



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

Application Number	20/00994/FUL
Location	Little Grange Farm, Marlpits Road, Woodham Mortimer, Essex CM9 6TL
Proposal	Full planning application for the proposed change of use from Agricultural to Dwellinghouse (C3) and associated operational development of the Apple store and Essex barn at Little Grange Farm
Applicant	Mrs Sarah Chenevix-Trench
Agent	Miss Nicole Bushell - Arcady Architects
Target Decision Date	EOT 15.01.2021
Case Officer	Annie Keen
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Departure from Local Plan Member Call In – Councillor K W Jarvis Reason – Policies S1, S8 and D1

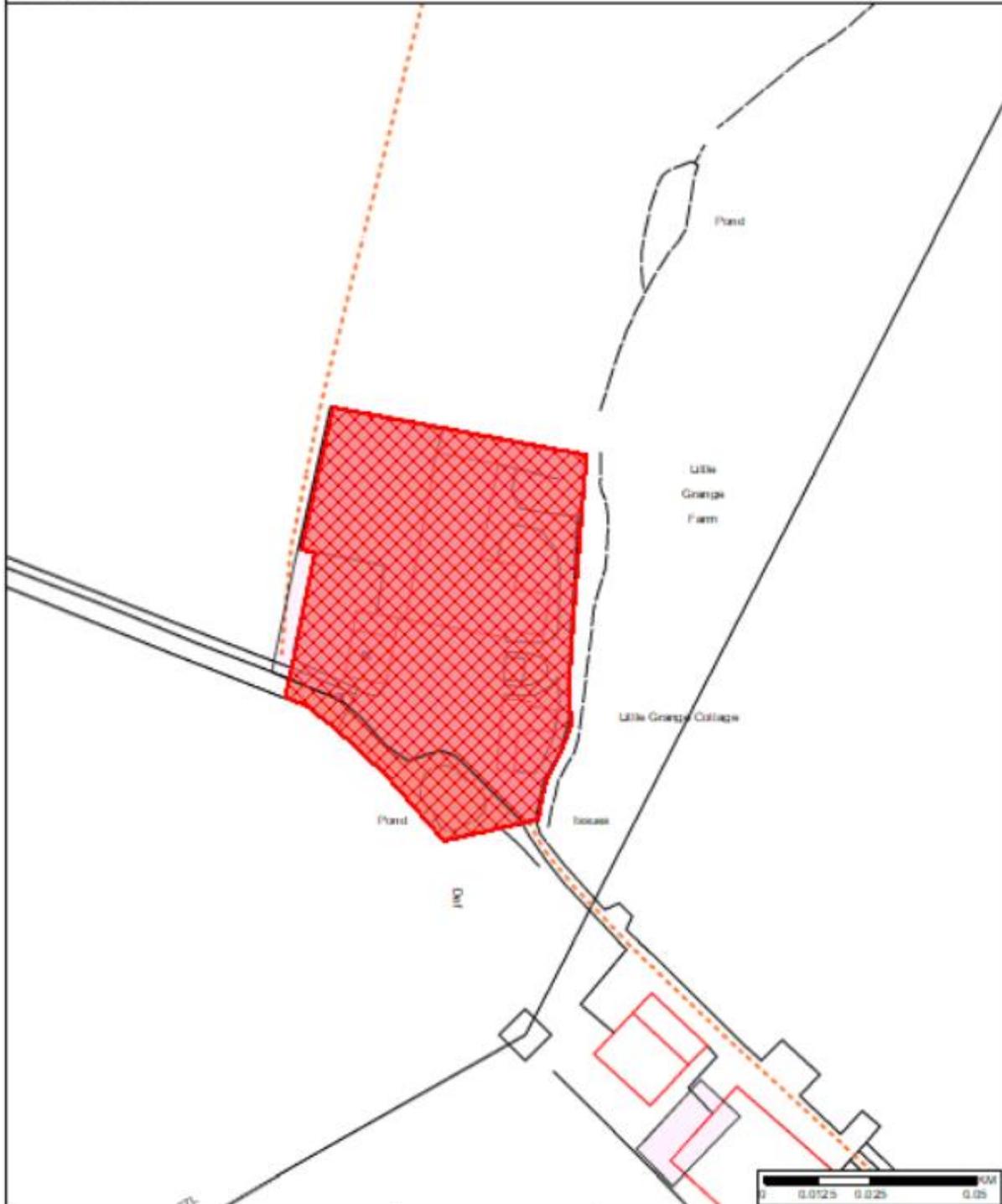
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Little Grange Farm, Marpits Road, Woodham Mortimer
20/00994/FUL



