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DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE'S OFFICE
DIRECTOR OF STRATEGY,
PERFORMANCE AND GOVERNANCE
Paul Dodson

05 January 2021

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 13 JANUARY 2021** at **6.00 pm**.

Please note that this will be a **remote meeting** – Members to access the meeting via Microsoft Teams. Members of the press and public may listen to the live stream via the [Council's YouTube channel](#).

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP

CHAIRMAN

Councillor Mrs M E Thompson

VICE-CHAIRMAN

Councillor J V Keyes

COUNCILLORS

M F L Durham, CC
Mrs J L Fleming
K W Jarvis
C P Morley
R H Siddall
Miss S White

Please note: Electronic copies of this agenda and its related papers are available via the Council's website www.maldon.gov.uk.

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AGENDA
NORTH WESTERN AREA PLANNING COMMITTEE
WEDNESDAY 13 JANUARY 2021

1. **Chairman's notices**
2. **Apologies for Absence**
3. **Minutes of the last meeting** (Pages 7 - 16)

To confirm the Minutes of the meeting of the Committee held on 16 December 2020, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **20/00994/FUL - Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex, CM9 6TL** (Pages 17 - 34)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

6. **20/01013/FUL - Willows, Brick House Road, Tolleshunt Major** (Pages 35 - 46)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

7. **20/01021/FUL - Land Rear of Hill Barn, Rectory Lane, Woodham Mortimer** (Pages 47 - 58)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

8. **20/01076/FUL -70 Colchester Road, Great Totham** (Pages 59 - 74)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

9. **20/01154/FUL - Barns adjacent to Mosklyns Farm, Chelmsford Road, Purleigh** (Pages 75 - 92)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

10. **TPO 10/20 - The Pines, Franklin Road, North Fambridge** (Pages 93 - 98)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.

11. **Any other items of business that the Chairman of the Committee decides are urgent**

Note:

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos. 5 - 9.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing the online form (link below) no later than noon on the working day before the Committee meeting www.maldon.gov.uk/publicparticipation. The first person to register in each category will be sent a Microsoft Teams invitation which will allow them to join the 'live' meeting to make their statement.
4. For further information please see the Council's website – www.maldon.gov.uk/committees
* Please note the list of related Background Papers attached to this agenda.

NOTICES

Sound Recording of Meeting

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session. At the start of the meeting an announcement will be made about the recording.

BACKGROUND PAPERS

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

Development Plans

- Maldon District Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-On-Crouch Neighbourhood Development Plan (2017)

Legislation

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

Supplementary Planning Guidance and Other Advice

i) Government policy and guidance

- National Planning Policy Framework (NPPF) - 2018
- Planning Practice Guidance (PPG)
- Planning policy for Traveller sites - 2015
- Relevant government circulars
- Relevant Ministerial Statements (as referred to in the report)
- Essex and South Suffolk Shoreline Management Plan – October 2010

ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework – 2014 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

All Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.



**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
16 DECEMBER 2020**

PRESENT

Chairman	Councillor Mrs M E Thompson
Vice-Chairman	Councillor J V Keyes
Councillors	M F L Durham, CC, Mrs J L Fleming, K W Jarvis, C P Morley, R H Siddall and Miss S White
In attendance:	Councillors Mrs P A Channer CC and C Morris

134. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the remote meeting, held under new regulations which came into effect on 4 April 2020 in response to the COVID-19 pandemic. She took Members through some general housekeeping issues, together with the etiquette for the meeting and then asked Officers present to introduce themselves.

This was followed by a roll call of all Members present.

The Chairman notified the Committee that Planning Application 20/01021/FUL – Land Rear of Hill Barn Rectory Lane, Woodham Mortimer had been withdrawn due to technical issues.

135. APOLOGIES FOR ABSENCE

There were none.

136. MINUTES OF THE LAST MEETING

RESOLVED by assent that the Minutes of the meeting of the Committee held on 18 November 2020 be approved and confirmed.

137. DISCLOSURE OF INTEREST

Councillor R H Siddall disclosed a non-pecuniary interest as a resident of Little Totham and as the Chairman of Little Totham Parish Council in relation to Agenda Item 5.

Councillor M F L Durham declared a non-pecuniary interest in all items on the agenda as a Member of Essex County Council who were statutory consultees on a variety of matters relating to the Planning process.

Councillor Mrs M E Thompson declared a non-pecuniary interest as she was acquainted with many people speaking tonight through Parish Council work, particularly in relation to Agenda Items 7 and 8.

Councillor J V Keyes declared a non-pecuniary interest in relation to Agenda Items 9 and 11 as he sits on Great Totham Parish Council.

Councillor C Morris joined the meeting at this point.

138. 20/00493/FUL - LAND SOUTH OF BECKINGHAM BUSINESS PARK, BECKINGHAM STREET, TOLLESHUNT MAJOR

Application Number	20/00493/FUL
Location	Land South Of, Beckingham Business Park, Beckingham Street, Tolleshunt Major
Proposal	Erection of 13No. Business & General Industrial Units (Use Classes B1b, B1c and B2), Office Block (Use Class B1a) and Cafe (Use Class A3), complete with related infrastructure including road, parking spaces, drainage, landscaping and ecological area
Applicant	Mr J. Baker - Beckingham Business Park Developments Limited
Agent	Mr Chris Loon - Springfields Planning And Development
Target Decision Date	11.09.2020 EOT 25.11.2020
Case Officer	Julia Sargeant
Parish	TOLLESHUNT MAJOR
Reason for Referral to the Committee / Council	Major Application Member Call in by Councillor R H Siddall – reasons for call-in: S1 sustainable development, D1 its scale and design, S8 settlement boundary, and the impact on highways and transport

A Members' Update had been circulated prior to the meeting that detailed further correspondence from the Agent, representation received from Tolleshunt D'Arcy Parish Council, two further letters of objection and updated Conditions 2 and 25.

Following the Officer's presentation the Chairman invited an Objector Mr Antony Payne, Tolleshunt Major Parish Council representative Councillor Karen Neath, and the Agent Chris Loon, to address the Committee.

The Chairman moved the Officers recommendation as set out in the report and this was duly seconded.

At this point, the Chairman reiterated that Application 20/01021/FUL – Land Rear of Hill Barn, Rectory Lane, Woodham Mortimer (Agenda Item 10) had been withdrawn due to technical issues and apologised to all those who had attended for this item.

A lengthy debate ensued, and in response to a number of comments the Lead Specialist Place referred Members to the Officer's report and advised that any concerns relating to existing arrangements could not be dealt with through the planning process. In respect of reasons for refusal no objection had been made by Essex County Council, the Council had no green belt, proposed car parking was above required standards and a reason based on sewage and foul water could not be robustly defended at appeal (proposed condition 25 sought to deal with this matter).

The Chairman then put the Officer's recommendation of approval to the Committee and upon a vote being taken the motion was declared lost.

Having spoken against the application, highlighting a number of concerns, Councillor R H Siddall proposed that the application be refused, contrary to the Officer's recommendation. He provided specific reasons for refusing the application but following advice from the Lead Specialist Place amended these to one reason. That given the application was contrary to policy S8 as it had an impact on the character of the area, policies D2 and N2 due to the impact, scale and density of the development, would not fit within its surround area and the density of the design. This was duly seconded and it was agreed that the wording would be delegated to Officers in consultation with the Chairman and Ward Members. Upon a vote being taken this was agreed.

RESOLVED that the application be **REFUSED** for the reasons as agreed above.

Councillor Mrs J L Fleming left the meeting at this point and did not return.

139. 20/00954/FUL - BARNS AT LOWER FARM, BLIND LANE, TOLLESHUNT KNIGHTS

Application Number	20/00954/FUL
Location	Barns at Lower Farm, Blind Lane, Tolleshunt Knights
Proposal	Conversion of barns to dwelling
Applicant	Mrs N Gudgeon
Agent	Mr G Clark - Clark Partnership
Target Decision Date	18.12.2020
Case Officer	Hayleigh Parker-Haines
Parish	TOLLESHUNT KNIGHTS
Reason for Referral to the Committee / Council	Departure from Local Plan

A Members' Update had been circulated that advised the Applicant had completed a Section 106 agreement in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and as a result Section 8 had been amended accordingly.

The Chairman moved the Officers' recommendation as set out in the report. This was duly seconded and upon a vote being taken was agreed.

RESOLVED that the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with approved drawings: 20/1609/00, 20/1609/01, 20/1609/02A, 20/1609/03, 20/1609/04, 20/1609/05, 20/1609/06, 20/1609/07, 20/1609/08, 20/1609/09, 20/1609/10, 20/1609/11, 20/1609/12 and 20/1609/13A
3. Prior to their use in the development hereby approved, details or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. Prior to the occupation of the development hereby approved details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided prior to the occupation of the dwelling hereby approved in accordance with the approved details and be retained as such in perpetuity.
5. Prior to the occupation of the development details of both hard and soft landscape works to be carried out shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of the development, unless otherwise first agreed in writing by the Local Planning Authority.

If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

6. No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - The parking of vehicles of site operatives and visitors
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - Wheel washing facilities
 - Measures to control the emission of dust, noise and dirt during construction
 - Hours and days of construction operations.
7. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be

implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 years events plus 40% climate change allowance.
- 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1. greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

You are advised that in order to satisfy the soakaway condition the following details will be required: - details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

8. No development above ground level shall occur until details of the foul drainage scheme to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
9. The vehicle parking area and associated turning area shown on plan 20/1609/02A shall be provided prior to the occupation retained in this form in perpetuity. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
10. Details of the refuse and cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained for such purposes in perpetuity thereafter.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site.
12. The public's rights and ease of passage over footpath number 8 in Tolleshunt Knights shall be maintained free and unobstructed at all times.

140. 20/00955/FUL AND 20/00956/LBC - BOHUNS BYRE CHURCH STREET, TOLLESBURY

Application Number	20/00955/FUL & 20/00956/LBC
Location	Bohuns Byre Church Street Tollesbury
Proposal	Conversion, renovation and extension to historic barn to create 2 bedroom house.
Applicant	Mrs Katherine Brown
Agent	Ms Annabel Brown - Annabel Brown Architect
Target Decision Date	16.11.2020 EOT 18.12.2020
Case Officer	Hannah Bowles
Parish	TOLLESBURY EAST
Reason for Referral to the Committee / Council	Member Call In from Councillor E L Bamford for Departure from Local Plan

Following the Officer's presentation, the Chairman advised that she agreed for a statement from an Objector, Mr Matthew Byatt to be read out. Following this the Agent, Ms Annabel Brown addressed the Committee.

In response to a debate and comments raised, the Lead Specialist Place provided information on a number of points including the lack of a Five Year Housing Land Supply (5YHLS), marketing, use of the adjoining site, the proposed scale of the dwelling etc. He advised that conditions could be imposed to address concerns around trees and ground contamination.

The Chairman moved the Officer's recommendation that the application be approved with the additional two conditions as advised by the Lead Specialist Place. This was duly seconded but upon a vote being taken was declared lost.

The Chairman proposed that the application be refused, contrary to the Officer's recommendation. Following a discussion regarding reasons for refusal it was agreed that the reason for refusal should relate to a lack of evidence with the precise wording delegated to Officers in consultation with the Chairman and Ward Members. This was duly seconded and upon a vote being taken was agreed.

At a later point in the meeting the Lead Specialist Place advised that a separate decision in relation to the Listed Building application for this site was required. The Chairman proposed that the Listed Building application (20/00956/LBC) be refused for the reason that there was not optimum viable use of the building. This proposal was duly seconded and upon a vote being taken was agreed.

RESOLVED

20/00955/FUL:

- (i) that the application be **REFUSED** subject to the reason as detailed above with the wording delegated to Officers in consultation with the Chairman and Ward Members;

20/0956/LBC

- (ii) that Listed Building Consent be **REFUSED** subject to the reason as detailed above with the wording delegated to Officers in consultation with the Chairman and Ward Members.

Councillor C Swain joined and Councillor Mrs P A Channer, CC left the meeting during this item of business.

141. 20/00974/HOUSE - 19 BLIND LANE, GOLDHANGER

Application Number	20/00974/HOUSE
Location	19 Blind Lane, Goldhanger
Proposal	Double garage with room in roof to the front of existing dwellinghouse
Applicant	Wells
Agent	Paul Lonergan - Paul Lonergan Architects
Target Decision Date	19.11.2020
Case Officer	Hannah Bowles
Parish	GOLDHANGER
Reason for Referral to the Committee / Council	Member Call In from Councillor M E Thompson - Reason: Goldhanger Parish Council has asked me to call this in as they support the application. The relevant policy is D1, in particular items a & b.

Following the Officer's presentation, Councillor Elaine Wells speaking on behalf of Goldhanger Parish Council addressed the Committee.

The Chairman moved the Officer's recommendation that the application be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

A debate ensued during which a number of Members commented on the design, appearance and impact of the proposed dwelling. In response to a question regarding personal circumstances, the Lead Specialist Place provided additional information and guidance.

The Chairman then put the Officer's recommendation to refuse the application to the Committee and upon a vote being taken it was declared lost.

The Chairman then proposed that the application be approved, contrary to the Officer's recommendation, for the reason that the impact on the countryside and street scene

would not cause significant harm, subject to conditions as delegated to Officers. This was duly seconded and upon a vote taken it was agreed.

RESOLVED that the application be **APPROVED** subject to conditions delegated to Officers.

Councillor M G Bassenger joined the meeting during this item of business.

142. 20/01000/OUT - BUILDING AT THE OLD DAIRY, BROAD STREET GREEN ROAD, GREAT TOTHAM

Application Number	20/01000/OUT
Location	Building at the Old Dairy, Broad Street Green Road, Great Totham
Proposal	Replacement of a commercial building with up to three dwellings
Applicant	Mr Lawson
Agent	Peter Le Grys – Stanfords
Target Decision Date	15.12.2020
Case Officer	Hayleigh Parker-Haines
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Member call in from Councillor J V Keyes Reason: S1, S8, E1 and H4

A Members' Update had been circulated prior to the meeting that detailed representation received from Great Totham Parish Council.

During the Officer's presentation a verbal update regarding legal agreement had been provided to overcome the third reason for refusal. However proof of the checking fee had not been provided and therefore Officers proposed that reason for refusal 3 remained.

A debate ensued around the brownfield site, its status as employment land and its location in relation to nearby housing estates. In response to Members questions the Lead Specialist Place confirmed that the site was currently in use as B1 employment land and could be adjacent to a household without causing harm.

The Chairman then moved the Officer's recommendation that the application be refused for the reasons as set out in section 8 of the report. This was duly seconded and upon a vote being taken the motion was declared lost.

Reasons for approval were discussed. The Lead Specialist Place advised Members there was a need to have regard to reasons for refusal as well as the sites planning history, that it was not within a settlement boundary and the loss of employment land.

In response to the debate the Lead Specialist Place advised the Committee it could defer consideration of this application to its next meeting and Officers provide additional information but new information could not be brought into the reason for approval.

Councillor M F L Durham, proposed that the Committee defer the application for further information, this was duly seconded. Upon a vote being taken the motion was declared lost.

Councillor J V Keyes proposed that the application be approved, contrary to the Officers' recommendation and gave reasons for approval. This was duly seconded. Reasons for approval were discussed, guidance provided by Officers and the Chairman clarified that the reason for approval was that the gain of the three dwellings outweighed the loss of employment land. The Chairman put the proposed approval to the Committee for the reason outlined. Prior to voting on this the Lead Specialist Place suggested that conditions be delegated to Officers in consultation with the Chairman and Ward Members. Upon a vote being taken this was duly agreed.

RESOLVED that the application be **APPROVED** subject to conditions delegated to Officers in consultation with the Chairman and Ward Members.

