



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

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
4 APRIL 2016**

<b>Application Number</b>	<b>FUL/MAL/15/00853</b>
<b>Location</b>	Orchard House, Langford Road, Wickham Bishops
<b>Proposal</b>	Demolition of existing office and storage building and erection of a single dwelling house & double detached garage.
<b>Applicant</b>	Mr. Mark Sherriff
<b>Agent</b>	Mr. Mike Smith - Metcalff Briggs Surveyors
<b>Target Decision Date</b>	GET EOT
<b>Case Officer</b>	Hilary Baldwin
<b>Parish</b>	Wickham Bishops
<b>Reason for Referral to the Committee / Council</b>	Parish Trigger Choose an item. Choose an item.

1. **RECOMMENDATION**

**REFUSE** subject to the reason as detailed in Section 8 of this report.

2. **SITE MAP**

Please see overleaf.



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	NW Committee 15/0853
	Date:	22/03/2016
	MSA Number:	100018588

### **3. SUMMARY**

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

- 3.1.1 The site lies in a rural area outside of the settlement boundary for Wickham Bishops. The site extends to approximately 0.36Ha and is accessed via a long private unmade road from Langford Road to the north west of the site. It is located between an existing large detached dwelling known as Fontenay to the north and a small reservoir to the south. To the south-west of the site a dwelling known as Wickham Grove which has its own private drive linking to Langford Road.
- 3.1.2 The site itself comprises of three buildings; one is single storey and in previous use as an office; with the two large buildings to the east and south east of the site being used for storage and bottling in connection with the former use of the site. The land around the buildings has a surface covering of part loose shingle and part concrete hardstanding. The remaining land is laid to grass. High fence boundaries and conifer hedgerows form the boundaries with properties to the north and east.
- 3.1.3 The proposal is for the removal of the existing structures on the site, the cessation of the business and employment use and the erection of one detached, two storey dwelling and detached two bay garage.
- 3.1.4 The dwelling would have overall measurements of 21m wide, 13m deep and an overall ridge height of 11m. Built of brick elevations with a slate tile roof the dwelling would incorporate stone corner detailing and traditional timber fenestration.
- 3.1.5 Internally, the dwelling would comprise living, dining, kitchen and utility room at ground floor level with 5 bedrooms and associated bathroom facilities at first floor level.

#### **3.2 Conclusion**

The proposed development would result in the loss of an employment site which in the Maldon District is a finite resource for meeting the future employment opportunities of residents of the District. Policy E6 of the adopted Local Plan seeks to protect such sites unless it can be demonstrated that that every effort has been made to market the building or secure an appropriate employment use. This criterion is also required by emerging policy E1 of the submitted Local Development Plan and therefore supports the direction of travel for protecting such sites. It is therefore considered that the proposed development fails on the criterion of adopted policies E6 and CC21 of the adopted Maldon District Replacement Local Plan and emerging policy E1 of the Local Development Plan and the provisions 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, 17, 55 and 89

#### **4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- S2 Development outside Development Boundaries
- BE1 Design of New Development and Landscaping
- CC6 Landscape Protection
- CC7 Special Landscape Areas
- CC19 Rural Diversification
- CC21 Re-use of Rural Buildings for Residential Purposes
- E6 Protection of Existing Employment Uses
- CON5 Pollution Protection
- T1 Sustainable Transport and Location of New Development
- T2 Transport Infrastructure in New Development
- T8 Vehicle Parking Standards

#### **4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:**

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- E1 Employment
- H4 Effective Use of Land
- T1 Sustainable Transport

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

- Essex Design Guide
- Car Parking Standards
- National Planning Policy Framework (NPPF)
- Choose an item.

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 The proposal is for the change of use of an existing commercial site to that of C3 (Dwellinghouses) which comprises the removal of the existing office building and two large storage barns on the site. The site is set within a rural area characterized by large detached dwelling set in spacious grounds and open agricultural land.

