



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
8 JUNE 2020**

Application Number	19/01183/FUL
Location	Plainswood House, 25 Plains Road, Great Totham
Proposal	S.73 A application for detached outbuilding containing garages, gymnasium and garden room with storage rooms in the roof space served by dormer windows.
Applicant	Mr Thomas Gregan
Agent	Mr Anthony Cussen – Cussen Construction Consultants
Target Decision Date	03.04.2020
Case Officer	Devan Hearnah
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Member Call In by: Councillor Keyes Reason: Policies D1, D2, S1 & H2

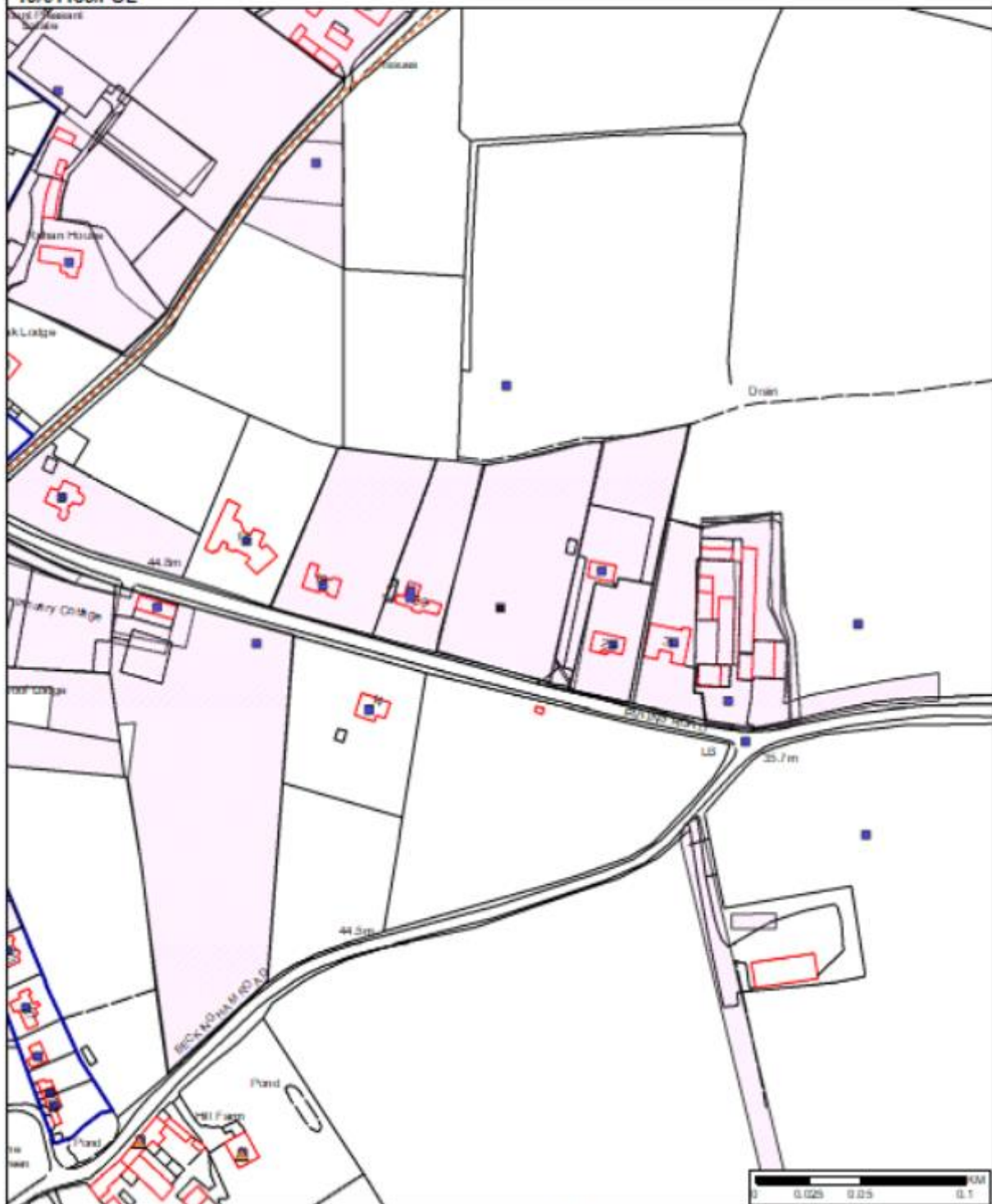
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

Plainswood House, 25 Plains Road, Great Totham
19/01183/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	NWAC
	Date:	09/12/2019
	MSA Number:	100018588

