



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

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
24 JULY 2024**

<b>Application Number</b>	<b>24/00405/FULM</b>
<b>Location</b>	Land at Junction of Steeple Road and Mill Road, Mayland
<b>Proposal</b>	Demolition of existing buildings/structures. The construction of 57 new homes, including 27 affordable housing units, the creation of a new access, and associated landscaping, car and cycle parking and refuse and recycling provision.
<b>Applicant</b>	Mr Liam Mcnamara – Savannah Properties
<b>Agent</b>	Mr Richard Quelch - Q Square Group Ltd
<b>Target Decision Date</b>	21.08.2024
<b>Case Officer</b>	Fiona Bradley
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor A S Fluker – Policies S1, S3, S7, S8, D1, H1, H2, H4, H5 Departure from the local plan Major Application

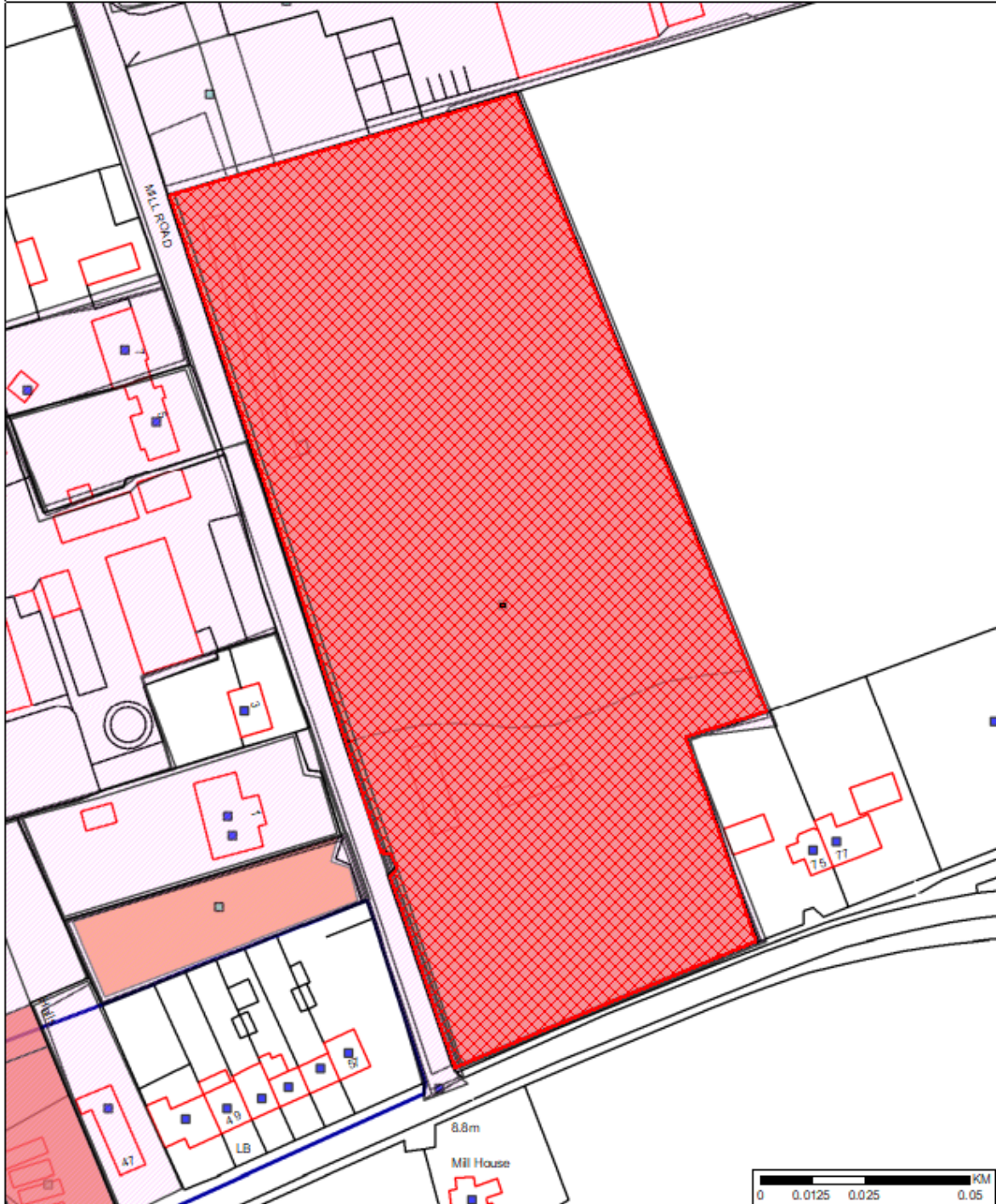
**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see below.

**Land at Junction of Steeple Road and Mill Road**  
**South Eastern Area**



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	<p><b>Organisation:</b> Maldon District Council</p>	<p><b>Department:</b> Department</p>
	<p><b>Comments:</b> 24 July 2024</p>	<p><b>Date:</b> 25/06/2024</p>
	<p><b>MSA Number:</b> 100018588</p>	

### 3. **SUMMARY**

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

##### The site and surroundings

- 3.1.1 The site is located to the east of the village of Mayland, outside of the settlement boundary within open countryside. It lies on the northern side of Steeple Road at the junction with Mill Road, Mayland. The site is 1.89ha in size and is roughly rectangular in shape.
- 3.1.2 The site was previously used as a commercial nursery and currently comprises the remains of large greenhouses and ancillary outbuildings, all of which are in a dilapidated state, with vegetation growing in and around them. The site's boundaries are lined with existing trees/hedges.
- 3.1.3 West of the site on Steeple Road is a row of terraced bungalows which are within the settlement boundary. Also, to the west of the site, on Mill Road and outside the settlement boundary, are four dwellings, with another currently under construction, and Whitecaps Farm which comprises numerous single storey buildings.
- 3.1.4 To the north of the site is the former Mayflower Nursery and northeast is an area of woodland.
- 3.1.5 Adjacent to the south eastern corner of the site, on Steeple Road, are a pair of semi-detached, two-storey dwellings which sit within generously sized plots.
- 3.1.6 The site and land to the east is within open countryside.
- 3.1.7 There is a narrow footway along the northern side of Steeple Road, adjacent to the site. Mill Road is an unadopted private road, is unlit and has no footways.

##### The proposed development

- 3.1.8 Planning permission is sought for the demolition of the existing structures on the site and the erection of 57 new dwellings, 27 of which would be affordable, the creation of a new access from Steeple Road and associated landscaping, car and cycle parking and refuse and recycling provision.
- 3.1.9 The dwellings would be a mix of one and two storeys, comprising detached and semi-detached properties and two block of flats each comprising 5 units. In terms of dwelling sizes, the mix of dwellings provided is as follows:

<b>No. of bedrooms</b>	<b>No. of dwellings</b>
<b>Market housing</b>	
1	1
2	9
3	15
4	5
<b>Total no. of market dwellings</b>	<b>30</b>
<b>Affordable housing</b>	
1	8
2	8
3	8
4	3
<b>Total no. of affordable dwellings</b>	<b>27</b>

- 3.1.10 The external finishing materials proposed are red multi brick and off-white render for the walls and dark red plain tiles and grey plain tiles to the roofs.
- 3.1.11 The site would be accessed via a new vehicular access from Steeple Road.
- 3.1.12 A total of 112 parking spaces are provided, including 8 no. visitor spaces. The car parking is provided both on-plot and to the front and sides of plots.
- 3.1.13 The application includes an over-provision of 4 affordable homes.

#### Submitted documents

- 3.1.14 The submitted plans include floor plans and elevations of the proposed dwellings. It is noted from the submitted Site Layout Plan that many of the houses are handed versions of the submitted plans however plans for the handed versions were not submitted.
- 3.1.15 In addition to the submitted plans, the following documents were submitted with the application:
- Covering Letter and Planning Application form
  - Air Quality Assessment, prepared by GEM
  - Archaeology Report, prepared by HCUK
  - Arboricultural Report, prepared by Andrew Day Arboricultural Consultancy
  - Tier 1 Contamination Risk Assessment, prepared by Sweco
  - Design and Access Statement (DAS), prepared by Scene
  - Flood Risk and Surface Water Management Assessment, prepared by Ardent Consulting Engineers
  - Health Impact Assessment, prepared by Brookdale Consulting
  - Noise Assessment, prepared by Oakridge ES
  - Planning Statement, prepared by Q Square
  - Transport Assessment, prepared by RGP
  - Accommodation Schedule, prepared by Scene
  - Biodiversity New Gain predictions and associated material, prepared by Whittingham Ecology
  - Bat Report, prepared by Whittingham Ecology
- 3.1.16 It is noted that an ecology report referred to by the applicant in the covering letter was not submitted with the application.

## **3.2 Conclusion**

- 3.2.1 The site is located in the countryside, beyond the settlement boundary of Mayland. The site is not considered to be in an accessible location as future occupants would largely be reliant on travel by car. The proposed development would erode the intrinsic character and beauty of the open countryside. Furthermore, the Council has a Five Year Housing Land Supply(5YHLS). The principle of development is therefore found to be unacceptable as it would not accord with the Council's spatial strategy.
- 3.2.2 The mix of housing provided is supported along with the provision of affordable housing on the site, including the provision of an additional four houses over the policy requirement. This is considered to be a significant social benefit.
- 3.2.3 The development does not result in high quality design due to the siting, layout, amount of hard surfacing, lack of tree-lined streets and poor layout. Furthermore, the

under provision of private amenity space for many homes, car parking, and public open space results in over development of the site. Insufficient information has been submitted to accurately assess the landscape and visual impacts of the proposal.

- 3.2.4 The proposal would result in poor living conditions for some residents due to the under provision of private gardens and potentially overbearing boundary trees on some edges of development plots.
- 3.2.5 There is no objection to the proposed vehicular access from Steeple Road in terms of highway safety however it does not include pedestrian footways into the site resulting in poor connectivity to the footway on Steeple Road. Car parking provision on site does not meet the minimum requirements of the Vehicle Parking Standards (VPS) Supplementary Planning Document (SPD). This has the potential to result in indiscriminate parking within the site and beyond, in an area where there is already a lack of on-street parking.
- 3.2.6 Insufficient information has been submitted to assess the impact of the development on protected and priority species. Habitat degradation has occurred on the site and there is missing, and insufficient information submitted in relation to mandatory biodiversity net gain.
- 3.2.7 Although the applicant has indicated willingness to enter into a section 106 agreement, one has not been agreed to secure the affordable housing provision, and contributions towards the NHS, education provision and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which are necessary to make the development acceptable.
- 3.2.8 There would be economic benefits associated with temporary jobs during the construction period as well as some economic benefits to the local services and facilities as a result of the additional residents. In social terms, the proposals would make a contribution to the supply of housing in the District and contribute to the affordable housing, notably over providing four affordable homes. However, these benefits are not considered to outweigh the harm identified and the proposal is recommended for refusal.