143. 20/01021/FUL - LAND REAR OF HILL BARN RECTORY LANE, WOODHAM MORTIMER

Application Number	20/01021/FUL
Location	Land Rear Of Hill Barn Rectory Lane, Woodham Mortimer
Proposal	Proposed conversion of existing equestrian/storage buildings to form offices (Use Class E(g) formally B1) alongside access, parking, landscaping and other associated development.
Applicant	Mr Mervyn Clark
Agent	Mr Lindsay Trevillian - Phase 2 Planning Ltd
Target Decision Date	03.12.2020 EOT 18.12.2020
Case Officer	Hannah Bowles
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call In from Councillor M F L Durham, CC - Reason: This is an employment opportunity which complies with elements of the Local Development Plan (LDP). Departure from Local Plan

Following the Chairman's earlier announcement, it was noted that this item had been withdrawn.

144. 20/01083/HOUSE - FIR TREES, MALDON ROAD, TIPTREE

Application Number	20/01083/HOUSE
Location	Fir Trees, Maldon Road, Tiptree
Proposal	Rear two storey extension
Applicant	Mr A McCheyne
Agent	Paula Robertson – Plater Claiborne Architects
Target Decision Date	18.12.2020
Case Officer	Hayleigh Parker-Haines
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Member call in from Councillor R H Siddall Reason: S1, H7, S8 and D1

Following the Officer's presentation, the Applicant, Mr Alan McCheyne, addressed the Committee. The Chairman then moved the Officer's recommendation of refusal and this was duly seconded.

During the discussion that ensued the Lead Specialist Place provided guidance on developments within the countryside, agricultural ties and how such dwellings were only allowed in exceptional circumstances.

The Chairman then put the Officer's recommendation of refusal to the Committee and upon a vote being taken it was declared lost.

Councillor R H Siddall proposed that the application be approved, contrary to the Officer's recommendation, for the reason it had been demonstrated the 87 requirements had been met by the applicant to ensure the agricultural land could be worked effectively and accommodate that need. This was duly seconded.

The Chairman put Councillor Siddall's proposed approval of the application to the Committee advising that should it be mindful to agree this conditions would be delegated to Officers. Upon a vote being taken this was agreed.

RESOLVED that the application be **APPROVED** subject to conditions delegated to Officers in consultation with the Chairman and Ward Members.

There being no further items of business the Chairman closed the meeting at 9.15 pm.

MRS M E THOMPSON
CHAIRMAN



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

Application Number	20/00994/FUL
Location	Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex CM9 6TL
Proposal	Full planning application for the proposed change of use from Agricultural to Dwellinghouse (C3) and associated operational development of the Apple store and Essex barn at Little Grange Farm
Applicant	Mrs Sarah Chenevix-Trench
Agent	Miss Nicole Bushell - Arcady Architects
Target Decision Date	EOT 15.01.2021
Case Officer	Annie Keen
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Departure from Local Plan Member Call In – Councillor K W Jarvis Reason – Policies S1, S8 and D1

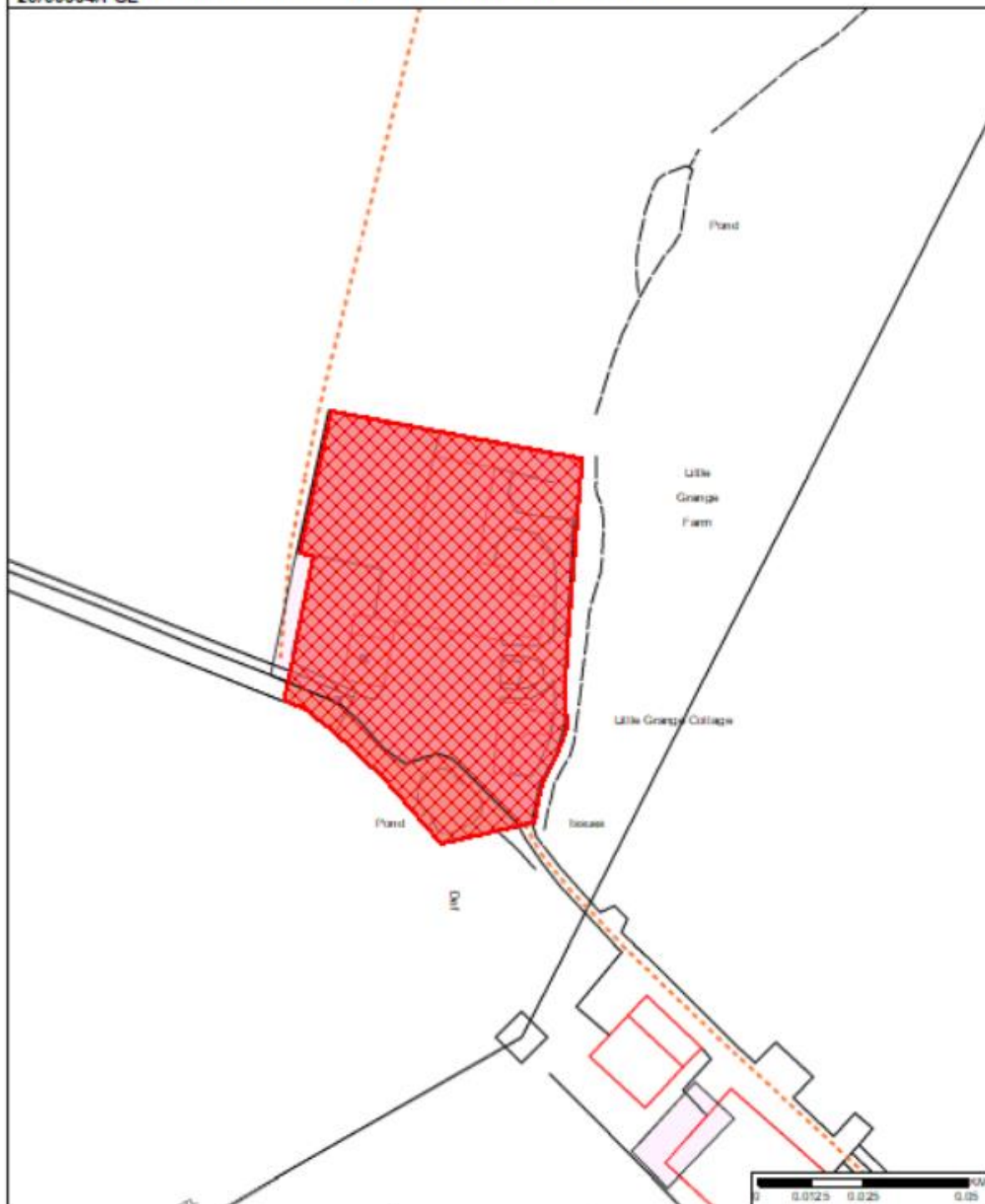
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Little Grange Farm, Marpits Road, Woodham Mortimer
20/00994/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	North West Area Committee
	Date:	18/12/2020
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located along an unmade road to the east of Marlpits Road and to the north Little Grange Farm track. The site is situated outside the settlement boundary of Woodham Mortimer. The site currently accommodates a residential dwelling (the farmhouse) and a number of agricultural buildings of varying ages, designs and sizes which were formerly used as part of the fruit farm but are now redundant.
- 3.1.2 Planning permission is sought for the demolition of the existing asbestos barn and the conversion of the existing Apple Barn and Essex Barn into a residential dwelling. Alterations to the buildings would allow for the installation of doors, windows and rooflights. Internally, at ground floor the development would create a kitchen/dining area, living room, office, study, utility room, WC's, garage and a therapy pool. At first floor level a master bedroom with an en-suite and dressing rooms and three further bedrooms and two bathrooms would be developed.
- 3.1.3 There would be no increase in the scale of the buildings, with the Apple Barn measuring 23 metres in length and 7.4 metres in width, with a maximum eaves height of 5.1 metres and a ridge height of 7.9 metres. The Essex Barn measures 5.6 metres in width and 23.9 metres in length, with an eaves height of 4.6 metres and a ridge height of 7.8 metres. The Essex Barn adjoins the Apple Barn on its southern elevation.
- 3.1.4 In terms of materials, the existing asbestos roof to the Apple Barn will be replaced with black bitumen corrugated sheeting and the roof of the Essex Barn will be replaced with clay pantiles. The back feather edged boarding of the Essex Barn will be replaced whilst the Apple Barn would have 'crittal style' windows installed.
- 3.1.5 This application is a resubmission of 18/01063/FUL which proposed to demolish the existing barn between the farmhouse and the Essex barn and convert two of the redundant agricultural barns into live/work units, along with an extension to the Essex Barn. Conversion of two smaller outbuildings was also proposed to create further live/work units, along with the construction of a cart lodge and a cart lodge with an office at first floor to serve these units. This application was refused for the following reason:

Policy S8 of the LDP defines the settlements of the Maldon District within which residential development is to be generally directed. The policy goes on to state that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. 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. The development of the site for new live / work dwellings remote from community services and essential support facilities and inaccessible by sustainable modes of transport in this rural location is considered to be unacceptable in this instance. The provision of commercial floorspace is noted, but it is considered to be poorly related to the host dwellings and it has not been justified why some of the accommodation must be provided in a large extension rather

than the retained accommodation. The scale of the proposed residential accommodation is considered to be disproportionate to the commercial floorspace and tantamount to the erection of independent dwellings which conflicts with the objectives of the development plan. Furthermore, the resultant dwellings and their residential curtilages would lead to the domestication of the site in a manner that would erode the setting and the wider rural landscape, thereby resulting in an incongruous form of development that would have an urbanising effect by way of visual intrusion and encroachment into the rural landscape setting. The harm that has been identified is not outweighed by other material planning considerations and therefore the proposal is deemed to be contrary to the overarching objectives contained within policies S1, S8, D1, E4, H4 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.

- 3.1.6 An appeal against the above decision was made under reference APP/X1545/W/19/3223034 and subsequently was dismissed on 18 October 2019 as it was found by the Inspector that the creation of two dwellinghouses, along with additional live/work units, would alter the character of the site to form a *'cluster of domestic properties surrounded by their associated paraphernalia'*. The inclusion of live/work units on the site would conflict with the policies of the Local Development Plan (LDP) and as a result it was considered by the Inspector that this conflict, and the associated harm caused by the development, would, *'outweigh the modest social and economic benefits associated with the provision of two dwellings. There are no material considerations, including the advice of the Framework, that justifies a decision other than in accordance with the development plan'*. Furthermore, the Inspector considered the development would have represented a *'conspicuous encroachment of built urban form into the countryside that would erode the rural character of the area. Although the proposal would be screened to a degree by existing vegetation, its incongruity would be apparent from the surrounding highway network, as well as from certain vantage points along adjacent public footpaths'*.
- 3.1.7 The alterations made to the current scheme include the removal of the previously proposed live/work units and the reduction in the number of proposed dwellings on site from four dwellings to one dwelling. Alterations have also been made to the elevations of the Apple Barn and Essex Barn, including amendments to the design of the windows and entrance to the Apple Barn and to the appearance of the southern elevation of the Essex Barn.
- 3.1.8 It is also noted the supporting information provided with the application states the proposed development is for a person with special needs and the inclusion of a therapy pool and lift cannot be accommodated for within the existing dwelling on site.

3.2 Conclusion

- 3.2.1 The proposed development would result in an increase in the number of residential units on the site and would be highly visible from views across the fields and from the nearby PRow, resulting in the intensification of residential development on the site and creating an urbanising effect on the locality. Due to this the development would detrimentally impact upon the character and appearance of the site and the intrinsic beauty of the countryside. Furthermore, due to the remote location of the site and the distance to public services, it is considered the development would not be located

within a suitable sustainable location. As a result, the development has not overcome the previous concerns raised within application 18/01063/FUL or by those raised by the Planning Inspectorate in appeal APP/X1545/W/19/3223034.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 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 – 57 Planning conditions and obligations
- 117 – 123 Making effective use of land
- 124 – 132 Achieving well-designed places
- 170-183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Planning Policy Guidance (PPG)
- Maldon District Design Guide (MDDG)
- Maldon District Vehicle Parking Standards SPD (VPS)
- Specialist Housing Needs SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (NPPF) require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

“(ii) 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.”

Footnote 7 - This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the Local Planning Authority in its application of NPPF policies applicable to conditions where the 5 year housing land supply cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.1.5 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. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘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; or that specific policies in this Framework indicate development should be restricted’.
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 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 but there are no specific policies on sustainability in the current Local Plan. 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. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF, the LPA is 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

5.1.8 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'

5.1.9 The application site is located outside of the defined settlement boundary of Woodham Mortimer, a village that is classified as one of the "small villages" within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.

5.1.10 Woodham Mortimer is classed as a small village containing few or no services and facilities, with little access to public transport and very limited or no employment opportunities. Therefore, it is considered that any future occupiers of the dwelling would be required to travel to access day to day facilities, work and education. Whilst it is noted that supporting information provided with the application states there are several bus services running from Woodham Mortimer and the bus route map shows a stop at Oak Corner, 0.7 miles from the site, the bus timetable shows the closest bus stop is located approximately 1 mile (1,609 metres) to the north of the site. This stop is situated along Post Office Road and there are no footpaths that lead to the bus stop and the road is unlit, which would discourage the use of public transport. The D1 and D2 bus offers services to Maldon and runs around every hour with the first pick up being at 07:50 and the last being 17:28, which would severely restrict the opportunities to use public transport to meet the day to day needs of the future occupiers. Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 103 of the NPPF which states that *"The planning system should actively manage patterns of growth in support of these objectives. Significant 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."* Overall it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and the proposal would also fail to accord with Policy T2 of the LDP.

5.1.11 Whilst it is noted that paragraph 77-79 supports sustainable development in rural areas, where it will maintain the vitality of rural communities and more specifically paragraph 79 of the NPPF advises that the subdivision of an existing residential dwelling is a circumstance whereby the development of isolated homes in the

countryside would be considered acceptable. However, as stated above, Woodham Mortimer is a small village with limited employment opportunities, with limited transport to larger villages/settlements and therefore, it is not considered that the subdivision of the site would maintain the vitality of the community.

- 5.1.12 Therefore, it is considered that the principle of providing an additional dwelling at this site is not founded and is in conflict with the guidance contained within the NPPF and the LDP.

5.2 Housing Need and Supply

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need. The application proposes to convert two existing agricultural buildings into one four-bedroom dwelling.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one- and two-bedroom units to create better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units, with around 71% of all owner-occupied properties having three or more bedrooms.
- 5.2.5 The Council is therefore encouraged in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. In this respect, the proposal would not meet this policy requirement and therefore, is of negligible benefit in terms of improving the Council's housing stock in terms of number of dwellings and dwelling size.
- 5.2.6 It is noted within the supporting information provided with the application that it is stated the development is for a person with special needs and would provide a new residence for the owners of the site. The development would accommodate a therapy pool, platform lift, widened doors ways to allow for wheel chair access and a level threshold. Whilst the supporting information states the dwelling has been designed to accord with policy H3 of the LDP, this policy is aimed at much larger developments

and insufficient information has been provided to support the need for specialist housing in this particular instance and in this location. Furthermore, as discussed further below, the special needs of the Applicant are not considered to outweigh the conflict with the Council's adopted Policy.

5.3 Design and Impact on the Character of the Area

5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high quality 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”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.

5.3.3 This principle has been reflected to the approved LDP. 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 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.

5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.

