



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
28 OCTOBER 2020**

<b>Application Number</b>	<b>20/00733/FUL</b>
<b>Location</b>	Land Adjacent Orchard House, Nipsells Chase, Mayland
<b>Proposal</b>	An equestrian arena to ride in the wet winter months. The arena is to be made of an equestrian sand mix.
<b>Applicant</b>	Mr & Mrs Kenny Paton
<b>Agent</b>	N/A
<b>Target Decision Date</b>	24.11.2020
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>MAYLAND</b>
<b>Reason for Referral to the Committee / Council</b>	Councillor Miss S White is co-applicant. Major application on site area

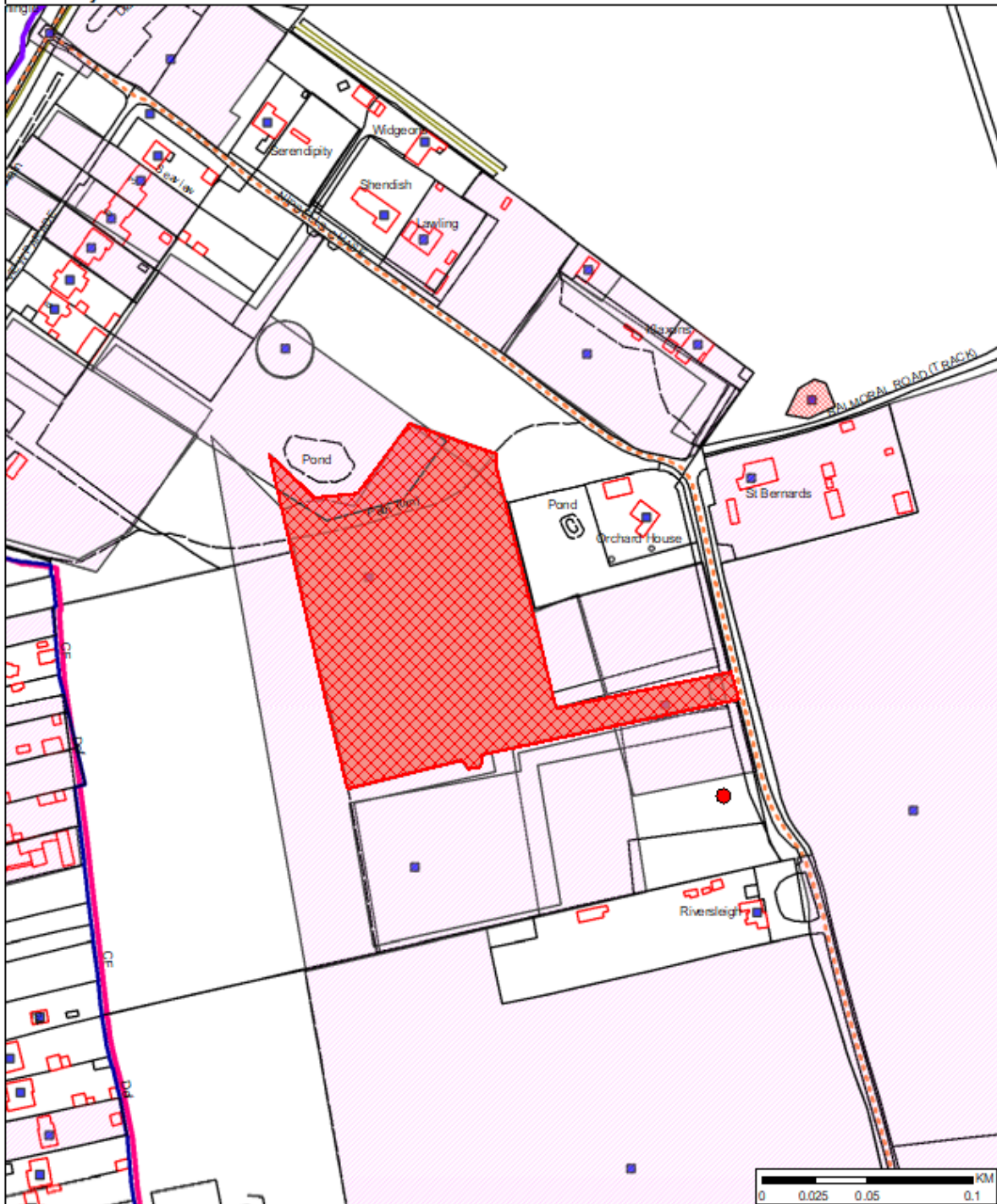
1. **RECOMMENDATION**


**APPROVE** subject to conditions as detailed in Section 8.

2. **SITE MAP**

Please see overleaf.

