed, through approval of its Officers’ Report and supporting evidence, that it can demonstrate a supply of specific, deliverable sites sufficient to provide for 6.3 years’ worth of housing against the Council’s identified housing requirements. The published figure for the year 23/24 was 6.35. However, it should be noted that this is not a ceiling to development as the Council is required to approve housing development, in context of the government drive to meet

housing demand where the harm is outweighed by the benefits of the scheme and all other material considerations..

5.1.6 It is the Council's position that policies relevant to the assessment of the current application remain in general conformity with the NPPF and the current Five Year Housing Land Supply (5YHLS) position demonstrates that the Council's spatial strategy in relation to the delivery of sufficient housing land remains effective. Therefore, it is considered that significant weight can be applied to the LDP Policies, including Policy S8, in the assessment and determination of this planning application.

5.1.7 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 83 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.”*

5.1.8 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 109 of the NPPF acknowledges that “development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.” This is supported by the update of the Government's Policy Paper, 'Strategic road network and the delivery of sustainable development' (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that “new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable.”

5.1.9 The application site would be located outside of the settlement boundary of Asheldham, as defined by the approved local plan and is therefore, in conflict with the LDP adopted policy. The village of Asheldham is defined as an 'other village' as defined within policy S8 of the approved LDP. Other villages are defined as 'Other rural villages with no defined settlement boundary.' Although Policy S8 allows for limited development outside defined boundaries in the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon, this is provided it is for specified purposes that do not include new build general residential properties. Therefore, it is considered that any future occupiers of the dwelling would be required to travel to access day to day facilities, work and education.

5.1.10 Notwithstanding the above, it is acknowledged that the settlement hierarchy outlined in Policy S8 was based on an evidence base undertaken prior to 2017, some years ago. Therefore, it is possible that the services and facilities provided within the villages have changed to a degree over this time. Consequently, it is important that the LPA take a pragmatic stance in assessing the sustainability of each village and take into account up to date evidence as well as the evidence that informs Policy S8.

5.1.11 In respect of the above, the Council has prepared a Rural Facilities Survey (May 2023) which identifies Asheldham as a Hamlet/Open Countryside. According to the

Survey, Asheldham has a shopper's bus service and is 15 minutes from a railway station. The nearest larger villages with adequate facilities would be Tillingham to the northeast and Southminster to the southwest. Both of these villages would be approximately a 5 minute car journey, a 40-45 minute walk or 11-15 minute bike ride. According to the Rural Facilities Survey (May 2023) each village would provide the following services and facilities:

<b>Tillingham</b>	<b>Southminster</b>
School, doctors, shop, nursery, shoppers bus service, 15 mins from a town, fire station, pub, church, children's play, hall, outdoor sports, 15 mins from a railway station, recycling point, post office, allotments	School, doctors, shop, nursery, other shops, commuter and shoppers bus service, allocated employment land, railway station, 15 mins from a town, pharmacy, children's play, youth facilities, halls, pubs, library, outdoor sports, recycling point, post office, allotments.

Given the lack of services, facilities and public transport options within Asheldham itself, it is extremely likely that the future occupiers of the dwelling would be reliant on the use of private cars for their journeys and there would be a requirement to travel outside of the village for groceries.

5.1.12 Policy T2 of the LDP relates directly to accessibility by requiring all new development proposals to 'provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate'.

5.1.13 The site is also located approximately 0.4 miles to the closest bus stop to the southwest of the site on Southminster Road adjacent to Brook Lane and is only accessible by foot or bike along a narrow, unlit, unpaved, 30MPH rural road. The FC05 service is a school service that only runs Monday-Fridays and therefore, would offer very little benefit in terms of sustainable travel. However, the DaRT service is also available (details are shown in the table below) and provides a limited service in respect of operational days and times, whilst no longer being a solely pre-bookable service, except for those times highlighted blue in the table below. This mode of transport is not considered to encourage the use of sustainable transport modes and had not historically been pivotal in the accessibility credentials of any of the areas it serves, given these highlighted limitations. Therefore, it is deemed that the limited opportunity is not likely to persuade people away from the use of a private car particularly in relation to traditional commuter times, evening and weekend activities; particularly when it is likely that this property would be for family accommodation'.