5.3.5 In addition, 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 the original building 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 This application is a resubmission of 18/01063/FUL which proposed the conversion of the Apple Barn and Essex Barn into live/work units, with the addition of an extension to the Essex Barn, the conversion of two further live/work units and the construction of two cartlodes, one with an office above. This application was refused due to the impact of the development on the intrinsic character and beauty of the countryside, inaccessibility to sustainable transport and the domestication of the site which would have resulted in an urbanising effect on the setting and wider rural landscape, resulting in a visual intrusion and encroachment into the rural landscape. Furthermore, the scale of the residential accommodation was considered to be disproportionate to the level of commercial floorspace provided.
- 5.3.7 The revisions to the scheme have removed the previously proposed live/work units, extension and cartlodes and proposes the conversion of the Apple Barn and Essex Barn into one dwelling. In terms of scale, mass and bulk of the buildings on site, the current scheme would result in a reduction of built form due to the demolition of the existing barn between the Essex Barn and the farmhouse, however the plans show the hardstanding would remain and be utilised as a courtyard with a domestic appearance and the resultant paraphernalia associated with a dwelling.
- 5.3.8 Whilst no extensions are proposed to the Apple and Essex Barns, the installation of windows and doors to the elevations and rooflights to eastern and western roofslopes would only serve to reinforce the residential appearance of the building. It is also proposed that the existing asbestos roof of the Apple Barn would be replaced with black bitumen corrugated sheeting, whilst the Essex Barn would have clay pantiles.
- 5.3.9 The alterations to the 19th century Apple Barn would include the installation of an entrance door and windows to the eastern elevation with light coloured detailing above and below the windows, which would contrast with the red brick façade of the barn. Further windows and doors would be installed at ground floor level in the northern elevation, along with a Juliet balcony at first floor whilst the western elevation would have large full height windows. The Essex Barn would have a window installed within the eastern elevation whilst the doors to the southern elevation would be visible due to the removal of the adjoining barn to the south.
- 5.3.10 The appearance of the barns as explained above, particularly the Apple Barn, would be significantly altered due to the installation of glazing, however it is considered the proposed alterations would not detrimentally impact upon the character and appearance of the barn or the site and therefore no objections are raised to the design of the proposed development.
- 5.3.11 Due to the presence of rooflights within the roofslopes of the existing Apple Barn, the proposed rooflights would not appear out of keeping. Whilst the rooflights would be of different sizes, with smaller rooflights to the western roofslope and larger rooflights to the eastern roofslope, it is considered the proposed rooflights would not detrimentally impact upon the appearance of the development.
- 5.3.12 Due to the age of the barns the Council's Specialist in Conservation and Heritage was consulted. The barns are considered to possess minor significance due to their age

and relationship with one another, however the majority of the Victorian barns on the site have been demolished and the remaining barns have been obscured by 20th century additions, such as the asbestos barn. It is considered the demolition of this barn would allow for the 19th century barn to be visible and would restore the relationship between the Victorian farmhouse and the 19th century buildings. It is therefore considered the proposal would cause no harm to the buildings on site that possess minor heritage significance.

- 5.3.13 Whilst the proposed removal of the asbestos barn to the south would allow for clearer views of the timber framed 19th century Essex barn, and in that respect would improve the appearance of the site, the retention of the hardstanding for use as a courtyard would not reduce the level of hard landscaping. The block plan shows to the north and west of the site hedging is proposed to screen the dwelling from the countryside beyond, however the proposal would still result in a new dwelling within the countryside.
- 5.3.14 Furthermore, due to the height of the buildings the proposed dwellings would be highly visible from views across the fields to the north, east, south and west and from the PRow which runs to the south-east and west of the site. The addition of a further dwelling on the site would result in the inappropriate intensification of residential development on the site, creating an urbanising effect on the locality. Due to this it is considered that the proposed development has not overcome the previous reason for refusal.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 in the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.4.2 Due to the proposed dwelling being situated 13.4 metres from the existing farmhouse on the site it is considered that there would not be any loss of amenity to the occupiers of the existing farmhouse.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum 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.

- 5.5.2 The site, which is accessed via an unmade track to the east of Marlpits Road, would utilise the existing access track and therefore no new access would be created. The plans show there would be sufficient parking to the east and south of the development for three or more parking spaces of the required size, as stipulated within the Maldon District Vehicle Parking Standards SPD for dwellings with four bedrooms or more.
- 5.5.3 A consultation response from the Highways Authority has raised no objections to the proposed development subject to a condition regarding the loading/unloading and manoeuvring of vehicles being made clear of the highway.

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 advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.6.2 The proposed dwelling would sit on a site with in excess of 100m² of private amenity space, as specified in the Maldon Design Guide for dwellings with three bedrooms or more. Additionally, the existing dwelling would also have over 100m² of private amenity space. It is therefore considered this aspect of the proposed development would be in accordance with policy D1.

5.7 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

- 5.7.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.2 Natural England anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - Natural England have provided an HRA record template for use where recreational disturbance is the only HRA issue.

5.7.4 Policy N2 of the LDP states that:

“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.”

- 5.7.5 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.7.6 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England would not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.7.7 To accord with Natural England’s requirements, a Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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, as follows:

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

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to four dwellings

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

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.

- 5.7.8 As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £125.58 per dwelling is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.
- 5.7.9 Based on the lack of secured mitigation through RAMS the proposal would be contrary to policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

5.8 Planning Balance and Sustainability

- 5.8.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is therefore engaged in this case and hence the local planning authority must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.8.2 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 an economic, social and environmental objective as set out in the NPPF.
- 5.8.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.8.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.8.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional dwelling may support local businesses within the settlement such as shops and services. This would however be very limited given the scale of the proposal. Equally, there is no guarantee that the construction work would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal at the very least.
- 5.8.6 In social terms the development would provide limited assistance in supporting a strong, vibrant and healthy community. The site is considered to be located in an area where there is limited access to facilities and is remote from day to day services as

these are not in close proximity and therefore the occupants would be reliant upon private car. The site is currently used for agricultural purposes and contains a farmhouse and several agricultural buildings. The proposed development would create one dwelling with 4No. bedrooms and therefore due to the policy requirement for smaller dwellings within the district this would not weigh in favour of the development in social terms.

- 5.8.7 In environmental terms the site is in a relatively remote location due to there being limited access to public transport and therefore the use of private car for access to everyday needs and services would be required. This therefore does not weigh in favour of the development in environmental terms with the environmental impact of the development, in terms of traffic and pollution, needing to be balanced against any benefits of the development and the impact of the development on the surrounding area.
- 5.8.8 Overall, taking this into account, due to the remote nature of the site the development is not considered to be sustainable, and therefore the principle of development would not be acceptable. Accordingly the adverse impacts of allowing the development would significantly and demonstrably outweigh any benefits when assessed against the policies set out within the NPPF.

5.9 Other Matters

- 5.9.1 A consultation response from Environmental Health raised no objection to the proposed development subject to conditions. These conditions include a construction management plan to ensure the prevention of pollution to ground and surface waters, a surface water a foul drainage scheme, as well as an informative to ensure the appropriate removal of asbestos on the site.
- 5.9.2 A combined bat and owl survey was also submitted with the application confirming there is no presence of bats and owls colonising within the barns. The council's Ecology department was consulted, however, at the time of writing no response had been received.
- 5.9.3 The Applicant has highlighted some personal circumstances that they consider weigh in favour of the planning application and it is considered appropriate to balance the personal benefits of the proposal against the harm highlighted above.
- 5.9.4 In *Westminster City Council v Great Portland Estates plc* (1985), it was confirmed that the personal circumstances of the applicant could be taken into account as a material consideration. However, it must be noted that in most instances personal circumstances are normally a material planning consideration that should be given minimal weight. This, because although the applicant might apply for permission in person, any permission granted usually applies to the land and property itself, and passes with the property, should it be sold. The Decision Maker is required to have regard to this wider and long-term consideration, rather than any personal factors or characteristics that might apply to the particular applicant at any one point in time.
- 5.9.5 This has resulted, through previous guidance and refined through caselaw, for the personal circumstances of the Applicant needing to be considered as "very special circumstances". Unfortunately, there is no definite list for what will constitute very

special circumstances, but the threshold intrinsically has to be high and will turn on the facts and circumstances of the individual application.

- 5.9.6 The Applicant has provided some information in relation to the reasoning for the application. Whilst the LPA is sympathetic to the needs of the Applicant there is a need to consider the application against the Development Plan unless material considerations indicate otherwise. In this instance it is not considered that the personal circumstances of the Applicant outweighs the conflict with the Council's adopted policies highlighted above.

6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
99/00269/FUL	Proposed single storey side extension to form utility and dining rooms	Approved
02/00067/AGRPN	Proposed extension to grain store	Prior Approval Not Required
05/01165/AGR	Proposed New Building for Grain Storage.	Prior Approval Not Required
07/01097/AGR	Grain store	Prior Approval Not Required
18/01063/FUL	Convert 2No. redundant agricultural barns to a live/work unit with an extension. Convert 2No. smaller outbuildings to formal live/ work. Demolish 1No. barn and lean to extension. New build 1No. cart lodge and 1No. cart lodge with office above.	Refused

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer and Hazeleigh Parish Council	The Council believe the proposal to demolish the existing disused asbestos barn and expose the character of the Essex Barn in conjunction with changes for residential use without any additional built form, will enhance the character of the existing site making good use of the rural location that will provide a less cluttered landscape with buildings more suited to the immediate environment.	Comments noted
Purleigh Parish Council	No response at time of writing	N/A

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Authority	No objection subject to conditions regarding loading/unloading, reception and storage of building materials and the manoeuvring of all vehicles which must be undertaken clear of the highway.	Comments noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Conservation and Heritage	The value of the site as an example of a 19th-century farmstead has been largely undermined in the 20th century by the demolition of most of the Victorian buildings and by the erection of new structures which obscure the principal elevations of the old threshing barn. The buildings on the site do not possess sufficient interest to qualify as non-designated heritage assets in terms of paragraph 197 of the NPPF. In which case neither the policies in Chapter 16 of the NPPF, nor policy D3 of the Maldon LPD are engaged in this instance. The demolition of the asbestos barn will allow the traditional form of the 19th century barn to be better appreciated, and would restore its original relationship with the Victorian farmhouse and other 19th century former farm buildings. Overall, I consider that no harm would be caused to the minor heritage significance which the 19th-century buildings on the site. For these reasons, I raise no objection to this application.	Comments noted
Environmental Health	No objections but would recommend conditions in relation to a construction management plan, surface water drainage and foul drainage.	Comment noted
Ecology	No response at time of writing	N/A

7.4 Representations received from Interested Parties

7.4.1 No letters of representation were received.

8. REASONS FOR REFUSAL

- 1** The proposed development, by reason of its location and the resultant intensification of residential development would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012).
- 2** 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 and the NPPF.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

Application Number	20/01013/FUL
Location	Willows, Brick House Road, Tolleshunt Major
Proposal	Proposed alterations to existing kennels and replacement with two log cabins and the erection of replacement kennels
Applicant	Mr And Mrs P O Connor - Benbela Cockapoos
Agent	Mr Mark Jackson - Mark Jackson Planning
Target Decision Date	15.01.2021
Case Officer	Hayleigh Parker-Haines
Parish	TOLLESHUNT MAJOR
Reason for Referral to the Committee / Council	Member call in from Councillor Mrs M E Thompson Reason: D1 1(d), 2 and 4

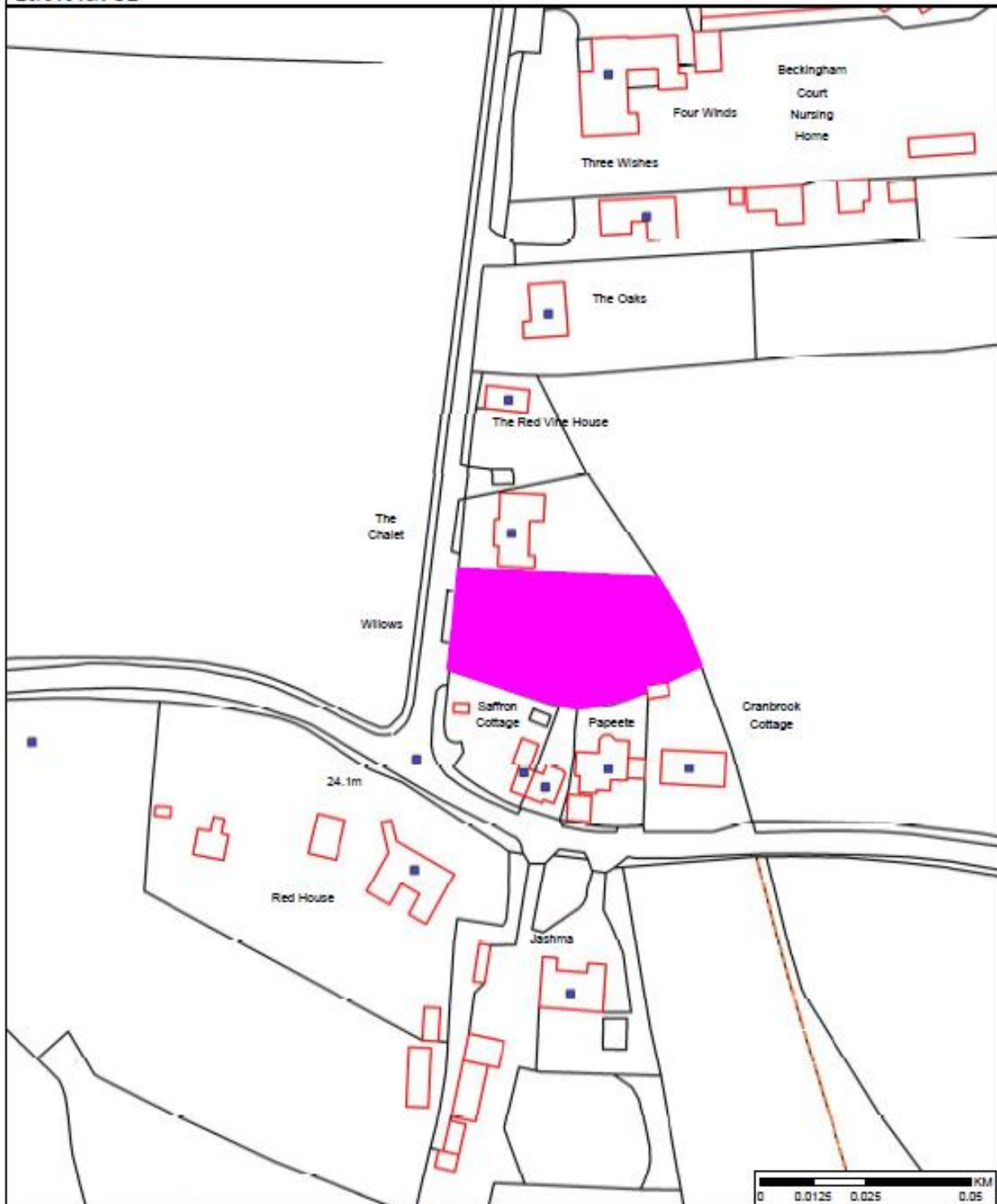
1. RECOMMENDATION

APPROVE subject to conditions as detailed in Section 8 of this report.

2. SITE MAP

Please see overleaf.

Willows, Brick House Road, Tollesbury
20/01013/FUL



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Maldon District Council: 100018588 2014

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Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: NW Area Planning Committee

Date: 15/12/2020

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the eastern side of Brickhouse Road and does not fall within a defined settlement boundary. The application site is occupied by a detached dwellinghouse, with detached outbuildings currently occupied in association with an existing dog breeding use at the application site. The outbuilding to the north eastern boundary is stables, the outbuilding to the south of the dwelling is referred to as kennels on all supporting documents accompanying the application besides the annotation on the proposed block plan whereby it is referred to as a garage, this is considered to be an administrative error and the outbuilding directly east of the dwelling accommodates kennels and a run.
- 3.1.2 Planning permission is sought to demolish the existing outbuilding directly to the east of the dwelling and the construction of two 'log cabins' to be used as kennels. The existing structure has a maximum height of 2.4 metres and occupies a footprint of 77m². These proposed buildings are denoted on the block plan as Log Cabin A and Log Cabin B. Log Cabin A would have a maximum height of 2.4 metres with an eaves height of 2 metres, a width of 4 metres and a depth of 5 metres. This would accommodate three spaces each to accommodate one dog. Log Cabin B would have a maximum height of 2.4 metres with an eaves height of 2 metres, a width of 7 metres and a depth of 4 metres. This would accommodate an office area and two further spaces for a maximum of three dogs. These would be constructed of timber weatherboarding and would have a felt roof; no windows are proposed to the northern, western or eastern elevations.
- 3.1.3 Planning permission is also sought for the extension of the outbuilding to the south of the dwelling. This would be a wraparound extension to the northern and western elevations of the building. The proposed extension would have a height of 2.1 metres, a maximum depth of 5.7 metres (increasing the overall depth of the building by 1 metre) and a maximum width of 5.2 metres. This would accommodate kennels. This would include alterations to the existing openings and the removal of the existing pitched roof of the garage being replaced with a flat roof to match the proposed extension.