**20/00733/FUL**  
**Land Adjacent to Orchard House**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SEAC
	Date:	15/10/2020
	MSA Number:	100018588

### **3. SUMMARY**

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

##### *Site description*

- 3.1.1 The application site is located on the western side of Nipsells Chase, within a rural area outside the defined settlement boundaries of the District and it is a designated local wildlife site. The site currently forms an open area of land, which has permission to be used for equestrian purposes (18/00839/FUL and 20/00345/FUL).
- 3.1.2 It is noted that within the application site and also in the area under the applicant's ownership, that is adjacent to the application site, there are trees that are subject to a Tree Preservation Order (TPO 4/18); although none of the trees are proposed to be directly impacted by the equestrian arena.
- 3.1.3 The surrounding area of the application site is largely undeveloped. There are some examples of dwellings to the north and south of the application site; however, the wider area appears to be used for agricultural purposes and is a rural nature. To the west the application site abuts a woodland site.

##### *Description of proposal*

- 3.1.4 Planning permission is sought for an equestrian arena which will lie to the west of Orchard House.
- 3.1.5 Application 18/00839/FUL approved permission for the change of use of the land to an equestrian use and the erection of a single storey building to be used for storage of agricultural machinery, hay, straw and the stabling of six horses. This was amended by application 20/00345/FUL.
- 3.1.6 The equestrian arena will be made of a sand mix and will measure 60 metres by 30 metres. It has been stated that the arena will be used to ride horses in the wet winter months to reduce the reliance of riding on roads. The application form states that the arena is proposed to be a large size as one of the horses is a Clydesdale, which is used for driving, (i.e. attaching a cart, carriage or other horse drawn vehicle to the horse), which is proposed to be undertaken within the arena.
- 3.1.7 Photographs have been provided showing an example of an equestrian arena including a typical post and rail boundary enclosing the site.
- 3.1.8 It has been stated that a new Hornbeam hedge will be planted along the northwest and northeast boundaries of the proposed equestrian arena.

## **3.2 Conclusion**

- 3.2.1 The proposed development is not considered to result in demonstrable harm to the character and appearance of the site or the surrounding rural area. The proposal is also not considered to harm the amenity of neighbouring occupiers. There are also no concerns in relation to parking or highway safety. Subject to conditions, the proposal can be found acceptable and therefore the proposal is considered to be in accordance with the policies set out within the Local Development Plan (LDP) and the guidance contained within 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
- 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 the Built Environment
- E4 Agricultural and Rural Diversification
- H4 Effective Use of Land
- T2 Accessibility

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG) SPD (2017)
- Maldon District Vehicle Parking Standards (VPS) SPD (2018)

## **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 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 The application site lies beyond the designated settlement boundaries, in a rural area and policies S1 and S8 of the approved Maldon District Local Development Plan (MDLDP) seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. However, whilst the site is located outside of a defined settlement boundary, it is considered that the principle of an equestrian arena would be commensurate with the rural character of the area. On that basis, it is not considered that the development would result in demonstrable harm to the character of the area.
- 5.1.3 It is also noted that permission has been granted for a stable and use of the area as equestrian under the terms of 18/00839/FUL and therefore there are no objections to the construction of associated equestrian facilities.
- 5.1.4 In light of the above, the principle of constructing an equestrian arena, is considered acceptable in the context of the area, in accordance with policies S1, S8 and D1 of the LDP, and the guidance contained within the NPPF.