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Maldon District Council 100018588 2014

MALDON DISTRICT
COUNCIL

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Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	North West Area Committee
Date:	18/12/2020
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located along an unmade road to the east of Marl pits Road and to the north Little Grange Farm track. The site is situated outside the settlement boundary of Woodham Mortimer. The site currently accommodates a residential dwelling (the farmhouse) and a number of agricultural buildings of varying ages, designs and sizes which were formerly used as part of the fruit farm but are now redundant.
- 3.1.2 Planning permission is sought for the demolition of the existing asbestos barn and the conversion of the existing Apple Barn and Essex Barn into a residential dwelling. Alterations to the buildings would allow for the installation of doors, windows and rooflights. Internally, at ground floor the development would create a kitchen/dining area, living room, office, study, utility room, WC's, garage and a therapy pool. At first floor level a master bedroom with an en-suite and dressing rooms and three further bedrooms and two bathrooms would be developed.
- 3.1.3 There would be no increase in the scale of the buildings, with the Apple Barn measuring 23 metres in length and 7.4 metres in width, with a maximum eaves height of 5.1 metres and a ridge height of 7.9 metres. The Essex Barn measures 5.6 metres in width and 23.9 metres in length, with an eaves height of 4.6 metres and a ridge height of 7.8 metres. The Essex Barn adjoins the Apple Barn on its southern elevation.
- 3.1.4 In terms of materials, the existing asbestos roof to the Apple Barn will be replaced with black bitumen corrugated sheeting and the roof of the Essex Barn will be replaced with clay pantiles. The back feather edged boarding of the Essex Barn will be replaced whilst the Apple Barn would have 'crittal style' windows installed.
- 3.1.5 This application is a resubmission of 18/01063/FUL which proposed to demolish the existing barn between the farmhouse and the Essex barn and convert two of the redundant agricultural barns into live/work units, along with an extension to the Essex Barn. Conversion of two smaller outbuildings was also proposed to create further live/work units, along with the construction of a cart lodge and a cart lodge with an office at first floor to serve these units. This application was refused for the following reason:

Policy S8 of the LDP defines the settlements of the Maldon District within which residential development is to be generally directed. The policy goes on to state that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. 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. The development of the site for new live / work dwellings remote from community services and essential support facilities and inaccessible by sustainable modes of transport in this rural location is considered to be unacceptable in this instance. The provision of commercial floorspace is noted, but it is considered to be poorly related to the host dwellings and it has not been justified why some of the accommodation must be provided in a large extension rather

than the retained accommodation. The scale of the proposed residential accommodation is considered to be disproportionate to the commercial floorspace and tantamount to the erection of independent dwellings which conflicts with the objectives of the development plan. Furthermore, the resultant dwellings and their residential curtilages would lead to the domestication of the site in a manner that would erode the setting and the wider rural landscape, thereby resulting in an incongruous form of development that would have an urbanising effect by way of visual intrusion and encroachment into the rural landscape setting. The harm that has been identified is not outweighed by other material planning considerations and therefore the proposal is deemed to be contrary to the overarching objectives contained within policies S1, S8, D1, E4, H4 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.