3.2 Conclusion

- 3.2.1 It is considered that the proposed works, by reason of their location and design would not harm the appearance or character of the locality and, due to its relationship with the adjoining properties and appropriately worded conditions, the proposed development is not considered to result in any undue harm by way of overlooking or loss of amenity to neighbouring residents. In addition the proposed development does not demonstrably impact on the provision of amenity space and car parking provision. It is therefore considered that the proposed development is in accordance with policies D1, S1 and H4 of the approved LDP.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 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 – 57 Planning conditions and obligations
- 117-123 Making effective use of Land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- E1 Employment
- E4 Agricultural and Rural Diversification
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Maldon District Vehicle Parking Standards SPD (VPS)
- Maldon District Design Guide SPD (MDDG)
- Planning Practice Guidance (PPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The principle of extending/altering a building in association with the functional requirements of the site is considered acceptable in compliance with policies S1, E1 and E4.

5.1.2 It is noted that the site is a sui generis use as it consists of a dwellinghouse, and therefore has a residential use, alongside the commercial use brought about by the use of the site in association with dog breeding and kennels. Having carried out a history search for the site, no planning history can be found in relation to the Sui Generis use having been approved. However, it has been confirmed that the Applicants have held a license for a minimum of 18 Bitches in excess of 10 years and therefore, on the balance of probability, the use of the site is considered to be lawful. Therefore, it is considered that the principle of the proposed development is acceptable. Other material considerations are discussed 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. The NPPF states that:

“The creation of high quality 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”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.2.3 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 in terms of:-

‘Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;

Height, size, scale, form, massing and proportion;

Landscape setting, townscape setting and skylines;

Layout, orientation, and density;

Historic environment particularly in relation to designated and non-designated

- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.

- 5.2.5 The proposed removal of the existing kennel and run to the rear of the site and the replacement with two log cabins would not be highly visible within the surrounding area due to the existing dwelling largely blocking any views. The existing structure to the east of the dwelling occupies a footprint of 77m², the proposed log cabins would occupy a combined footprint of 41m² which is a decrease in built form at the application site. Furthermore, these are in a similar location and of the same scale and bulk as the existing structure. Whilst it is noted that the proposed log cabins are of limited architectural merit, they are considered to be an improvement on the existing built form on site which appears untidy. Therefore, it is not considered that this aspect of the proposal would have an unacceptable impact on the character and appearance of the site or surrounding area than the existing structure.

- 5.2.6 The proposed extension to the garage to the south of the site would be visible as would be the alterations are to the front. However, due to the minor nature of the works, that they would result in a 12m² increase in the footprint to the building and the alterations to the roof would reduce the bulk of built form visible within the streetscene. It is not considered that this aspect of the proposal would have a detrimental impact on the character and appearance of the site or surrounding area.

- 5.2.7 Therefore, it is considered that the development, by reasons of its position, scale, design and appearance would not result in demonstrable harm to the character and appearance of the existing dwelling and the locality in accordance with policies D1, H4 and H7 of the 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, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The application site is bordered by four neighbouring properties. To the north is 'The Chalet'; to the south are 'Saffron Cottage', 'Papeete' and 'Cranbrook Cottage'
- 5.3.3 The proposed developments would sit a minimum of 26 metres from the shared boundary with Cranbrook Cottage and a minimum of 14 metres from Papeete. Due to this substantial degree of separation and the single storey nature of the developments it is not considered that these would represent an unneighbourly form of development, in respect of overshadowing, domination or overlooking, in relation to these neighbouring properties.
- 5.3.4 The proposed log cabins would sit 1.1 metres from the shared boundary with The Chalet. The existing kennels and run sit 1.09 metres from this boundary and has the same height as the proposed kennels (2.4 metres). Currently the kennels and run project directly from the rear elevation of the host dwelling and extend 6.7 metres from the rear elevation of this neighbouring property. The proposed kennels would sit 1.7 metres further back from the rear elevation of this neighbouring property which is considered to be an improvement on the current built form. Due to the limited height of the proposed log cabins it is not considered that these would represent an unneighbourly form of development in relation to loss of light or privacy. The proposed extension to the kennels to the south would sit over 20 metres from this neighbouring property and would largely be blocked from view by the host dwelling. Therefore, this aspect of the proposal is not considered to be acceptable in relation to these matters.
- 5.3.5 The proposed extension to the outbuilding to the south would sit on the shared boundary with Saffron Cottage and around 13 metres from the neighbouring property. This would result in 1 metre increase in the depth of the outbuilding and whilst the development is close to the boundary with the rear amenity space for this neighbouring property, due to the decrease in height of the outbuilding, it is not considered that the proposed extension and alteration to the roof would have a detrimental impact on the neighbouring amenity for this property. The proposed log cabins would sit over 20 metres from the shared boundary with this neighbouring property. Due to the single storey nature of the development and this degree of separation it is not considered that this aspect of the proposal would have a detrimental impact on the neighbouring properties in relation to loss of light,

overlooking, overshadowing etc.

- 5.3.6 It is noted that a number of objections and concerns have been made by neighbouring residents in relation to the increase in the number of dogs kept at the site and the impact this would have on the noise and odour. Such matters are a material consideration in the determination of the application; however, it must be noted that the application solely relates to operational development. As stated in section 5.1 of this report there is no evidence that the site benefits from planning permission for the sui generis use but it would appear to the Local Planning Authority that, on the balance of probability, that the use has occurred for in excess of ten years and is therefore, lawful in planning terms. Furthermore, whilst it can be reasonably assumed that the provision of more modern enclosures would reduce the level of noise this has not been evidenced as part of this application. It is therefore, considered that the inclusion of appropriate conditions to ensure details are provided in relation to noise mitigation is included as part of this permission. This would also be similar for details in relation to odour control.
- 5.3.7 Environmental Health has confirmed that the number of dogs has increased on the license due to legislation changes having come into effect (2018) meaning that Breeders now have to declare any stud dogs as well as the Bitches on site. The site has accommodated 18 bitches since 2008 and the license allows for up to 20 dogs currently and is renewed annually in December. It is considered that an appropriately worded condition will be imposed to ensure that a noise management plan is provided prior to the occupation of the proposed kennels in both locations to ensure that the noise insulation of the buildings and runs are sufficient. It should be noted that Environmental Health has advised this condition is not required, due to the Applicant seeking to increase their star rating under the Animal Welfare (Licensing of Activities involving animals) 2018. However, the intensification of the use of the site in the future, including the increase in the number of stud dogs or bitches, would not be considered development and would not require the need for planning permission. Whilst it is noted that the application has been submitted in response to the aspirations of the Applicant at this time it must be noted that this could be withdrawn in the future or the ownership could change in the future. Therefore, appropriate mitigation for noise would not be secured; with this in mind it is also considered reasonable to impose a condition in relation to limiting the number of dogs to the number that has been homed on site. Therefore, it is considered reasonable to include these conditions.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The proposed development would not alter the current parking provision provided on site, as there are no alterations to the current parking provision and the number of

dogs to be kept on site is not directly a planning consideration and is not considered to directly correlate to the number of visitors to the site. Further information has been provided to advise that in *normal* circumstances each puppy would be visited twice with stays lasting a maximum of 45 minutes. Therefore, there are no concerns in relation to parking or highway safety subject to an appropriately worded condition to ensure that the number of dogs kept at the site does not increase. This has been discussed further both above and in section 5.6 of the report.

5.5 Private Amenity Space and Landscaping

- 5.5.1 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 advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 The proposed development would result in the minor loss of private amenity space as shown on the block plan. However, the site benefits from a spacious garden that would remain in excess of the minimum of 100m² as required by the standards, taking into account exercise facilities for the dogs. Therefore, it is considered that subject to an appropriately worded condition securing the maximum number of dogs kept at the site for breeding purposes does not exceed 20, the proposal is in compliance with Policy D1 of the LDP.

5.6 Other Matters

- 5.6.1 Consideration has been given to the welfare of the dogs and whether the proposed facilities and land area would be compliant with the Department for Environment Food and Rural Affairs (DEFRA) code of practice. The code of practice states that as a general rule, each dog would require a kennel size of 4m², with an additional 1.5m² should an additional dog be kept in the same pen. Breeding females with litters are required to have double this space allowance.
- 5.6.2 Log cabin A would provide three pens each with a floorspace of 4.4m² and therefore, would comply with the minimum size for housing a single dog. Log Cabin B would provide two pens with a floor space of 7.2m², which is adequate space as per the above standards for the keeping of three dogs per pen. The kennels to the south would accommodate three pens each with a floor space of 10m² and is adequate for a maximum of three dogs. Therefore, there are no concerns in relation to the proposed kennel sizes.
- 5.6.3 The above-mentioned guidance states that '*opportunities to exercise which benefit the animals' physical and mental health must be provided*'. The guidance that follows is that this should include at least one walk per day or access to a secure open space. Whilst the welfare of the animals would be a planning consideration, whether this is undertaken would be a licensing issue which falls outside of the Development Managements process. As the proposal is within a secured garden, there are no concerns from a planning point of view in relation to this.
- 5.6.4 It is noted that objections received have also raised concerns in relation to the disposal of waste in association with the use of the site for the kennelling and breeding of

dogs. Further information has been received to advise that there is a contract to start early next year for specialist waste collection, with two lidded bins that will be emptied weekly or fortnightly (to be confirmed depending on how full they are). It is also considered that this issue could be overcome by an appropriately worded condition to ensure appropriate waste disposal for the use of the site.

- 5.6.5 As discussed throughout the report, it is considered to be necessary to include a condition restricting the number of dogs to be kept at the site for breeding purposes, whilst it is noted that due to the passage of time, it is considered, on the balance of probabilities that the use of the site as sui generis is lawful, and that intensification itself is not a material change of use, it is considered that to ensure the use of the site remains acceptable in planning terms, that this condition is imposed.

6. ANY RELEVANT SITE HISTORY

- 6.1 **No relevant site history**

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Great Braxted Parish Council.	No response at the time of writing this report	N/A

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections. Some concerns in relation to the number of dogs to be kept at the premises for breeding purposes	Comments noted

7.3 Representations received from Interested Parties

7.3.1 Representations objecting to the application:

Six letters objecting to the proposal have been received.

Comment	Officer Response
Noise concerns	Comments noted and are discussed in section 5.3.6 of the report
Odour concerns	Comments noted and are discussed in section 5.3.6 of the report
Parking/access concerns	Comments noted and are discussed in section 5.4 of the report

Comment	Officer Response
Building works have commenced prior to planning permission being approved	This is not a material consideration in determining a planning application; legislation allows for retrospective application to be made
The application has been made in the names of Mr and Mrs P O'Connor. Mr O'Connor has not lived at the property for some time	Comments noted – the residence at the property does not stop the named Applicants being the owners of the property and therefore, there are no concerns with the Ownership Certificate that has been provided
There are no details for the existing garage extension – unaware that a change of use to kennels has been granted	Details provided with this application state that the garage is being used as kennels currently. The lawful use of the site is discussed in section 5.1 of this report.
There are no internal details of the garage plans	These are provided on Plan 297-001 REV F
The Kennels would be washed and drained into the pond – This institutes a potential health hazard	This information was not provided as part of the application. Additional information has been provided advise that the run-off from the kennels goes to a water treatment unit that replaced the old cess-pit. Furthermore, environmental health have no concerns in this regard
I have seen a drainage pipe in the garden but this is not shown in the plans	Comments noted
The plans do not show the drainage ditch which the pond can and does overflow into – this will cause pollution. There is no overflow facility for the pond.	Comments noted – the Applicant has advised that the pond has an overflow that goes out to the ditch to the back of the property bordering farmers field. It does not overflow into the ditch between properties as the water in there is static. Furthermore, environmental health have raised no concerns in this regard
No provision for waste removal, currently this is stored in a permanent skip on the driveway.	Comments noted and discussed in section 5.6 of this report
In addition to dogs and horses there are chickens, pigeons and ducks at this property	Comments noted
Adjacent properties have been infested with rats	Comments noted
The site does not appear to be paying business rates so is not a business and it is not a smallholding	This is not a planning consideration
No historical evidence for permission for the stables nor the use of the garage for kennels	Comments noted and discussed throughout the report
Concerns in relation to the welfare of the dogs	Comments noted and discussed in section 5.6 of this report

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 297-001 Rev F

- REASON To ensure that the development is carried out in accordance with the details as approved.
- 3 The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.
- REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 4 Prior to the occupation of the development hereby permitted an Odour Management plan shall be submitted to and approved in writing by the Local Planning Authority. the use of the development hereby approved will be fully in accordance with the details as approved shall be fully implemented and retained as such thereof
- REASON To protect the residential amenity of neighbouring occupiers, in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework
- 5 A Noise Management plan shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be fully implemented prior to the first use of the development hereby permitted and retained as such thereafter.
- REASON To protect the residential amenity of neighbouring occupiers, in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 6 Details in relation to the storage of refuse and waste shall be provided and approved in writing by the Local Planning Authority. The details as approved shall be fully implemented prior to the first use of the development hereby permitted and retained as such thereafter.
- REASON To ensure that adequate refuse facilities are proposed in accordance with policy D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide SPD
- 7 No more than 20 dogs/bitches shall be kept on site, for breeding purposes, at any one time.
- REASON To protect the residential amenity of neighbouring occupiers and to ensure that appropriate amenity space and parking provision is provided on site, in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

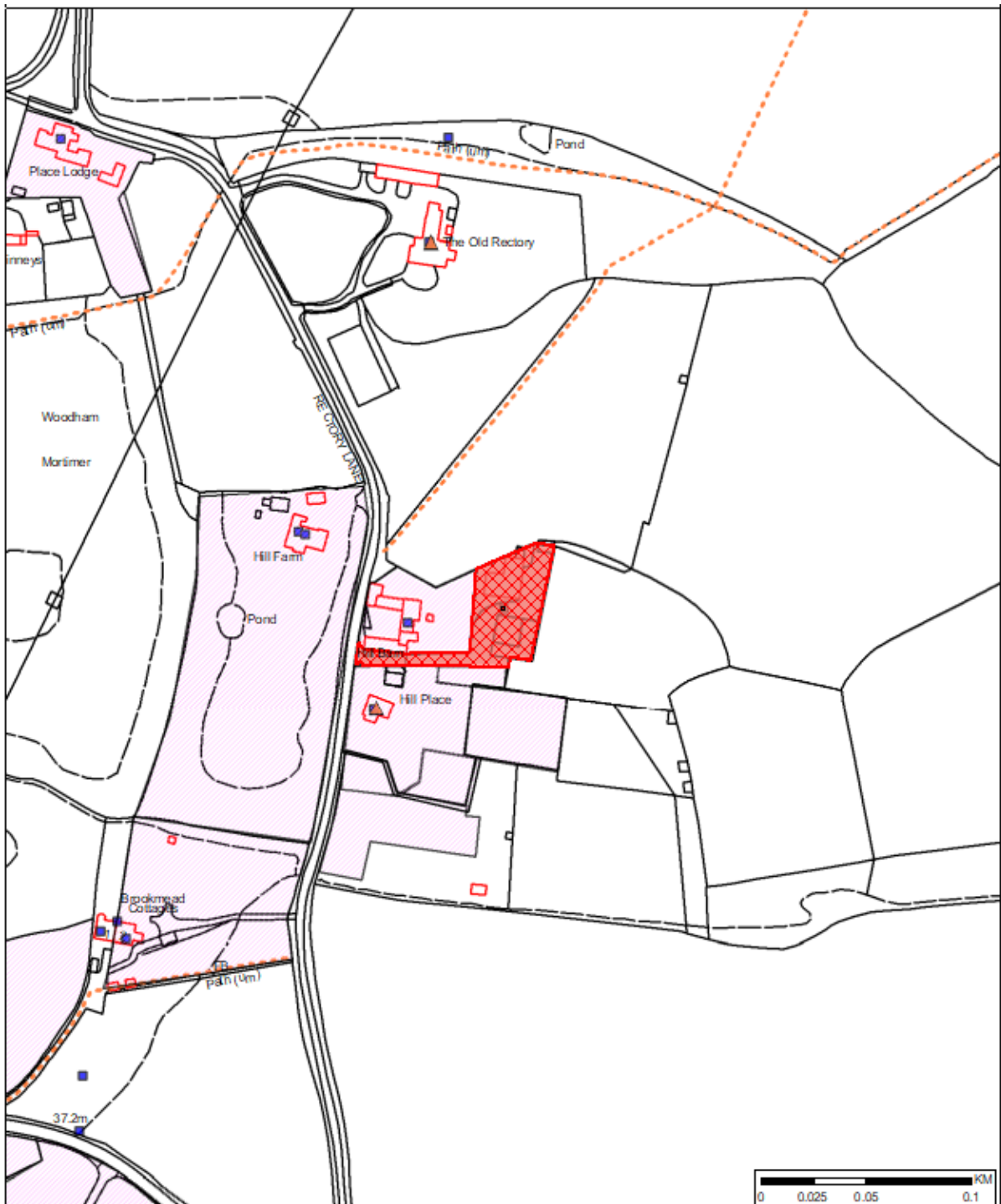
Application Number	20/01021/FUL
Location	Land Rear Of Hill Barn Rectory Lane Woodham Mortimer
Proposal	Proposed conversion of existing equestrian/storage buildings to form offices (Use Class E(g) formally B1) alongside access, parking, landscaping and other associated development.
Applicant	Mr Mervyn Clark
Agent	Mr Lindsay Trevillian - Phase 2 Planning Ltd
Target Decision Date	03.12.2020 EOT 18.12.2020
Case Officer	Hannah Bowles
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call In from Councillor M F L Durham - Reason: This is an employment opportunity which complies with elements of the LDP. Departure from Local Plan


1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.