### **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 Furthermore, 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:
- 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;*
- 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 The equestrian arena will be located to the west of Orchard House and north of the stable approved under 18/00839/FUL. Due to the nature of its use and positioning, it will not be highly visible from the surrounding area or the streetscene. Furthermore, the site has planning permission to be used for equestrian purposes under the terms of 18/00839/FUL. Although this permission has not been implemented it is still extant; it was considered visually acceptable for the land to be used for equestrian purposes and for the construction of a stable, therefore an equestrian arena would be visually in keeping with this use of the site and, whilst it would increase the level of manmade development on site it would not result in significantly more harm to the character and appearance of the area.
- 5.2.7 The proposed materials and hedging are considered to be acceptable. It is noted no specific drawing details of boundary treatments enclosing the equestrian arena have been provided however photographs have been submitted with the proposal showing a typical post and rail fence detail. Specific details have been requested via condition 4 below.

### **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 MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

- 5.3.2 The development would be located a significant distance away from any other neighbouring residential dwelling. The nearest dwelling to the development is Orchard House and it is located 78 metres away from the proposed development. It is noted that some noise and disturbance would result from the use of the proposed equestrian arena, however it is also noted that permission has been granted previously (18/00839/FUL and 20/00345/FUL) for the use of the site for equestrian purposes and the erection of a stable and therefore due to this and the distance from the nearest dwelling, it is not considered that the development would have any detrimental impact on the residential amenity of the nearby neighbours in terms of loss of light, domination undue noise or sense of enclosure.
- 5.3.3 It is noted that if external lighting were to be erected at the site, this could result in light pollution and disturbance to neighbouring sites and therefore condition 6 has been included so that no external illumination can be erected at the site without first having to apply to the Local Planning Authority (LPA) for consent.
- 5.3.4 The application site is surrounded by open fields and as such, there would be no significant impact on residential amenity.

#### **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 development would be used for equestrian purposes and therefore, there are no set requirements for parking provision. The development will be accessed via an existing vehicular access from Nipsells Chase. It is noted that a footpath runs adjacent to this access and therefore a condition will be included to ensure the footpath is maintained unobstructed.
- 5.4.3 No hardstanding has been provided to facilitate the moving of vehicles on site. However, as this development is away from the public highway and would be accessed along a private track, it is considered this would be a satisfactory arrangement in this instance.

#### **5.5 Other Matters**

##### Ecology

- 5.5.1 The site is a designated Local Wildlife Site it would therefore be regarded as a 'sensitive site' where there are clear policy requirements that aim to conserve and protect nature conservation interests. These principles are reflected within 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”.

- 5.5.2 An extended phase 1 habitat survey dated February 2020 has been submitted in support of the application and has surveyed the whole site to ascertain whether there are protected species on the site. The report concludes that there is limited potential for protected species to be located within the site and that the development of the site will not result in harm to protected species. There are three recommendations set out however, to ensure that, if there are reptiles, amphibians, bats, badgers or hedgehogs on the site, that they are not harmed by the development. A condition will be imposed to ensure these recommendations are undertaken and the measures outlined and carried out as appropriate. It is also noted that the previous application 18/00839/FUL has been approved without any conditions requesting further information to be submitted to the LPA in this regard.

#### Surface Water Drainage

- 5.5.3 A surface water drainage scheme has been undertaken by Ambiantal Environmental Assessment and submitted with the application, which sets out the drainage scheme for the previously approved stables and the equestrian arena subject of this application. The applicant has confirmed that the equestrian arena will be of a permeable construction. The drainage report concludes that a detention basin will be implemented, and any surface water run-off will be discharged into an existing watercourse, draining towards the west, which is considered to be acceptable. These details have been secured under condition 5.
- 5.5.4 This drainage scheme was not submitted with the application originally and has been submitted later and therefore a response from Environmental Health has not yet been received. Any subsequent response will be included on the Members' Update and the proposed condition updated if required.

#### Trees

- 5.5.5 It is noted that the site is subject to a Tree Preservation Order (TPO) (4/18). None of the trees subject to the TPO are near to the proposed equestrian arena and therefore will not be impacted by the development directly. It is noted that the construction of the development could impact some of the TPO trees within the site if the construction materials were stored within the root protection areas of these trees, or if vehicles were driven near to the trees. Condition 7 has therefore been included to ensure that no materials or vehicles etc will be stored/manoeuvred within the root protection area of the trees, which has been calculated at 15 metres by the Council's Tree Consultant and therefore there are no objections in terms of the impact on trees, subject to condition 7.



