



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

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
25 JUNE 2025**

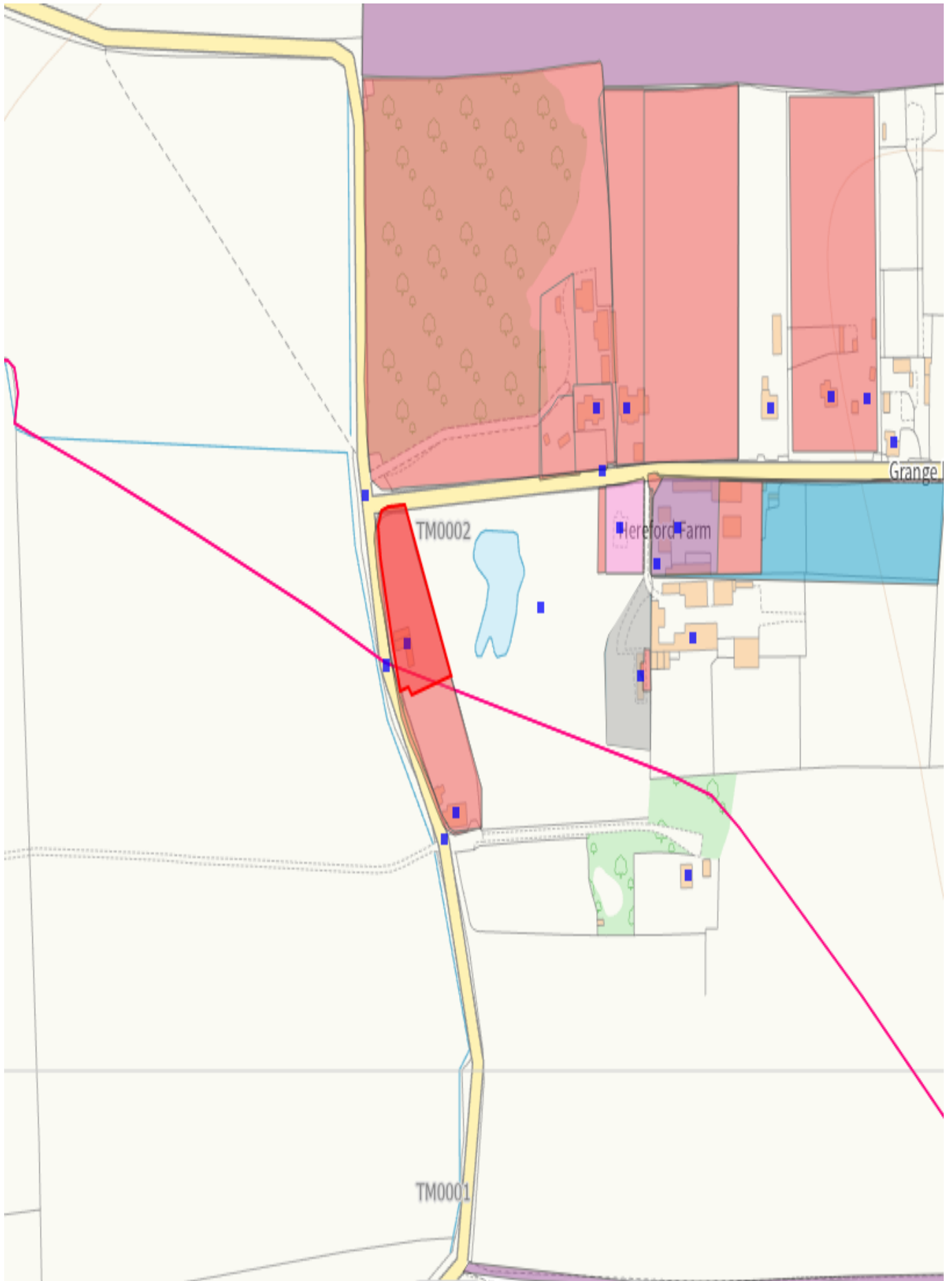
<b>Application Number</b>	<b>24/00801/COU</b>
<b>Location</b>	Outbuilding At Small Gains Bungalow Grange Road Dengie Essex
<b>Proposal</b>	Change of use of existing building to form one no. self build dwelling complete with alterations, parking, landscaping, garden and related infrastructure
<b>Applicant</b>	Mr and Mrs J. Driscoll
<b>Agent</b>	Chris Loon
<b>Target Decision Date</b>	25/06/2025
<b>Case Officer</b>	Saffron Loasby
<b>Parish</b>	<b>TILLINGHAM and DENGIE</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call-In

**1. RECOMMENDATION**

**REFUSE** for the following reasons (as detailed in Section 8 of this report)

**2. SITE MAP**

Please see below.