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	Organisation:	Maldon District Council
	Department:	Planning Services
	Comments:	Not Set
	Date:	26/11/2020
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site forms a parcel of land measuring 0.2 Ha; it is currently occupied by an agricultural barn, which is used for equestrian purposes and agricultural storage. The site lies in a rural area outside of the defined settlement boundaries of the district. Open fields lie to the north and east of the site and the residential properties ‘Hill Barn’ and ‘Hill Place’ lie to the south-west of the site.
- 3.1.2 Planning permission is sought for the conversion of the building from an agricultural/equestrian barn to a form Class E(g) offices with associated access, parking, landscaping and other associated development.
- 3.1.3 The scale of the building in terms of width, height and depth would not be altered as a result of the proposal. The proposed physical changes to the building include the removal of the existing corrugated metal sheeting and replacement with plain tiles and new and upgraded window and door openings are proposed in the north, south and eastern elevations. Minor internal alterations would be undertaken to provide a reception area, three open plan office areas and three WCs and kitchens.
- 3.1.4 There is an existing access to the site from Rectory Lane which would be retained and utilised by the proposed offices and a formal parking area to the south of the building is proposed.
- 3.1.5 A recent application for the *‘Proposed conversion of existing equestrian/storage building to form 1No. new dwelling including the addition of a first floor, front extension, replacement single storey side extension, demolition of the existing open bay lean-to, changes to the fenestration and associated works’* was refused in April 2019 and the appeal was dismissed in April 2020. Given that the proposed works and policy position are significantly different in the assessment of an office use compared to a C3 use it is considered that the previous application has little relevance in the determination of this application.

3.2 Conclusion

- 3.2.1 Having taken all material planning consideration into account, it is not considered that the development would be acceptable in principle. The proposal fails to meet all of the criteria contained within policy E4 of the LDP, given that inadequate information to support the justifiable and functional need for the proposal has been submitted. The harmful visual impact resulting from the urbanisation of the existing rural site and countryside that has not been adequately justified and would not be off-set by the benefits in this instance. Therefore, it is considered that the development is contrary to policies S1, S8, E4 and D1 of the Maldon District Local Development Plan (MDLDP).

4. MAIN RELEVANT POLICIES

Members’ attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 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 – 57 Planning conditions and obligations
- 184 – 202 Conserving and enhancing
- 117 – 123 Making effective use of land the historic environment
- 80 – 84 Building a strong, competitive economy

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

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- E1 Employment
- E4 Agricultural and Rural Diversification
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Maldon District Vehicle Parking Standards SPD (VPS)
- Maldon District Design Guide SPD (MDDG)
- Planning Practice Guidance (PPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)).
- 5.1.2 The building is existing and is currently used for equestrian and agricultural purposes. The National Planning Policy Framework (NPPF) encourages Local Planning Authorities (LPAs) to promote a strong rural economy through, among others, the diversification of agricultural businesses. Furthermore, the NPPF urges LPAs to support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.
- 5.1.3 The application site lies outside of any defined development boundary where policies of restraint apply. Policy S8 states 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 it is for one of the thirteen specified developments listed within that policy, it is considered that the proposal falls within the following: ‘b) *Employment generating proposals (in accordance with Policy E1).*’

5.1.4 Policy E1 of the approved LDP states that:

“The Council will support and encourage the development of better quality and flexible local employment space to meet the employment target, including live work accommodation in both urban and rural areas (in accordance with other policies in this Plan). All new employment space should seek to meet the needs of local businesses and attract inward investment. [...] Outside the designated employment allocations, new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment and infrastructure considerations.”

5.1.5 As stated within the preamble of policy E4 of the approved LDP, the Council recognises that the District’s economic functions are not only based on formally allocated employment sites but also through employment activities that occur on farm conversions and similar rural sites which provide relatively lower cost accommodation and encourage local entrepreneurial activity. Policy E4 sets six criteria for conversions and states:

“The Council will support the change of use of existing rural buildings to other employment generation uses if it can be demonstrated that:

- a) There is a justifiable and functional need for the proposal;*
- b) It will contribute to the viability of the agricultural business as a whole;*
- c) Any development respects the building’s historic or architectural significance;*
- d) Any development will not negatively impact upon wildlife and the natural environment;*
- e) No storage of raw materials or finished goods is to take place outside the building if it would be detrimental to the visual amenity of the area; and*
- f) The use of the building would not lead to dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages.”*

5.1.6 With regard to criterion (a), it has not been demonstrated that there is a justifiable and functional need for the proposal. No details of the business or businesses which will operate out of the units has been provided.

5.1.7 Criterion (b) cannot be met as there does not appear to be an agricultural business that the use will contribute to.

5.1.8 In relation to criterion (c), the building is of limited historic or architectural significance. In any case the proposed alterations are limited. As such this criterion is met. Further consideration about the external alterations to the building and their impact upon the character and appearance of the area and the setting of the listed

building within the vicinity of the site will be given in the following sections of this report.

- 5.1.9 Criterion (d) refers to the impact upon the natural environment and wildlife. A Preliminary Ecological Appraisal Incorporating Bat Survey Inspection has been submitted with the application, recommendations have been made within the report and should the application be approved a condition ensuring the development was carried out in accordance with the recommendations would be implemented. Further consideration about the impact of the development upon the natural environment and the local wildlife will be given in the following sections of this report.
- 5.1.10 Criterion (e) refers to a matter that could potentially be controlled with a condition if planning permission is granted.
- 5.1.11 Criterion (f) is considered to be met as the scale of the business that can be accommodated in this building is highly unlikely to lead to detrimental dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages.
- 5.1.12 Having regard to the above analysis, the development would not meet all of the criteria of policy E4 of the LDP; thus, the principle of the development of the existing agricultural / equestrian building for an E(g) use would not be acceptable in this instance. The justifiable and functional need for the E(g) unit has not been demonstrated and therefore the loss of the agricultural and equestrian use and inherent urbanisation of the site, resulting from the change of use would not be off-set in this instance.
- 5.1.13 Other material planning considerations including the impact of the development on the rural site, are discussed in the following sections of this report.

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. The NPPF states that:

“The creation of high quality 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”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.2.3 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 in terms of:-
- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - Height, size, scale, form, massing and proportion;
 - Landscape setting, townscape setting and skylines;
 - Layout, orientation, and density;
 - Historic environment particularly in relation to designated and non-designated heritage assets;
 - Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - Energy and resource efficiency.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.6 Policy E1 of the LDP states that design is one of the considerations if new provision for employment space or the expansion of existing employment areas is proposed outside the designated employment allocations. In addition, policy E4 of the LDP, refers to the impact of the development upon the character of the building, the natural environment and the visual amenity of the area.
- 5.2.7 The application site is located within a rural area, set back from Rectory Lane by 55m behind a residential dwelling. To the south-west of the site is a further residential dwelling and open countryside lies to the north, east and west of the site.
- 5.2.8 The external appearance of the existing building is that of an agricultural barn and the use as a stable / storage building respects the rural nature of the area.
- 5.2.9 The existing corrugated iron roof of the barn would be replaced with plan tiles and the black waterboarded walls retained. The existing openings on the eastern elevation would be infilled with glazed windows and a doorway, there are three existing windows on the southern elevation which would be replaced with a glazed doorway and two larger window openings. The northern elevation would remain blank and the western elevation would be altered with an enlarged window opening and a doorway. The scale and form of the building would not be altered.
- 5.2.10 The alterations to the existing building, namely the proposed openings and the change of use to an office would alter the rural character of the site and result in the urbanisation of the site, to the detriment of the rural area. A parking court would be

adjacent to the southern elevation of the building, the existing access track and proposed parking area would be formalised with an expanse of hardstanding which would contribute to the visual harm of the proposal.

- 5.2.11 Views of the application site are not readily available from Rectory Lane, given its siting to the rear of an existing dwelling. It is noted that there is a public footpath around 40m in a north-west direction from the northern boundary of the site; the submitted block plan shows a new tree screen proposed to the north and western boundaries of the site which would further screen the site. However, this is not considered to outweigh the identified harm.
- 5.2.12 Hill Place is a grade II listed building sited to the south west of the site, in excess of 65m from the subject building. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The Council's Conservation Officer has advised that due to the distance and established vegetation which separates the two sites, the proposal will cause no harm to the significance of the heritage asset.
- 5.2.13 Given the above assessment it is considered that the proposal would have a detrimental visual impact upon the rural appearance of the site and the intrinsic character of the countryside. The visual impact is not considered to have been off-set or justified by the benefits of supporting a functional need. Therefore, the proposal is contrary to policy D1 and E4 of 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, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The application site has two neighbouring properties, Hill Barn, Rectory Lane to the west and Hill Place, Rectory Lane to the south-west.
- 5.3.3 The proposed development would be 4.7m from the boundary with Hill Barn and approximately 32m from the neighbouring dwelling on this site. As the scale of the building is not changing, it is not considered that the proposed development would have an overbearing impact or result in a loss of light to this neighbouring dwelling. The western elevation of the building faces the rear boundary of the neighbouring site, the proposal would result in an enlarged window opening and a doorway within this elevation. However, the window and door are at ground floor level and the existing boundary fence and vegetation screen any views into the rear garden of this property.
- 5.3.4 The proposed development would be 32m from the boundary with Hill Place and approximately 67m from the neighbouring dwelling on this site. Due to this distance, it is not considered that the proposed development would impact upon this neighbouring property by way of loss of light or loss of privacy.

- 5.3.5 Concerns have been raised by a neighbouring occupier in relation to the detrimental impact of the proposed office use. The definition of an E(g) business is *'Uses which can be carried out in a residential area without detriment to its amenity.'* Therefore, as long as the building is used for a E(g) purpose as proposed, it is not considered that noise or odour would be produced to an extent that would be detrimental to the residential accommodation which is in excess of 30m from the site.
- 5.3.6 Further, the opening hours of the units will be conditioned, which will prevent traffic at inappropriate hours and given the distance from all other properties and that the building is existing, no further concerns are raised in terms of impact on the residential amenity of the area.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The application proposes 258sq m of office space. The Vehicle Parking Standards (VPS) recommend 1 space per 20sq m of office space which results in a requirement of thirteen car parking spaces (rounded up). The area to the front of the building is large enough to comfortably accommodate 13 car parking spaces in line with the recommended bay size of 2.9m by 5.5. Whilst it is noted that submitted block plan shows only nine car parking spaces, a condition should be imposed to ensure the parking provision serving the site is in line with adopted VPS.
- 5.4.3 It is noted concerns have been raised by a local resident in relation to highway safety and the access to the site. The Highways Authority has been consulted and raised concerns to the proposal in this respect.

5.5 Ecology

- 5.5.1 The NPPF states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- 5.5.2 Policy N2 of the LDP which states that:
- “All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.”
- 5.5.3 A Bat Survey have been submitted as part of the application. It concluded that there was no evidence of their presence at this site. The Ecology consultant has been consulted and is satisfied with the information submitted.

6. ANY RELEVANT SITE HISTORY

- **19/00121/FUL** – Proposed conversion of existing equestrian/storage building to form 1No. new dwelling including the addition of a first floor, front extension, replacement single storey side extension, demolition of the existing open bay lean-to, changes to the fenestration and associated works – Refused and Appeal Dismissed.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer	We raise no objection but wish to make the following comments: Although the change of use could be beneficial for local employment the Council raises concern in respect to the increase in vehicles using Rectory Lane. The proposal is also likely to have an intrusive impact on immediate adjacent properties	Noted and discussed within report.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Ecology	No objection, recommended informatives.	Noted.
Essex County Council Highways Authority	No objection subject to conditions.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection.	Discussed in section 5.2 of this report.
Environmental Health	No objection subject to conditions.	Noted.

7.4 Representations received from Interested Parties

7.4.1 **Two** 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
Harm to the character and appearance of the countryside.	Discussed in section 5.2 of this report.
Detrimental impact to the quiet amenity which the occupants of nearby residential dwellings.	Discussed in section 5.3 of this report.
Highway safety, vehicular movement and access concerns.	Discussed in section 5.4 of this report.
Contrary to the LDP.	Discussed in section 5.1 of this report.
Unsustainable location.	Noted.
References to recently dismissed appeal for residential development at the site.	Noted.
Site has not been used for commercial storage.	Noted.
Surface and foul drainage concerns.	This could be dealt with via a condition.
List of desirable conditions.	Noted.
Speculation on the intentions of the applicants.	This is not a material planning consideration.
Conversion of building to offices within a conservation area would set a precedent and open the floodgates to may more similar applications.	The application site is not within a conservation area. In respect of setting a precedent every application is assessed on its own merits.

7.4.2 In response to the above representations the Applicant has provided additional comments in correspondence received on 30 November 2020. The additional information is not considered to raise additional material planning considerations or outweigh the harm identified in this report.