#### **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
- 55-58 Planning conditions and obligations
- 60-84 Delivering a sufficient supply of homes
- 85-89 Building a strong, competitive economy
- 90-95 Ensuring the vitality of town centres
- 96-107 Promoting healthy and safe communities
- 108-117 Promoting sustainable transport
- 123-130 Making effective use of land

- 131-141 Achieving well-designed and beautiful places
- 157-179 Meeting the challenge of climate change, flooding and coastal change
- 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
- 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
- E1 Employment
- H1 Affordable Housing
- 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:**

- Planning Practice Guidance (PPG)
- Maldon District Design Guide (2017) (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD
- Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

5.1.1 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 National Planning Policy Framework (NPPF) require planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises of the approved Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).

#### Spatial Strategy

5.1.2 LDP Policy S1 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 applies 14 key principles in policy and decision making set out in the Policy. This includes principle 2 *“Delivering a*

*sustainable level of housing growth that will meet local needs and deliver a wide choice of high-quality homes in the most sustainable locations”.*

- 5.1.3 To deliver the economic and residential growth in the District whilst protecting and enhancing the area’s natural, built and historic environment, LDP Policy S2 seeks to focus development on existing settlements subject to their role, accessibility and constraints.
- 5.1.4 LDP Policy S8 flows from Policy S2 and steers new development towards the existing urban areas. The policy includes a settlement hierarchy which identifies Mayland as a ‘larger village’ which is one that has a limited range of services and opportunities for employment, retail and education. Policy S8 confirms that development will be supported within settlement boundaries and that outside these areas it will only be supported where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. The proposed development does not fall within any of the development types listed in Policy S8 as being acceptable in the countryside.
- 5.1.5 In terms of the principle of development, the outline planning permission approved in 2013 (ref. 12/00452/OUT) is a material planning consideration. The outline permission was granted for a 60-bed nursing home on the site. In that case, although the site was outside the settlement boundary, it was recognised that there was a need in the District, particularly within a five-mile radius of Mayland, for the type of facility proposed (a nursing home for elderly people with dementia). As the proposed development is for market and affordable housing and is therefore materially different to that previously approved, only limited weight is given to the previous approval when considering the principle of development.
- 5.1.6 Also relevant to this application in terms of the principle of development, is the appeal decision on the adjacent site at Mayflower Nursery (application ref. 20/00054/FUL and appeal ref. APP/X1545/W/20/3261977) for 19 homes where that Inspector stated at paragraph 25 that whilst the proposal would make effective use of the land, *“the site is not within a settlement. Accordingly, the Framework confirms that this previously developed brownfield land is not suitable for the proposed housing development”*. The Inspector concluded, at paragraph 26, the residential development *“would be contrary to LDP Policies S1, S8 and H4 and would unduly undermine the Council’s adopted spatial strategy”*.
- 5.1.7 As the application site lies outside of the defined settlement boundary for Mayland and is not allocated for development, the proposals conflict with the spatial strategy of the LDP.

#### 5YHLS and the Titled Balance

- 5.1.8 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 a sustainable manner, having regard to the government’s drive to meet housing demand, where any identified harm caused by a development is outweighed by the benefits of the scheme and any other material considerations. In addition, maintaining a balance of delivery of housing on the ground, and approval of new permissions, is necessary for the Local Planning Authority (LPA) to demonstrate that it is being consistent with national policy.

- 5.1.9 The applicant's planning statement ('PS') discusses the planning policy position in some detail and at paragraph 2.25 concludes that the LDP is considered to be out-of-date and that the tilted balance is engaged.
- 5.1.10 In October 2023, Officers obtained Counsel's legal advice on the 5YHLS position, and in response to arguments put forward that MDC had erred in its approach in other applications to the review of its Local Plan. Although Counsel's opinion is subject to legal privilege and remains confidential, it serves to confirm that MDC did not err in its approach and more significantly, that the tilted balance under paragraph 11 d) of the NPPF no longer needs to be applied for sites which are not allocated for development, fall outside any defined settlement boundary and are contrary to policies of the approved LDP. The recent revisions to the NPPF, including paragraph 7 are also an important new consideration.
- 5.1.11 However, in respect of 'are policies considered out of date if they are not updated after 5 years?' it was commented as follows *'The National Planning Policy Framework is clear that strategic policies should be prepared over a minimum 15 year period and a local planning authority should be planning for the full plan period. Policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years. The review process is a method to ensure that a plan and the policies within remains effective. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Due weight should be given to relevant policies in existing plans according to their consistency with the National Planning Policy Framework. It will be up to the decision-maker to decide the weight to give to the policies.'* (para. 064). The advice goes on to set out the matters that should be considered when determining whether a plan or policies within a plan should be updated which include conformity with national policy, 5 year housing land supply, appeal performance etc.
- 5.1.12 Furthermore, Paul Newman New Homes Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 15 (12 January 2021) is relevant. Commentary on this case highlights the following *'In respect of the construction of paragraph 11d, the Inspector found that the Council had a five-year housing supply, so footnote 7 to paragraph 11d was irrelevant to the determination of the planning application, and that the presumption in favour of the development under paragraph 11d did not apply. The Inspector therefore applied section 38(6) of the Planning and Compulsory Purchase Act 2004, that an application for planning permission must be determined in accordance with the local development plan unless material considerations indicate otherwise. She concluded that the housing and economic benefits of the proposal did not outweigh the harm that was found. The Appellant argued that paragraph 11d should have been interpreted by reference to paragraph 14 of the 2012 NPPF that in the absence of relevant or up to date development plan policies, the balance was tilted in favour of planning permission being granted'*
- 5.1.13 The commentary goes on to state policy relevant to the appeal *'GP.35 (the relevant policy) sets out the factors which the design of new development proposals should take into account including the physical characteristics of the site and surroundings and the historic scale and context of the setting. The Inspector's view was that the proposed development conflicted with GP.35 in that it would unnaturally extend the settlement, encroach on the countryside and harm its rural character and appearance. The Appellant argued that GP.35 was not relevant at the stage where outline planning permission was sought as it was only concerned with issues of details which arise at the reserved matters stage. The Court of Appeal held that the High Court was correct in considering paragraph 11d on its own as the consultation*



*documents and process did not support a different interpretation. It agreed with the High Court that in a case that involves a housing application, “there is no need to restrict the concept of relevance to policies that are specifically targeted at the type of development under consideration...A general development control policy may be capable of having a real role to play in the outcome of an application.”*

- 5.1.14 Lastly on this matter, the commentary concludes ‘*In any event, policy GP. 35 is of a completely different character and, for reasons that I have already explained, the Inspector was entitled to find it relevant. Since the Inspector and the Judge correctly concluded that policy GP. 35 was not confined in its ambit to matters of detail arising only at the reserved matters stage, the question whether that policy was relevant and how important it was to the determination of the application under consideration were quintessential matters of planning judgment.*
- 5.1.15 *“The second “trigger” for the application of the tilted balance is “where the policies which are most important for determining the application are out-of-date.” That necessarily involves an evaluation by the decision maker of which of the relevant policies in the local plan are the most important, and whether they accord with current national policy. As the Judge and the Inspector both found, a policy is not out-of-date simply because it is in a time-expired plan: Mr LockhartMummery rightly did not seek to contend otherwise*
- 5.1.16 The above case law serves to confirm that the policies in the local plan under consideration to this (and similar other) developments are relevant, and due to their relevance and consistency with national policy, are not out of date. Accordingly, the LPA does not agree with the applicant’s assertion that the titled balance is engaged.

#### Call For Sites

- 5.1.17 The site has been considered through the Council's ‘call for sites’ process as part of the LDP Review 2021+ in the Housing Economic Land Availability Assessment (‘HELAA’) under the reference May4. The outcome of this process in regard to this site found that:
- “On balance it is considered that development of the site would be suitable, in that it is in a sustainable location being within walking distance of a primary school, shops, medical practise and shoppers bus service. The site fits into the context of the townscape and would not impact on the wider landscape. The site could provide biodiversity net gain and would not impact on heritage assets. Consideration would have to be given to impacts on the Mayland Creek and Mundon Creek which is a RAMSAR, SPA, SAC, SSSI and MCA area.”*
- 5.1.18 At paragraph 5.3.3 of the applicant’s PS the ‘call for sites’ process is referred to. The applicant accepts that whilst not automatically guaranteeing the grant of planning permission *“it must be accepted that it indicates a clear direction of travel for the LPA”*. The applicant’s PS then refers to an appeal decision in Latchingdon (APP/X1545/W/22/3293818) dated 10 March 2023, whereby the Inspector referred to the Call for Sites at paragraph 9, stating that *“That assessment seems to have clearly concluded that “in principle it would be acceptable for development”. Of course that does not take account of the individual features of any particular design or layout... but it does clearly suggest that the effect of development on the site (a slightly larger area than being considered) would not affect the character of the countryside to an unacceptable extent.”*
- 5.1.19 At the time the LPA strongly disagreed with this assertion given the ‘call for sites’ process involves a very high-level assessment only and that it was for the local plan

making process. The LPA's view was supported in a more recent appeal decision in Tillingham (APP/X1545/W/23/3333441) dated 13 June 2024 where the Inspector, at paragraph 43, stated that the call for sites process *"is part of the evidence base of the Council's emerging local plan, which is at an early stage"* and went on to say *"In any event, a 'call for sites' is a high-level theoretical exercise that lacks the rigorous assessment involved in considering a planning application. As a result, the findings of the exercise, which I do not agree with for the reasons given, are a matter of limited weight in favour of the appeal scheme"*.

5.1.20 However, another recent appeal decision in Latchingdon, (APP/X1545/W/23/3331398) dated 5 July 2024 takes a contrasting view again where, at paragraph 39 the Inspector said of the HELAA, that *"whilst I appreciate [the HELAA] does emphatically not allocate land, nor does it determine whether sites should be granted permission, nonetheless concluded this site is accessible to local facilities"*.