- 3.1.6 An appeal against the above decision was made under reference APP/X1545/W/19/3223034 and subsequently was dismissed on 18 October 2019 as it was found by the Inspector that the creation of two dwellinghouses, along with additional live/work units, would alter the character of the site to form a *'cluster of domestic properties surrounded by their associated paraphernalia'*. The inclusion of live/work units on the site would conflict with the policies of the Local Development Plan (LDP) and as a result it was considered by the Inspector that this conflict, and the associated harm caused by the development, would, *'outweigh the modest social and economic benefits associated with the provision of two dwellings. There are no material considerations, including the advice of the Framework, that justifies a decision other than in accordance with the development plan'*. Furthermore, the Inspector considered the development would have represented a *'conspicuous encroachment of built urban form into the countryside that would erode the rural character of the area. Although the proposal would be screened to a degree by existing vegetation, its incongruity would be apparent from the surrounding highway network, as well as from certain vantage points along adjacent public footpaths'*.
- 3.1.7 The alterations made to the current scheme include the removal of the previously proposed live/work units and the reduction in the number of proposed dwellings on site from four dwellings to one dwelling. Alterations have also been made to the elevations of the Apple Barn and Essex Barn, including amendments to the design of the windows and entrance to the Apple Barn and to the appearance of the southern elevation of the Essex Barn.
- 3.1.8 It is also noted the supporting information provided with the application states the proposed development is for a person with special needs and the inclusion of a therapy pool and lift cannot be accommodated for within the existing dwelling on site.

3.2 Conclusion

- 3.2.1 The proposed development would result in an increase in the number of residential units on the site and would be highly visible from views across the fields and from the nearby PRow, resulting in the intensification of residential development on the site and creating an urbanising effect on the locality. Due to this the development would detrimentally impact upon the character and appearance of the site and the intrinsic beauty of the countryside. Furthermore, due to the remote location of the site and the distance to public services, it is considered the development would not be located

within a suitable sustainable location. As a result, the development has not overcome the previous concerns raised within application 18/01063/FUL or by those raised by the Planning Inspectorate in appeal APP/X1545/W/19/3223034.

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
- 54 – 57 Planning conditions and obligations
- 117 – 123 Making effective use of land
- 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 Built Environment
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Planning Policy Guidance (PPG)
- Maldon District Design Guide (MDDG)
- Maldon District Vehicle Parking Standards SPD (VPS)
- Specialist Housing Needs SPD

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 National Planning Policy Framework (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 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Footnote 7 - This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the Local Planning Authority in its application of NPPF policies applicable to conditions where the 5 year housing land supply cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.1.5 It is necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. However, where the development plan is ‘absent, silent or relevant policies are out-of-date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’.
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-

iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme

5.1.8 Paragraph 78 of the NPPF states that:

‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’

5.1.9 The application site is located outside of the defined settlement boundary of Woodham Mortimer, a village that is classified as one of the “small villages” within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.

5.1.10 Woodham Mortimer is classed as a small village containing few or no services and facilities, with little access to public transport and very limited or no employment opportunities. Therefore, it is considered that any future occupiers of the dwelling would be required to travel to access day to day facilities, work and education. Whilst it is noted that supporting information provided with the application states there are several bus services running from Woodham Mortimer and the bus route map shows a stop at Oak Corner, 0.7 miles from the site, the bus timetable shows the closest bus stop is located approximately 1 mile (1,609 metres) to the north of the site. This stop is situated along Post Office Road and there are no footpaths that lead to the bus stop and the road is unlit, which would discourage the use of public transport. The D1 and D2 bus offers services to Maldon and runs around every hour with the first pick up being at 07:50 and the last being 17:28, which would severely restrict the opportunities to use public transport to meet the day to day needs of the future occupiers. Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 103 of the NPPF which states that “*The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.*” Overall it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and the proposal would also fail to accord with Policy T2 of the LDP.

5.1.11 Whilst it is noted that paragraph 77-79 supports sustainable development in rural areas, where it will maintain the vitality of rural communities and more specifically paragraph 79 of the NPPF advises that the subdivision of an existing residential dwelling is a circumstance whereby the development of isolated homes in the

countryside would be considered acceptable. However, as stated above, Woodham Mortimer is a small village with limited employment opportunities, with limited transport to larger villages/settlements and therefore, it is not considered that the subdivision of the site would maintain the vitality of the community.

- 5.1.12 Therefore, it is considered that the principle of providing an additional dwelling at this site is not founded and is in conflict with the guidance contained within the NPPF and the LDP.