8. **REASONS FOR REFUSAL**

- 1 The proposed development would result in a harmful visual impact due to the urbanisation of the site resulting from the proposed change of use and physical alterations to the existing building. The identified harm has not been adequately justified and would not be off-set by the benefits of the scheme. The proposal is therefore contrary to policies S1, S8, E4 and D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.
- 2 The site is located in a rural area where development should only be supported in specific circumstances. Insufficient information has been provided to demonstrate that there is either a justifiable and functionable need or that the proposal would support the viability of an existing agricultural businesses contrary to policies S1, S8 and E4 of the D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

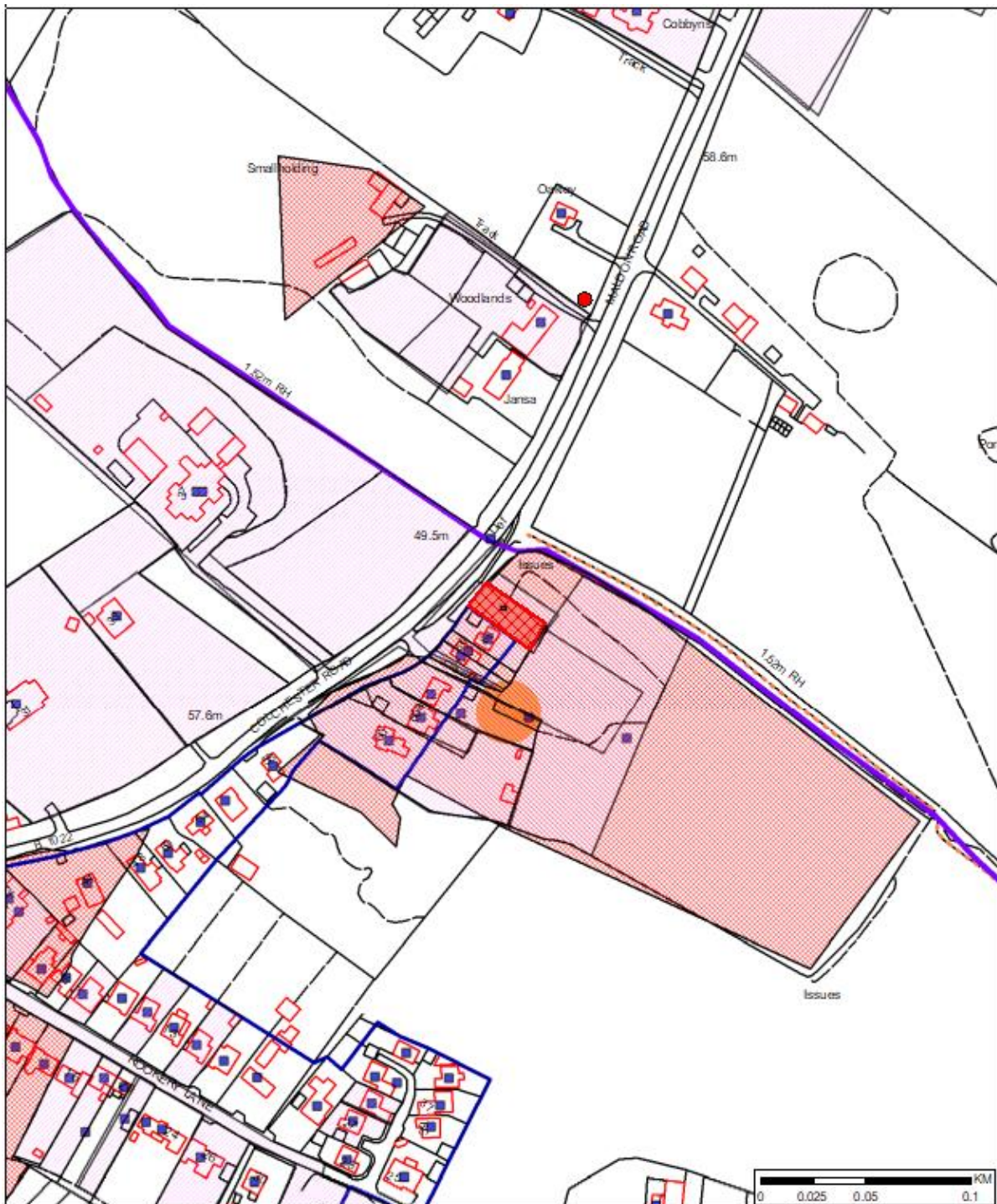
Application Number	20/01076/FUL
Location	70 Colchester Road Great Totham
Proposal	New dwelling
Applicant	Mr Harry Cooper
Agent	Mr Neil Cooper - Signature Group TM LTD
Target Decision Date	16.12.2020 EOT requested
Case Officer	Hannah Bowles
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Departure from Local Plan.

1. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p>www.maldon.gov.uk</p>	Scale:	1:2,500
	Organisation:	Maldon District Council
	Department:	Planning Services
	Comments:	Not Set
	Date:	20/12/2020
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is a parcel of undeveloped land measuring approximately 500sqm, located on the north-eastern side of Colchester Road. The site is located immediately adjacent to but outside of the settlement boundary of Great Totham. The area surrounding the site is semi-rural in nature, with a mix of residential development and open countryside within the immediate vicinity of the site.
- 3.1.2 Planning permission is sought for the construction of a residential dwelling. The proposed dwelling would front Colchester Road with a vehicular access point and a parking and turning area located to the front of the dwelling and private amenity space located to the rear.
- 3.1.3 The proposed dwelling would measure a maximum of 17.6m in depth, would have a maximum width of 11.3m and would have a ridge height of 9.1m. The proposed finish materials are brick walls, roof tiles and UPVC windows.
- 3.1.4 This application is a resubmission following the refusal of application reference 20/00867/FUL which proposed a new dwelling at the application site. The reason for refusal is as follows:

'The proposed development would have an unacceptable visual impact on the site and surrounding area due to the fenestration scheme proposed across the front elevation of the dwelling which appears incohesive and cluttered. The prominence of the dwelling within the streetscene cumulatively, with the design and number of the windows and the proposed use of black UPVC, would fail to respect the existing and established traditional character of the area resulting in an out of keeping development which is visually jarring when viewed from the public realm. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2019) and policies D1 and H4 of the Maldon District Local Development Plan.'

- 3.1.5 The above reason for refusal relates solely to the detrimental visual impact that the previously proposed dwelling would have on the site and surrounding area. No concerns in relation to the principle of the development, sustainability of the site, impact on the amenity of the neighbouring occupiers, parking provision, highway safety or private amenity space were raised.
- 3.1.6 The proposed scheme, when compared to the previously refused scheme has been amended; the fenestration scheme across the front elevation has been simplified and the level of glazing has been reduced. The proposed finishing materials which were previously slate roof tiles, render and cladding and black UPVC windows have been revised to unspecified roof tiles, brick walls and UPVC windows (colour not specified).
- 3.1.7 In addition to the above, it is pertinent to note that applications 13/00787/OUT and 17/00800/RES granted permission for a dwelling at the application site. Whilst this permission expired on 28 September 2019, this is a material planning consideration in the determination of this application.

3.2 Conclusion

- 3.2.1 This application is a resubmission following the refusal of application reference 20/00867/FUL. The reason for refusal related solely to the detrimental visual impact the appearance of the proposed dwelling would have on the site and streetscene. The amendments to scheme are considered to have overcome the previous reason for refusal.
- 3.2.2 The application site has previously been found to be a sustainable location for residential development, under the terms of approved application 13/00787/OUT. Given that there have been no significant changes to the site or surrounding area that would alter the stance previously taken, no objection to the principle of the development is raised. It is considered that the proposal would have an acceptable visual impact on site and the character and appearance of the area. No objection is raised in relation to the impact of the development on residential amenity or the provision of off-street car parking or amenity space. Therefore, subject to appropriate conditions, the development is acceptable and in accordance with the aims of the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 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 – 57 Planning conditions and obligations
- 184 – 202 Conserving and enhancing the historic environment
- 117 – 123 Making effective use of land
- 80 – 84 Building a strong, competitive economy

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Maldon District Vehicle Parking Standards SPD (VPS)
- Maldon District Design Guide SPD (MDDG)
- Planning Practice Guidance (PPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Maldon District Local Development Plan (MDLDP).
- 5.1.2 The planning history of a site, as detailed above, is a material planning consideration and is pertinent to be considered as part of the assessment of the proposal.
- 5.1.3 As part of the drive to deliver new homes the Government has stated that there is a need for Councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the five year housing land supply (5YHLS).
- 5.1.4 Where a Local Planning Authority is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘tilted balance’. This is set out in paragraph 11d of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

(i) the application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) 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.”

- 5.1.5 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) is central to the policy approach in the Framework, as it sets out the Government’s changes to the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces local plan policies that do not comply with the requirements of the NPPF.
- 5.1.6 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. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘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; or that specific policies in this framework indicate development should be restricted’.

- 5.1.7 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF.
- 5.1.8 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The local development plan through policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability within the current local plan. Policy S1 allows for new development within the defined development boundaries, however, the Council cannot demonstrate an up to date five year supply of deliverable housing. Therefore, on this basis, sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF.
- 5.1.9 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’*
- 5.1.10 The application site is located outside but adjacent to the defined settlement boundary of Great Totham North. At the time of the previously refused application 20/00867/FUL, it was concluded that the application site was located in a sustainable location and no objection to the principle of constructing a dwelling at the application site was raised. In reaching this conclusion consideration was given to the previously approved permission 13/00787/OUT. The 2013 application was initially refused by the LPA but was allowed through the appeals process. The Inspector for the appeal concluded *‘Taking all of the above into account, I conclude that the development would constitute sustainable development, when assessed against the policies in the Framework as a whole’*. The appeal decision and findings of the Planning Inspector carry significant weight in the determination of this application. In addition, at the time of the previously refused application 20/00867/FUL, the Council could demonstrate a 5YHLS, the Council’s position in this regard has changed and a 5YHLS can no longer be demonstrated, which further weighs in favour of the proposal. Therefore, it is considered that the principle of constructing a dwelling at the application site is acceptable.
- 5.1.11 The main consideration in the determination of this application is if the amendments to the scheme have overcome the previous reason for refusal, which related to the detrimental visual impact that the proposed appearance of the previously refused dwelling would have on the site and surrounding area.

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. The NPPF states that:

“The creation of high quality 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”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.2.3 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 in terms of:-

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

- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

- 5.2.5 The application site is located in a semi-rural area and is a vacant plot of land located at the north eastern end of a row of existing dwellings. The dwellings within the immediate vicinity of the site are detached dwellings that front the highway. The individual design and appearance of the dwellings vary. However, the dwellings are all traditional in terms of appearance and finish.

- 5.2.6 The application is a re-submission of a refused application reference 20/00867/FUL. The previous reason for refusal related to the detrimental visual impact the development would have on the site and surrounding area. The main concerns, as set out within the reason for refusal, related to the proposed fenestration scheme across the front elevation of the proposed dwelling and the proposed finishing materials.

- 5.2.7 The fenestration scheme has been amended, the previously refused application proposed twelve long thin windows, of differing lengths, across the front elevation of the proposed dwelling, which was considered to appear cluttered and out of keeping with the traditional dwellings to the south of the site. In addition, the finishing materials were largely out of keeping with materials prevalent within the streetscene.

- 5.2.8 The fenestration scheme across the front elevation of the dwelling has been amended under the terms of this application. The level of glazing has been reduced and the windows are traditional in form, which is considered to be in keeping with the dwellings to the south of the site. Therefore, the amendments in this respect are considered to overcome the concerns raised at the time of the previous application.
- 5.2.9 In terms of finishing materials, those proposed at the time of the previous application, namely render and cladding to the walls, slate roof tiles and black UPVC windows, would have exacerbated the harm of the appearance of the dwelling. It is considered a more traditional pallet of materials, to reference the existing residential development within the area, would result in a more visually in keeping dwelling. The use of bricks to the walls is considered to be acceptable. The type of roof tiles and colour of the bricks and UPVC windows have not been specified and therefore, a condition to ensure details are submitted to the LPA for approval should be imposed, should the application be approved.
- 5.2.10 The dwelling proposed under the terms of this application is largely in line with the previously approved dwelling under reference 17/00800/RES, in terms of layout. The main changes when compared to the previously approved dwelling relate to the scale and appearance of the proposal. The proposed dwelling is deeper and wider than that previously approved and the previously approved detached garage, which was located to the front of the dwelling, is proposed to be attached to the southern side elevation of the dwelling.
- 5.2.11 In terms of scale, the proposed dwelling is larger in terms of width and depth, increasing the footprint of the dwelling by 28sqm when compared to the dwelling previously approved, it should be noted that the maximum ridge height has not increased. The increased scale of the proposal arises mainly from the infilling of the area between the previously approved detached garage and dwelling. It is not considered that the increased scale has a significant visual impact on the site or surrounding area. Therefore, no concerns in terms of the scale are raised.
- 5.2.12 The proposed dwelling, when viewed from the rear is considered to be of limited architectural merit, given the level and arrangement of the proposed glazing. However, given that limited views from the public realm would be available of the rear elevation, on balance this aspect is not objected to.
- 5.2.13 Given the above assessment and having regard to the planning history of the site, the amendments to the previously refused scheme are considered to have overcome the previous reason for refusal. In addition, the form of the proposed dwelling is similar to that previously approved under reference 17/00800/RES and whilst the footprint of the proposed dwelling has increased by 28sqm, when compared to that previously approved, it is not considered to harm the visual amenity of the area. Therefore, it is not considered that the proposed dwelling would have a detrimental impact on the site or streetscene, in accordance with policies D1 and H4 of the 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,

outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

- 5.3.2 The application site abuts one residential property, no. 68 Colchester Road, which is located to the south of the application site. The southern side elevation of the dwelling would be located around 2.8m from the northern side elevation of the neighbouring property.
- 5.3.3 In terms of overlooking, there are only ground floor windows proposed in the south facing side elevation of the proposed dwelling and the rear windows would only provide views of the rear section of the adjacent garden. Therefore, it is not considered that the proposed dwelling would result in any significant overlooking to the adjacent dwelling or its occupiers.
- 5.3.4 The proposed dwelling is set at a lower ground level than the dwelling at no. 38 and follows the building line. Therefore, it is not considered that the proposal would result in an overbearing impact or significant loss of light. In addition, it is noted that the proposed dwelling is sited only marginally closer to the southern boundary of the site than that previously approved under 13/00787/OUT and 17/00800/RES and the ridge height of the dwelling has not been increased.
- 5.3.5 Therefore, having regard to the above assessment, no concerns in relation to a detrimental impact on the residential amenity of the neighbouring occupiers are raised.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The proposed dwelling would accommodate four bedrooms resulting in a requirement of three of street car parking spaces. The integral garage would provide a parking space and the area to the front of the dwelling is large enough to accommodate the remaining two spaces. Therefore, an acceptable level of parking provision would be provided at the site.
- 5.4.3 The Highways Authority have not provided comments for this application. However, they were consulted at the time of the previous application (17/00800/RES) and did not raise an objection to the proposal in terms of access or highway safety. The proposed use of the site and the vehicular access point have not been altered since the assessment of the previous application and on this basis, no concerns in this respect are raised.

5.5 Private Amenity Space and Landscaping

- 5.5.1 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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.5.2 The proposed dwelling would accommodate four bedrooms resulting in a requirement for 100m² of private amenity space. A private amenity area in excess of 200m² would be provided to the rear of the dwelling. Therefore, no concerns in this respect are raised.
- 5.5.3 Limited information has been submitted with the application in terms of hard and soft landscaping and boundary treatments. A condition to ensure full details are submitted to the LPA for approval, should be imposed should the application be approved.

5.6 European Designated Sites

- 5.6.1 The application site falls within the 'Zone of Influence' for one or more (Blackwater Estuary SPA and Ramsar site, Colne Estuary SPA/Ramsar site and Dengie SPA and Ramsar site) of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.6.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England. To accord with NE's requirements and standard advice an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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 HRA Stage 1: Screening Assessment are listed below:

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

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to one dwelling

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

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.

- 5.6.3 As the answer is no, it is advised that 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 above European sites from recreational disturbance, when considered 'in combination' with other development. Natural England does not need to be re-consulted on this Appropriate Assessment.
- 5.6.4 The Essex Coastal Recreational Avoidance and Mitigation Strategy is currently under preparation and it therefore, constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £125.58 and thus, the developer contribution should be calculated using this figure. A Unilateral Undertaking to secure the abovementioned contribution has been sent to the applicant and subject to its completion the impact of the development will be mitigated.