5.1.21 Given the above, whilst the call for sites process is acknowledged, its assessment with regard to the site is only given limited weight due to it being a high-level theoretical exercise lacking the rigorous assessment involved in considering a planning application and taking into account the appeal decisions on the site itself (as referred to below in para 5.1.24) and on the adjacent site (as discussed as discussed at para 5.1.27) which both discuss locational accessibility, carry significant weight in the assessment of this particular application.

#### Sustainable Development

5.1.22 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 which allows for new development within the defined development boundaries. However, 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 78 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."*

#### Environmental Role

5.1.23 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”.*

- 5.1.24 Access to the village’s facilities and shops by pedestrians and cyclists could be via the road/footway network from Steeple Road or via Mill Road and the public footpath (Mayland 1) to the north of the site. However, it is considered that the second route would not be a likely option in the hours of darkness or for some users during the winter months due to lack of lighting and the condition of the footpath.
- 5.1.25 A previous appeal decision for the application site (APP/X1545/A/08/2081888/NWF) which refused planning permission for ‘extra-care elderly persons bungalows, nursing home, affordable housing bungalows for the elderly and community building’ specifically considered the site’s location outside the settlement boundary and the Inspector, at paragraph 18, considered that the more able-bodied residents would wish to access facilities within the settlement and further afield. The Inspector stated that *“facilities such as the shopping parade in Maylandsea, the chemist and the GP are all a relatively long walk away, being 2.5km in the case of the shops, limiting accessibility for someone who is elderly and less able”.*
- 5.1.26 In the above appeal decision, the Inspector noted the provision of a petrol station approximately 1km from the site to the west on Steeple Road. However, there is no continuous footway from the site to the petrol station on Steeple Road, therefore a more circuitous, and therefore longer, route would need to be taken by pedestrians.
- 5.1.27 The Inspector concluded in the above appeal decision that *“it is likely that there would be a reliance of the private car by occupiers of the more independent residential units”.* Although, it is acknowledged that the current proposal is not solely for elderly people, as the appeal decision was, the distance to shops and facilities is still some 2.5km away from the site.
- 5.1.28 The applicant’s Planning Statement (the ‘applicant’s PS’) at paragraph 5.22 refers to the planning application at Mayflower Nursery (ref. 20/00054/FUL) for 19 homes and states the site was *“found to be sustainable by the Council”.* However, the applicant’s PS failed to include that the application was refused and dismissed at appeal (APP/X1545/W/20/3261977) and that the appeal decision, at paragraph 22, stated that most occupants of the appeal site would most likely travel by car to local services and facilities *“due to the distance and time required”.* The applicant’s PS also states that the Council found the proposed development opposite the site on Mill Road (ref. 16/00224/OUT) at Whitecap Mushroom Farm for 35 dwellings to be sustainable. The Committee Report was not as positive as the applicant’s PS suggests and concluded at paragraph 5.1.11 that *“the application site is considered to benefit from some sustainability credentials”.* The application was refused and dismissed at appeal, albeit the appeal decision (APP/X1545/W/17/3182361) did not specifically address the accessibility of the site’s location.
- 5.1.29 The site is within close proximity to bus stops on Steeple Road, approximately 120m to the west of the proposed access. The submitted Transport Assessment (the ‘TA), Figure 5 on page 15, details the bus services which run from the bus stops which include services to Southminster, where there is a railway station, Maldon and further afield to Chelmsford.
- 5.1.30 Whilst the site is served by public transport, given the distance of the site from local shops and services, and the limited public transport available, it is anticipated that many residents would still rely on travelling by car. This is supported by the trip generation information provided in the TA which estimates 267 two-way trips per day (see Figure 11 on page 24), which equates to 76% of the total two-way trips

generated by the site, being 350 two-way trips in total when including pedestrian, cyclist and public transport trips. Accordingly, the site is not considered to be in a sustainable location.

5.1.31 Other environmental impacts are discussed in detail in the report below.

#### Social Role

5.1.32 Policy H1 of the LDP identifies a 40% Affordable Housing requirement which equates to 23 affordable homes. The proposal includes provision for 27 affordable homes, an over provision of four. The more detailed aspects of the affordable housing provision are discussed in a separate section below; however, the Council acknowledges the acute and pressing need for affordable housing in the District and significant weight is therefore given to this social benefits.

5.1.33 The provision of market homes is also a social benefit of the scheme.

#### Economic Role

5.1.34 The proposed development would result in economic benefits through the construction phase of development where the opportunity exists for the creation of jobs including the sourcing local labour and provision of materials. However, this would be only for a short timescale during the construction period and therefore this can be afforded only limited weight. There would also be the benefit of new residents supporting the existing facilities and services in the village.

#### Summary of Principle of Development

5.1.35 The site is located beyond any settlement boundary where the principle of the proposed development is not supported, as such the proposal would be contrary to the Council's adopted spatial strategy in the LDP. The site is not considered to be in a sustainable location as the majority of trips generated by residents would rely of the use of private cars.

## **5.2 Housing Mix and Affordable Housing Provision**

#### Housing Mix

5.2.1 The NPPF is clear that housing should be provided to meet an identified need and the Local Housing Needs Assessment (2021) (LHNA) 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 LHNA is wholly compliant with the latest NPPF and NPPG 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.

5.2.2 Policy S1 includes a number of key principles for decision making of which principle 2) is relevant in that it recognises that need to *"Deliver a sustainable level of housing growth that will deliver a wide choice of high quality housing in the most sustainable locations"*. Policy H2 requires developments *"to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand"*. The LHNA (2021) concludes that the District has a need for smaller dwellings, with

the biggest requirement for 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds.

5.2.3 The Council seeks to deliver a range of homes in terms of sizes that will contribute to the creation of mixed, inclusive and sustainable communities. It will be important to ensure the District's housing stock provides for a wide range of housing needs and offers choice. It is a key component of the Planning system, including guidance contained within the NPPF, that the right type of housing is delivered for the community. Policy H2 of the approved LDP states that *"all developments will be expected to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand"*.

5.2.4 The proposed housing mix is as follows:

No. of bedrooms	Market	Affordable	Total	Overall %
1	1	8	9	16
2	9	8	17	30
3	15	8	23	40
4	5	3	8	14

5.2.5 It is considered the mix of dwellings provided is in line with the need set out in the LHNA. Furthermore, the provision of bungalows on the site is welcomed. Accordingly, the mix of dwellings is supported.

#### Affordable Housing

5.2.6 Policy H1 requires that all housing developments of 10 or more will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing. The site is located in an area identified in the approved LDP where 40% of the units would need to be affordable to comply with the requirements of Policy H1. This would equate to 23 affordable homes.

5.2.7 Access to good quality and affordable housing is a significant issue for residents of the District. Building new homes that are genuinely affordable for residents is a key priority for the Council. The increased cost of day-to-day living can lead to competing issues like fuel poverty and access to healthy food and it is clear that the number of people needing affordable housing in the District has grown since the adoption of the LDP. Furthermore, it is acknowledged that residents are experiencing affordability problems arising from the relationship between local incomes and the realistic supply of the cheapest housing available.

5.2.8 The LHNA sets out that 174 rented and 35 affordable ownership homes are required across the District on an annual basis. It also states that:

*'... it is clear that provision of new affordable housing is an important and pressing issue in the District. It does however need to be stressed that this report does not provide an affordable housing target in policy terms - the amount of affordable housing delivered will be limited to the amount that can viably be provided. The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise.'*

5.2.9 Affordable housing delivery figures as out in the Strategic Housing and Housing Policies Fact Sheet across the District for the period of 2014-2021/22 shows that affordable housing delivery has been falling well short of the necessary provision. In

addition to this, it has also been evidenced on appeal (APP/X1545/W/22/3303195, 9 February 2023) that there is a significant need for more affordable dwellings in the District. The recent Latchingdon appeal decision (APP/X1545/W/23/3331398) also highlighted at paragraph 33 *“that there is an acute and pressing need for affordable housing and the Local Plan specifically recognises that there is a significant shortfall in the District and increasing supply is a key priority for the Council”*. The Council is therefore, aware that the shortfall outlined in the LHNA is now likely to be greater.

5.2.10 The LHNA identifies a tenure mix of 75% Rented and 25% Intermediate Affordable Housing. The report also states that the Council should consider requiring all dwellings in all tenures to meet the M4(2) standards as a starting point - which are similar to the Lifetime Homes Standards - and at least 10% of homes meeting Part M4(3) – wheelchair user dwellings (with a higher percentage for affordable housing).

5.2.11 In accordance with Policy H1, the proposal would provide the affordable housing on site.

5.2.12 The applicant is proposing a total of 27 affordable homes of the site, which equates to 47%, and four homes to be provided over the policy requirement. As discussed above, this over provision is a social benefit of the scheme.

5.2.13 The applicant is proposing the following affordable properties:

- 1 Bed Flat – 6
- 2 Bed Flats – 4
- 1 Bed Bungalow – 2
- 3 Bed Bungalows – 4
- 2 Bed House – 4
- 3 Bed House – 4
- 4 Bed House – 3

5.2.14 The applicant has not provided a split of the properties into affordable rented/intermediate affordable therefore the Council’s Strategic Housing Service has requested the following tenure split:

Affordable rented

- 1 Bed Flats x 6 – Affordable Rented
- 1 Bed Bungalows x 2 – Affordable Rented
- 2 Bed House x 3 – Affordable Rented
- 3 Bed Bungalows x 4 – Affordable Rented
- 3 Bed House x 2 – Affordable Rented
- 4 Bed House x 3 – Social Rented

Intermediate affordable

- 2 Bed Flats x 4
- 2 Bed Houses x 1
- 3 Bed Houses x 2

5.2.15 Strategic Housing Services would request that the 1 bed bungalows are for affordable rent and have wet room/showers. Regarding the 3 bed bungalows, there are currently 4 families in Band B on the Housing Register that have a family member who is disabled and require a 3 bed ground floor property. The Applicant is also providing 4 bed houses which are also in demand by families on the Housing Register. Currently a family has waited 2 years 7 months in temporary accommodation for a 4 bed rented property. Also, Strategic Housing would request that the 4 bed houses are let at social rent to aid affordability.

- 5.2.16 The mix of housing requested by Strategic Housing Services could be secured by way of an obligation as part of a section 106 agreement. Wet rooms/showers are not proposed as standard bathrooms are shown on the floor plans.
- 5.2.17 The provision of affordable housing, and the over provision of 4 dwellings, is supported by Strategic Housing Services as the properties would greatly assist in meeting the housing needs of the District.