### **3. SUMMARY**

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

##### Site Description

- 3.1.1 The application site is located on the eastern side of Bridgewick Road, outside of any defined settlement boundary, and is in open countryside. The application site sits within two different parishes, Tillingham to the north and Dengie to the south. Hereford Farm sits approximately 200m to the northeast. The site sits approximately 2.3km to the west of a Ramsar Conservation Designations for Wetlands, Special Area of Conservation, Special Protection Area and Dengie Site of Specific Scientific Interest.
- 3.1.2 The site comprises a linear shaped plot that runs from north to south, with Bridgewick Road running along the western boundary of both the application site and the host dwelling, known as Small Gaynes Bungalow.
- 3.1.3 The application site comprises a parcel of land comprising 0.25 hectares in area which is currently laid to a mixture of grass, concrete and gravel hardstanding. Just north off a separate access to that of the main dwelling, comprises a single storey L-shaped timber stable building with associated hardstanding, the roof of which is visible from the road. This building has been extended to the rear with a storage building of similar size, scale and materials.
- 3.1.4 Historically this stable building had a menage to the rear (north) and was bound by post and rail fencing. It appears to have always played a separate element to that of the host dwelling, primarily as it is outside of the host dwellings garden curtilage and is more rural in character. Mapping shows both the stable and access to have been in place since 2009 with the stable extension a later addition (specific planning permission of which was not sought). The post and rail fence has since been planted and a mature leylandii hedge boundary surrounds the site on all boundaries except that where it meets the garden land of the host dwelling.
- 3.1.5 Beyond the boundaries is open countryside with the closest residential property some 150m away. Other residential properties are spread out across open countryside. The site is rural in character.
- 3.1.6 The site is within both Flood Zone 2 and 3 presenting a high risk of flooding.

##### The Proposal

- 3.1.7 The application seeks to convert the existing stable/storage building into a three-bed detached dwelling, with off road parking for two cars. The existing land to the east and north would become garden land (comprising some 2000sq.m) and a post and rail fence will be erected between the new dwelling and the host dwelling to separate the two curtilages. This would be further planted with hedging, similar to that on site at present.
- 3.1.8 No change to the footprint is proposed as a result of the conversion. The height, to the ridge at 3.1m would also remain the same as existing. The building, comprising 130sq.m of floor area would be significantly smaller than that of the existing adjacent dwelling. Internally the floor layout would provide an open plan living/kitchen/dining space with a separate utility space, three bedrooms (with one shown as a study) and a bathroom and separate WC. The proposed openings propose to use those of the existing with minimal new openings in the east elevation. The rear elevation, where

the living space is proposed. proposes new openings allowing full access to the amenity space. None of which will be visible from outside of the site given the existing boundary screening.

- 3.1.9 Materials comprise black weatherboarding, grey profile sheet roofing and black painted aluminum doors and windows.
- 3.1.10 Access to the building would remain as existing via an electric gated entrance off Bridgewick Road. An electric charging point would be installed, a garden shed for cycle storage and the driveway would be repurposed with the use of shingle and block paving around the periphery of the new dwelling, providing pedestrian access around the building.
- 3.1.11 The proposed dwelling would meet the requirement of the applicant for a smaller dwelling. Design features have been included to address flood risk potential given its location in the flood zone.

### Background

- 3.1.12 The submitted Planning Statement states that the applicants purchased the property in 2005 and never used the stables for equestrian use. Currently, the building is used for storage and as a workshop ancillary to that of the main dwelling. The former menage area, apparent only from aerial and street view photos, has since been laid to grass and the site enclosed by a thick leylandii boundary hedge that envelops the entire north of the site.
- 3.1.13 Planning history informs how the host dwelling has extended by the applicant to comprise five bedrooms and approximately 300sq.m of floor area. The submitted Planning Statement states that the extended property, is too large to the requirements of the owner/occupier, however the owner wants to continue living in the area and this proposal would prove a suitable alternative if permission is granted.