5.7 Planning Balance and Sustainability

- 5.7.1 One of the key priorities within the NPPF 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 an economic, social and environmental objective as set out in the NPPF.
- 5.7.2 In economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional dwelling may support local businesses within the settlement such as shops and services. This would however be limited given the scale of the proposal. Any economic benefits would therefore be considered to be minimal.
- 5.7.3 In social terms the development should assist in supporting a strong, vibrant and healthy community. The site is considered to be located in an area where there is access to facilities and is not remote from day to day services without the unavoidable need for the use of a private car. However, due to the scale of the proposal for one dwelling, the social benefits are considered to be minimal.
- 5.7.4 In relation to environmental sustainability, it is considered that the development of the site for residential purposes would have an acceptable visual impact, in this instance. Whilst the proposal would result in the inevitable domestication of the site, which is not normally supported within the countryside, the planning history of the site is a material consideration which outweighs the harm arising from the inherent domestication.

5.8 Other Matters

- 5.8.1 The Council's Environmental Health Service has been consulted and raised no objection to the proposal subject to conditions for surface water drainage, foul drainage and land contamination. It is noted that the Inspector for the appeal for application reference 13/00787/OUT included the recommended conditions within the

approval. Therefore, the recommended conditions will be imposed, should the application be approved.

6. ANY RELEVANT SITE HISTORY

- **20/00867/FUL** - New dwelling – **Refused**
- **17/00809/FUL** - Proposed temporary siting of caravan and container for development purposes (Retrospective) – **Approved**
- **17/00800/RES** - Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/13/00787 (Extend access drive and erect two storey detached house and detached garage, lay out parking and amenity areas) – **Approved**
- **13/00787/OUT** - Extend access drive and erect two storey detached house and detached garage, lay out parking and amenity areas. – **Refused Appeal Allowed**
- **12/00933/OUT** - Extend access drive and erect two storey detached house and detached garage, lay out parking and amenity areas. – **Refused**

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Noted.

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
REASON To ensure that the development is carried out in accordance with the details as approved.
- 3 Prior to their installation, written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 4 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented

prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
- 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

REASON To ensure that adequate provision is made for surface water drainage in accordance with policies D1 and D5 of the Maldon District Local Development Plan.

- 5 No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON To ensure that adequate provision is made for foul water drainage in accordance with policies D1 and D5 of the Maldon District Local Development Plan.

- 6 Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to the occupation of the dwelling hereby approved and these works shall be carried out as approved. These details shall include, for example:
 - i. Proposes finished levels contours;
 - ii. Means of enclosure;
 - iii. Car parking layouts;
 - iv. Other vehicle and pedestrian access and circulation areas;
 - v. Hard surfacing materials;
 - vi. Minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, signs, lighting);
 - vii. Proposed and existing functional services above and below ground (e.g drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);
 - viii. Retained historic landscape features and proposals for restoration, where relevant.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of the

dwelling hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

The hard landscape works shall be carried out as approved prior to the first use / occupation of the development hereby approved and retained and maintained as such thereafter.

REASON

In the interest of the character and appearance of the area in accordance with policy D1 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.

- 7 Prior to the occupation of the dwelling hereby permitted, the vehicular access shall be constructed in accordance with the details shown on drawing number sk.2113.1 and retained as such thereafter.

REASON To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy D1 and T2 of the Maldon District Local Development plan and the guidance in the National Planning Policy Framework.

- 8 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON To avoid displacement of loose material onto the highway in the interests of highway safety in accordance in accordance D1 and T2 of the Maldon District Local Development plan and the guidance in the National Planning Policy Framework.

- 9 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway.

REASON To ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy D1 and T2 of the Maldon District Local Development plan and the guidance in the National Planning Policy Framework.

INFORMATIVES

- a. The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
- b. Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled

ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.

- c. The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours
 - i. No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - ii. No dust emissions should leave the boundary of the site;
 - iii. Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - iv. Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

Where it is necessary to work outside of these recommended hours the developer and builder should consult the local residents who are likely to be affected and contact the Environmental health Team for advice as soon as the work is anticipated.

- d. Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If you believe you need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively you can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.
- e. It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.
- f. The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.
- g. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road,
Chelmsford,
CM2 5PU.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

Application Number	20/01154/FUL
Location	Barns Adjacent to Mosklyns Farm, Chelmsford Road, Purleigh
Proposal	Retention of existing dwelling.
Applicant	Mr & Mrs Strathern
Target Decision Date	14.01.2021
Case Officer	Hayleigh Parker-Haines
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In by Councillor Mrs J L Fleming Reason: D1A, D1E, S1.12 and S8

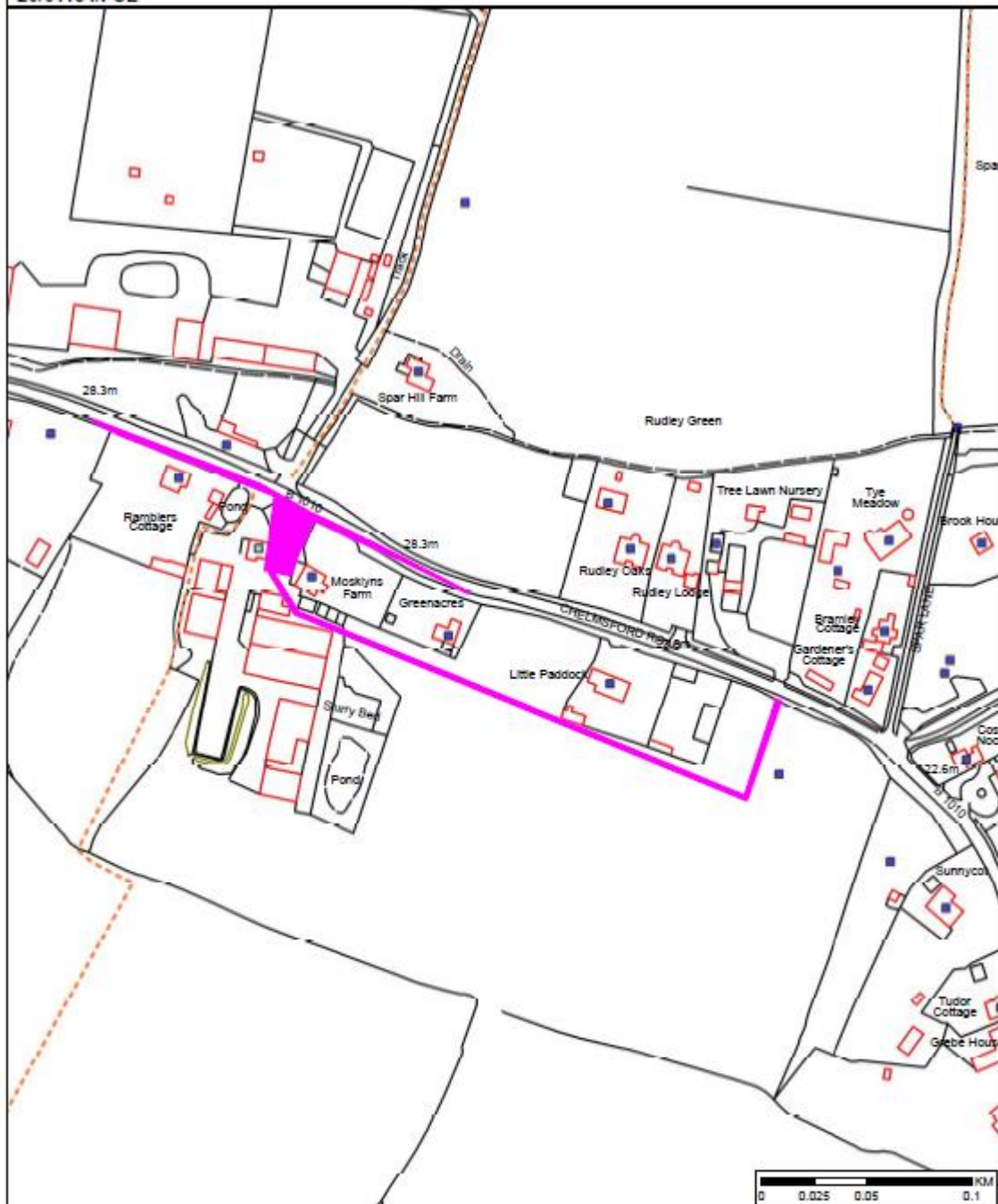
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Barns Adjacent To Mosklyns Farm, Chelmsford Road, Purleigh
20/01154/FUL



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Maldon District Council 100018588 2014



www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: NW Area Planning Committee

Date: 22/12/2020

MSA Number: 100018588

3. SUMMARY

3.1 The Site

- 3.1.1 The application site is located outside of any development boundary, in a rural setting, to the north of the village of Purleigh. Moskllyn Farm is located to the south-west side of Chelmsford Road and comprises of the farmhouse and a farmyard containing a number of large agricultural buildings. The barns to which this application relates are two timber boarded barns of combined footprint 159m² previously used for agricultural storage in association with the established farm, located to the north-west of the farm and accessed from an existing but not in use access to the north. Works have begun on site following the previously granted prior approval application 15/01096/COUPA, these have resulted in one dwelling being completed (bungalow), however, the second dwelling is not complete with the building lacking fenestration.

3.2 Proposal / brief overview, including any relevant background information

- 3.2.1 Planning permission is sought to convert a former agricultural building to a residential dwelling; prior approval was granted for similar works under application 15/01096/COUPA. It must be noted that Application 15/01096/COUPA permitted the change of use of two barns from agricultural to dwellinghouses. Condition one and condition two of application 15/01096/COUPA stated:

Condition one states:

‘The development hereby approved must be completed within a period of 3 years starting with the prior approval date.’

Condition two states:

‘The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.’

- 3.2.2 Whilst some development has been undertaken, the development as a whole (including the barn to the west), is yet to be completed, the works have not been carried out in accordance with the time restriction of condition one. Therefore, this application seeks to regularise the conversion of the barn the subject of this application as currently the dwelling is unlawful and does not benefit from formal consent. Furthermore, it is shown on the plans submitted as part of this application to include four rooflights to the south facing elevation alongside minor alterations to the fenestration on this elevation (replacement of door with window and the door to the eastern end moved more central).
- 3.2.3 It is proposed that the private amenity space will be located to the south of the dwellinghouse with the ‘front’ amenity space to the north. To the front amenity space, the existing 1.2 metre post and rail fence to the northern boundary is to remain and it is proposed to construct a new 1.2 metre fence to match the existing to the eastern boundary to divide the driveway and garden. The existing 1.5 metre high timber fence to the south of the site to the southern and western boundaries is to remain as is the 1.9 metre high wall to the eastern boundary.

- 3.2.4 It is proposed to construct a cycle storage area, this will be located in the south eastern corner of the application site and would have a maximum height of 2.5 metres, a width of 2.4 metres and a depth of 1.8 metres.
- 3.2.5 It is also proposed to create a formalized footpath for private use to the south of the site, this would run in an easterly direction through the fields associated with the Farm to join the existing public footpath on Chelmsford Road. The proposed pathway will be finished in a permeable subbase.
- 3.2.6 This application is a resubmission of the previously refused application 20/00758/FUL which was refused for the following reasons:

'The application site lies within a rural location outside of the defined settlement boundary of Purleigh where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the open character and intrinsic beauty of the countryside and would detract from the agricultural character and appearance of the site as a result of the domestication of the site and the inclusion of associated residential paraphernalia. If developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018).'

- 3.2.7 The following amendments have been made:

- The private amenity space is to the north of the dwelling rather than the south
- Additional information has been provided to evidence that the pathway proposed to the rear of the dwelling and through the fields to adjoin Chelmsford Road would be user friendly.
- Additional information has been provided on the block plan to advise that a socket will be provided for a rechargeable handheld torch with an umbrella stand to encourage footpath use during inclement weather.
- Additional information has been provided in relation to the public transport options available from the site.

3.3 Conclusion

- 3.3.1 It is not considered that the provision of a dwelling would be acceptable on this site; due to the location and design of the proposed dwelling and the detrimental impact this would have on the character and appearance of the surrounding countryside. The development would result in the inherent domestication of the site which would not make an overly positive contribution in terms of social or economic sustainability. The proposal is therefore unacceptable and contrary to the content of national and local planning policies.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 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
- 54-57 Planning conditions and obligations
- 117-123 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in 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 through Government policy, at paragraph 47 of the NPPF.

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed’ or

“(ii) 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.”

‘Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37)
- 5.1.5 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. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘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; or that specific policies in this Framework indicate development should be restricted’
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.

5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The Local Development Plan (LDP) through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. 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. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF 'the LPA is 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.

5.1.8 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'

5.1.9 The application site is located approximately 712 metres beyond the defined settlement boundary for Purleigh, within the countryside. Purleigh is classed as a smaller village; containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. It is therefore considered that the occupiers of the dwelling would be required to travel outside of Purleigh for day to day services and facilities. It is noted that within the supporting information provided as part of this application there are bus stops located at Spar Lane and the Post Office in Purleigh; whilst it is noted that the bus route map shows the route as stopping at Spar Lane, there is no evidence of this on the bus timetable. The D1 and D2 service offers a fairly regular service to Maldon and Southminster via the D1 and D2 routes, but the closest bus stop to the site as per the timetable is the Purleigh Post Office which sits approximately 1450 metres from the application site. This would include occupiers walking 220 metres along an unlit country path to the formalized footpath to the east of the site. Whilst, it is noted that the Applicants are willing to create a footpath through the fields to allow safer access to the formalized path, and have sought to overcome concerns by providing a handheld torch and umbrella, this is still not considered to promote safe pedestrian accessibility to the site and service, this also adds a further 80 metres on to the journey.

5.1.10 The current proposal for the retention of the existing dwelling is necessary to regularise the works that have been implemented, this is due to the fact that the second conversion has not been completed in accordance with condition 1 of the approved prior approval application 15/01096/COUPA. The weight attributed to a material consideration is up to the decision maker, but it is a point of planning law that the ability to comply with the requirements of a permission, or in this case lack of ability to, substantially affects the weight that should be attributed to it.

5.1.11 An application for prior approval is an assessment against set criteria contained within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to whether or not a

development could gain deemed consent. Given that the whole of the development is not completed and the differences between the prior approval application and this application, as outlined in paragraph 3.2.3, an application for full planning permission is required for the works and has been submitted. Therefore, as this application is not for prior approval it is necessary for the Council to assess the proposal against the policies contained within the Maldon District Local Development Plan (MDLDP) and guidance contained within the NPPF and MDDG. Furthermore, the previous prior approval application does not mean that the principle of the development has been accepted. The starting point for consideration of a prior approval application is not the development plan. Conflicts with the Plan and Government Guidance are not material to the determination of such an application. Therefore, this assessment is materially different to the assessment of a planning application whereby the starting point is the Development Plan.

- 5.1.12 As highlighted above, a prior approval application (15/01096/COUPA) was previously granted on 2 December 2015 for the conversion of the barns to residential accommodation. This was subject to conditions, including condition 1 which stated that the development approved must be completed within a period of 3 years starting with the prior approval date. To date, the development is incomplete, awaiting the installation of windows and doors. It should be noted that a further prior approval application was submitted on 6 November 2019 (19/01162/COUPA) which sought to extend the time limit condition. However, this application was refused; *“planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made”* (PPG). Whilst the condition imposed under 15/01096/COUPA does not restrict the time limit for when the development can be started per se, there is no such condition within the prior approval process, it does restrict the timeframe for the undertaking of the development. This is similar in nature to the time limit condition required through the granting of a planning application and the principle of such a restriction on the variation of the S73 conditions should be considered in a similar vein. Therefore, given that the development is incomplete, the prior approval permission has fallen away. Therefore, there is no fall-back position and planning permission is required.
- 5.1.13 Furthermore, condition 2 stated that the development shall be carried out in complete accordance with the approved drawings, when the agricultural buildings were altered and converted for residential accommodation the development was not carried out in accordance with the approved plans and therefore contrary to condition 2. The discrepancies between the approved plans and the development as implemented are outlined above. It is an accepted point of case law that approval is required prior to the works being undertaken. Therefore, given that the development did not comply with the approved scheme and that the majority of the work has been undertaken, the prior approval permission has fallen away. Therefore, there is no fall-back position and planning permission is required.
- 5.1.14 APP/X1545/W/18/3194812 is considered relevant. The appeal was for the conversion of a barn to a residential dwelling and associated alterations which were not considered as part of a previously granted prior approval application. It is important to note that this application was not retrospective in nature. At paragraph 11 of the appeal decision the Inspector outlines that where there are minor differences between the proposed development and the approved scheme then there is a realistic prospect

of the approved scheme being implemented in the event that the appeal fails. Furthermore, there was no evidence that the fall-back position could not be implemented and that a very similar development could be carried out within the site. In this instance and for these reasons the fall-back position provided a material consideration which carried significant weight in determining the full application. Whilst the fenestration pattern has altered as part of this application and the construction of the development; these alterations are considered to be minor and would not be so significant that the proposed development would no longer benefit from prior approval and that this alone would not constitute unlawful development. The breach of planning control relates predominately to the fact that the development remains incomplete. Therefore, given that the previous prior approval has not been fully implemented, there is no fall back position to apply weight to as part of this appeal.