- 5.1.2 Adopted local plan policies CC19 and CC21 are therefore relevant and seek to ensure that changes of use of such buildings for residential purposes do not exacerbate an imbalance between employment opportunities and rural population and increase pressure on rural services. It may also deprive potential employment uses of some premises.
- 5.1.3 The preamble to the policy states that such changes of use introduces domestic activity and can erode rural character, that this form of re-use has a low priority and conversions of this nature should therefore only be allowed in the most exceptional circumstances.
- 5.1.4 Whilst it is acknowledged that the site is not a designated employment site, adopted local plan policy E6 is considered relevant in that it aims to protect employment sites from loss unless the present use of the site irreparably harms the character and amenity of the area, that there would be greater benefit to the community by way of an alternate use and that there is confirmation of lack of interest for sale.
- 5.1.5 The NPPF states that where there are up to date policies and proposals which accord with those policies the application should be approved. This provides the most up to date policy position. Therefore if local plan policies can be met then the local planning authority must look at the application in favour of sustainable development and that unless material considerations indicate otherwise, applications which accord with development plan policies should be approved. Furthermore, emerging policy E4 of the Local Development Plan, provides similar criterion for the re-use of rural buildings and provides the direction of travel in terms of this category of development proposals.

## **5.2 Re-use of Rural Buildings and Protection of Existing Employment Sites**

- 5.2.1 Adopted Policy E6 within its preamble, states that the majority of firms in the District employ less than 10 people and many of these are located outside of the defined employment areas. They tend to be small sites which enable them to be occupied by seedbed enterprises and form an important element of the employment building stock. It further states that unless the site is totally unsuitable or causes an uncontrollable nuisance their retention prevents further use of greenfield sites to replace lost employment land.
- 5.2.2 Therefore, development which would cause the loss of an employment site will not be permitted unless:
- 5.2.3 **a) The present use of the site irreparably harms the character and amenities of the adjacent area and there are no other remedies available to rectify the loss of character other than seeking a cessation of the current use;**  
There is considerable planning history pertaining to the site and the local planning authority has consistently refused planning permission for the permanent use of the site for commercial use as a Spring Water Bottling plant. However, the most recent application (referenced in a subsequent section of this report), was granted on appeal as the Inspector considered that it would have limited effect on the character and appearance of the local area. The proposal is therefore considered to fail on this criterion

5.2.4 **b) The site would have a greater benefit to the community if an alternative use were permitted;**

No alternative uses have been proposed.

5.2.5 **c) There is evidence of advertisement “For Sale” by estate agents and in local newspapers and commercial property journals circulated throughout the District and County, for a period of at least three months at a price to reflect its current lawful use and this evidence is submitted showing that the site has been marketed by agents operating in the locality**

The application has not been supported by any marketing or sales evidence. The proposal is therefore considered to fail on this criterion.

5.2.6 **d) There is confirmation of a lack of interest.**

In conjunction with criterion (c) above, no supporting evidence has been submitted with the proposal.

5.2.7 In addition to this, policy CC21 of the adopted Maldon District Local Plan seeks to ensure that such development has a limited impact upon the rural economy and the character and appearance of the area. Therefore proposals such as this will only be supported subject to compliance with the following criterion. Whilst it is noted that this policy does not specifically reference the re-use of rural buildings or sites within employment use it is considered appropriate to assess the proposal against this policy as the preamble does make reference to such changes of use depriving potential employment uses of some premises.

5.2.8 For the reasons outlined above the proposal is considered contrary to adopted policies E6 and CC21 of the Replacement Local Plan.

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

5.3.1 The proposal is for the removal of the three existing structures on the site, the cessation of the authorized business use and the erection of one detached two storey dwelling and detached two bay garage. The dwelling would be accessed by way of the existing vehicle access from Langford Road which currently serves the site. Due to the topography of the land, the site sits lower in the landscape than land to the north, east and west and there are limited views of the site from the wider rural area.