## **3.2 Conclusion**

- 3.2.1 The application site is located outside of a defined settlement boundary and is within the open countryside. Whilst the site is surrounded by hedgerow and not overly visible from the public realm the site is still very much in a countryside location.
- 3.2.2 The proposal for a new dwelling, albeit a change of use to an existing rural building, would result in an unacceptable form of development in an unsustainable location with no justification, in this instance, that is supported by policy specifications.
- 3.2.3 The proposed development is contrary to the requirements of the relevant policies contained within the approved Maldon District Local Development Plan (LDP) and the National Planning Policy Framework (NPPF) and 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
- 54 – 58 Planning conditions and obligations
- 82 – 84 Rural Housing
- 108 – 117 Promoting sustainable transport
- 123 - 127 Making effective use of land
- 131 – 141 Achieving well designed places
- 157 – 175 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
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG)
- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy
- Vehicle Parking Standards Supplementary Planning Document (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 (TCPA 1990), and Paragraph 47 of the NPPF require that planning decisions are to be made in accordance with the LDP unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).

5.1.2 Policy S1 of the LDP states that 'When considering development proposals the Council will take a positive approach that reflects the presumption in favour of

sustainable development contained in the NPPF” and apply a number of key principles in policy and decision making set out in the Policy. 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 Policy S8 of the LDP, flows from Policy S2 and steers new development towards the existing urban areas. Policy S8 does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential dwellings, nor does it refer to conversion of existing buildings outside of those relevant to agricultural diversification (Policy E4) or conservation of heritage assets (Policy D3).

#### Five Year Housing Land Supply (5YHLS)

- 5.1.5 As per Paragraph 79 of the NPPF, the Council as the Local Planning Authority (LPA) for the Maldon District should “monitor their deliverable land supply against their housing requirements, as set out in adopted strategic policies”. As the LDP is more than five years old, paragraph 77 requires LPAs to “identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply”. To this end, Maldon District Council prepares and publishes a Five Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March. The latest Five Year Housing Land Availability Report is expected to be published soon but the position has changed since the last report, for the year 2023 / 24, which stated there was a 6.3 years supply.
- 5.1.6 Currently the Council can only demonstrate 2.8 years’ worth of housing land supply. This is due to changes through the latest NPPF (2024) which introduced a new method for assessing housing need that reflects the current Government’s approach to building more houses. This also means that policies with housing targets such as policy S2 in the LDP can be considered to be non-compliant with the NPPF and therefore out of date. This means that the NPPF requirements apply as the most up to date policy position.
- 5.1.7 Whilst the proposal is considered contrary to policy S8, in regard to settlement boundaries, the policy cannot be considered an up to date because the Council cannot demonstrate an up to date 5YHLS and therefore the principle of development proposals on sites such as this, as a windfall site, shall need to be considered on the basis of whether they are sustainable or not. This means that the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF is applicable.
- 5.1.8 Given the Council’s current position in regard to not being able to demonstrate an up to date 5YHLS, the NPPF’s titled balance of the presumption in favour of sustainable development as set out in paragraph 11d of the NPPF applies unless, *‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations,*

*making effective use of land, securing well-designed places and providing affordable homes, individually or in combination’.*

#### Housing Provision and Mix

- 5.1.9 The NPPF is clear that housing should be provided to meet an identified need.
- 5.1.10 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub areas across the District.
- 5.1.11 The LHNA is wholly compliant with the latest NPPF and up to date Planning Practice Guidance (PPG) and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build. The only significant change with the new NPPF is the emphasis on the provision of Social rented accommodation
- 5.1.12 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three bed dwellings; specifically, 10% one bedrooms, 25-35% two bedrooms, 40-50% three bedrooms and 15-25% for 4+ bedroom market dwellings.
- 5.1.13 The proposal is for a modest three-bedroom dwelling. Therefore, this would support the need for three-bedroom dwellings in the District, however, this would be nominal contribution given the scale of the proposal and would be a marginal contribution towards the District’s biggest requirement for three-bedroom dwellings.

#### Sustainable Development

- 5.1.14 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. 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.
- 5.1.15 Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Furthermore, given that, as of 12 December 2024 the Council can no longer demonstrate a 5YHLS, the tilted balance (see para. 5.1.6) is engaged.

#### *Environmental Dimension*

- 5.1.16 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 and Policy T2 aims to create and maintain an accessible environment.
- 5.1.17 Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 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”.