### **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 Section 12 of the NPPF at Paragraph 131 which states that:

*“The creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

- 5.3.2 Paragraph 139 states that:

*“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.”*

- 5.3.3 LDP policy S1 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 will apply 14 key principles in policy and decision making that include: *12. Maintaining the rural character of the District without compromising the identity of its individual settlements.*

- 5.3.4 LDP policy D1 takes this further in seeking to ensure that all development respects and enhances the character and local context and makes a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
- b) Height, size, scale, form, massing and proportion;*
- c) Landscape setting, townscape setting and skylines;*
- d) Layout, orientation, and density;*
- e) Historic environment particularly in relation to designated and non-designated heritage assets;*
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
- g) Energy and resource efficiency.*

- 5.3.5 LDP policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, 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 and sustainability of any original buildings and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.3.6 More detailed provisions supplementing the above requirements for high quality design and appropriate layout, scale and detailing of development are set out in the MDDG.
- 5.3.7 It is acknowledged that the site is in a somewhat derelict state with dilapidated glass houses and other buildings on the site. This is taken into consideration however it is noted that the site could be cleared and tidied without the benefit of the proposed development.
- 5.3.8 Street trees are an important feature in new developments and their provision is required in paragraph 136 of the NPPF which states that *“planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments”*. Paragraph 136 also sets out that the long-term maintenance of trees is also necessary.
- 5.3.9 Whilst the applicant’s PS considers the proposals to be landscape-led, there is no evidence within the proposals to support this. The DAS Landscape Parameters 3.3 states that the spine road *“will be a tree lined avenue with grass verges to support vegetation past the footpath on both sides to create a pleasant walking experience”*.
- 5.3.10 The spine road provides an opportunity for a well landscaped, tree-lined street, however the proposals do not deliver this. The tree planting along the spine road is sporadic and in many instances soft landscaping and grass verges cannot be achieved due to the location of garden walls, houses and car parking spaces immediately adjacent to the road.
- 5.3.11 The siting and orientation of plot 53 is not considered to relate well to the spine road or adjacent properties. At its closest point it is sited less than 0.5m from the edge of the footway. The design of the dwelling however is acceptable as it provides active frontages on the front and side elevations.
- 5.3.12 Plots 3 and 55 are located at the site’s entrance and should assist in establishing a sense of place when entering the site. Whilst both dwellings face towards the site’s entrance, they both feature blank elevations facing the spine road (as per the elevations, however the street scene appears to include a ground floor projecting window). This results in an underwhelming and unremarkable entrance and boring frontage development on the spine road. The garden wall of plot 55 is located hard against the footway which serves to extend the rather plain entrance. The walls of plots 3 and 4 are set back from the footway and allow for soft landscaping.
- 5.3.13 Further contributing to the underwhelming site entrance are the extensive areas of hard surfacing providing car parking and manoeuvring areas to plots 1-3 to the west of the spine road and plots 55-57 to the east. The areas of hardstanding extend approximately 33m in both directions from the spine road and are of varying widths. This expanse of hardstanding would be visible from Steeple Road and immediately upon entry to the site and does not result in a high quality sense of place but an entrance dominated by hard surfacing.



- 5.3.14 The applicant's PS (paragraph 5.36) states that "*pedestrian connectively and footpath routes have been designed to allow safe and convenient links around the site and into the further distance Mayland area*". Whilst a 2m wide footway would be provided to the front of the site (see Highways section below), there is no pedestrian link from the footway into the site itself, resulting in poor connectivity. There are pedestrian links from the site on to Mill Road, which would assist in linking the development to the village, however the linkages are, in two instances, immediately adjacent to visitor parking spaces and are 1.2m which is not particularly wide. It is considered the pedestrian linkages onto Mill Road are not particularly well thought out.
- 5.3.15 Plot 35 has not been well considered and is poorly designed. The dwelling faces Mill Road, turning its back on the rest of the development. The rear elevation is immediately adjacent to the plot's parking spaces, with ground and first floor windows facing directly onto the parking spaces and across to the flank elevation of plot 36. As handed versions of plans have not been submitted, the site plan does not accord with the elevations which would have the ground floor double doors serving the kitchen opening onto the visitor parking space to the south with no doors serving the rear garden. Furthermore, the siting of the dwelling would impinge on the hedge along the western boundary of the site adjacent to Mill Road.
- 5.3.16 Whilst most parking for the residential dwellings is on plot, there are some spaces that are not well related to the dwellings which they serve. For example, it is not clear how the parking spaces for the flats would be allocated. The two parking spaces to the north of the blocks may be for the units, but it is not clear as the submitted plans do not show the parking allocation. In addition, the parking spaces for plot 41 are located near the pumping station, not well related to the front door of the property which they serve.
- 5.3.17 The proposed layout provides a lack of adequate turning space for a number of parking spaces e.g., the two spaces to the west of the flats (plots 25-34), 2 spaces for plot 41, visitor space to south of plot 35. In all cases either multiple point turns within a small area would be necessary or lengthy reversing to a junction would be required. This is evident in 'vehicle outbound' drawing no. TA 2023/7229/002 Rev P3 included in the Transport Assessment. There is also a poor arrangement for plot 57, with one space being directly in front of plot 56. The parking for plot 53 is also not well related to the dwelling.
- 5.3.18 As mentioned below, in other sections of this report, the proposal does not make adequate provision for private amenity space, car parking provision and open space provision, which when considered cumulatively, is considered to result in the over development of the site.
- 5.3.19 The proposed density is 30 dwellings per hectare (gross). The density of development, taken together with the abovementioned over development of the site, poor design and lack of street trees, does not reflect adjacent development nor does it comprise appropriate edge of settlement development.
- 5.3.20 Overall, the proposed development, due to its layout, siting, amount of hard surfacing and design results in a wholly poor standard of design. The over development of the site, in this countryside location, compounds this. Accordingly, the proposed development detracts from the appearance and character of the area.

## 5.4 Landscape and Visual Impact

5.4.1 The application has been supported by a Landscape and Visual Appraisal ('LVA') (Nigel Cowlin Ltd, 17/04/2024). Wynne-Williams Associates have undertaken an independent review of the LVA on behalf of the LPA and provided a Landscape Review ('LR'). The LVA and LR are discussed below.

### Methodology and baseline assessment

5.4.2 The LR is satisfied the LVA includes a methodology that is broadly in line with the 'Guidelines for Landscape and Visual Impact Assessment' Third Edition (GLVIA3) and provides the necessary level of information for a development of the size proposed. The LVA (Para 5.18) also references the Landscape Institute's Technical Guidance Note (TGN) 'Assessing the Value of Landscapes Outside National Designations' 02-21. The inclusion of this guidance document is good practice as it builds on the details within GLVIA3.

5.4.3 However, the LR notes that there are some omissions, for example the LVA (Paras 9.6 & 10.6) suggests that the *"Magnitude of landscape [and visual] effect is also derived from a combination of two main factors:*

- *Size/scale of landscape effect; and*
- *Geographic extent of landscape effect".*

5.4.4 Whilst this is accurate, the magnitude of landscape and visual effects also needs to be assessed in terms of their duration and reversibility. For the purposes of the LR, the development should be regarded as **Permanent** and **Irreversible**.

5.4.5 The LR also considers there appears to be a general avoidance of intermediate judgements such as medium-low which would have been helpful particularly where the varying judgments of sensitivity and magnitude of change fall between two levels. Where such judgements have been combined, the LVA generally opted for a lower judgement. Although the LR does not necessarily agree with this approach, some of the differing judgements would not be deemed unacceptable.

### Landscape Effects

5.4.6 The LVA identifies the landscape baseline of the site and immediate surroundings as including the National Character Area profiles (NCA 111: Northern Thames Basin), East of England Landscape Framework (LCT: 18: Lowland Settle Claylands), the Essex Landscape Character Assessment (LCA F3: Dengie & Foulness Coast & LCA E1: South Essex Farmlands), the Maldon District Landscape Character Assessment (LCA E2: Tillingham and Latchingdon Coastal Farmland & LCA D6: Ramsey Drained Estuarine Marsh).

5.4.7 The LR agreed with this however goes on to note that the LVA has only assessed the 'Character of Local Landscape Setting' and the 'Character of Wider Setting' as landscape receptors which provides an incomplete assessment of effects as it fails to assess the site and its immediate surroundings, the individual elements or features, or the specific aesthetic or perceptual aspects that are likely to be affected. The presence of wildlife and habitats of ecological interest that are noted above do not appear to have been considered within the LVA. This is particularly important where such features and elements contribute to the sense of place. Whilst the LVA does provide an overall judgement, stating that the Mill Lane local context will be treated as a local landscape setting of **Low** value, and the wider setting within the adjoining

farmland areas will be treated as a landscape of **Medium** value, the LR concludes that in the absence of a robust assessment these judgements are too low.

- 5.4.8 Accordingly, there is concern that other judgements about the susceptibility of landscape receptors, sensitivity of landscape receptors, the landscape magnitude of change and scale of landscape effects may differ from that stated. The example given in the LR is that the LVA (Para 9.10) judges that the proposed development would result in a significance of effect of **Minor Adverse** at Year 1 which would remain at **Minor Adverse** at Year 15 however, it is difficult to understand how these judgements have been made in absence of considerations of duration and reversibility as part of the magnitude of landscape effects and the incomplete assessment of landscape baseline.

#### Visual Effects

- 5.4.9 The LVA is considered to provide a reasonable description and assessment of the predicted changes to visual amenity. The identified visual receptors provided are correct and appropriate representative viewpoints have been included. However, the LR disagrees with the stated level of visual sensitivity for most of the visual receptors. Notwithstanding this, the LR agrees with the judgement of effects within the LVA (Para 10.11) which has ultimately judged that the people travelling along Mill Lane would experience **Moderate / Minor Adverse** effects at Year 1 and remaining at **Moderate / Minor Adverse** at Year 15. It also identifies four Minor Adverse effects to visual receptors and the remaining receptors judged as having Negligible effects. Therefore, though these impacts have, for the most part, been deemed adverse, and the LR would judge visual effects to be greater than currently judged within the LVA, this would not be deemed unacceptable.