5.3.2 The existing structures, two of which are large storage barns are considered to be of limited architectural merit and due to the location of these existing structures to the perimeter of the site the whole plot has a developed nature. The proposed dwelling would be set towards the front (west) of the site and equidistant from the site boundaries with the detached garage set adjacent to the southern side boundary. Whilst the dwelling would be a taller structure at 11m the removal of the existing structures have a significantly large footprint of built development which is considered to outweigh the harm in this instance. Subject to conditions for materials to be submitted prior to submission and conditions are appropriate boundary treatment and the removal of permitted development rights for further outbuildings and extensions the proposal is considered acceptable in this instance.

5.3.3 The proposal is therefore considered to accord with adopted policies BE1, CC6 and CC7 and emerging policy D1 of the submitted LDP.

## **5.4 Impact on Residential Amenity**

- 5.4.1 Whilst the site has a common boundary with the dwelling to the north known as Fontenay, the dwelling would be set 9.8m from the common boundary with Fontenay set approximately 40m from that boundary. Albeit it is recognized that the adjacent property benefits from an extant permission for a replacement dwelling, there would still be approximately 45m between the two dwellings. Furthermore, due to the similar orientation of both dwellings there is considered to be limited overlooking and loss of privacy between the adjacent residential occupiers.
- 5.4.2 The proposed dwelling would incorporate first floor fenestration on its northern side elevation which would serve bathrooms facilities. Therefore it is recommended that a condition is appended to any grant of permission to require opaque glazing of those openings.

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

- 5.5.1 The site is accessed by way of a private driveway from Langford Road to the west of the site. Essex County Council Highway Authority has been consulted on the scheme and there are no objections on the grounds of highway safety. Furthermore, the highway authority has stated that the dwelling would represent a decrease in the amount of traffic associated with the site.
- 5.5.2 The Maldon District Council Supplementary Planning Document (SPD), states that residential dwellings comprising four or more bedrooms require a maximum of three parking spaces. The plans show that the dwelling would provide garage parking for two cars and additional off-street parking within a parking forecourt for approximately 3 further vehicles and is therefore considered to accord with adopted parking standards criterion

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

- 5.6.1 The Essex Design Guide requires that dwellings with four or more bedrooms have a minimum of 100m<sup>2</sup> of private amenity space. Such a provision would be amply met in this instance.
- 5.6.2 The application contains limited information with regards to landscaping and boundary treatments. It is therefore considered that conditions requiring the submission of appropriate details are appended to any grant of permission.

## **5.7 Other Material Considerations**

- 5.7.1 The site has authorized use as an employment site and therefore the Council's Economic Development Team has been consulted. It is noted that their response states that the loss of such a use raises concern. However, as previously reported, the site is not currently in use for commercial or business activity and its remote setting is considered to preclude potential users of the site. Furthermore, the potential impact and traffic movements that an employment site in this location could attract are considered to weigh in favour of a grant of approval for one residential dwelling.

5.7.2 The Council's Environmental Health Team has been consulted in relation to potential land contamination with regard to the former uses of the site. Albeit the proposal has been supported by a Land Contamination Report, the consultation response for this recommends conditions be appended to any grant of permission for further investigative work as the report comprised a desktop study only. Such conditions are considered appropriate and necessary in this instance.