- 5.1.18 The application site is located approximately 2km from the nearest settlement boundary of Tillingham which is defined as a ‘Smaller Village’ in Policy S8. The route from the application site to Tillingham has no defined footpaths or street lighting. There are no lit, continuous pedestrian routes from the site to key services such as schools, shops, or public transport links until you are in the centre of Tillingham. The services Tillingham provides are also very limited with a village shop, Post office, two pubs, a primary school a pre-school, village hall, recreation ground, two allotment sites, a Church, sports pavilion, sports clubs and community groups. Tillingham, as a smaller village, has very few employment opportunities and no train station, the closest station being Southminster and in Burnham-on-Crouch, some 7.2km and 11km, from Tillingham, respectively.
- 5.1.19 There are bus services that run through Tillingham.
- 5.1.20 Other services include the No 3 coach Tillingham to Chelmsford, FC05 coach that runs between Asheldham and South Woodham Ferrers (not stopping at any train station). The number 45 bus that runs from Bradwell-on-Sea to South Woodham Ferrers via Burnham-on-Crouch and Southminster finally the D1 Bradwell to Maldon service. All of these services are only available from Tillingham therefore the occupants of the proposed dwelling would have to make their way to Tillingham by car to make use of public transport. The timetables of which offer services once or twice a day as a maximum. The D1 service offers the most flexible timetable, however, are again two hourly and do not run beyond 6.23pm so is not usable or convenient for commuters. As a result, future occupiers would likely be car-dependent for day-to-day needs, contrary to the environmental and social objectives of sustainable development.

#### *Social Dimension*

- 5.1.21 The development would make a nominal contribution towards the supply of housing within the District as only a single dwelling is proposed.

#### *Economic Dimension*

- 5.1.22 The development would make a nominal contribution to the local economy through the construction of a single dwelling and additional custom for existing businesses.

#### Summary of Principle of Development

- 5.1.23 Based upon the Council’s 5YHLS position the tilted balance in favour of sustainable development applies. Therefore, the development of sites such as this outside of settlement boundaries need to be considered as to whether the development is sustainable development to meet the definition of the NPPF and LDP policy S1.
- 5.1.24 The application site lies within a rural area and is approximately 2km from the development boundary of Tillingham. Whilst there are sporadic residential dwellings within the vicinity of the site there is no identifiable settlement in this area or local community support services or facilities. The nearest bus service, retail, medical and schooling facilities are all located within the defined settlement of Tillingham, which is a minimum of 2km from the site.



- 5.1.25 As such, the proposal is considered to conflict with the NPPF, including paragraphs 7 and 110, as well as local plan policies S1, S8 and T2, and does not constitute sustainable development. While the Council cannot demonstrate a five-year supply of deliverable housing land, the adverse impacts of the proposal, in particular its unsustainable location and encroachment into open countryside, would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole, which are further discussed in the Conclusion below.

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

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Furthermore, the basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution. Policy H4 of the LDP requires development which includes alteration, extension and / or addition to a building to maintain, and where possible enhance, the character and sustainability of the original building and the surrounding area; be 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 enhance the sustainability of the original building; and not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.4 The site is located outside of a defined settlement boundary, and therefore countryside policies apply. According to Policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.5 The design of the conversion has been thoughtfully presented. Minimal new openings on the countryside facing elevations and minimal changes to the height or footprint. The materials reflect those in place as part of the stable building and reflective of the wider rural character. However, although the proposed conversion from a stable to a modest dwelling may appear to have limited impact on the wider countryside by design, the application raises significant concerns regarding the long-term implications for the character of the area and future development potential.
- 5.2.6 The introduction of a residential use on this site would fundamentally alter its established rural character. Unlike an ancillary or agricultural building, a dwelling introduces domestic activity, paraphernalia, and expectations for amenity that are inconsistent with the original use and setting. This results in harm to character and appearance of the countryside, which is contrary to core planning principles aimed at protecting rural character.

- 5.2.7 In summary, the proposal would harm the character or appearance of the surrounding area in compliance with policies S1, S8, D1 and H4 of the approved LDP.

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

- 5.3.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section c07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.3.2 The farmhouse associated with Hereford Farm is located in excess of 200m metres to the northeast of the site. Established trees and vegetation provide a boundary treatment separating the stables from the wider countryside and closest neighbouring properties. The closest neighbour being that of the applicant's existing dwelling, Small Gaynes Bungalow. Owing to this, and the fact that various farm buildings are interspersed between the proposed dwelling and neighbouring properties, it is not considered that the proposal would cause harm to the residential amenity of any of the neighbours.

### **5.4 Living Conditions for Prospective Occupiers**

- 5.4.1 The proposed dwelling will have three bedrooms and complies with the minimum gross internal floor area as specified in the Nationally Described Space Standards (March 2015). There is also acceptable light and ventilation proposed for all the habitable rooms.
- 5.4.2 It is considered that the proposal accords with the NPPF and Policies S1, S8, D1, H4 of the approved LDP and the MDDG SPD.