5.2 Housing Need and Supply

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need. The application proposes to convert two existing agricultural buildings into one four-bedroom dwelling.
- 5.2.3 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one- and two-bedroom units to create better housing offer and address the increasing need for smaller properties due to demographic and household formation change.
- 5.2.4 Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which read alongside the evidence base from the SHMA shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units, with around 71% of all owner-occupied properties having three or more bedrooms.
- 5.2.5 The Council is therefore encouraged in policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. In this respect, the proposal would not meet this policy requirement and therefore, is of negligible benefit in terms of improving the Council's housing stock in terms of number of dwellings and dwelling size.
- 5.2.6 It is noted within the supporting information provided with the application that it is stated the development is for a person with special needs and would provide a new residence for the owners of the site. The development would accommodate a therapy pool, platform lift, widened doors ways to allow for wheel chair access and a level threshold. Whilst the supporting information states the dwelling has been designed to accord with policy H3 of the LDP, this policy is aimed at much larger developments

and insufficient information has been provided to support the need for specialist housing in this particular instance and in this location. Furthermore, as discussed further below, the special needs of the Applicant are not considered to outweigh the conflict with the Council's adopted Policy.

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”.

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 MDDG.

5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the

sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.3.6 This application is a resubmission of 18/01063/FUL which proposed the conversion of the Apple Barn and Essex Barn into live/work units, with the addition of an extension to the Essex Barn, the conversion of two further live/work units and the construction of two cartlodes, one with an office above. This application was refused due to the impact of the development on the intrinsic character and beauty of the countryside, inaccessibility to sustainable transport and the domestication of the site which would have resulted in an urbanising effect on the setting and wider rural landscape, resulting in a visual intrusion and encroachment into the rural landscape. Furthermore, the scale of the residential accommodation was considered to be disproportionate to the level of commercial floorspace provided.
- 5.3.7 The revisions to the scheme have removed the previously proposed live/work units, extension and cartlodes and proposes the conversion of the Apple Barn and Essex Barn into one dwelling. In terms of scale, mass and bulk of the buildings on site, the current scheme would result in a reduction of built form due to the demolition of the existing barn between the Essex Barn and the farmhouse, however the plans show the hardstanding would remain and be utilised as a courtyard with a domestic appearance and the resultant paraphernalia associated with a dwelling.
- 5.3.8 Whilst no extensions are proposed to the Apple and Essex Barns, the installation of windows and doors to the elevations and rooflights to eastern and western roofslopes would only serve to reinforce the residential appearance of the building. It is also proposed that the existing asbestos roof of the Apple Barn would be replaced with black bitumen corrugated sheeting, whilst the Essex Barn would have clay pantiles.
- 5.3.9 The alterations to the 19th century Apple Barn would include the installation of an entrance door and windows to the eastern elevation with light coloured detailing above and below the windows, which would contrast with the red brick façade of the barn. Further windows and doors would be installed at ground floor level in the northern elevation, along with a Juliet balcony at first floor whilst the western elevation would have large full height windows. The Essex Barn would have a window installed within the eastern elevation whilst the doors to the southern elevation would be visible due to the removal of the adjoining barn to the south.
- 5.3.10 The appearance of the barns as explained above, particularly the Apple Barn, would be significantly altered due to the installation of glazing, however it is considered the proposed alterations would not detrimentally impact upon the character and appearance of the barn or the site and therefore no objections are raised to the design of the proposed development.
- 5.3.11 Due to the presence of rooflights within the roofslopes of the existing Apple Barn, the proposed rooflights would not appear out of keeping. Whilst the rooflights would be of different sizes, with smaller rooflights to the western roofslope and larger rooflights to the eastern roofslope, it is considered the proposed rooflights would not detrimentally impact upon the appearance of the development.
- 5.3.12 Due to the age of the barns the Council's Specialist in Conservation and Heritage was consulted. The barns are considered to possess minor significance due to their age

and relationship with one another, however the majority of the Victorian barns on the site have been demolished and the remaining barns have been obscured by 20th century additions, such as the asbestos barn. It is considered the demolition of this barn would allow for the 19th century barn to be visible and would restore the relationship between the Victorian farmhouse and the 19th century buildings. It is therefore considered the proposal would cause no harm to the buildings on site that possess minor heritage significance.