5.1.15 As outlined above, it is considered that the site is poorly connected by means of sustainable transport and facilities. Furthermore, the previous prior approval decision is no longer extant, and the development remains incomplete. Therefore, the previous decision does not provide a fall-back position and the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

5.1.16 It should also be noted that a planning application to regularise the development subject of this planning application and to allow the conversion of the adjoining agricultural building to a dwelling was refused planning permission by the NW Planning Committee on 3 June 2020

5.2 Housing Need

5.2.1 In respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

5.2.2 Policy H2 of the LDP and its preamble (paragraph 5.2.2), which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA), shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units, and around 71% of all owner-occupied properties having three or more bedrooms. The Council is therefore encouraged in the approved policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands.

5.2.3 Whilst the LDP carries limited weight at present, the NPPF is clear that housing should be provided to meet an identified need. Therefore, it is still considered that weight should be afforded to the evidence base from the SHMA.

5.2.4 The Council is therefore encouraged in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal

would provide a two three bedroom property. Taking into account, the Council's current position, the proposal would make a contribution to improving the Council's housing stock. However, the benefits of the scheme in regard to this are negligible as there would be a net gain of one dwelling, of a size needed by the Council, and, this is therefore, given minimal weight.

5.3 Design and Impact on the Character of the Area

5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.

5.3.2 It should be noted that good design is fundamental in creating better places to live and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high-quality 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”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.

5.3.3 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 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;

5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.3.5 The application site is visible within the public realm and is therefore considered to impact on the character and appearance of the site and surrounding area. Prior to the conversion that has taken place, the buildings within the site were of a typical agricultural character and appearance. It is considered that the alterations involved in the conversion of the buildings to residential have been carried out in a sympathetic manner, of which the overall character of the buildings has not changed; the external materials remain similar to the original barn, with the form and design of the buildings remaining unaltered besides the addition of fenestration. Therefore, it is not considered that the design of the dwellings would result in a significant detrimental impact on the character and appearance of the site or the surrounding area.

- 5.3.6 The current application proposes additional alterations to the external appearance of the barns, to those approved under the prior approval process, which would give the resulting dwelling a more domestic appearance. Furthermore, due to the level of hardstanding proposed to the front of the dwelling and the associated residential paraphernalia, it is considered that the visual impact of the domestic paraphernalia associated with the dwelling, car parking arrangements and the hardstanding proposed would result in an unacceptable level of domestication within the countryside. Whilst it is noted that the private amenity space has been relocated to the rear as part of this application and this would represent an improvement to the scheme, it is not considered that this would overcome the above-mentioned harm. Therefore, it is considered the proposal would result in an urbanising effect and detract from the rural character of the area and would not represent a visual improvement of the site and surrounding countryside. It is worth noting at this point, and as highlighted in detail above, the previous prior approval application is a material consideration of a demonstrable weight in the determination of this application.
- 5.3.7 Having regard to the above, it is considered that the proposal would result in an intensified level of domestication at the application site, within the countryside, that would result in material harm to the character and appearance of the surrounding countryside contrary to Policies, S1, S8, H4 and D1 of the LDP.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 The application site is bordered by two neighbouring properties. To the east is Mosklyns Farm and to the west is Ramblers Cottage.
- 5.4.3 The proposed development would sit 4.7 metres from the neighbouring property Mosklyns Farm. This neighbouring property has three ground floor windows on its western side elevation facing the development. There would be two ground floor windows facing this neighbouring property, which would serve a bedroom, however, due to the location of the development in relation to this neighbouring property (rear elevation in line with front elevation of neighbouring property) it is not considered that these windows would offer any views into the neighbouring property. Furthermore, due to the single storey nature of the development and the degree of separation it is not considered that the proposed development would have an overbearing impact on this neighbouring property. Therefore, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.
- 5.4.4 The proposed development would sit 20 metres from the shared boundary with Ramblers Cottage and 42 metres from the neighbouring property. It is noted that there is one first floor window proposed to the western side elevation facing this neighbouring property. However, due to this substantial degree of separation, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.

- 5.4.5 For the reasons discussed, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts. Therefore, the proposal is in accordance with policy D1.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The proposed development would result in a two bedroom dwellinghouse. The minimum parking provision required is two spaces. It is shown on the block plan provided that there are to be two 5.5 metre by 2.9 metre vehicle parking spaces to the north of the dwellinghouse. Which are in line with the minimum required sizes within the SPD. Therefore, there are no concerns in relation to parking. Furthermore, it is proposed to include a storage area for bicycles.
- 5.5.3 It is noted that there is proposed to be a private footpath constructed to allow access to the formal public footpath on Chelmsford Road. However, it is assumed this would be unlit and therefore, it has not clearly demonstrated that this would result in the provision of high quality and safe pedestrian access that would discourage the use of the private motor vehicle particularly at times of inclement weather. Whilst it is acknowledged that the Applicant has sought to overcome this by providing a handheld torch and umbrella, this is not considered to be sufficient to allow the footpath to be considered 'safe; and well lit and would therefore, remain an unattractive option for the future occupiers of the dwelling. Therefore, it is still considered that the occupiers of the dwelling would be likely to rely on the provision of a private motor vehicle to meet their day to day needs for facilities, services, work etc.
- 5.5.4 Access to the dwelling would be from the existing access to the north of the dwelling from Chelmsford Road. The Highway Authority have no objections to the access and have not recommended any conditions. Therefore, it is not considered that the development would be detrimental to highway safety in terms of the access.

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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100 square metres of private amenity space for dwellings with three or more bedrooms, 50 square metres for smaller dwellings and 25 square metres for flats.
- 5.6.2 The block plan provided as part of this application shows that the amenity space would be located to the south of the site and would be in excess of the standards required for a two bedroom dwelling (99m²), and therefore, there are no concerns in

relation to this.

5.7 Planning Balance and Sustainability

- 5.7.1 One of the key priorities within the NPPF 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 an economic, social and environmental objective as set out in the NPPF.
- 5.7.2 Notwithstanding, and as noted at 5.1.7 above, the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making and case law (noted in preceding paragraphs), confirms that other policies in the plan are still relevant for decision making purposes where they are applicable to the proposal under consideration.
- 5.7.3 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.7.4 With regard to the 3 tests of sustainability, in economic terms, given that the development is largely complete and only involved limited construction works, the benefits would be extremely limited given the scale of the development. Equally, there is no guarantee that the limited construction works required to complete the development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minimal. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area. Any economic benefits would therefore be considered negligible.
- 5.7.5 In social terms the development should assist in supporting a strong, vibrant and healthy community. Residents are required to travel further afield for day to day facilities and amenities. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and Policies S1, S8 and T1 of the local development plan. Furthermore, due to the limited number of dwellings proposed the social benefits are considered to be of a minimum.
- 5.7.6 In environmental terms, it is considered that the development of the site would result in the inevitable domestication of the site, which is not supported within the Countryside unless other material considerations weigh heavily in favour of the proposed development. The in-accessible location of the site further weighs against the proposal in environmental terms. Furthermore, as stated within section 5.3 of this report, it is considered that the provision of a dwelling in this location would have a detrimental impact on the character and appearance of the surrounding area. Therefore, it is considered that this would weigh against the proposed development.
- 5.7.7 Having regard to the poor sustainability credentials of the site and the fact that there are limited public benefits to the scheme, i.e. The proposal is for market housing and

not affordable, it cannot be determined whether the dwelling would make a positive contribution in terms of housing mix and the proposal is contrary to Policies S1, S8, D1 and H4 of the LDP, it is not considered that there are benefits that outweigh the harm on the character and appearance of the area.

5.8 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS.

- 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 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.
- 5.8.3 In terms of off-site impacts, Natural England have advised that this development falls within the ‘Zone of Influence’ (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). 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, 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. Natural England advise that Maldon District Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.4 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational ‘zones of influence’ of these sites cover the whole of the Maldon District.
- 5.8.5 Natural England anticipate that, in the context of the local planning authority’s duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered ‘alone’ or ‘in combination’. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.

- 5.8.6 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.7 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £122.30 per dwelling.
- 5.8.8 To accord with Natural England’s requirements, an Essex Coast 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, as follows:

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

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the previously listed sites? Yes (Blackwater Estuary SPA and Dengie SPA)

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- 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.

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England’s advice, it is considered that mitigation, in the form of a financial contribution of £244.60 is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.

- 5.8.9 It is noted that the Applicant has made this payment, and therefore, the impact of the proposal could be mitigated and therefore this aspect would not form part of the refusal.

6. ANY RELEVANT SITE HISTORY

- **15/01096/COUPA** – Change of use of two existing barns from agricultural to dwelling houses (2.12.2015)

- **19/01162/COUPA** - Variation on condition 1 & 2 approved planning permission COUPA/MAL/15/01096 Change of use of two existing barns from agricultural to dwelling houses (27.01.2020)

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The Parish Council believes that the proposed development is sustainable, complies with planning legislation and does not conflict with policies contained within the LDP and guidance contained within the NPPF	Comments noted

7.2 External Consultees

Name of External Consultee	Comment	Officer Response
Essex Country Council Highways Authority	No response at the time of writing this report	N/A

7.3 Representations received from Interested Parties

7.3.1 Representations supporting the application:

23 Letters of support have been received.

Supporting Comment	Officer Response
Supports the proposal	Comments noted
The barn has tidied up the farm and lifted the look in the area/Improvement	Comments noted
The conversion is an asset to the local area	Comments noted
There are no negatives and it would be beneficial to the livestock on the farm, the business and Purleigh village in general	Comments noted
The conversion is not out of place and is in a location that other development has taken place.	Comments noted
The conversion ensures the Applicant remains part of the local community, offering sustainability to the shop, public house, village hall and potentially for the nursery and primary school	Comments noted

8. REASON FOR REFUSAL

1. The proposed development, by reason of its location and design would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012)

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

Application Number	TPO 10/20
Location	The Pines, Franklin Road, North Fambridge
Proposal	Confirmation of TPO 10/20
Owner	Samantha Jane Flaherty of The Pines, Franklin Road, North Fambridge, CM9 6NF
Confirmation by	23.01.2021
Case Officer	Sophie Mardon
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

1. RECOMMENDATION

CONFIRM Tree Preservation Order (TPO) 10/20 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details
10/20		T1 - Leylandii
The Pines		
<p>Copyright</p> <p>For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office. All Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p>www.maldon.gov.uk</p>		<p>Scale: 1:1,250</p> <p>Organisation: Maldon District Council</p> <p>Department: Department</p> <p>Comments: North Fambridge</p> <p>Date: 22/07/2020</p> <p>MSA Number: 100018588</p>

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 In July 2020, the Council received an enquiry from a customer who wanted to fell the Leylandii tree. Due to the prominent location and the size of the tree, it was considered by the Council that the removal of the tree would materially impact on the amenity of the area. Therefore, a TEMPO assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO assessment scored the tree 15 out of 25 and concluded that the Leylandii tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 23 July 2020.
- 3.1.2 One letter of objection has been received relating to the serving of TPO 10/20 at The Pines, Franklin Road, North Fambridge.
- 3.1.3 The objection remains unresolved; therefore, the question of whether or not to confirm the TPO has been brought before members to determine.

3.2 The Site

- 3.2.1 The Leylandii is located in the front garden of The Pines, Franklin Road, North Fambridge, along the northern and eastern boundaries of the application site. Due to its location to the front of the dwelling, the size of the tree and the lack of many other substantial trees in the immediate area it is considered that the tree plays a significant role within the street scene.

3.3 Ownership

- 3.3.1 The tree is within the property of The Pines, Franklin Road, which is known to be owned by Samantha Jane Flaherty.

4 Main Relevant Policies

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 Corporate Plan 2019-2023:

1. Strategic Themes: The Environment - protected and improved environment for residents and visitors. Partnership working to protect our countryside and coastline.

4.2 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)

4.3 Government Guidelines:

- 4.3.1 Government guidelines advise that: the Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 4.3.2 If Members decide to Confirm TPO 10/20, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:
 - 1. that the TPO is not within the powers of the Act, or
 - 2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 4.3.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

5 MAIN CONSIDERATIONS

- 5.1 The T1 Leylandii is located along the northern and eastern boundary, within the front garden of The Pines, Franklin Road. Due to its size and location, it is highly visible within its setting and along the wider streetscene and is considered to hold significant amenity value, adding to the character and appearance of the surrounding area.
- 5.2 Planning Practice Guidance states (Paragraph 10 reference ID: 36-010-21040306) *'It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'* An enquiry regarding the felling of the Leylandii tree has been brought to the Councils attention. The tree is not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, the Leylandii tree could have been removed without the permission of Maldon District Council, which would damage the amenity value that the tree offers within the surrounding landscape.
- 5.3 In the interest of protecting this prominent landscape feature and the amenity value of this tree within the locality, the Leylandii was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the Leylandii tree scored satisfactory for the suitability of a TPO for its amenity due to its prominent size and location which is clearly visible within the

public realm. The expediency assessment reflected the immediate threat of the tree as mentioned in section 5.2. The Leylandii tree scored an overall total 15 out of 25 which means that the Leylandii tree would definitely merit a TPO.

- 5.4 It is worth noting that the guidance provided to sit alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only). However, as the enquiry was to fell the Leylandii, it is considered by the Council that this goes beyond a precautionary threat as the threat to the tree was immediate.
- 5.5 It should be noted that the TPO would not prevent works to the tree from being carried out, however it would control any works to ensure that they were suitable, justified and did not harm the health of the tree or the amenity value the Leylandii tree offers to the surrounding area. It would also allow for the Council to seek an appropriate replacement if it was agreed that it was appropriate to fell the tree.

6 ANY RELEVANT SITE HISTORY

- 6.1 No relevant site history.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 One letter was received **objecting** to the serving of the TPO 10/20 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
The tree is an eyesore, in poor condition and does not have significant amenity value.	Comments noted, the tree does not appear to be in poor condition. See photographs.
The tree blocks light and obscured views for traffic and cars pulling out of drives.	No evidence has been submitted to support this claim.
There is a telephone power line running through the tree which looks to be damaged by the growth and movement of the tree	No evidence has been submitted to support this claim.
As a neighbour, my lawn is covered in debris and my lawn is dying as a result.	This is not considered to be sufficient justification for the removal of the tree.
Health hazard from pigeon droppings over lawn, drive and cars.	This is not considered to be sufficient justification for the removal of the tree.

Objection Comment	Officer Response
The tree should be removed with no requirement for a replacement.	Comments noted.

8 **CONCLUSION**

- 8.1 The Leylandii tree subject of the TPO makes a contribution to the character and appearance of the surrounding area and provides significant amenity value to the character and appearance of the surrounding area due to its size and location. Given that the Leylandii tree has a TEMPO score of 15, it is considered that the TPO should be confirmed to prevent inappropriate works being carried out which could harm the amenity value and overall health of the tree.

Site Photos

View of tree looking west



View of tree looking East