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

- 5.5.1 Policy T2 of the approved LDP aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Policy D1 seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards. The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards.
- 5.5.2 The NPPF refers in paragraph 111 that, '*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety*'.
- 5.5.3 The existing access would be used to provide access to serve the new dwelling. The Highway Authority has been consulted and raised no objection to the proposal.
- 5.5.4 The proposed hardstanding provides parking for two cars and is of a size that also provides sufficient space for cycle parking.
- 5.5.5 The Vehicle Parking Standards require the provision of two car parking spaces for three bedroomed dwellings. Therefore, adequate car parking provision is proposed to accord with the standards and sufficient manoeuvring space is provided on site to allow vehicles to turn on site.

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

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.6.2 The proposal would provide 2000sqm of private amenity space immediately adjacent to the rear and side of the proposed dwelling. The amount, location and design of the amenity space would achieve high quality private amenity space, in accordance with Policy D1 of the approved LDP and the MDDG SPD.

## **5.7 Flood Risk and Drainage**

- 5.7.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximize opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).
- 5.7.2 The site is entirely within Flood Zone 2 and 3 and presents a high risk of flooding.
- 5.7.3 The Environment Agency (EA) has been consulted as the maps show the site lies within tidal Flood Zone 3a, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is classified as a 'more vulnerable' development, as defined in Annex 3: Flood Vulnerability classification of the PPG.
- 5.7.4 The application is supported by a site specific Flood Risk Assessment (FRA). The site currently benefits from flood risk management structures which protect it from the present day 0.5% annual exceedance probability flood level (the 'design flood', as referred to in paragraph: 002, reference ID: 7-002-20220825 of the PPG). However, with the addition of projected sea level rise on sea/estuary/tidal levels and other anticipated effects of climate change, these structures could overtop in the design flood, over the lifetime of the development.
- 5.7.5 Initially, the EA objected to the proposal as it was considered to be contrary to the requirements of the PPG. Namely because of the following:
- The proposed building would be at risk of flooding internally during its 100 year lifetime by 0.37 m depth in the 0.5% (1 in 200) annual probability with climate change flood event and would therefore be unsafe for the occupants.
  - This is a single storey building with no upper floor – 'refuge' is proposed above the 0.1% (1 in 1000) annual probability flood level with climate change out of a roof window with a railing at 6.16m
  - The lowest levels of the access/egress route (3.15 AOD (Above Ordnance Datum) mean it would be flooded by 1.32 m in the 0.5% (1 in 200) annual probability with climate change flood event so the flood hazard on the access route would be danger for all including the emergency services. This FRA does not include details of a Flood Response Plan to adequately mitigate this. Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event.