5.5.6 On Google maps aerial view, it appears there is a tree adjacent to the proposed development to the south east however the applicant has sent in photos to confirm that it was bushes/shrubs covering the remains of an old building, rather than a tree, which has now been removed.

**6. ANY RELEVANT SITE HISTORY**

- **17/00736/FUL** – Proposed construction of a new detached single storey dwelling - Application withdrawn.
- **17/01043/AGR** – Prior notification for permeable hardstanding, with edging stones - Refused
- **17/01060/DD** – T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5 day D&D (5 Day Notice) - Approved
- **18/00280/FUL** - Construction of an apple storage barn – Approved
- **18/00839/FUL** - Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses – Approved
- **20/05040/DET** - Compliance with conditions notification 18/00280/FUL (Construction of an apple storage barn) Condition 3 – Materials – Approved
- **20/00345/FUL** - Variation of condition 2 and 8 on approved planning permission 18/00839/FUL (Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses) – Approved
- **20/05110/DET** - Compliance with conditions notification 18/00839/FUL (Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses) Condition 3 - Materials. Condition 4 - Boundary treatment. Condition 7 - Surface water drainage. Condition 10 - External Lighting. Condition 11 - Tree Protection. – Pending

**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>
Mayland Parish Council	We recommend the refusal of planning permission: No clarification on plans as to where the excess water will go to	Comments noted. A drainage scheme has since been submitted and secured under condition 5.

**7.2 Representations received from Internal Consultees**

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No response at the time of writing this report.	Any response will be dealt with via a Members' Update.

**7.3 Representations received from External Consultees**

Name of External Consultee	Comment	Officer Response
Tree Consultant	In respect of this application I have no objection to a report not being provided prior to works starting on site, as long as no development, storage of materials, parking of vehicles / plant or other construction activities shall take place within 15m of the TPO trees and other trees shown to be retained.	Comments noted. See condition 7.

**7.4 Representations received from Interested Parties**

7.4.1 No neighbour representation letters have been received.

**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) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in complete accordance with approved drawings: 1142/01 Rev A, Arena Site Plan, Arena Plan, Surface Water Drainage Strategy, Ecology Report  
REASON To ensure the development is carried out in accordance with the details as approved.
3. The development hereby approved shall be carried out in accordance with the details specified in the application form/information provided.  
REASON To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.

4. Prior to the use of the development hereby approved details of the boundary treatment of the equestrian arena shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be provided prior to the use of the site and building hereby approved in accordance with the approved details and be retained as such in perpetuity.  
REASON To ensure the appearance of the boundary treatments are appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
5. The development shall be carried out in accordance with the surface water drainage scheme, 'Surface Water Drainage Strategy' undertaken by Ambiantal Environmental Assessment (reference: 5407 SWDS) and shall be retained as such thereafter.  
REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).
6. No floodlighting or other external form of illumination of the site shall be undertaken without the prior written approval of the local planning authority. Prior to the use of the development hereby permitted, details of any proposed floodlighting and all other external illumination of the site shall be submitted to and approved in writing by the local planning authority. All illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the local planning authority.  
REASON To protect residential amenity in compliance with the NPPF and policies D1 and H4 of the approved Local Development Plan and the guidance contained in the MDDG SPD.
7. There shall be no development, storage of materials, parking of vehicles / plant or other construction activities taking place within 15 metres of the trees on the site subject of Tree Preservation Order 4/18.  
REASON To protect the trees subject to TPO 4/18 and in the interests of the visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.
8. The public's rights and ease of passage over restricted byway number 17 in Mayland shall be maintained free and unobstructed at all times.  
REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with policies T1 and T2 of the Maldon District Local Development Plan.
9. The development hereby approved shall not be used for business or commercial use including for the purposes of livery or any riding school activity.  
REASON To protect the amenity and character of the area and the amenity of neighbouring occupiers, in accordance with policies S1, S8 and D1 of the LDP.
10. The proposed development shall be undertaken in accordance with the information and recommendations contained within the submitted ecology report dated 9th February 2020..  
REASON To ensure appropriate protection of protected species is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the approved Local Development Plan.