



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
28 OCTOBER 2019**

Application Number	FUL/MAL/19/00871
Location	Land South West Of Broadfield Farm, Braxted Park Road, Great Braxted, Essex
Proposal	Agricultural Storage Barn
Applicant	Mr Purdy
Agent	Mr Peter Le Grys - Stanfords
Target Decision Date	01.10.2019
Case Officer	Kathryn Mathews
Parish	GREAT BRAXTED
Reason for Referral to the Committee / Council	Member Call-in – Councillor J V Keyes for Policy D1

1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Land South west of Broadfield Farm, Braxted Park Road, Great Braxted
FUL/MAL/19/00871



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	NORTH WESTERN AREA
	Date:	23/09/2019
	MSA Number:	100018588
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3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The site is located outside any development boundary and is therefore in the countryside for the purposes of planning policy. The site is on the southern side of Braxted Park Road. There are two residential properties directly to the north of the main part of the application site and a further dwelling which also fronts Braxted Park Road ('Hawthorns') to the east, indicated as being within the ownership of the applicant. Vehicular access to the site from Braxted Park Road is partly via an existing, unauthorized, access located to the north-east of the main part of the current application site.
- 3.1.2 The application site accommodates a dilapidated building which is understood to have been used as part of the fruit farming operation previously carried-out within and around the site, but which is understood to have closed in 2010.
- 3.1.3 An existing storage facility lies behind 'Hawthorns'. The wider surroundings are largely open countryside.
- 3.1.4 Planning permission was refused for the same description of development (reference FUL/MAL/19/00470) on 12 July 2019 for the following reasons:
1. *The proposed development would be outside the development boundary and within the countryside. There is no justifiable and functional need for the building/activity, the function of the proposed building/activity is not directly linked, and ancillary to, the existing use and it has not been demonstrated that the building/activity could not reasonably be located elsewhere within the District. Therefore, the development is contrary to Policies S1, S8 and E4 of the Maldon District Approved Local Development Plan, and the NPPF.*
 2. *The proposed building, for which a functional need has not been demonstrated, as a result of its size and height, would be visually incongruous and have an adverse impact on the character and appearance of this part of the countryside, contrary to Policies S1, S8, D1 and E4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.*
- 3.1.5 The proposal has remained unchanged except for an amendment to the position of the proposed accessway between the proposed building and Braxted Park Road and the external materials for the building have been changed. A drawing showing the 'Extent of holding in vicinity of application site' has been submitted with the current application.
- 3.1.6 The proposal is to demolish the existing, dilapidated building which, based on the floorplans submitted, has an L-shaped footprint measuring a maximum of 27m x 20.4m and a height of 4.4m but the building remaining on site appears to be smaller in footprint. The existing building would be replaced with a building with a rectangular shaped footprint measuring 30m x 15m and a height of 8.1m (pitched roof). The proposed building is described as an 'agricultural storage barn'. There would be a roller shutter door on the eastern end of the building. The materials to be used in the

external surfaces of the building would be horizontal black weatherboarding for the walls and red plain tiles for the roof. Two proposed car parking spaces are referred to on the application form submitted but their location is not shown on the drawings submitted. The existing use of the site is described as agricultural.

- 3.1.7 It is stated that the floor area of the existing building is 500sq.m. but the floorplan submitted indicates that the building has a floor area of around 443sq.m.. The floor area of the proposed building is stated as being 460sq.m. but the drawings submitted indicate that the building would have a floor area of less than 450sq.m. The remains of the existing building on site also appear to have a floor area less than indicated on the existing floor plans submitted. Therefore, the proposal has been assessed on the basis that the floor area of the proposed building would be greater than what remains of the existing building.
- 3.1.8 The existing accessway to the east of the building proposed has been included within the application site boundary but the whole of this accessway is unauthorized and required to be removed as part of an enforcement notice recently upheld at appeal (see below). There is also a strip of land included within the current application which would connect the proposed building to the existing accessway measuring around 50m in length. However, no reference to either have been made in the description of the development. The Case Officer for the application did write to the applicant's agent suggesting the following, amended description as part of the previous application but no response was ever received: *'Agricultural storage barn, Section 73A application for retention of existing accessway and proposed extension to existing accessway'*.
- 3.1.9 The application has been accompanied by a letter from the occupiers of Broadfield Fruit Farm which states, in relation to the retention of the access road leading to the land behind their property, that 'the use of this access road has not caused ...[them] any difficulty through noise or activity by vehicles either accessing the old packing sheds or to the builders yard behind Hawthorns'. The submitted Planning Statement contains the following information:-
- The farm business run by the applicant extends to more than 42ha. in the district, including land on both sides of Braxted Park Road extending to more than 8ha. and over 240ha. in central Essex. The land is used primarily for arable production, including grassland for hay production and wheat. Although the application site is currently not used for agricultural production, following grubbing up of the orchard and closure of the former fruit packing sheds on the land, the site is now to be placed in arable production from next winter. The land contains a number of farm tractors, trailers and other items of machinery which are currently stored in the open along with other agricultural tractors on open land nearby.
 - The farm business has a need for a storage barn to securely store equipment and hay. At present there are no other storage facilities available in the vicinity with the exception of the buildings on site and the small barn located at Priory Farm further along Braxted Park Road. Reference is made to the height of that building limiting the agricultural equipment which can be stored.
 - It is claimed that the applicant has an urgent need for an agricultural storage facility which cannot be met by any other building in the immediate locality or the 42ha. farm holding.