- 5.7.6 Later correspondence dated 11 March, following additional information from the applicant, advised that the EA has withdrawn its objection to the proposed change of use, which increases the vulnerability classification under Annex 3 of the NPPF, provided the LPA, in consultation with their Emergency Planner, confirms in writing that the flood risk to future occupants is acceptable. This includes confidence that the proposed Flood Response Plan adequately mitigates residual flood risk and provides a safe refuge if evacuation is not possible.
- 5.7.7 The site currently benefits from flood defences protecting it from a 0.5% annual probability flood event. However, these may be overtopped in future due to climate change unless raised. While the Shoreline Management Plan (SMP) supports continued defence of the area, its policy is aspirational and contingent on future funding. Therefore, the development must be demonstrated to be safe on its own merits, including the provision of flood resilience measures up to 5.19m AOD and resistance up to 4.77m AOD.
- 5.7.8 The access route would be subject to flood depths up to 0.76m in a 1 in 200 event, posing 'danger for most', and up to 1.48m in a 1 in 1000 event, considered 'danger for all'. As raising internal floor levels is not feasible, the proposal relies on resistance/resilience features. Given the increased flood vulnerability, the long-term sustainability of residential use at this location should be considered, in line with Paragraph 172(d) of the NPPF.
- 5.7.9 The proposed change of use would introduce a more vulnerable residential classification, as defined in national planning guidance. While the site currently benefits from existing flood defences, climate change and sea level rise could lead to overtopping during future flood events. Although there is potential for future improvements to these defences, this depends on funding availability, and the SMP policy for the area is aspirational, not guaranteed. As such, the development must be considered safe on its own merits. The applicant's FRA shows that raising floor levels is not practicable, so instead proposes flood resistance measures up to 4.77m AOD and resilience measures up to 5.19m AOD. A Flood Response Plan has also been submitted, which includes a rooflight-accessible pontoon deck to serve as a refuge in extreme events. However, it remains unclear whether this space is suitable for prolonged refuge or simply a point for emergency rescue. The LPA must assess whether these arrangements provide sufficient safety for residents, in consultation with the Emergency Planner.
- 5.7.10 Access and escape during flooding also remain a concern. Although the applicant has clarified that the lowest point along the escape route is higher than previously stated (3.71m AOD), the flood depth during a 1 in 200-year event could still reach 0.76m, which constitutes a hazard classified as 'danger for most'. In a more extreme 1 in 1000-year flood, depths could rise to 1.48m—posing a risk to all, including emergency services. While the new Flood Response Plan proposes evacuation or remaining in situ, the LPA must determine whether this is adequate or if there is still an unacceptable risk to occupants' health and safety. Although the site is not subject to the Sequential or Exception Test, the change from a "less vulnerable" to a "more vulnerable" use should be carefully considered. National guidance emphasises that flood risk should be avoided where possible, not simply managed. Long-term sustainability must also be considered, as Paragraph 172d of the NPPF encourages relocating vulnerable uses away from areas where climate change is expected to increase flood risk over time.
- 5.7.11 The proposed change of use introduces a higher vulnerability classification, moving from "less vulnerable" to "more vulnerable" under the NPPF's Flood Vulnerability Classification. While the site currently benefits from existing flood defences, future

protection is uncertain and depends on funding that is not guaranteed. National policy and guidance (NPPF and PPG) emphasise that vulnerable development in flood risk areas should be avoided where possible, and that safety must be demonstrated without relying solely on emergency response or unconfirmed infrastructure improvements. As the Flood Risk Assessment confirms that raising floor levels is not practicable, the proposal relies on resistance and resilience measures, a rooflight-accessed refuge, and a Flood Response Plan.

- 5.7.12 However, these measures do not fully remove the residual risks of internal flooding, limited safe refuge, and hazardous access and egress during flood events. National guidance allows for such mitigation only when avoidance is not possible, and safety can still be clearly demonstrated. In this case, compliance with policy remains uncertain, and the development's acceptability ultimately depends on whether the LPA and Emergency Planner are satisfied that the flood risk to future occupants can be effectively managed throughout the lifetime of the development.
- 5.7.13 Subject to the recommendations of the Emergency Planner, which are outstanding at the time of writing the report, officers consider the proposal does not fully comply with the spirit or intent of national policy on flood risk. Any response received from the Emergency Planner will be reported by way of a Members' Update. It relies on mitigation rather than avoidance, introduces more vulnerable use in a high-risk location, and lacks robust assurance of long-term safety without substantial public or partnership funding; none of which is currently secured. Therefore, the acceptability of the proposal is considered to be contrary to the requirements of the NPPF, PPG and Policies D5 and S1 of the approved LDP.

## **5.8 Natural Environment and Biodiversity**

- 5.8.1 Paragraph 170 of the NPPF states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by: (amongst other things) minimising impacts on and providing net gains for biodiversity'.
- 5.8.2 Policy S1 of the LDP includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.8.3 Policy N1 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.

### *Ecology*

- 5.8.4 Officers have reviewed the submitted documents, including the Preliminary Ecological Assessment (ACJ Ecology, September 2024) relating to the likely impacts upon designated sites, protected and Priority species / habitats and the identification of proportionate mitigation measures. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable. Officers are satisfied

that there is sufficient ecological information available for determination of this application.

- 5.8.5 The mitigation measures identified in the Preliminary Ecological Assessment (ACJ Ecology, September 2024) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats and mobile mammals.
- 5.8.6 The site lies within an Amber Risk Zone for the Great Crested Newt (GCN) District Level Licensing (GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com)). Three ponds are present within 250m of the site, within the nearest pond within 50m of the site. We agree that the habitat on-site is closely mown modified grassland and is not likely to provide suitable resting places for GCN. Nevertheless, due to close proximity of potential breeding habitat, it is recommended that precautionary measures should be secured for GCN. As a result, a precautionary method statement for GCN for the construction stage should be secured as a condition of any consent. This includes advice on storage of materials and what to do if GCN are identified during the construction phase.
- 5.8.7 Officers also support the proposed reasonable biodiversity enhancements, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 180d of the NPPF (2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 5.8.8 This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (as amended). Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.
- 5.8.9 Recommended conditions include compliance with ecological appraisal recommendations, a GCN Method Statement prior to construction and a Biodiversity enhancement strategy.