- 5.3.13 Whilst the proposed removal of the asbestos barn to the south would allow for clearer views of the timber framed 19th century Essex barn, and in that respect would improve the appearance of the site, the retention of the hardstanding for use as a courtyard would not reduce the level of hard landscaping. The block plan shows to the north and west of the site hedging is proposed to screen the dwelling from the countryside beyond, however the proposal would still result in a new dwelling within the countryside.
- 5.3.14 Furthermore, due to the height of the buildings the proposed dwellings would be highly visible from views across the fields to the north, east, south and west and from the PRoW which runs to the south-east and west of the site. The addition of a further dwelling on the site would result in the inappropriate intensification of residential development on the site, creating an urbanising effect on the locality. Due to this it is considered that the proposed development has not overcome the previous reason for refusal.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 in 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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.4.2 Due to the proposed dwelling being situated 13.4 metres from the existing farmhouse on the site it is considered that there would not be any loss of amenity to the occupiers of the existing farmhouse.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. 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. The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum 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.

- 5.5.2 The site, which is accessed via an unmade track to the east of Marl pits Road, would utilise the existing access track and therefore no new access would be created. The plans show there would be sufficient parking to the east and south of the development for three or more parking spaces of the required size, as stipulated within the Maldon District Vehicle Parking Standards SPD for dwellings with four bedrooms or more.
- 5.5.3 A consultation response from the Highways Authority has raised no objections to the proposed development subject to a condition regarding the loading/unloading and manoeuvring of vehicles being made clear of the highway.

5.6 Private Amenity Space and Landscaping

- 5.6.1 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 MDDG 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.
- 5.6.2 The proposed dwelling would sit on a site with in excess of 100m² of private amenity space, as specified in the Maldon Design Guide for dwellings with three bedrooms or more. Additionally, the existing dwelling would also have over 100m² of private amenity space. It is therefore considered this aspect of the proposed development would be in accordance with policy D1.

5.7 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

- 5.7.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.2 Natural England anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.7.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - Natural England have provided an HRA record template for use where recreational disturbance is the only HRA issue.

5.7.4 Policy N2 of the LDP 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.”

5.7.5 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.

5.7.6 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England would not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.

5.7.7 To accord with Natural England’s requirements, a Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to four dwellings

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

- 5.7.8 As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £125.58 per dwelling is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.
- 5.7.9 Based on the lack of secured mitigation through RAMS the proposal would be contrary to policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

5.8 Planning Balance and Sustainability

- 5.8.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is therefore engaged in this case and hence the local planning authority must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.8.2 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.8.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.8.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.8.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional dwelling may support local businesses within the settlement such as shops and services. This would however be very limited given the scale of the proposal. Equally, there is no guarantee that the construction work would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered nominal at the very least.
- 5.8.6 In social terms the development would provide limited assistance in supporting a strong, vibrant and healthy community. The site is considered to be located in an area where there is limited access to facilities and is remote from day to day services as

these are not in close proximity and therefore the occupants would be reliant upon private car. The site is currently used for agricultural purposes and contains a farmhouse and several agricultural buildings. The proposed development would create one dwelling with 4No. bedrooms and therefore due to the policy requirement for smaller dwellings within the district this would not weigh in favour of the development in social terms.

- 5.8.7 In environmental terms the site is in a relatively remote location due to there being limited access to public transport and therefore the use of private car for access to everyday needs and services would be required. This therefore does not weigh in favour of the development in environmental terms with the environmental impact of the development, in terms of traffic and pollution, needing to be balanced against any benefits of the development and the impact of the development on the surrounding area.
- 5.8.8 Overall, taking this into account, due to the remote nature of the site the development is not considered to be sustainable, and therefore the principle of development would not be acceptable. Accordingly the adverse impacts of allowing the development would significantly and demonstrably outweigh any benefits when assessed against the policies set out within the NPPF.