DaRT 4 BURNHAM-ON-CROUCH - SOUTHMINSTER - BRADWELL							
Mondays to Saturdays				From: 20.10.17		Notes	
				NS	NS		
Burnham-on-Crouch, Clock Tower	08:30	10:40	13:55	15:30	17:22		
Burnham-on-Crouch, Railway Hotel	08:33	10:43	13:58	15:33	17:25		
Burnham-on-Crouch, Maple Way	08:37	10:47	14:02	15:37	17:29		
Burnham-on-Crouch, Eves Corner	08:41	10:51	14:06	15:41	17:33		
Southfield Way, Lavender Drive	08:44	10:54	14:09	15:44	17:36		
Southminster, Steeple Road	08:45	10:56	14:11	15:46	17:38		
Southminster, High Street	08:47	10:57	14:12	15:47	17:39		
Southminster Railway Station	08:50	11:00	14:15	---	17:42	18:40	
Southminster, North End	08:53	11:03	14:18	15:48	17:45	18:43	
Asheldham, Brook Lane	08:57	11:07	14:22	15:52	17:49	18:47	
Dengie, White Horse	09:00	11:10	14:25	15:55	17:52	18:50	
Tillingham, Square	09:02	11:12	14:27	15:57	17:54	18:52	
Bradwell-on-Sea, St Peter's Court	09:05	11:16	14:31	*16:03	17:58	18:56	
Bradwell-on-Sea, Kings Head	09:09	11:19	14:34	*16:06	18:01	18:59	
Bradwell-on-Sea, Trusses Corner	09:11	11:21	14:36	*16:08	18:03	19:01	
Bradwell Waterside, Parker Court	09:13	11:23	14:38	16:15	18:05	19:03	

DaRT4 BRADWELL - SOUTHMINSTER - BURNHAM-ON-CROUCH							
Mondays to Saturdays				From: 20.10.17			
				NS	NS		
Bradwell Waterside, Parker Court	09:15	11:25	13:05	14:40	16:20	18:07	
Bradwell-on-Sea, Trusses Corner	07:11	09:17	11:27	13:07	14:42	16:22	18:09
Bradwell-on-Sea, Kings Head	07:13	09:19	11:29	13:09	14:44	16:24	18:11
Bradwell-on-Sea, St Peter's Court	07:15	09:22	11:32	13:12	14:47	16:27	18:14
Tillingham, Square	07:20	09:26	11:36	13:16	14:51	16:31	18:18
Dengie, White Horse	07:22	09:28	11:38	13:18	14:53	16:33	18:20
Asheldham, Brook Lane	07:25	09:31	11:41	13:21	14:56	16:35	18:23
Southminster, North End	07:29	09:35	11:45	13:25	15:00	16:40	18:27
Southminster Railway Station	07:32	09:38	11:48	13:28	15:03	16:43	18:30
Southminster, High Street	09:41	11:51	13:31	15:06	16:46		
Southminster, Steeple Road	09:42	11:52	13:32	15:07	16:47		
Southfield Way, Lavender Drive	09:44	11:54	13:34	15:09	16:49		
Burnham-on-Crouch, Eves Corner	09:47	11:57	13:37	15:12	16:52		
Burnham-on-Crouch, Maple Way	09:51	12:01	13:41	15:16	16:56		
Burnham-on-Crouch, Railway Hotel	09:55	12:05	13:45	15:20	17:00		
Burnham-on-Crouch, Clock Tower	09:58	12:08	13:48	15:23	17:03		

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5.1.14 Notwithstanding the above, it is also noted, that Asheldham is located a fair distance from the closest train station at Southminster, which would likely be accessed by a private mode of transport outside of the bus times highlighted above, which would be the case for most commuters relying on access to train stations. Further, the train service provided at Southminster is limited in itself and given the accessibility concerns is unlikely to discourage the use car as private transport.