- This site would not be directly central to all of the applicant's land holdings, but it is located close to his house and principal activities and so is ideal from a farm operational purpose.
- 3.1.10 The application site, along with adjacent surrounding land, forms part of a piece of land the subject to an Enforcement Notice which was upheld, with amendments, at appeal on 8 May 2019.
- 3.1.11 The original Enforcement Notice was served on 4 June 2018. The Notice, as varied and corrected as part of the appeal decision, alleges the following breach of planning control:
- Without planning permission, the construction of an accessway on land between Hawthorns and Broadfield Fruit Farm
 - Without planning permission, the material change of use of land for the external storage of materials and detritus
- 3.1.12 The requirements of the Notice are:
- Break-up the access road and permanently remove from the land all materials, items and debris or detritus laid to create the access road on site. Return all of the land to its condition before the breach took place.
 - Cease the use of the land for external storage of materials and detritus and remove from the land all materials and detritus stored on the land. Return all of the land to its condition before the breach took place.
- 3.1.13 The period of compliance with these requirements is 3 months (i.e. by 8 August 2019) and is being dealt with by the Council's Enforcement Officers.

3.2 Conclusion

- 3.2.1 The proposed development would be outside any development boundary and within the countryside. It has not been demonstrated that the proposal complies with the requirements of Policy E4 of the LDP, as follows:- (1) there is no justifiable and functional need for the building/activity, (2) the function of the proposed building/activity is not directly linked, and ancillary to, the existing use and (3) it has not been demonstrated that the building/activity could not reasonably be located in existing towns, villages or allocated employment areas. Objection is also raised due to the adverse impact the development would have on the character and appearance of the area. However, no objection is raised on residential amenity or highway safety/access/parking grounds.
- 3.2.2 The additional information submitted as part of the current application is insufficient to overcome the reasons why the previous application (reference FUL/MAL/19/00470) was refused.

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
- 80 - 82 Building a Strong, Competitive Economy
- 117 - 118 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
- D2 Climate Change and Environmental Impact of New Development
- E4 Agricultural and Rural Diversification
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Essex Design Guide
- Car Parking Standards
- Maldon District Design Guide

5. MAIN CONSIDERATIONS

- 5.1 The main issues which require consideration as part of the determination this planning application are the principle of the development, the impact on the character and appearance of the area, any impact on the amenity of the occupiers of neighbouring residential properties, and highways/parking considerations.

5.2 Principle of Development

- 5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk areas, the

historic environment, local infrastructure and services, character and appearance, and minimising need to travel.

- 5.2.2 The application site is located outside the defined development boundaries within the District and within the countryside. The Council's spatial strategy is to focus new development within settlement boundaries (Policies S1 and S8) but Policy S8(d) does allow for agriculture and forestry and related development (in accordance with Policy E4). Policy E4 states that the Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses where certain requirements are met including where (1) there is a justifiable and functional need for the building/activity, (2) where the function of the proposed building/activity is directly linked, and ancillary to, the existing use and (3) the building/activity could not reasonably be located in existing towns, villages or allocated employment areas.
- 5.2.3 None of the application site or the neighbouring land indicated within the submitted application as being within the ownership of the applicant is, currently, in use for agricultural purposes but, at the time of the Officer's last site visit, was being used for the external storage of materials and detritus. Reference is made within the current application that the applicant's farm business extends to 8ha. in the vicinity of the application site. However, the plan submitted claiming to outline this land is not to scale and, therefore, its area cannot be verified. No details of the location of the applicant's 42ha. land holding in the District, referred to as part of the application, have been provided. Furthermore, based on the information available, it cannot be concluded that there are no other buildings within the applicant's land holdings that could accommodate the storage claimed to be required or that a less visually harmful location for the building does not exist elsewhere within the applicant's land holdings.
- 5.2.4 Based on the above, it is not considered that the proposal complies with the requirements of Policy E4 of the LDP, as follows:- (1) there is no justifiable and functional need for the building/activity, (2) the function of the proposed building/activity is not directly linked, and ancillary to, the existing use and (3) it has not been demonstrated that the building/activity could not reasonably be located in existing towns, villages or allocated employment areas. It is recommended below that planning permission is refused for this reason.