#### Biodiversity Net Gain (BNG)

- 5.8.10 With regard to mandatory biodiversity net gains, it is highlighted that applications are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. As a result, we have reviewed the submitted details and are satisfied that this application is exempt, as the proposals is for one self-build dwelling for an area less 0.5 ha. A condition may be considered necessary to be imposed by the council to ensure that the development must be occupied by a person or persons who had a primary input into the design and layout of the dwelling and who will live in the dwelling for at least three years.

#### *Impact on Designated Sites*

- 5.8.11 The site falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The LPA must therefore undertake a Habitat Regulation Assessment (HRA) and secure a proportionate financial contribution towards the Essex Coast RAMS.

- 5.8.12 The development will result in the net gain of 1 no. dwelling at the site. This falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and strategy advice, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) HRA record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment, are listed below:

Test 1 – the significance test

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

Does the planning application fall within the following development types? Yes, the development is for 1no. dwelling, and therefore the net increase of dwellings at the site is 1no. dwelling.

Test 2 – The integrity test

Is the proposal for 100 houses + (or equivalent)? No.

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

- 5.8.13 As the answer is no, it is advised that, should planning permission be forthcoming, a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the named European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to re-consult on this Appropriate Assessment.
- 5.8.14 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 (2024/25 figure) and thus, the developer contribution should be calculated at this figure.
- 5.8.15 The applicant has not submitted the necessary unilateral undertaking to ensure that mitigation will be secured, without which the application is unacceptable.

## **5.9 Other matters**

- 5.9.1 The site visit noted that birds were nesting in the roofspace of the existing building and further mitigation should be included around nesting birds should the application be minded for approval.
- 5.9.2 Planning reference has been made to another site close by that obtained planning consent for a detached two-bed two storey dwelling under planning reference 14/00456/FUL. This similarly was in open countryside, previously equestrian use and proposed new building in the countryside. This proposal was recommended for refusal by officers, was overturned at planning committee and recommended for an approval. This proposal was determined over ten years ago and each application should be assessed individually on its merits and not considered to be entirely comparable. In this instance officers believe the main thrust of sustainable development remains unchanged and still prevalent in policy terms.

## **5.10 Planning Balance**

- 5.10.1 The application proposes the conversion of an existing rural stable/storage building into a single three-bedroom dwelling. This would result in a modest contribution to the Council's housing supply and would deliver a dwelling of a type (three-bedroom) identified as needed within the District's LHNA .
- 5.10.2 The proposal also demonstrates thoughtful design, limited physical alterations, and proposes appropriate ecological mitigation measures. In terms of amenity, access, parking, and garden space, the development meets relevant standards and would not result in harm to neighbouring amenity. Given the scale of development (one dwelling) limited positive benefits have been identified in relation to the social and economic objectives of sustainable development.
- 5.10.3 However, the harm identified is considerable and carries substantial weight:
- 5.10.4 The site lies in an unsustainable rural location, outside any defined settlement boundary and distant from essential services and facilities. Future residents would be highly reliant on private vehicles, contrary to national and local policy aims to reduce car dependence and promote sustainable modes of transport. This environmental harm is given significant weight.
- 5.10.5 The introduction of residential use would result in the domestication of the countryside, with long-term risk of incremental suburbanisation, undermining the intrinsic character and beauty of the area.
- 5.10.6 The site lies entirely within Flood Zones 2 and 3, and despite the proposed flood resilience measures and Flood Response Plan, there remains residual risk to future occupants. The proposal introduces a "more vulnerable" use in a location at significant flood risk, relying on mitigation rather than avoidance, which conflicts with the precautionary approach required by national planning policy.
- 5.10.7 In the absence of a completed Section 106 legal agreement, the development fails to secure the required financial contribution towards the Essex Coast RAMS. This is necessary to avoid harm to designated European sites, and without it, the proposal fails to comply with national and local policy regarding biodiversity protection.
- 5.10.8 While the current housing supply shortfall does tilt the balance in favour of development, the scale of benefit from a single dwelling is marginal, and it does not outweigh the significant harm arising from unsustainable location, flood risk, and policy non-compliance. In this case, the adverse impacts significantly and demonstrably outweigh the benefits, even when the presumption in favour of sustainable development is applied.
- 5.10.9 Overall, the limited benefits of the development would not outweigh the significant harm identified.