#### Conclusion

- 5.4.10 It is considered that the submitted LVA has not adequately addressed landscape receptors (i.e., site and immediate surroundings, key characteristics, individual elements or features, perceptual or aesthetic aspects) as part of the landscape baseline assessment that would typically be included within an LVA. This in turn provides an incomplete assessment of landscape effects and it is therefore difficult / unclear as to how such judgements about landscape value, susceptibility, sensitivity, magnitude of change and significance of landscape effects have been made. Where there are judgements within the LVA, the LR disagrees with a number of those landscape judgements because they are either too low, unclear and/or missing key elements as part of the assessment process, particularly where they deviate from best practice guidance. Accordingly, it is considered there is insufficient information to accurately assess the landscape and visual impact of the proposal.
- 5.4.11 Furthermore, as set out in section 5.7.5 and 5.8.12-5.8.15 of this report, there are concerns that as the trees and hedges surrounding the site would appear to fall within private residential gardens, there is likely to be the need to cut back, or remove entirely, sections of hedge to make provision for dwellings and usable gardens. This would have implications in terms of landscape and visual impact.

### **5.5 Impact on Residential Amenity**

- 5.5.1 The basis of Policy D1 (4) of the LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section C07 of the MDDG (2017). Policy H4 (density (7)) requires consideration of the impacts of development on neighbouring amenity.

- 5.5.2 There are residential properties to the west of the site, on Mill Road, which face towards the application site and are a minimum of 15m from the site's boundary. The siting of the proposed dwellings where they face dwellings on Mill Road is such that they would not result in overlooking as they are a minimum distance of 25m from the neighbouring properties. Furthermore, it is the front elevations of the dwellings on Mill Road that would be affected where there is a lower standard of amenity.
- 5.5.3 The dwelling on Plot 1 is located approximately 13.5m from the side boundary of No. 57 Steeple Road. However, there are no windows in the side elevation and the orientation of the proposed dwelling would ensure any overlooking from the proposed dwelling is minimal.
- 5.5.4 To the east of the site is a residential property, no. 75 Steeple Road. The proposed dwelling on plot 57 would be approximately 16.5m from the side elevation of the dwelling at no. 75, and approximately 4m from the side elevation of the outbuilding on the adjacent property. There are no windows in the side elevation of the proposed dwelling and although the dwelling would be visible from the neighbouring property, it is not considered to result in any adverse amenity impacts.
- 5.5.5 Plots 49-51 and 54 all have rear gardens backing on to the rear garden of no. 75 Steeple Road. C07 of the MDDG states that "*Where new development backs on to the rear gardens of existing housing, the distances between buildings are... a minimum of 25m*". The new dwellings comply with this, with over 40m between the proposed and existing dwellings.
- 5.5.6 Overall, it is considered the proposed development would not harm the amenities of neighbouring residential properties, in accordance with the above-mentioned policies.

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

- 5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to 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 The application is supported by a Transport Assessment ('TA'), prepared by RGP, dated April 2024, which includes details of the access and visibility splays and a Stage 1 Road Safety Audit.

### Highway Capacity

- 5.6.3 The submitted TA provides information regarding vehicle trips generated by the development. The Highway Authority has advised that although the development would be likely to generate a modest increase in peak hour trips, the impact on the capacity of the local highway network would be minimal, and in no way severe, which is the requirement to recommend refusal on highways grounds under NPPF guidance. Whilst it is noted that the vehicle trip rates used within the Transport Assessment are slightly lower than could be expected at this location, it is not significant enough to have a material impact on the highway network. Accordingly, there is no objection in terms of highway capacity.

## Access

- 5.6.4 Vehicular access to the site would be via a new access onto Steeple Road at the front of the site. The access has been designed to allow for two private vehicles to pass simultaneously to avoid potential impact on the free flow of traffic on Steeple Road. The width of the access also allows for refuse vehicles to enter and egress the site.
- 5.6.5 The site is within a 40 mph speed limit zone. The TA, at paragraph 5.3.3 states that to ascertain traffic speeds on Steeple Road an automatic traffic counter survey was placed in the vicinity of the proposed site access for a period of 7 days, the full results of which are contained within Appendix E of the TA. The vehicle speeds then determined the visibility splays required for the access. Within the visibility splays, all landscaping would be maintained at a maximum height of 600mm so as not to obstruct sightlines. The TA confirms that all the land within the visibility splays is within the publicly maintained highway.
- 5.6.6 The Highway Authority has advised that the proposed access has more than appropriate visibility and geometry for the speed of the road and would not be detrimental to highway safety as a result. Furthermore, the principle of an access has already been established here in previous applications. Conditions regarding the provision of the access and necessary visibility splays are recommended.
- 5.6.7 In terms of pedestrian access, the Highway Authority has recommended the footway across the site's Steeple Road frontage be widened to 2m on both sides of the proposed access. This is to provide pedestrians and the mobility impaired with safe access. This footway should also extend into the site however the proposals don't provide for this, with only the vehicular access shown on the submitted site layout plan, resulting in poor pedestrian connectivity to Steeple Road (although footways are shown on drawings in the TA so it would appear they can be accommodated). Three pedestrian access points onto Mill Road are provided.
- 5.6.8 The Highway Authority has requested a condition requiring the upgrading of the bus stops on Steeple Road, to the west of the site, in the form of a new flag, pole, timetable display and raised kerb.

## Parking

- 5.6.9 The Council's adopted Vehicle Parking Standards SPD (the 'VPS SPD') contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.6.10 Policy D1 (5) requires development to provide safe and secure car and cycle parking having regard to the VPS SPD and Policy H4 (density (5)) refers to developments having regard to parking standards. In terms of parking provision for vehicles and cycles, the minimum standards as set out in the VPS SPD for dwellinghouses are as follows:
- 1 space per 1 bed dwelling; 2 spaces per 2 and 3 bed dwellings; 3 spaces per 4+ bed dwellings
  - Visitor parking: 1 spaces per 4 dwellings
  - Cycle parking: none if garages provided; otherwise, 1 / dwelling (one bed); 2 / dwelling (2+ beds); + 1 / 8 units (for visitors)

- 5.6.11 Paragraph 5.77 of the applicant's PS states that the "submitted Plan clearly demonstrate that the site can easily accommodate a policy compliant level of car parking provision". However, as set out below, the proposal does not provide a policy compliant level of car parking provision. Indeed, the application documents are inconsistent and incorrect regarding car parking. The submitted application form states that 112 car parking spaces are proposed. This is consistent with the submitted Site Layout Plan which shows 112 spaces including 8 visitor parking spaces. However, there are inconsistencies in the submitted documents as the Accommodation Schedule states there are 116 spaces including 8 visitor spaces and the Site Layout Plan in Appendix A of the TA shows 112 spaces including 10 visitor parking spaces.
- 5.6.12 Based on the requirements in the VPS SPD the total number of parking spaces for the dwellings should be:

No. of bedrooms	No. of dwellings	No. of car parking spaces required
1	9	9
2	17	34
3	23	46
4	8	23
<b>Total no. of residential spaces required</b>		<b>112</b>
<b>Total no. of visitor parking spaces required</b>		<b>15</b>
<b>Total no. of spaces required overall</b>		<b>127</b>
<b>Total no. of spaces proposed</b>		<b>112</b>

- 5.6.13 Accordingly, there is an under provision of car parking on the site by 15 car parking spaces. The purpose of the VPS SPD (at paragraph 4.6.1) is to "ensure that the operation of the development does not negatively impact on the surrounding road network or result in on-street parking". No justification has been provided by the applicant for the shortfall in parking spaces and in the absence of any justification, it is considered that the under provision of onsite parking provision, not in accordance with the VPS SPD, would likely result in overspill and indiscriminate parking on adjacent streets potentially prejudicing the safety of users of the highway or the passage of utility and emergency vehicles. As such the proposal is contrary to Policies D1, H4 and T2 of the adopted Local Plan, the requirements of the VPS SPD of the local planning authority and the provisions of the NPPF.
- 5.6.14 The submitted DAS confirms that EV charging points would be provided "for all units with parking adjacent to homes". It is not clear if this applies for dwellings such as plots 41 and 53 where the parking is not immediately adjacent to the dwellings. No information is provided in terms of the siting and design of charging points, including for visitor parking spaces.
- 5.6.15 The DAS states that "All plots will provide secure cycle parking in accordance with standards" and then refers to this being in garages or sheds. There are no garages proposed within the development and no details of sheds have been provided, however this could be secured by a condition.
- 5.6.16 On the basis of the above, it is considered that the under provision of parking spaces in this location, both for the dwellings themselves and for visitors, has the potential to result in indiscriminate parking within the site and is contrary to Policies D1, H4 and T2 of the LDP, the Vehicle Parking Standards SPD of the local planning authority and the provisions of the NPPF.

## 5.7 Living Conditions of Occupants

- 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) at C07 advises a minimum garden size for each type of dwellinghouse, namely, 25m<sup>2</sup> for flats, 50m<sup>2</sup> of private amenity space for dwellings with 1-2 bedrooms, and 100m<sup>2</sup> for dwellings with 3+ bedrooms.
- 5.7.2 The amenity space for each plot was not provided within the submitted material and so the Site Layout Plan was used to measure the approximate amenity space provision for each plot (see **APPENDIX 1** for the full list). This demonstrates that 28% of the dwellings proposed (16 of 57 dwellings) do not provide the minimum private amenity space. In some cases, the under provision is minimal, being a few square metres less than that required, but in others there is an under provision of 20-30sqm of amenity space. Whilst it is recognised that many of the dwellings meet or, in many cases, exceed the minimum amenity space, that is of no benefit to the occupants of dwellings where there is an under provision.
- 5.7.3 It is noted that each of the 10 flats are provided with private amenity space. Notwithstanding that two are below the minimum size (covered above), there are concerns with regard to the layout of these spaces in that they would not be private given the proximity of the two blocks of flats to each other. The distance between the rear walls of the blocks of flats is approximately 13m with habitable rooms at first floor level overlooking the amenity space. There is also a concern that the proximity of the blocks would allow for overlooking into the rear of the flats opposite at ground and first floor level.
- 5.7.4 In addition to being below the minimum size, the boundary between the amenity space for Plots 51 and 52 is positioned in the middle of the kitchen window serving Plot 52 which would result in a poor standard of amenity for both plots, as Plot 52 would look directly into the garden of Plot 51.
- 5.7.5 There is also concern with regard to the impact of the trees surrounding the site on the living conditions of occupants. These trees are up to 9m in height and have a crown spread of 3m into the site. Whilst it is proposed that the trees would be 'faced back' to allow for the construction, the trees are very close to proposed dwellings and gardens. In many instances rear gardens would be enclosed by trees to a height of 9m, to an unspecified width. This would likely result in an overbearing sense of enclosure, particularly where there are shorter rear gardens (e.g., plots 36-40 and 41-48), corner plots such (e.g., plots 35 and 49), and where the trees would extend the length of the garden (e.g., plots 1, 7, 8 and 57). Where trees are located within the plot boundaries there is likely to be pressure to remove the trees or significantly reduce the height and extent of the trees.
- 5.7.6 A Noise Impact Assessment (the 'NIA'), prepared by Oakridge Environmental Services Limited, dated 19 April 2024, was submitted in support of the application. The NIA identified that the dominant noise source is road traffic from Steeple Road. The NIA concludes that private amenity spaces will meet the minimum standard recommended by BS8233 without any reduction considered for boundary fences. With close boarded fences, the actual level will be lower than that modelled by approximately 10dBA. However, the plots in the southern part of the site are likely to experience slight exceedances of the guideline internal noise levels in BS8233:2014 with windows open. Accordingly, suitably specified glazing and alternative means of ventilation would be required in certain rooms in plots 1-3, 7-8 and 55-57. The Council's Environmental Health department recommends a noise condition to secure suitable internal noise levels.