5.1.15 Nevertheless, it is noted that an appeal was allowed on 6 July 2016 to the southwest of the application site in Hall Road for 2 dwellings (15/00755/FUL) reference APP/X1545/W/16/3148231 where the site was deemed sustainable. The Planning Inspector, in terms of sustainable travel concluded:

*'There is a limited range of facilities and services in the immediate vicinity of the appeal site. However, the appellant has drawn my attention to a farm shop within 0.25 miles and community facilities including the Asheldham Centre (0.3 miles) and Dengie Village Hall (1.3 miles) and relatively sizeable local businesses. A wider range of facilities is available in Southminster around 1.6 miles away. Whilst the routes to these facilities are unlit and footpaths are intermittent, the roads are lightly trafficked. They would, therefore, be accessible by bicycle, even if walking is unlikely to be a preferred option. There is also a bus route a short distance from the site with services to Southminster and Burnham on Crouch. The service runs fairly frequently at peak times on weekdays, although it is less frequent at other times. The Dengie DART demand responsive bus service is also available in the area. Nevertheless, future occupiers of the proposed dwellings would be likely to rely on trips by private car to meet the many of their day to day needs.*

*Whilst paragraph 35 of the Framework seeks to give priority to pedestrian, cycle and public transport movements, paragraph 29 recognises that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The Council has not cited any development plan policies in support of its position on this issue'. However, it is important to note that in issuing the Appeal decision on 6 July 2016 the Inspector took note of the fact that certain policies of the emerging LDP in particular what is now Policy S8, which seeks to safeguard the countryside*

from inappropriate development, had yet to be examined, along with Policies S1, D1 and H4 and stated that '*...little weight can be accorded to these policies*' Furthermore the appeal site was part of a residential curtilage of a dwelling house with existing dwellings to the immediate east and west of the site and the Inspector found the site '*...to have a domestic character.*' It is therefore difficult to understand the Inspector finding that this site was sustainable, even taking into account the very limited amount of development surrounding it and having no or very limited highway footpaths, or street lighting and lacking in facilities which could be accessed within a reasonable distance without the use of a private car for the occupiers of the existing or even the proposed dwellings and is therefore contrary to policies T1 and T2 of the LDP.

5.1.16 Of more pertinent relevance to this application is an appeal decision on 28 March this year for two bungalows on land north of Willow Grove, Maldon Road, Mundon (22/00409/FUL) reference APP/X1545/W/23/3319552 where the site was found, by the Inspector, to be unsustainable despite being adjacent to various forms of built development, including housing and being close to bus stops. The Inspector stated '*... I find no compelling evidence to support the case either as a suitable development in the countryside or as infill development, when assessed against the requirements of the development plan.*' In terms of other appeal decisions which the appellant cited in support of his application and taking into account the earlier appeal decision referred to in para 5.1.15 above the Inspector stated, '*I acknowledge the reference in the submitted evidence to several other sites in the area, including where planning applications and appeals have been granted, and sites with comparable pedestrian and public transport infrastructure. However, I must determine the appeal based on its individual merits and I do not find any compelling reasons within this evidence to depart from my previous findings.*' Taking account of the specific context of the application site which is within a wildlife site used primarily for open air recreation, where enjoyment of the countryside by members of the public is actively promoted, any residential development such as that which is the subject of the current application would be a wholly alien and a totally inappropriate form of isolated development and in direct conflict with Policy S8

## **5.2 Housing Mix**

- 5.2.1 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 PPG and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build.
- 5.2.2 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three-bed dwellings; specifically, up to 10% one bedroom, 25-35% two-bedrooms, 40- 50% three-bedrooms, and 15-25% for 4+ bedroom market dwellings.
- 5.2.3 Whilst the proposed development would contribute to the District's housing need, any weight given to this would be very limited at best given that only a single dwelling is proposed.
- 5.2.4 As stated, Policy S8 states that planning permission for development outside of the settlement boundaries will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for a specific



purpose, stated in a closed list of criteria. As discussed in section 5.3 of this report, the proposal is considered to result in harm to the character and appearance of the rural area. Furthermore, the proposal does not satisfy any of the criteria listed.

- 5.2.5 The proposal is contrary to Policies S1, S2 and S8 of the Local Plan and would undermine the Council's adopted spatial strategy. Accordingly, the proposal conflicts with the objectives of the NPPF in regard to the identification of land for housing in the countryside and is not a suitable location for housing development

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

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Furthermore, the basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution.
- 5.3.3 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.4 The application site is located within a local wildlife site, Silver Lake, in a rural area which is predominantly characterised by open and undeveloped countryside, with sporadic residential development. To the south of the site from Rushes Lanes there is a small cluster of dwellings, Deansbrook Farm Care Home and a salvage premises. The plot sizes for the dwellings are generous but vary in terms of shape and size.
- 5.3.5 The application site is currently part of a larger Local Wildlife Site, Silver Lake. The proposed development would result in the construction of a dwelling to the southern border of the Silver Lake side. Whilst the application site is not a prominent and open plot there would be glimpses of the built development from within the public realm of Rushes Lane and it would be prominent from within Silver Lake.
- 5.3.6 The proposed development would result in urbanisation and domestication of the site, creating a form of development which would detract from the rural and undeveloped character and appearance of Silver Lake and the rural locality. The proposed dwelling would be sited on land which currently forms open and undeveloped rural land and the inherent domestication of the site would have a significant and detrimental visual impact of the proposed dwelling which would clearly exacerbate the harm to the wholly rural character of Silver Lake and thereby seriously detract from this particularly rural setting. Whilst the appearance of the dwelling would be the subject of a reserved matters application, it is not considered that this would overcome the impact of the loss of the encroachment into the Local Wildlife Site.

- 5.3.8 Therefore, it is considered that the proposal would result in a significant and detrimental impact to Silver Lake and the surrounding rural area, to the detriment of its intrinsic character and beauty. It therefore follows that the proposed development would fail the environmental strand of sustainability and is considered to weigh very heavily against the proposal in the planning balance.
- 5.3.9 Overall, it is considered that the proposed development would have a detrimental impact on the character and appearance of the countryside setting contrary to Policies S1, S8 and D1 of the LDP.

#### **5.4 Impact on Residential Amenity**

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG.
- 5.4.2 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 advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.4.3 It is considered that the dwelling could be designed in a way that would not adversely impact the amenities of neighbouring properties and also provide the required level of private amenity space for the number of bedrooms proposed. This would be addressed at reserved matters stage; therefore, it is considered that a new dwelling on the site would not harm the amenities of adjoining residential occupants.
- 5.4.4 Given the above, it is considered that the proposal would not have a detrimental impact on the amenity of neighbouring properties, and the amenity space provided for the future occupants is acceptable, consistent with policies D1 and H4 of the LDP and the MDDG.

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

- 5.5.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. 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.
- 5.5.2 Access to the site would be via Rushes Lane off Southminster Road. Rushes Lane is a private road and the proposed access point off of Rushes Lane to the dwelling is owned by the applicant. The applicant as part of this application has not shown the access from an adopted highway and as such this would need be addressed at reserved matters stage. Rushes Lane is an unmade Road which can accommodate two vehicles at one time travelling in opposite directions.
- 5.5.3 The Council's adopted Vehicle Parking Standards SPD requires a two/three-bedroom dwelling to have 2 parking spaces, measuring 2.9m by 5.5m. No details have been provided as part of this application in relation to the provision or layout of the parking to be provided, this would be addressed at reserved matters stage.

5.5.4 Furthermore, Essex County Council (ECC) Highways were consulted on the application and have advised they have no objection to the proposed access subject to a recommended condition in relation to cycle parking if the application is recommended for approval. Therefore, no objection is raised in relation to traffic and transport issues.

## **5.6 Ecology (including the impact of development within the Zone of Influence (Zol) for the Essex Coast RAMS)**

5.6.1 Paragraph 180 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.'

5.6.2 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.

5.6.3 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.

5.6.4 It is noted that the site falls within the evidenced recreational Zol of the Essex Coast RAMS. The LPA is therefore required to prepare a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for the delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

5.6.5 The development of 1no. 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:

### 5.6.6 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 specified development types? Yes – The proposal is for 1no. dwellings

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

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for 1no. dwellings.

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

#### 5.6.8 Summary of Appropriate Assessment

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.

- 5.6.9 As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution of £163.86 per dwelling is necessary. The Council are now in receipt of a signed UU and the appropriate mitigation would therefore be secured, in compliance with policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

### 5.7 Ecology

- 5.7.1 Paragraph 180 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.*'
- 5.7.2 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.
- 5.7.3 The application has been accompanied by an updated Preliminary Ecological Appraisal (PEA) and additional ecological information. The survey related to the potential impacts of development on protected species and habitats within the wider Local Wildlife Site.
- 5.7.4 The Council's Ecology Consultant has assessed the information provided and confirms that there are no objections to the proposed works as they are satisfied that sufficient information has been provided. This is subject to the submission of the Essex Coast RAMS and conditions have been recommended in relation to biodiversity mitigation and enhancement measures. Should permission be granted, the suggested conditions would be imposed.
- 5.7.5 NE were also consulted on the application and having assessed the information provided have advised that they have no objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites)

### 5.8 Trees

- 5.8.1 The application has been accompanied by an Arboricultural Impact Assessment (AIA) and Tree Protection Plan (TPP). The AIA reports 6 individual trees (5 Category C and 1 Category U) and 2 groups of trees (1 Category B and 1 Category C/U). The development will require the removal of 2 individual trees (T5 and T6), both of which

are Category C in quality and small trees which have limited value in the wider landscape. To protect the retained trees, the AIA and TPP detail the location of protective fencing, this is to be erected immediately after the tree removal works and remain in place until all construction activity has been completed. This fencing is to form a Construction Exclusion Zone (CEZ), where no personnel, plant or materials are permitted within throughout the duration of the works.

- 5.8.2 Due to the site's location, adjacent to a woodland, a number of trees could be impacted by construction works through root severance, changes to the root environment, compaction through the movement and storage of plant, damage through harmful construction practices, contamination due to spillage of fuel or other materials, unsympathetic facilitation pruning, and direct damage to the stem and crown.
- 5.8.3 Place Services – Arboriculture was consulted on the application and have raised no objection subject to a recommended a non-dischargeable condition in relation to the retention of identified trees and hedges on the site. Should permission be granted, the suggested conditions would be imposed.

## 5.9 Other matters

- 5.9.1 The Council's Environmental Health Department have raised no objection to the proposal but has requested conditions requiring details of a construction management plan, surface water drainage and fowls drainage together with informatives relating to the waste management and contamination be attached to any permission granted.

## 6. ANY RELEVANT SITE HISTORY

- 6.1 There is no planning history for the application site but there is relevant planning history for Silver Lake/Asheldham Pit to the north of the site which is set out below:
- **18/00230/FUL** – Erection of an education centre, tearoom, 6x holiday log cabins, 1x staff/workers accommodation, 1x welfare cabin, 6x fish breeding pods and associated hard-standing, parking and access point, Approved – 25 January 2019

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Asheldham and Dengie Parish Council	Support the application	Noted

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways	No objection subject to recommended condition and informative	Noted
Place Services – Ecology	No objection subject to recommended conditions	Noted

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Natural England	No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites).	Noted
Essex Wildlife Trust	Object	Noted
Tree Consultant	No objection subject to recommended conditions.	Noted

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to recommended conditions and informatives.	Noted

### 7.4 Representations received from Interested Parties

7.4.1 No letters of representation for the application have been received.

## 8. PROPOSED REASONS FOR REFUSAL

- 1 The application site lies outside of the defined settlement boundaries where policies of restraint apply, and the proposed development would be detrimental to the intrinsic character and openness of the countryside and the designated wildlife site it would be located within. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing and employment in the District. The development is therefore contrary to Policies S1, S2 and S8 of the Maldon District Local Development Plan (2017)
- 2 The proposed development 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, in particular the established character of Silver Lake itself, due to the introduction of built form and associated changes such as the provision of a vehicular access and introduction of residential paraphernalia. This is contrary to Policies S1, S8, and D1 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.
- 3 The site is situated outside of the defined development boundary and is in open countryside. Future occupants of the proposed dwelling 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).