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3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the northern side of Plains Road and outside of any defined settlement boundaries. The site is occupied by a recently constructed two storey detached dwellinghouse which is surrounded by ample amenity space. A driveway is located between the front elevation of the property and a large timber entrance gate and brick wall is set slightly back from Plains Road. Upon conducting a site visit it was noted that the detached garages and garden room approved under the terms of application 18/01403/FUL had begun to be constructed.
- 3.1.2 The surrounding area is rural in nature with several large dwellings located along this section of the road.
- 3.1.3 Planning permission is sought for the erection of a detached outbuilding containing garages, a gymnasium and garden room with storage rooms within the roof space, which are to be served by dormer windows.
- 3.1.4 It should be noted that the proposal is part retrospective in nature as the works have already commenced. However, the works, minus the dormer windows and first floor storage space, were previously approved under the terms of application 18/01403/FUL.
- 3.1.5 The difference between the proposal subject of this application and application 18/01403/FUL is that seven dormer windows are proposed in the roof space, to serve a storage space within the roof, which will be accessed via an internal staircase, within the gymnasium section of the building. Four of the dormers will face east and will be sited above the two-bay garage and gymnasium, whilst three will face north, one sited within the roof of the three-bay garage and two above the garden room.
- 3.1.6 It is worth noting that the application was originally submitted as a variation of condition application but having regard to recent Case Law (Finney v Welsh Ministers [2019] EWCA Civ 1868), the Applicant's Agent was advised that the variation proposed went beyond what was included within the original description of works and could not be considered a variation of condition. The Case Law states that changing the description of the development which was previously permitted would be outside of the powers conferred by section 73 of the Town and Country Planning Act (1990), and that the works due to their nature and scale would result in a development which is substantially different to the one which was approved. Therefore, the application was amended to a full application. It is the full application that is subject to this report.

3.2 Conclusion

- 3.2.1 It is considered that the concerns in relation to the use of the first-floor storage space and neighbouring amenity could be overcome by suitable conditions restricting the use of the upper floor to storage only in association with the residential use of the host dwelling. However, the proposed dormer windows, particularly the pair located on the northern end of the eastern roofscape, as a result of their scale and positioning, would create an overcrowded roofscape. Furthermore, the residential appearance of

the dormers and their lack of relationship with the architectural character of the host dwelling would erode the subordinate relationship between the outbuilding and host dwelling, thereby creating the appearance of two separate forms of residential development. Consequently, the proposed development would be detrimental to the visual amenity and character of the site, its immediate surroundings and the wider rural area. The proposal would therefore be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP) and Government advice contained in 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	Achieving sustainable development
11	The presumption in favour of sustainable development
117-118	Making effective use of land
124-128	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
H4	Effective Use of Land
T1	Sustainable Transport
T2	Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (2018) (MDDG)
- Maldon Vehicle Parking Standards (2018) (VPS)
- Planning Practice Guidance (PPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of providing facilities in association with residential accommodation is considered acceptable under policies S1 and H4 of the LDP. However, there is a concern that the size of the storage space, which would be served by seven dormer windows, would go beyond that which could be reasonably regarded as ancillary storage space serving a residential dwelling. Therefore, there is a concern that the proposal could be used for other purposes, such as residential accommodation in the future. Nevertheless, having regard to the fact that the application building is located within the residential curtilage of the site and that there was a condition imposed on the previous permission (18/01403/FUL) preventing the use of the building for purposes that are not ancillary to the residential use of the host dwelling, it is not

considered unreasonable to impose a similar condition as part of this application. However, the condition should limit the use of the first floor to storage use only rather than all ancillary uses which could result in neighbouring impacts. This is considered to overcome the concerns highlighted above.