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, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 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 Maldon District Design Guide (2017).
- 5.3.5 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.
- 5.3.6 As part of the appeal decision referred to above, whilst the Enforcement Notice was upheld, the Inspector held that the appearance of the existing accessway could be made satisfactory by the imposition of a landscaping condition. Therefore, it is considered that an objection to this element of the proposal could not be sustained.
- 5.3.7 However, the new building may be positioned in the same location as the remains of the existing building but it would be greater in size and considerably greater in height. It is noted that the materials to be used would now be black weatherboarding for the walls and plain tiles for the roof, rather than the previously proposed profiled cladding. However, it is considered that the proposed building, for which a functional need has not been demonstrated, as a result of its size and height, would be visually incongruous and have an adverse impact on the character and appearance of this part of the countryside, contrary to Policy D1 and E4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 requires that all development must protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 As a result of the size, height and design of the building proposed and its distance from the boundaries of the neighbouring residential properties (10m at its closest point), it is considered that the proposal would not result in material harm being caused to the occupiers of the existing, neighbouring residential properties due to privacy, overlooking, outlook, light, visual impact, daylight and sunlight. As the proposed agricultural building would be for storage and would be located in the same position as an existing building - understood to have been previously used in association with a fruit farm - the development would not have a materially greater impact on the amenity of local residents as a result of noise, smell and pollution.
- 5.4.3 Were the proposal considered acceptable, the use of external lighting could be controlled through the imposition of a condition, as recommended by the Environmental Health Officer.
- 5.4.4 It is noted that the occupiers of Broadfield Fruit Farm have stated that they have no difficulty with the use of the accessway proposed.
- 5.4.5 Based on the above, no objection to the proposal is raised on the basis of harm to the amenity of the occupiers of existing dwellings.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 of the LDP seeks to ensure that appropriate off-street parking is provided in conjunction with new development. Likewise, policy D1 seeks to ensure that safe and secure vehicle parking is provided in accordance with the Council's adopted parking standards.
- 5.5.2 Reference is made to the provision of two parking spaces on the application form submitted, but the location of these spaces is not referred to on the drawings submitted. However, there is no adopted parking standard for agricultural uses and, given the distance of the proposed building from Braxted Park Road and the length of the accessway, it is considered unlikely that the development would cause adverse issues with respect to parking.
- 5.5.3 The Highways Officer has raised no objections to the proposal.
- 5.5.4 Based on the above, no objections are raised with respect to access/ highway safety/ parking provision.

5.6 Other Matters

- 5.6.1 One of the requirements of Policy D2 of the LDP is that, where appropriate, development will include measures to remediate land affected by contamination. National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by

preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).

- 5.6.2 The Environmental Health Officer has raised concerns that, due to the existing/previous use of the site, the land may be contaminated, but this matter could be adequately addressed through the imposition of conditions requiring that the site is investigated for contamination and that any contamination found is satisfactorily remediated, were the proposal considered acceptable.
- 5.6.3 Further, the Environmental Health Officer also recommended that a condition is imposed requiring surface water drainage details to be submitted for approval. Such a condition could be imposed on any planning permission which were to be granted.

6. ANY RELEVANT SITE HISTORY

- Appeal against Enforcement Notice reference APP/X1545/C/18/3206563 – Enforcement Notice upheld with corrections and variation 08.05.2019
- **FUL/MAL/19/00470** – Agricultural storage barn – Refused 12.07.2019

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 objections	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Officer	No objection	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Officer	No objection subject to the imposition of conditions relating to contaminated land, external lighting and surface water drainage; and informatives.	Noted – refer to sections 5.4 and 5.6 of report. The informatives recommended could be added to any planning permission granted.

7.4 Representations received from Interested Parties

7.4.1 No letters of representation were received.

8. PROPOSED REASONS FOR REFUSAL

1. The proposed development would be outside the development boundary and within the countryside. There is no justifiable and functional need for the building/activity, the function of the proposed building/activity is not directly linked, and ancillary to, the existing use and it has not been demonstrated that the building/activity could not reasonably be located elsewhere within the District. Therefore, the development is contrary to Policies S1, S8 and E4 of the Maldon District Approved Local Development Plan, and the NPPF.
2. The proposed building, for which a functional need has not been demonstrated, as a result of its size and height, would be visually incongruous and have an adverse impact on the character and appearance of this part of the countryside, contrary to Policies S1, S8, D1 and E4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide.