



**REPORT of  
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

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**to  
NORTH WESTERN AREA PLANNING COMMITTEE  
9 JULY 2018**

|   |   |
|---|---|
| <b>Application Number</b>                             | <b>FUL/MAL/18/00436</b>   |
| <b>Location</b>                                       | Land at Benton Manor, Wickham Hall Lane Wickham Bishops Essex   |
| <b>Proposal</b>                                       | Change of use of disused agricultural land to residential use marked area 'A' and Change of use of disused agricultural land to residential use marked area 'B'. The proposal includes an access gate and hardstanding on land marked area B. |
| <b>Applicant</b>                                      | Mr Mark Sherriff  |
| <b>Agent</b>  | Mr Mike Smith - Metcalfe Briggs Surveyors   |
| <b>Target Decision Date</b>                           | 18.07.2018  |
| <b>Case Officer</b>                                   | Yee Cheung  |
| <b>Parish</b>   | Wickham Bishops   |
| <b>Reason for Referral to the Committee / Council</b> | The planning application has been called in by Councillor Bass on the grounds of public interest  |

**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**Land At Benton Manor Wickham Hall Lane Wickham Bishops**  
**FUL/MAL/18/00436**



|   |               |                         |
|---|---------------|-------------------------|
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|   | Organisation: | Maldon District Council |
|   | Department:   | Department              |
|   | Comments:     | North West Committee    |
|   | Date:         | 27/06/2018              |
|   | MSA Number:   | 100018588               |

### **3. SUMMARY**

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

- 3.1.1 Benton Manor is located within a rural setting outside the defined settlement boundary of Wickham Bishops. Adjacent to the east of the site is the rear garden of Bouncers and to the north of the site is Orchard House. To the south west of the site lies a reservoir which was originally built to irrigate the orchard within the grounds of Benton Manor. It is noted that the reservoir is now used for recreational purposes by the occupiers of Benton Manor.
- 3.1.2 A lawful development certificate for existing use of development for the timber steps and pontoon built adjacent and over the reservoir, a staff welfare hut and a summer house with associated decking was recently refused by the Council on 24 April 2018 (reference: **LDE/MAL/16/01512**).
- 3.1.3 Planning permission seeks to change the use of the land ‘Area A’ and ‘Area B’ as shown on Drawing No: 10778/01 dated 28 March 2018 to residential garden use. The application site edged in red is approximately 8 hectares but the site area of land where the change of use is proposed (hatched in grey) is approximately 1.5 hectares. The proposal also includes the erection of a new 900mm high post and rail fence between the application site and Bouncers to the south and the formation of an access gate and hardstanding along Wickham Hall Lane.

#### **3.2 Conclusion**

- 3.2.1 The application site lies outside of any settlement boundary and is therefore subject to countryside policies of restraint towards further development. The proposed extended garden area coupled with the new access gate installed along Wickham Hall Lane by reason of the harmful effect of changes to the appearance of the site and the wider rural area represents development that is considered detrimental to the character and appearance of the rural area. The proposal by way of domestication and visual intrusion to a rural setting would not enhance or protect the rural landscape. Therefore the proposal would be contrary to policies S1, S8, D1, H4 and N2 of the Maldon District Local Development Plan (LDP) and the Provision and Guidance as contained within the 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 2012 including paragraphs:**

- 14 Presumption in favour of sustainable development
- 17 Core Planning Principles
- 56-68 Requiring Good Design
- 186-187 Decision-taking
- 196-198 Determining applications

**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, Geodiversity and Biodiversity
- T2 Accessibility

**4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)

**5. MAIN CONSIDERATIONS**

**5.1 Principle of Development**

- 5.1.1 The Council is required to determine planning applications in accordance with its approved 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 proposal is for the change of use of two areas of land ‘Area A’ and ‘Area B’, which were formerly used for agricultural uses to the garden use for the existing occupiers at Benton Manor.
- 5.1.3 Policies S1 and S8 of the approved LDP provide the strategic position for the District through defined development boundaries for villages/urban areas within the District and seek to protect areas outside of defined development boundaries from new development in the interests of protecting the countryside and coastal landscapes of the District. Policy S8 specifically states that outside of the defined settlement boundaries, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.
- 5.1.5 Policies D1 and H4 of the LDP seek to protect the geodiversity and biodiversity of the rural landscape in the District and are considered to be compliant with NPPF which seeks to protect the ‘*intrinsic character and beauty of the countryside*’. These policies state that all development must enhance the character and local context and make a positive contribution in terms of the landscape and natural environment and positively contribute to the public realm.
- 5.1.6 Policy H4 of the LDP also states that extensions to domestic gardens within the countryside will not normally be permitted. However, it goes on to state that small, unobtrusive extensions of residential curtilages into the surrounding countryside, which will not adversely affect the character and rural amenities of the site and wider countryside, may be approved where both the following criteria are met:

- 1) The proposal will not involve the loss of any important landscape, heritage features or ecology interests; and
- 2) Provision is made for suitable landscaping to ensure boundary treatments are of an appropriate rural character and appearance.

5.1.7 The Maldon District, outside of the defined settlement boundaries is predominantly rural in nature and the provision of the revised access location and its inherent impact upon the highway verges and further domestication of this extended site would result in a detriment to the character of the area. This is discussed further in a subsequent section of this officer 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 Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.*  
*“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”.*

5.2.3 This principle has been reflected in 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.

- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017). Policy H4 of the LDP is also relevant to this case and has been fully discussed in Paragraph 5.1.6 above.
- 5.2.5 The change of use of two areas of land ‘Area A’ and ‘Area B’ of approximately 1.5 hectares in site area would result in significant detrimental visual impact upon the rural character and appearance of the site and the wider area. The proposal includes the removal of the existing post and rail fence and laurel hedge which is on the southern boundary of the site and to erect a new post and rail fence approximately 36 metres further south from its original position to enclose the land ‘Area B’. The boundary treatment would also include native hedge planting. The application also includes the formation of an access gate with an area of hardstanding along Wickham Hall Lane.
- 5.2.6 With regard to the change of use of the land to residential garden use, it is considered that the proposal would be likely to introduce domestic paraphernalia into the rural area which should be protected in accordance with Development Plan Policies. The inclusion of the 1.5 hectare area of land for residential use would create an encroachment to the rural area and would introduce a domestic area into a landscape of large open fields. A more managed appearance of land within a rural area would result in a discordant feature in the when viewed in the wider area and this is further exacerbated by the size and scale of the site area.
- 5.2.7 In addition, the access gate and hardstanding which forms a part of this application proposal would result in the loss of a section of a native hedgerow boundary and whilst the open section may be minimal at a width of 8 metres. It is noted that Wickham Hall Lane is an unclassified road and is narrow in width. The Highway Authority has assessed the application and raises no objection to the proposal subject to conditions. During a site inspection, it is noted that the access point has been created with timber fence forming the splays. It is noted that planting has been carried in front of the fence. A gate has also been erected at the entrance point off Wickham Hall Lane. It is considered that the removal of the existing native hedgerow which was once viewed as a field boundary in favour of the access gate and hardstanding have resulted a visual impact on the rural area as well as being contrary to the Council’s aim, through both the NPPF and the LDP, to protect the District’s natural environment and biodiversity which is under threat from such development.
- 5.2.8 Whilst it is acknowledged that a planning condition could be appended to any grant of permission to require additional soft landscaping scheme to be submitted to and approved by the Council, particularly the boundary treatment around the perimeter of the site, in this instance, it is considered that the domestication of the site by the changing the use from agriculture to residential garden use would result in detrimental visual impact, obtrusive extended urban sprawl and loss of native boundary treatments in the rural area contrary to approved policies S1, S8, D1, H4 and N2 of the LDP and it is not considered that a condition could overcome this harm.

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

- 5.3.1 The basis of policy D1 of the 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 Maldon District Design Guide (2017).

- 5.3.2 The nearest residential properties are Orchard House and Bouncers which are located some distance away from Benton Manor. It is not considered that the change of use of the land and the provision of an access gate and hardstanding would result in significant loss of amenity to adjacent occupiers
- 5.3.3 Therefore, it is considered that the development would not form an unneighbourly form of development or give rise to overlooking or loss of privacy, in accordance with the stipulations of D1 of the LDP.

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

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as maximum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.4.3 While an access gate and hardstanding has been provided, it is not considered that the proposal would result in any change to the site in terms of parking provision and is therefore considered policy compliant for this element.