## 6. ANY RELEVANT SITE HISTORY

*(Only relevant history of the site will be referred to here.)*

- **FUL/MAL/96/0106** - Use of existing fruit grading, packing and storage buildings for the bottling and packaging of spring water, approved 30/04/96 for temporary period until 30th April 1999.
- **FUL/MAL/97/0359** - Addition of boiler room and compressor room, siting of portacabin for use as staff toilets and rest room and relocation of car parking area, approved 05/08/97. An appeal against conditions 2, 3 and 4 was allowed on 20th April 1998 subject to two other conditions to substitute the original three.
- **FUL/MAL/98/0500** - Retention of consent (MAL/96/0106) without compliance with condition 1 to allow permanent consent for the bottling and packaging of spring water, refused 08/09/98.
- **FUL/MAL/99/0242** - Renewal of temporary consents for use of buildings for the purpose of bottling and packaging of Spring Water (FUL/MAL/96/0106 and FUL/MAL/97/0359), approved 25/05/99.
- **FUL/MAL/99/0242** - Single storey extension to existing office building for staff canteen; Storage area for pallets; approved 03/01/01.
- **FUL/MAL/00/0918** - Proposed single storey extension bottling and packaging building in order to satisfy a condition on temporary consent.
- **FUL/MAL/02/00458** - Application for non-compliance with temporary use conditions of planning permissions FUL/MAL/00/00918 and FUL/MAL/99/0242 to permit permanent use of premises for the bottling, packaging and administration of sales of bottled spring water, approved 12/02/02 but limited to a period of 3 years expiring on 30 June 2005.
- **FUL/MAL/03/00592** - Continuation of use and retention of extensions, without compliance with condition 1 attached to planning permission, refused 30/01/04 and Appeal Dismissed 13 October 2004 with the Inspector concluding that the site is unsuitable for the continued use of the premises for the bottling and packaging of water.
- **FUL/MAL/05/00758** - Use of premises for the bottling, packaging and administration of bottled spring water (Renewal of planning permission FUL/MAL/02/00458 for a period of 12 months expiring on 30 June 2006) – approved 15/08/05.
- **FUL/MAL/05/00759** - Use of the premises for office purposes with ancillary storage - Approved 15/08/05.
- **FUL/MAL/06/00158** - Use of premises for the bottling, packaging and administration of bottled spring water (Renewal of planning permission FUL/MAL/05/00758). Extension of period in order to dispose of bottling equipment and clearance of site, refused 25/04/06.

- **FUL/MAL/08/01022** - Change of use of redundant farm buildings for the bottling of spring water – Refused 12/02/2009.
- **FUL/MAL/08/01209** - Use of the premises for the bottling, packaging, and administration of sales of spring water - Refused 12/02/2009.
- **FUL/MAL/09/00514** - Use of premises for B1 office purpose with ancillary storage – Approved 17/12/2009.
- **FUL/MAL/10/00671** - Change of use to units 3 and 4 from cold stores to bottling and ancillary use, refused 23/11/10.
- **FUL/MAL/11/00363** – change of use to units 3 & 4 from cold store and ancillary use. Allowed on appeal 03 November 2011

## 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 letters of objection received. The current use as a bottling site has been problematic due to noise and traffic movements. Replacement has merit and would be an improvement	The response from the Parish Council has been noted

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

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
ECC Highway Authority	No formal comment or conditions	The response from the Highway Authority has been noted in Section 5.5

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

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No Objection subject to conditions for further site investigation. Potential for risk to end users and water environment	The response has been noted in section 5.6
Economic Development	Concern is raised with the potential loss of employment facilities	The response has been noted in section 5.2

## 7.4 Representations received from Interested Parties (*summarised*)

7.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

- Mr. & Mrs. Gable. Beavis Hall, Hatfield Road, Ulting

<b>Objection Comment</b>	<b>Officer Response</b>
Dwelling design needs improving. Reduction in height and bulk Should be no higher than existing	These comments are noted in sections 5.3 & 5.4

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

- Mr. & Mrs. Jarvis. Grove Hall, Langford Road, Wickham Bishops

<b>Supporting Comment</b>	<b>Officer Response</b>
The site has had many industrial uses with associated commercial traffic Less burden on the site Should be supported as create less impact than previous use	These comments are noted

## 8. **REASON FOR REFUSAL**

- 1 The proposed development would result in the loss of an employment site. Within the Maldon District there is a finite amount of such land for meeting the future employment opportunities of the residents of the District. Policy E6 of the adopted Maldon District Replacement Local Plans seeks to protect existing employment sites and the Applicant has not provided any detailed evidence to support an exceptional grant of permission and has failed to demonstrate that every effort has been made to market the building or secure an appropriate employment use. The proposed development would therefore be contrary to policies E6 and CC21 of the adopted Maldon District Replacement Local Plan emerging policy E1 of the submitted Local Development Plan and the principles of the National Planning Policy Framework.

### **POSITIVE AND PROACTIVE STATEMENT**

**Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012 - Positive and Proactive Statement:**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to liaise with the Applicant/Agent to discuss the best course of action in respect of any future application for a revised development.