## **6. ANY RELEVANT SITE HISTORY**

- **13/00726/FUL** – Change of use to Children's home – Approved
- **06/01352/FUL** - Ground floor extensions and alterations plus roofspace conversion to create new first floor plan - Approved
- **05/00934/FUL** – Proposed Extensions to bungalow. – Approved Creation of a new vehicle crossing to provide access from Latchingdon Road to plots 5 and 7 for maintenance purposes. Granted, 15/05/2012



## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Tillingham Parish Council	No comments received	Noted.
Asheldham and Dengie Parish Council (adjacent parish)	Asheldham and Dengie Parish Council Supports this application with a note about the property is in a High Flood risk zone	Noted

### **7.2 Statutory Consultees and Other Organisations (*summarised*)**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highway Authority	No objection subject to conditions regarding surface treatment; cycle parking	Noted and discussed in section 5.5 of this report.

### **7.3 Internal Consultees (*summarised*)**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	Has no comments	Noted
SUDS	As there does not appear to be a change in floorspace, this site is considered to be a minor application and therefore there does not appear to have sufficient scope to deliver SUDS onsite. Therefore, we do not wish to provide formal comment on this application. As the area lies in Flood Zone 3, we would recommend that the Environment Agency is consulted.	Noted
Ecology	No objection subject to securing a financial contribution towards Essex Coast RAMS and biodiversity mitigation and enhancement measures.	Noted, addressed in the report at 5.8

Name of Internal Consultee	Comment	Officer Response
Environment Agency	Given that the Change of use introduces a higher vulnerability – as defined in Annex 3:Flood Vulnerability classification of the NPPF we will remove our objection if the local council, in consultation with their Emergency Planner inform us in writing that they accept the flood risk to the future occupants and consider the proposed risk of internal flooding should the defences not be raised over the lifetime of the development, to be acceptable and safe and able to be managed through the Flood Response Plan. This includes the provision of a safe refuge should evacuation not be possible.	Noted and discussed at 5.7

#### **7.4 Representations received from Interested Parties**

7.4.1 No representations have been received in response to the public consultation.

#### **7.5 Site Notice / Newspaper Advert**

7.5.1 The application was advertised by way of a site notice posted on 31 October 2024 (with expiry date for comments set at 21 November 2004 and again 14 November 2024 (with expiry date for comments set at 5 December 2024). The site notice was affixed at eye level to the nearest telegraph pole located in a prominent position within the street scene.

7.5.2 Notice was also given by way of newspaper advertisement posted in the Maldon and Burnham Standard, published on 31 October 2024 and 14 November 2024 (with expiry date for comments set at 21 November and 5 December 2024, respectively.

### **8. REASONS FOR REFUSAL**

- 1 The proposed development, by virtue of its location, would result in an unsustainable form of development. The site lacks adequate access to essential services and public transport, leading to a reliance on private vehicles. This would conflict with the principles of sustainable development as outlined in the National Planning Policy Framework (NPPF). Although the local authority cannot currently demonstrate a five-year housing land supply, the adverse impacts of the development, including its unsustainable location and resultant environmental harm, would significantly and demonstrably outweigh the benefits. Therefore, the proposal does not constitute sustainable development, and the presumption in favour of sustainable development does not apply. The development is therefore contrary to Policies S1, S8, and T2 of the Maldon District Local Development Plan (2017) and paragraphs guidance in the NPPF .
- 2 The proposed development is located entirely within Flood Zones 2 and 3, where there is a high risk of tidal flooding. The proposal would introduce a 'more vulnerable' residential use on a site where raising floor levels is not

practicable, and where safe access and egress cannot be assured during flood events. The reliance on mitigation measures such as flood-resistant construction, a rooflight-accessible refuge, and a Flood Response Plan does not adequately overcome the residual risks to future occupiers. As such, the development fails to demonstrate that it would be safe for its lifetime without reliance on emergency services, contrary to the requirements of the National Planning Policy Framework, the Planning Practice Guidance on Flood Risk and Coastal Change, and Policies S1 and D5 of the Maldon District Local Development Plan (2017).

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

**Application plans:**

- Proposed Site Plan 2024-842-002 Rev A
- Existing Site Plan and Locations 2024-842-001
- Proposed Plans and Elevations 2024-842-020 Rev A
- Existing Plans and Elevations 2024-842-010
- Large Scale Section 2024-842-021