#### **5.5 Private Amenity Space and Landscaping**

- 5.5.1 Policy D1 of the 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 District Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.5.2 The existing dwelling Benton Manor has in excess of the minimum requirement of 100m<sup>2</sup> of private rear amenity space which is in accordance with policy D1 and the SPD. The proposal seeks to increase the existing private amenity area by changing the area of the land of approximately 1.5 hectares from agricultural to residential garden use.
- 5.5.3 Notwithstanding the details as shown on the submitted plans, there is limited information with regard to the soft landscaping within the site. Therefore, should planning permission be granted for the change of use of the land, a detailed landscaping plan can be required by way of a condition which is to include full details of the location and type of the boundary treatment to the site boundary.

## **5.6 Other Material Considerations**

- 5.6.1 As mentioned in the report above, a lawful development certificate for existing use of development for the timber steps and pontoon built adjacent and over the reservoir, a staff welfare hut and a summer house with associated decking was recently refused by the Council on 24 April 2018 (reference: LDE/MAL/16/01512). While the current application shows the site area, edged in red, includes the site area which forms a part of the LDC application, it does mean that should the application be approved that the timber steps and pontoon built adjacent and over the reservoir, a staff welfare hut and a summer house with associated decking, omitted from this current planning application, may be granted consent retrospectively. While planning conditions could be imposed onto the timber steps and pontoon, the use of the staff welfare hut and the summer house to mitigate the adverse effects of the development, in this instance it is not considered that by imposing conditions would outweigh the harm to the wider area.
- 5.6.2 The submitted Site Plan (Drawing No: 10778/01 dated 28 March 2018) is clear that the change of use of land is the area of land hatched in grey annotated as 'Area A' and 'Area B' and does not relate to the change of use of the land to the south west, west and north west side of the reservoir.

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

- **FUL/MAL/07/00011** - Retention of front entrance gates and railings.  
Approved: 27.02.2007
- **LDE/MAL/16/01512** - Claim for lawful development certificate for existing use or development for the timber steps and pontoon built adjacent and over the reservoir, a staff welfare hut and a summer house with associated decking.  
Refused: 24.04.2018
- **LDE/MAL/18/00770** - Claim for lawful development certificate for existing use or development for the timber steps and pontoon built adjacent and over the reservoir, a staff welfare hut and a summer house with associated decking.  
Pending Consideration

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

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

| <b>Name of Parish / Town Council</b> | <b>Comment</b>   | <b>Officer Response</b>   |
|--------------------------------------|--|---|
| Wickham Bishops Parish Council       | No objection subject to condition that there will be no future development of the land | Noted. This can be dealt with by the removal of permitted development rights should the planning application be removed |



## 7.2 Statutory Consultees and Other Organisations

| Name of Statutory Consultee / Other Organisation | Comment   | Officer Response            |
|--|---|-----------------------------|
| Highway Authority                                | No objection subject to conditions to be imposed should the application be approved | Noted in the officer report |

## 7.3 Internal Consultees

| Name of Internal Consultee | Comment | Officer Response |
|----------------------------|---------|------------------|
| N/A                        | N/A     | N/A              |

## 7.4 Representations received from Interested Parties

- 7.4.1 A letter was received commenting on the application. The letter is summarised as set out in the table below:

| Objection Comment  | Officer Response            |
|--|-----------------------------|
| This field was always sheep pasture until purchased by the applicant and I support the change of use to recreational but in respect of plot 'B' which has road frontage I think it would be prudent to add a clause to prevent future development. I would add that the on line plans are absolutely unreadable. | Noted in the officer report |

## 8.

### **PROPOSED REASON FOR REFUSAL**

- 1 The application site lies outside of any settlement boundary and is therefore subject to countryside policies of restraint towards further development. The proposed extended garden area, coupled with the new vehicle access gate and hardstanding by reason of the harmful effect of changes to the appearance of the site, will adversely affect the character and rural amenities of the site and wider countryside. The proposal by way of domestication and visual intrusion to a rural setting does not enhance or protect the rural landscape. As such the proposal is contrary to policies S1, S8, D1, H4 and N2 of the Maldon District LDP and Government guidance as contained within the NPPF.