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. Likewise, 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 makes a positive contribution.
- 5.2.3 Similar support for high quality design and the appropriate layout , scale and detailing of development is found within the MDDG (2017).
- 5.2.4 The external alterations relate to the addition of the seven dormer windows on the substantially sized outbuilding. Given the number of dormers proposed, and the extent of the building, as approved, it is considered that the addition of the dormers would result in a development which appears more residential in character rather than a subservient outbuilding. Furthermore, although there are dormer windows upon neighbouring dwellings, given that there are no dormer windows upon the host property it is considered that the windows would introduce a new architectural feature and would appear contrived in relation to the character of the host dwelling and the application site, further eroding the relationship between the two buildings.
- 5.2.5 Further to the above, it is considered that the two dormers proposed on the northern end of the western roofscape, which would be almost equal to the ridge height of the roof within this part of the outbuilding, would create an overcrowded roof form, which would appear at odds with the other two proposed dormers to the south.
- 5.2.6 Whilst it is noted that the dormers would not be highly visible from within the street scene, it is considered that glimpses of the development would be available from Plains Road and from the neighbouring dwellings/curtilages. Therefore, the resultant harm on the character and appearance of the area is significant enough to raise an objection to the application.
- 5.2.7 Given that it is considered that the development would materially alter the character and appearance of the previously approved development and would result in demonstrable harm to the character and appearance of the site and rural area, the proposal is considered to be contrary to policies S1, S8, 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 site is bordered by two neighbouring properties, No.23 Plains Road to the west and No.29 Plains Road to the east. It is noted that the location plan submitted indicates that No.29 Plains Road is under the same ownership as the application site.
- 5.3.3 Given that the amendments to the previously approved scheme do not propose any alterations to the height or siting of the proposal, there are no material alterations that would alter the previous findings of the Council in relation to whether the proposal would be overbearing or result in a loss of light. However, given that first floor dormer windows are now proposed it must be determined whether there would be an unacceptable level of overlooking or loss of privacy.
- 5.3.4 Given that the majority of windows would face north and east it is not considered that the development would result in an unacceptable degree of overlooking into the neighbouring dwelling to the west (No.23 Plains Road). Whilst the windows within the northern roofscape would have views into the rear garden of the No. 23 Plains Road, given their orientation and the extensive depth of the neighbouring garden meaning it is unlikely that the views would be of the most used areas of the neighbouring garden, it is not considered that the levels of overlooking into No.23 Plains Road would be so detrimental as to result in a separate reason for refusal. However, it is noted that the neighbouring occupiers may subject to a perceived sense of overlooking and there is no way for the LPA to limit how often the storage space is in use. Therefore, if the application were to be approved it would be reasonable and necessary to condition the first-floor windows to be obscure glazed. This would not detrimentally impact on the amenity of the occupier as the roof space does not provide habitable accommodation.
- 5.3.5 The proposed windows would be approximately 44m from the boundary of the dwelling within the rear of No.29 Plains Road. The windows that face east would have views into the neighbouring property. However, as stated above a condition could be imposed requiring that the windows are obscure glazed, which given the separation distance and that the windows would serve storage space, is considered to be sufficient in overcoming any resultant harm from overlooking
- 5.3.6 Having regard to the above, subject to conditions is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, 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 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 alterations do not increase the number of bedrooms on site and does not result in the loss of any car parking spaces. Therefore, there are no objections with regard to car parking. The main access to the site would remain the same and no additional accesses would be created as part of the proposed development.

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 25m² for flats.
- 5.5.2 The proposed alterations will not impact on the level of amenity space provided in comparison to the previous application. Therefore, there is no objection in that regard.

6. ANY RELEVANT SITE HISTORY

East Cottage, Witham Road, Tolleshunt Major:

- **13/00072/FUL** - Demolition of existing barn and erection of a bungalow single dwelling unit. Change of land use from B1 to C3 - Approved
- **13/00620/FUL** – Erection of two no.4 bedroom homes and change of land use to C3 – Refused
- **14/00055/FUL** - Erection of two no.4 bedroom homes and change of land use to C3 – Refused
- **14/00887/FUL** - Demolition of existing barn and erection of a new single dwelling, including new access onto Plains Road and change of use of land to residential (class C3) (amendment to and repositioning of dwelling approved under reference 13/00072/FUL onto adjacent paddock – Approved
- **16/00226/FUL** - Vary condition 2 of approved application FUL/MAL/14/00887 (Revised drawings to include increased ceiling height at ground floor level. Introduction of two rearward facing Juliet balconies. Change of external finishes from render to facing brickwork. Relocate the footprint of the dwelling further back on the site). Vary drawings – Approved
- **18/01403/FUL** - Construction of detached garages, gymnasium and garden room. Approved

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Great Totham Parish Council	A condition should be attached ensuring that the use is only for purposes ancillary to the main dwelling.	Addressed above.

7.2 Representations received from Interested Parties

7.2.1 No letters of representation had been received at the time of writing this report.

8. REASON FOR REFUSAL

- 1 The proposed dormer windows, particularly the pair located on the northern end of the eastern roofscape, as a result of their scale and positioning, would create an overcrowded roofscape. Furthermore, the residential appearance of the dormers and their lack of relationship with the architectural character of the host dwelling would erode the subordinate relationship between the outbuilding and host dwelling, thereby creating the appearance of two separate forms of residential development. Consequently, the proposed development would be detrimental to the visual amenity and character of the site, its immediate surroundings and the wider rural area. The proposal would therefore be contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government advice contained in the National Planning Policy Framework.