## 5.8 Open Space and Landscaping

- 5.8.1 Policy N3 of the LDP requires development to contribute towards improving the provision, quality and or accessibility of local and strategic open space.
- 5.8.2 The DAS states under Development Parameters 3.1 that *“Instead of providing a large area of open space, this has been spread across the site as pockets of green... An area of shared amenity space has been provided in the centre of the site, this green vista as you enter the site create a sense of intrigue and welcomes pedestrians to walk through and explore the development”*.
- 5.8.3 The proposed development would provide public open space in two locations on either side of the spine road, one area being to the east of plot 11 and the other to the south of plot 48. It is not clear how much open space is proposed as this information has not been provided in the application. It is also difficult to measure the space with any degree of certainty as it is not clear where the private site boundaries end for plots 11 and 48 and where the open space begins as there is no apparent demarcation between the public and private space. However, taking a common-sense approach to where the boundaries would likely be, the open space to the west of plot 11 measures approximately 210 sqm and the space to the south of plot 48 measures approximately 220sqm.
- 5.8.4 The open space is centrally located within the site, in accordance with C06 (Open Spaces) of the MDDG which requires that open spaces are not pushed to the edges of the development.
- 5.8.5 The Green Infrastructure Strategy SPD (GIS) was adopted by the Council on 16 May 2019. The GIS states that *‘New developments shall assess the local provision of NEAPs and LEAPs and will be required to provide these within their development unless it can be demonstrated that this is not appropriate due to the scale or design of the development, or likely impacts in relation to biodiversity, cultural heritage, landscape or flood risk’*.
- 5.8.6 No assessment of local provision of Neighbourhood Equipped Areas for Play (NEAPs) and Local Equipment Areas for Play (LEAPs) has been provided with the application. It is understood that the nearest play provision would be at Lawling Park which is approximately 1.5km from the site via existing footways, approximately a 17 minute walk from the site’s access on Steeple Road. It is therefore considered appropriate and necessary that play space be provided within the site, as a minimum a LEAP would require:
- 5 play types, including safer surface
  - Fencing complete with 2 pedestrian gates
  - Minimum activity zone of 400sqm
  - Seating, litter bins and a notice should be provided
- 5.8.7 The proposed open space is too small to accommodate such a play area.
- 5.8.8 The other areas of open space referred to in the DAS are too small to provide usable open space and, in some cases, result in areas of ‘dead space’ as their function is not clear. The land to the front of plot 24 is one such area, located in between boundary fences, the hedge/vegetation to the west, car parking spaces and plot 24. What remains, is an area of approximately 70sqm of land which no apparent use or function other than visual amenity. The land around the pumping station is another such area, which may serve as visual amenity but not usable open space.



5.8.9 A landscaping scheme has not been submitted with the application which, given that the scheme is meant to be landscape-led, is clearly disappointing.

### Trees

5.8.10 In relation to trees the application is supported by an Arboricultural Report ('the AR') (prepared by Andrew Day Arboricultural Consultancy, dated 4 March 2024) and a Tree Protection Plan.

5.8.11 It is proposed to remove the trees within the central part of the site, most of which are growing within or adjacent to the existing structures on the site.

5.8.12 The site is surrounded by trees (shown as G1 on the submitted plan) comprising Hawthorn, Blackthorn, Sycamore and Wych Elm to a height of 9m. The AR states that some of these trees, adjacent to Steeple Road and Mill Road, are overgrown and could begin to impact on the overhead power cables if not managed. Although no works are required at present, the AR recommends these outgrown areas are reduced to about 3m and maintained as such to prevent conflict with the power lines, provide screening / amenity along Steeple Road and Mill Road, as well as security to the site and restore the hedge back to a good state for the benefit of wildlife.

5.8.13 The AR states that the inner side of G1, facing into the site, would be 'faced back' for clearing if required. However, it is noted that two dwellings are located particularly close the site boundaries, as follows:

- Plot 49 would be between 0.5-0.1m from the eastern boundary for a length of approximately 9.5m
- Plot 35 faces the western boundary, directly on to Mill Road, and is between 0.8 and 2.7m from the boundary for a length of approximately 10m

5.8.14 No details have been provided in the application informing how the development would affect the trees in this location or what lengths of tree lined areas would need to be removed in their entirety or cut back to the boundary to accommodate the dwellings. It is therefore not clear what effect this would have on landscape impact. Furthermore, there is potential conflict with the position of the visitor parking spaces on the western side of the site with the adjacent trees.

5.8.15 Part of G1, a length of approximately 12m, is proposed to be removed to create the new site entrance. However, it is not clear from the submitted information how much of the outer part of G1 would need to be 'faced back' to provide for the 2m wide footway to the front of the site and what impact this would have in terms of landscape and visual impact (as discussed in landscape impact section).

5.8.16 The Council's Tree Consultant has considered the submitted information and raises no objection to the application subject to a condition requiring details of replacement tree planting. Although the impact on trees may be considered to be acceptable, the lack of information on the areas identified above results in there being insufficient information to accurately assess other impacts.

## **5.9 Ecology and Biodiversity**

### Protected and Priority Species

5.9.1 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*'.

- 5.9.2 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 of the LDP 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. Policy N2 of the LDP 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 This application is supported by a Bat Report, prepared by Whittingham Ecology, September 2023, which identifies a likely absence of bats within buildings to be demolished. The Council's Ecology consultant has reviewed the report and noted that it references a Preliminary Ecological Assessment ('PEA') dated June 2023, which has not been submitted in support of this application. Therefore, the referenced PEA should have been submitted to the LPA prior to determination to ensure the LPA has certainty of likely impacts to protected and Priority species.
- 5.9.5 A Preliminary Ecological Appraisal, prepared by Whittingham Ecology, dated June 2023, was previously submitted as part of a similar outline application (23/00652/OUTM) at the same site. Therefore, if this is the referenced report, it is highlighted that no considerations for Hazel Dormouse were included within this assessment. However, it is considered that vegetation clearance has likely caused the habitat on-site to be no longer suitable for this European Protected Species. As a result, it is recommended that an updated Preliminary Ecological Appraisal is supplied, which is relevant for this application, with additional consideration of Hazel Dormouse.
- 5.9.6 This information is required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*" The Ecology consultant has advised that this information is required to provide the LPA with certainty of likely impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998.

#### Biodiversity Net Gain

- 5.9.7 As of 12 February 2024, all major development, as defined under Article 2 Town and Country Planning (Development Management Procedure) (England) Order 2015, are required to deliver a mandatory 10% measurable Biodiversity Net Gain (BNG). The Biodiversity Net Gain Planning Practice Guidance (PPG) sets out how mandatory biodiversity net gains should be applied through the planning process and Paragraph: 011 Reference ID: 74-011-20240214 sets out what information should be

submitted as part of a planning application if the statutory biodiversity gain condition applies.

- 5.9.8 The Ecology consultant has reviewed the Biodiversity Net Gain Predictions (Whittingham Ecology, April 2024) explaining that 11.02% of habitat units and 10.54% hedgerow units could be achieved by the proposed development. However, it is noted that various, unclearly formatted, PDF versions of the Biodiversity Metric have been submitted. The proposal is not supported by the statutory BNG requirements including the Statutory Biodiversity Metric calculation tool, and clear justifications and appropriate condition assessments for the pre-development baseline habitats. Therefore, the consultant cannot be satisfied that the submitted information includes sufficient detail in relation to Mandatory BNG due to missing and inconsistent information.
- 5.9.9 In addition, it is noted that habitat degradation has occurred on site sometime in 2023. Paragraph 6 of Schedule 7A of the Town and Country Planning Act 1990 makes provision relating to habitat degradation taking place which is otherwise than in accordance with a planning permission or other permission and, as a result of the activities the pre-development biodiversity value of the onsite habitat is lower than it would otherwise have been, the relevant date for BNG should therefore be set as a date immediately before these activities occurred. Accordingly, as habitat degradation has occurred further information on this matter is required in accordance with the BNG PPG.

#### European Designated Sites

- 5.9.10 The site falls within the evidenced recreational Zone of Influence (Zoi) of the Essex Coast RAMS, which is an adopted SPD. It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.
- 5.9.11 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.
- 5.9.12 To accord with Natural England's (NE) 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 Zoi 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 57no. dwellings

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

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for 57no. dwellings

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

### 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.

- 5.9.13 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 £163.86 (2024-2025 figure) and thus, the developer contribution should be calculated at this figure. The applicant's PS at paragraph 5.84 confirm that the applicant is agreeable to paying this contribution.

### Conclusion

- 5.9.14 It is considered there is insufficient information submitted to assess protected and Priority species. Habitat degradation has occurred on the site and there is missing, and insufficient information submitted in relation to Mandatory BNG. Although the applicant is willing to enter into a legal agreement to secure the necessary RAMS contribution, no such agreement is in place. Accordingly, the proposal is not considered to accord with policies S1, D1, N1 and N2 of the LDP and provisions in the NPPF.

## **5.10 Drainage and Flood Risk**

- 5.10.1 The site is located in Flood Zone 1 and is therefore, at low risk of flooding. The application has been supported by a Flood Risk and Surface Water Management Assessment (Including SuDS Strategy), prepared by Ardent Consulting Engineers, dated May 2024. The Lead Local Flood Authority (LLFA) has been consulted on the application but have not yet responded. However, given that the LLFA raised no objection subject to conditions to the previously withdrawn scheme for 57 dwellings (23/00652/OUT) which proposed a similar scheme in terms of flood risk and drainage, it is unlikely that any objection will be raised to this development. However, if the LLFA does raise an objection then this will need to be addressed prior to any approval of the application. Any response received from the LLFA will be reported to Members.
- 5.10.2 Anglian Water have also been consulted on Foul Drainage and note that the foul drainage from this development is in the catchment of Maylandsea Water Recycling Centre which has available capacity for these flows. Therefore, there are no concerns in relation to foul drainage.
- 5.10.3 It is noted that there have been concerns raised over drainage capacity and flooding by members of the public. However, on the basis of the above it would not be reasonable to raise an objection on these grounds. It is also noted that a

development is required to deal with its own surface water and should not be required to mitigate against an existing issue.

## **5.11 Other Material Considerations**

### Archaeology

- 5.11.1 Policy D6 requires that where development might affect archaeology, an assessment from an appropriate specialist must be carried out to identify the likely impact on known or potential heritage assets.
- 5.11.2 The application has been supported by an Archaeological Desk-Based Assessment (prepared by HCUK Group, Dated January 2023).
- 5.11.3 The Historic Environment Officer has advised that they are in agreement that the site has moderate archaeological potential for remains dating to the Roman period. Recent fieldwork to the south of the site at Mayland Hall has established the presence of Roman settlement occupation in the area. In addition, the site's location between two creeks which flow into Mayland Creek makes it a possible site for activity associated with the extensive Roman salt-making industry that is known to have flourished around the Essex coast considered the assessment and advised that a full archaeological condition is attached to any planning permission. The fieldwork required by the condition will comprise trial-trenching of all areas not previously evaluated, to be followed by open-area excavation if significant archaeological deposits are identified. As archaeological deposits are both fragile and irreplaceable, conditions are recommending requiring an archaeological assessment of the site and the implementation of a programme of archaeological work.

### Construction Impacts

- 5.11.4 A Construction Management Plan is recommended to be secured by a condition by the Highway Authority (to ensure highway safety is not compromised during construction) and by Environmental Health (to ensure mitigation measures and best practice are in place to reduce the impact of construction activities).

### Contamination

- 5.11.5 A Tier 1 Contamination Risk Assessment, prepared by Sweco UK Ltd, dated 12 May 2023 Project Ref 65209723 was submitted in support of the application. The site's previous use as a nursery and the presence of above ground storage tanks on site means that there are potential sources of contamination. Accordingly, Environmental Health require that an intrusive ground investigation and further risk assessment are secured by condition.

### Renewable Energy

- 5.11.6 The application includes EV charging points in line with Building Regulations. No details have been submitted in regard to solar panels or other forms of renewable energy however this could be secured by a condition.

## **5.12 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing**

- 5.12.1 The applicant's PS states that the applicant is willing to enter into a Section 106 (S106) agreement to include the following:

- Affordable housing provision
- Education provision
- NHS contributions
- RAMS

5.12.2 The 27 affordable housing units would be provided on site. The mix of housing requested by Strategic Housing Services would be secured by way of a planning obligation.

5.12.3 The Education Authority has not yet provided a response to the application. However, it is noted that for the previously withdrawn application the Education Authority requested contributions towards secondary education, school transport and libraries. Any response received will be provided in a Members update.

5.12.4 The Mid and South Essex Integrated Care System requests that the sum of £28,000 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. This may be achieved through any combination of extension, reconfiguration or relocation of premises.

5.12.5 A RAMS contribution of £163.86 (2024-2025 figure) per dwelling is required.

5.12.6 In accordance with the statutory tests in regulation 122 of The Community Infrastructure Levy Regulations 2010, the above obligations would be necessary to make this application acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

5.12.7 A S106 agreement has not been agreed therefore the abovementioned obligations cannot be secured.

### **5.13 Planning Balance**

5.13.1 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 economic, social and environmental objectives as set out in the NPPF.

5.13.2 In judging whether the scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers, against the harm which would arise from the proposed development.

5.13.3 The main impacts of the proposal which are benefits are:

5.13.4 Social benefits from providing market homes. The mix of units proposed meets the housing needs of the District. Although the Council has a 5YHLS, this is not a cap to development and the provision of 30 homes is given significant weight.

5.13.5 The provision of 27 affordable homes including four over and above policy requirements, would assist in meeting the District's affordable housing need and is given significant weight.

5.13.6 Economic benefits flowing from the construction phase of the development, where the opportunity exists for sourcing local labour and materials. No details have been provided in the application to assess the benefit with any degree of certainty i.e. job creation numbers. This is largely a short-term benefit. Longer term economic and

social benefits would be derived from the new residents supporting local facilities and services. The proposed development would make effective use of a previously development site. These benefits are afforded only limited weight.

5.13.7 The main impacts of the development that are harmful are:

5.13.8 The proposal would introduce residential use beyond a settlement boundary where policies seek to protect the intrinsic character and beauty of the countryside. The proposal would conflict with the LDP's spatial framework through the harm to the character and appearance of the area. It is considered that the majority of journeys to and from the site would be reliant of travel by private car, indicating the site is not in a sustainable location. This harm is afforded significant weight. Furthermore, insufficient information has been submitted to accurately assess the impacts of the proposal on ecology and biodiversity and also on landscape and visual impacts. In the absence of information there is potential for the application to result in harm.

5.13.9 Quality of design - the NPPF states in paragraph 131 that achieving high quality design is fundamental to what the planning and development process should achieve. In this case, the scale, design, siting of dwellings is not in keeping with the local context and the development does not achieve high quality design. This harm is afforded significant weight.

5.13.10 A high number of dwellings lack sufficient private amenity space and many gardens would be dominated by existing trees resulting in poor living conditions for occupants. The proposal fails to provide onsite and visitor parking that accords with the VPS SPD. This would result in indiscriminate parking across the site and surrounding area. The proposal lacks sufficient, usable public open space. These elements individually result in harm and cumulatively indicate an over-development of the site. This is afforded significant weight.

5.13.11 Although the applicant has indicated a willingness to enter into a Section 106 Agreement to secure obligations for the provision of affordable housing and contributions for education, health care, and RAMS mitigation, this has not been agreed and the obligations are therefore not secured. Accordingly, the proposal would result in harm due to the lack of affordable housing and contributions to mitigate impact on the provision of healthcare and education and the impacts on RAMS.

5.13.12 Neutral impacts are identified as follows:

5.13.13 It is considered that impacts of the development with regard to contamination, noise, flood risk and archaeology could be mitigated through planning conditions and are therefore considered neutral impacts.

5.13.14 The proposed development would tidy up what is currently a derelict and overgrown site which would be a benefit of the scheme. However as this could be undertaken in the absence of the proposed development and is within the site owner's gift to remedy and therefore is considered a neutral impact.

5.13.15 With regard to the NPPF, the development proposal does not represent sustainable development; it fails to address the social and the environmental objectives to support strong, vibrant and healthy communities or to protect the natural environment. The potential landscape and visual harm, including potential pressure to remove trees/hedges which currently surround the site, together with the scheme not resulting in a high quality design and resulting in poor living conditions, weigh heavily against the proposal. The proposal is in conflict with the Development Plan.

5.13.16 The planning balance is not a mathematical exercise whereby an amount of weights of benefits equals an acceptable scheme, but instead provides a rounded view of the proposals overall. It is important to recognise the benefits of the scheme, which are significant, but also the significant harms identified with this particular proposal which are of importance to decision making. On the merits of this particular proposal, the harms clearly outweigh the benefits.

## 6. ANY RELEVANT SITE HISTORY

- **23/00652/OUT** – Outline permission with all matters reserved for up to 57 dwellings, Withdrawn on 20.09.2023.
- **16/01472/RES and appeal ref. APP/X1545/W/17/3173084** – Reserved matters application for the approval of appearance, landscaping & scale on approved planning application OUT/MAL/12/00452 (Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia), Dismissed at appeal 04.04.2018.
- **16/01423/RES** – Reserved matters application for the approval of layout on approved planning application OUT/MAL/12/00452 (Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia), Approved 16.02.2017.
- **12/00452/OUT** – Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia, Approved 19.12.2013.
- **08/00087/OUT and appeal ref. APP/X1545/A/08/2081888/NWF** – Outline application for extra-care elderly persons bungalows, Nursing home, affordable housing bungalows for the elderly and community building, Dismissed at appeal 10.11.2008.
- **06/01415/OUT** - Extra care bungalows, nursing home and community building. Refused 20.03.2007.

Relevant adjacent development referred to in the report:

Whitecap Mushroom Farm, Mill Road

- **16/00224/OUT and appeal ref. APP/X1545/W/17/3182361** – Demolition of former Mushroom Farm and associated buildings and erection of up to 35 dwellings with associated landscaping, open space and upgrading of Mill Road to adoptable standard, Dismissed at appeal 17.05.2018.

Mayflower Nursery, Mill Road

- **20/00054/FUL and appeal ref. APP/X1545/W/20/3261799** – Change of use of the site from Sui Generis to residential, demolish existing buildings at Mayflower Nursery and erect 19 dwellings (including 8 affordable dwellings) with associated landscaping, amenity space, off-street parking and sustainable drainage. Form new vehicular and pedestrian access onto Mill Road including upgrade works to Mill Road, Dismissed at appeal 14.06.2021.



## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	<p>Recommend refusal: -            This application is contrary to the following planning response codes:</p> <ul style="list-style-type: none"> <li>• E3 Community Services and Facilities –Schools, Doctors, Dentists</li> <li>• T1 Sustainable Transport – Roads, Buses,</li> <li>• T2/T1 Buses, Pedestrian access, visibility access, dangerous access</li> <li>• I1 Infrastructure and Services – Water/electric supplies – ECC water-stressed, sewage already at maximum level, rainwater harvesting, insufficient parking</li> <li>• I2 Health and Wellbeing – Ambulance times, road traffic within and to/from Dengie</li> <li>• D1 Design Quality and Build Environment – Landscape</li> <li>• D2/S3 Climate change/Place shaping – Environment</li> <li>• D5 Flood risk – Flooding and surface water</li> <li>• S1/S8 Sustainable Development/ Settlement boundaries –outside settlement boundary</li> <li>• E1 Employment/ S7 Prosperous Rural communities – Lack of employment</li> <li>• D4 Renewable and Low Carbon Energy Generation – No Solar</li> <li>• E2 Retail Provision – Lack of facilities</li> <li>• N3 Open space, Sport and Leisure – No open space/leisure</li> </ul>	Noted, the points are addressed in the report.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	The Highway Authority has assessed the application and submitted information, visited the	Addressed in section 5.6 of this report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>site, and has concluded that in highway terms it is not contrary to national/local highway and transportation policy and current safety criteria.</p> <p>The proposal is acceptable subject to conditions regarding: Construction Management Plan; visibility splays; provision of site access; widening of footway on Steeple Road; upgrading of bus stops of Steeple Road; and provision of Residential Travel Information Packs.</p>	
Anglian Water	<p>Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. The site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space.</p> <p>The foul drainage from this development is in the catchment of Maylandsea Water Recycling Centre that will have available capacity for these flows.</p> <p>The sewerage system at present has available capacity for the anticipated flows.</p> <p>The LPA should consult the LLFA in respect of surface water disposal.</p>	Addressed in section 5.10 of this report.
Lead Local Flood Authority	<p>At the time of writing the report no response received. However, it is noted that the previous application received no objection subject to conditions regarding: surface water drainage scheme; scheme to minimise risk of offsite flooding; maintenance plan for ongoing maintenance arrangements; yearly logs of maintenance.</p>	Addressed in section 5.10 of this report.
NHS Mid and South Essex Integrated Care System	<p>The development would have an impact on healthcare provision in the area where there is already a deficit of primary care facilities. If unmitigated, the development would be unsustainable.</p> <p>Planning obligations could be used to secure contributions to</p>	Addressed in section 5.12 of this report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>mitigate these impacts and make an otherwise unacceptable development acceptable in relation to healthcare provision.</p> <p>The ICS therefore requests that the sum of £28,000 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. This may be achieved through any combination of extension, reconfiguration or relocation of premises.</p>	
Essex Police Designing out Crime	<p>Neither object nor support this application.</p> <p>Whilst there are no apparent concerns with the layout to comment further, we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.</p> <p>We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award</p>	Noted
Archaeology	<p>The site has moderate archaeological potential for remains dating to the Roman period. Recent fieldwork to the south of the site at Mayland Hall has established the presence of Roman settlement occupation in the area. In addition, the site's location between two creeks which flow into Mayland Creek makes it's a possible site for activity associated with the extensive Roman salt-making industry that is known to have flourished around the Essex coast. No objection subject to conditions requiring archaeological assessment and implementation of archaeological</p>	Addressed in section 5.11 of this report.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	fieldwork programme.	
Education	At the time of writing the report no response received. However, it is noted that the previous application received no objection subject to securing financial contributions towards secondary education, school transport, libraries and monitoring fees.	Addressed in section 5.12 of this report.
Natural England	No objection subject to securing appropriate mitigation for RAMS.	Addressed in section 5.9 of this report.

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	Submitted Contamination Risk Assessment, Air Quality Assessment and Noise Impact Assessment have been reviewed. No objection subject to conditions regarding: Construction management Plan; intrusive ground investigation and risk assessment; conditions securing suitable internal noise levels.	Addressed in sections 5.7 and 5.11 of this report.
Ecology	Holding objection due to insufficient ecological information on: a) protected and Priority species; and b) Mandatory biodiversity Net Gain	Addressed in section 5.9 of this report.
Trees	This application is supported by arboricultural information compiled by a suitably competent arborist. All existing vegetation either within or adjacent to the site is of low value, much of which is self-set having grown up between existing structures and in previously open space following a decline in site usage. All existing low value vegetation internal to the site will be removed as part of this application. No objection to the removal of the identified low value vegetation, however it will be necessary to submit details of	Addressed in section 5.8 of this report.

Name of Internal Consultee	Comment	Officer Response
	replacement tree planting in mitigation, this should be secured by a condition.	

## 7.4 Representations received from Interested Parties

7.4.1 100 letters have been received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<p><b>Principle of development</b>            Site is in a sensitive rural location outside of the defined settlement boundary.            Negative impact on the environment of the village            Very few employment opportunities in the area            Local infrastructure is unable to support the large number of dwellings proposed            Proposed land has not been identified for development.            Impact on rural character            Destroying the natural beauty of the area            Primary school in Mayland and surrounding Dengies are oversubscribed.            Distance from secondary health care provider Shopping centre is 2.5km away. People will drive rather than walk.            Footpath from top of Mill Road is suggested to be suitable however, fails to mention it involves a wooded area that often becomes Lack of green space and parks on the site with the nearest being 20 minutes away wet ad boggy resulting in the area being impossible in the winter.            Rightmove show in excess of 50 houses up for sale within a 1-mile radius from Mayland resulting in no need for anymore houses.</p>	<p>The principle of development, including the accessibility of the site, is addressed in section 5.1 of the report. Provision of open space is addressed in section 5.8.</p>
<p><b>Highways and parking</b>            Traffic increase            Not enough parking results in more cars parked on the road causing problems and potential danger.            Poorly maintained roads            Unsafe footpaths to local amenities and infrastructure            Concerns of dangerous access due to 40MPH sharp bend by the site            Lack of regular bus services within Mayland            No public transport to local train station (Althorne)</p>	<p>Matters of car parking provision access and highway safety are addressed in section 5.6 of the report. The accessibility of the site, in terms of sustainable location, is addressed in section 5.1 of the report</p>
<p><b>Natural environment</b>            Loss of trees            Destruction and loss of wildlife            Site was cleared before application submitted</p>	<p>Addressed in section 5.8 and 5.9 of this report.</p>

<b>Objection Comment</b>	<b>Officer Response</b>
therefore any EIAs carried out now would not give a true indication of wildlife and flora.	
<b>Flooding and drainage</b> Concerns with sewage and drainage causing flooding of the roads.	Addressed in section 5.10 of this report.
<b>Other issues</b> Noise pollution	Addressed in section 5.11 of this report.

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

<b>Supporting Comment</b>	<b>Officer Response</b>
Derelict land for over 30 years – if houses have to be built in Mayland this would be the best place.	Addressed in section 5.1 of this report.
Site is an eyesore and a brownfield site	Addressed in section 5.3 of this report.

## **8. REASONS FOR REFUSAL**

- 1 The proposal would introduce residential development beyond a settlement boundary where the principle of the proposed development is not supported as development plan policies seek to protect the intrinsic character and beauty of the countryside. The site is not in a sustainable location as the majority of journeys to and from the site would be reliant of travel by private car. The benefits identified, most notably the over provision of affordable housing, do not outweigh the adverse impacts of the development. Accordingly, the proposal would conflict with the development plan's spatial framework contrary to Policies S1, S2 and S8 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework.
- 2 The proposed development, due to its scale, design, poor connectivity and layout is not in keeping with the local context and the development does not achieve high quality design. Furthermore, the under provision of private amenity space, car parking, and public open space results in over development of the site. The proposal is contrary to Policies S1, D1 and H4 of the approved Maldon District Local Development Plan, the Maldon District Design Guide SPD, the vehicle Parking Standards SPD and guidance in the National Planning Policy Framework.
- 3 The application fails to include insufficient information in order to accurately assess the landscape and visual impacts of the proposed development. There is potential for loss of trees and hedges surrounding the site to make provision for the footway to the front of the site, dwellings and rear gardens. The proposal is contrary to Policies S1, S8 and D1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework
- 4 The proposed development, due to the under provision of private amenity space for many plots and the overbearing sense of enclosure of gardens adjacent to the site's boundaries due to the height and proximity of the existing boundary vegetation, would result in poor living conditions for

occupants. The proposal is contrary to Policy D1 of the approved Maldon District Local Development Plan, the Maldon District Design Guide SPD and guidance in the National Planning Policy Framework.

- 5 The proposal fails to provide sufficient onsite parking spaces and visitor parking spaces. This would result in indiscriminate parking across the site and surrounding area where on-street parking is very limited. The proposal is contrary to Policies D1, H4 and T2 of the approved Maldon District Local Development Plan, the Vehicle Parking Standards SPD of the local planning authority and guidance in the National Planning Policy Framework.
- 6 The application includes insufficient ecological information to assess the impact of the proposed development on protected and Priority species. In addition, habitat degradation has occurred on the site and there is missing, and insufficient information submitted in relation to mandatory biodiversity net gain. The proposal is contrary to Policies S1, D1, N1 and N2 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework.
- 7 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 the proposal fails to:-
  - include adequate provision to secure the delivery of affordable housing to meet the identified need in the locality, address the Council's strategic objectives on affordable housing, and supporting a mixed and balanced community, contrary to Policies S1, H1 and I1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework;
  - secure the necessary contribution towards healthcare provision, such that the impact of the development cannot be mitigated, contrary to Policies S1 and I1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework;
  - secure the necessary contribution towards education provision, such that the impact of the development cannot be mitigated, such that the impact of the development cannot be mitigated, contrary to Policies S1 and I1 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework;
  - secure a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, and the development would thereby have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, D1, N1, N2 and I1 of the approved Maldon District Local Development Plan, the Essex Coast Recreational disturbance Avoidance Mitigation Strategy SPD, and guidance in the National Planning Policy Framework.

### **Application plans**

1859a-SCN-ZZ-ZZ-DR-A-01\_001-A1 Rev P01  
STEEP-SCN-ZZ-04-DR-A-01\_300-A3  
STEEP-SCN-ZZ-ZZ-DR-A-20\_340-A3  
STEEP-SCN-ZZ-04-DR-A-01\_306-A3  
STEEP-SCN-HTA-ZZ-DR-A-ZZ\_320-A3 Rev PL03  
STEEP-SCN-HTB-ZZ-DR-A-ZZ\_321-A3 Rev PL03  
STEEP-SCN-HTC-ZZ-DR-A-ZZ\_322-A3 Rev PL03

STEEP-SCN-HTD-ZZ-DR-A-ZZ\_323-A3 Rev PL03  
STEEP-SCN-HTE-ZZ-DR-A-ZZ\_324-A3 Rev PL03  
STEEP-SCN-HTF-ZZ-DR-A-ZZ\_325-A3 Rev PL03  
STEEP-SCN-ZZ-ZZ-DR-A-20\_329-A3 Rev PL03  
STEEP-SCN-BTA-ZZ-DR-A-ZZ\_326-A3 Rev PL03  
STEEP-SCN-BTB-ZZ-DR-A-ZZ\_327-A3rEV PL03  
STEEP-SCN-BTC-ZZ-DR-A-ZZ\_328-A3 Rev PL03