5.9 Other Matters

- 5.9.1 A consultation response from Environmental Health raised no objection to the proposed development subject to conditions. These conditions include a construction management plan to ensure the prevention of pollution to ground and surface waters, a surface water a foul drainage scheme, as well as an informative to ensure the appropriate removal of asbestos on the site.
- 5.9.2 A combined bat and owl survey was also submitted with the application confirming there is no presence of bats and owls colonising within the barns. The council's Ecology department was consulted, however, at the time of writing no response had been received.
- 5.9.3 The Applicant has highlighted some personal circumstances that they consider weigh in favour of the planning application and it is considered appropriate to balance the personal benefits of the proposal against the harm highlighted above.
- 5.9.4 In *Westminster City Council v Great Portland Estates plc* (1985), it was confirmed that the personal circumstances of the applicant could be taken into account as a material consideration. However, it must be noted that in most instances personal circumstances are normally a material planning consideration that should be given minimal weight. This, because although the applicant might apply for permission in person, any permission granted usually applies to the land and property itself, and passes with the property, should it be sold. The Decision Maker is required to have regard to this wider and long-term consideration, rather than any personal factors or characteristics that might apply to the particular applicant at any one point in time.
- 5.9.5 This has resulted, through previous guidance and refined through caselaw, for the personal circumstances of the Applicant needing to be considered as "very special circumstances". Unfortunately, there is no definite list for what will constitute very

special circumstances, but the threshold intrinsically has to be high and will turn on the facts and circumstances of the individual application.

- 5.9.6 The Applicant has provided some information in relation to the reasoning for the application. Whilst the LPA is sympathetic to the needs of the Applicant there is a need to consider the application against the Development Plan unless material considerations indicate otherwise. In this instance it is not considered that the personal circumstances of the Applicant outweighs the conflict with the Council's adopted policies highlighted above.

6. ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
99/00269/FUL	Proposed single storey side extension to form utility and dining rooms	Approved
02/00067/AGRPN	Proposed extension to grain store	Prior Approval Not Required
05/01165/AGR	Proposed New Building for Grain Storage.	Prior Approval Not Required
07/01097/AGR	Grain store	Prior Approval Not Required
18/01063/FUL	Convert 2No. redundant agricultural barns to a live/work unit with an extension. Convert 2No. smaller outbuildings to formal live/ work. Demolish 1No. barn and lean to extension. New build 1No. cart lodge and 1No. cart lodge with office above.	Refused

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer and Hazeleigh Parish Council	The Council believe the proposal to demolish the existing disused asbestos barn and expose the character of the Essex Barn in conjunction with changes for residential use without any additional built form, will enhance the character of the existing site making good use of the rural location that will provide a less cluttered landscape with buildings more suited to the immediate environment.	Comments noted
Purleigh Parish Council	No response at time of writing	N/A

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways Authority	No objection subject to conditions regarding loading/unloading, reception and storage of building materials and the manoeuvring of all vehicles which must be undertaken clear of the highway.	Comments noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Conservation and Heritage	<p>The value of the site as an example of a 19th-century farmstead has been largely undermined in the 20th century by the demolition of most of the Victorian buildings and by the erection of new structures which obscure the principal elevations of the old threshing barn. The buildings on the site do not possess sufficient interest to qualify as non-designated heritage assets in terms of paragraph 197 of the NPPF. In which case neither the policies in Chapter 16 of the NPPF, nor policy D3 of the Maldon LPD are engaged in this instance.</p> <p>The demolition of the asbestos barn will allow the traditional form of the 19th century barn to be better appreciated, and would restore its original relationship with the Victorian farmhouse and other 19th century former farm buildings. Overall, I consider that no harm would be caused to the minor heritage significance which the 19th-century buildings on the site. For these reasons, I raise no objection to this application.</p>	Comments noted
Environmental Health	No objections but would recommend conditions in relation to a construction management plan, surface water drainage and foul drainage.	Comment noted
Ecology	No response at time of writing	N/A

7.4 Representations received from Interested Parties

7.4.1 No letters of representation were received.

8. REASONS FOR REFUSAL

- 1** The proposed development, by reason of its location and the resultant intensification of residential development would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012).

- 2** In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.