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MALDON DISTRICT COUNCIL

MEMBERS' UPDATE

DIRECTOR OF STRATEGY AND RESOURCES
Paul Dodson

06 September 2023

Dear Councillor

DISTRICT PLANNING COMMITTEE - WEDNESDAY 6 SEPTEMBER 2023

Please find enclosed the Members' Update for the above meeting, detailing any further information received in relation to the following items of business since the agenda was printed.

5. **23/00076/FUL - Land North West of Riversleigh, Nipsells Chase, Mayland**(Pages 3 - 8)

Yours faithfully

Director of Strategy and Resources

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CIRCULATED BEFORE THE MEETING

REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE

to
DISTRICT PLANNING COMMITTEE
06 SEPTEMBER 2023

MEMBERS' UPDATE

AGENDA ITEM NO. 5

Application Number	**23/00076/FUL**
Location	Land North West of Riversleigh, Nipsells Chase, Mayland
Proposal	Change of use from agricultural building to 2 bedroom bungalow (C3 Use) and alterations to fenestration
Applicant	Mr & Mrs Kenny Paton
Agent	None
Target Decision Date	13.04.2023
Case Officer	Devan Hearnah
Parish	**MAYLAND**
Reason for Referral to the Committee / Council	Member of the Council

The Members update circulated to the South Eastern Area Planning Committee in relation to the meeting held on the 28th June 2023 has been appended to this update to ensure that Members have all of the necessary information available to them to inform a decision.

8. CONSULTATION AND REPRESENTATIONS RECEIVED

8.4 Representations received from Interested Parties

8.4.2 **Four** letters of support have been received. The planning reasons are summarised in the table below:

Supporting Comment	Officer Response
The building already has planning permission	As set out in the Committee Report the building does not have planning permission because it has been erected as a dwelling.
The Applicants make apple juice and cider and the orchard is getting bigger	As set out in the Committee Report, use is not a determinative factor in this case. Furthermore, these comments do not provide any evidence that these activities occur within the building or what purposes the building was constructed for.

The Applicants want to expand to a bigger building and this application will enable that	The Applicant's desires are not a reason for granting planning permission. Enabling development is not a consideration outside of applications that would enable to restoration of Listed Buildings.
The heating of the building was agreed by building control before the work started	Building Control and Planning do not consider the same matters. Something being acceptable to Building Control has no bearing on its acceptability in terms of Planning.
Supporters have picked fruit at the Orchard, helped prep fruit and have consumed produce from the site.	As above, use is not a determinative factor in this case. This does not provide any explicit evidence as to what occurs in the building or how/what purpose it was constructed for.
The removal of internal walls impacts on the temperature control within the building and therefore impacts on food production and fruit storage	These matters are discussed at section 6.1.6 of the original report and sections 2.6 and 5.2 of Appendix 1 appended to the Committee Report.
The building is not fit for purpose and it would be better moving to the bigger building	This is addressed at paragraph 2.5 of the Committee Report and paragraph 5.2 of Appendix 1, appended to the Committee Report.
Moulds were brought along to a harvest to make sweets.	Paragraph 8.3 of Appendix 1 to the Officers Report acknowledges the presence of moulds.
Support the transfer operations to the bigger barn under construction	The Stables and storage building approved under application 18/00839/FUL was not under construction during a recent site visit. As set out above this is also addressed at paragraph 2.5 of the Committee Report and paragraph 5.2 of Appendix 1, appended to the Committee Report.
As someone who runs a café they cannot fathom how the Council can require the removal of the kitchen which will result in a failure to meet hygiene standards.	The extent of the kitchen was over an above that which would be required for an Agricultural storage building. The proposal is not for a café, it is a store.

It is also pertinent to note that the two letters of representation that highlight that help has been given at harvest, hygiene standards require the kitchen, that the existing building is not fit for purpose and that the building has always been used as its intended purpose are from people located in Edinburgh and the Isle of Skye. Therefore, doubt is cast over whether these contributors could have full knowledge of the use of the building since its construction and whether it is fit for its purpose.

8.4.3 **One** letter making comment on the application has been provided. The comment has been summarised in the table below:

Comment	Officer Response
The Applicant's Barrister has said there is nothing in the planning consent that prohibits the use of plaster board and insultation	The building being considered a dwelling is a result of all the cumulative residential fixtures and fittings as well as the internal subdivision of the wall. The use of residential insulation and high quality plaster finish to the interior walls is a factor that contributes to the Officer findings.
The Applicant's medical circumstances require the building to have temperature control and should be fully insulated.	Medical circumstances are not a material planning consideration in this instance. It would also not be expected for the entire building to be to a residential standard as apples are generally stored at lower temperatures as set out in paragraph 6.1.6 of the Officers Report. Further, stable/store building that is said to be a better fit for purpose is unlikely to provide this level of insulation, particularly as it doubles up as a stable block.

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CIRCULATED BEFORE THE MEETING

REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE

to
SOUTH EASTERN AREA PLANNING COMMITTEE
28 June 2023

MEMBERS' UPDATE

AGENDA ITEM NO. 6

Application Number	**23/00076/FUL**
Location	Land North West of Riversleigh, Nipsells Chase, Mayland
Proposal	Change of use from agricultural building to 2 bedroom bungalow (C3 Use) and alterations to fenestration
Applicant	Mr & Mrs Kenny Paton
Agent	None
Target Decision Date	13.04.2023
Case Officer	Devan Hearnah
Parish	**MAYLAND**
Reason for Referral to the Committee / Council	Member of the Council

Since the meeting held on the 23rd May 2023 in which this application was deferred, the Council has issued an Enforcement Notice against the breach set out within the Committee Report. The Enforcement Notice was served on the 15th June 2023.

Prior to the Enforcement Notice being issued, the Applicant advised Officers that remedial works had been undertaken to the interior of the building in an attempt to remove the internal features that were not included within the original planning permission. The remedial works were undertaken without an admission of a breach of planning control. On receipt of this information the Councils Enforcement Officers undertook a site visit on the 14th June to inspect the changes. As part of the site visit it was observed that although some works had been carried out to the interior of the building, the residential character was still apparent. Examples of this include, skirting boards, window cills, spotlights, plastered walls, wooden flooring in parts and a wall remaining which did not form part of the original layout. The matters relating to things such as the degree of insulation, as discussed at paragraph 5.1.6 of the main report, also still apply. As such, Officers maintain the position that the building is of a residential rather than agricultural use.

Notwithstanding the above, as set out in the main report, the building constructed was not an 'apple storage barn'. As such, even if the building were now to appear to be of an agricultural appearance (the inference in the applicants removal of some fixtures and fittings as above are that the building is now an agricultural building….officers clearly have the opposite view that the works do not go anyway far enough to be consistent with the approved agricultural barn details and this does not set aside the use issue) there is no extant permission that permits the erection of the building at the site. Therefore, the building as constructed represents

unauthorised development. Consequently, the alterations to the building as discussed above do not have a material impact on the previous assessment of the application and the Officers recommendation for refusal for the reason given in the Committee Report still applies.