

**REPORT of  
DIRECTOR OF SERVICE DELIVERY****to****NORTH WESTERN AREA PLANNING COMMITTEE****13 JANUARY 2021**

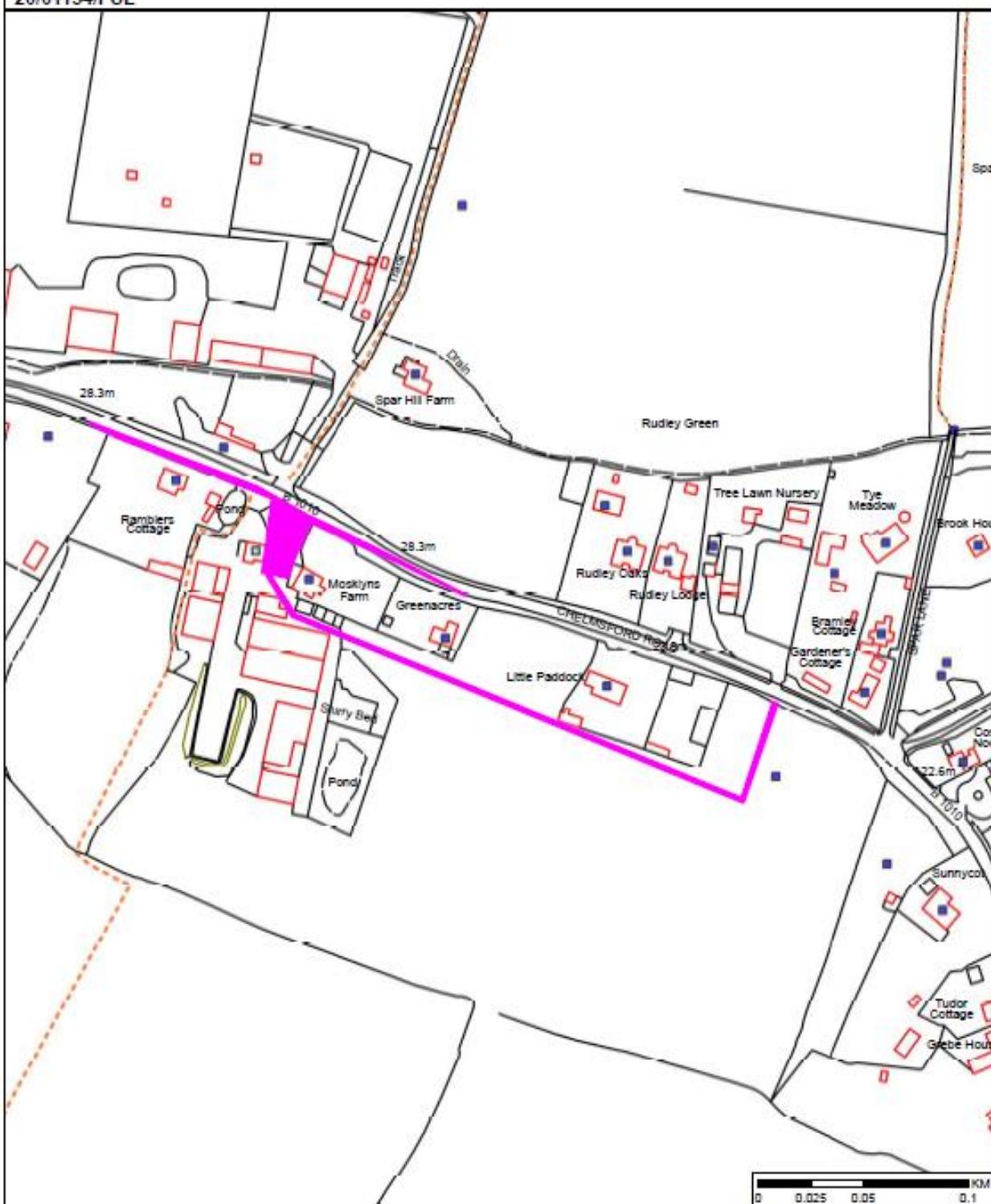
<b>Application Number</b>	<b>20/01154/FUL</b>
<b>Location</b>	Barns Adjacent to Mosklyns Farm, Chelmsford Road, Purleigh
<b>Proposal</b>	Retention of existing dwelling.
<b>Applicant</b>	Mr & Mrs Strathern
<b>Target Decision Date</b>	14.01.2021
<b>Case Officer</b>	Hayleigh Parker-Haines
<b>Parish</b>	<b>PURLEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor Mrs J L Fleming Reason: D1A, D1E, S1.12 and S8

**1. RECOMMENDATION****REFUSE** for the reasons as detailed in Section 8 of this report**2. SITE MAP**

Please see overleaf.

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### Barns Adjacent To Mosklyns Farm, Chelmsford Road, Purleigh 20/01154/FUL



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Maldon District Council 100018588 2014

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: NW Area Planning Committee

Date: 22/12/2020

[www.maldon.gov.uk](http://www.maldon.gov.uk)

MSA Number: 100018588

### 3. SUMMARY

#### 3.1 The Site

- 3.1.1 The application site is located outside of any development boundary, in a rural setting, to the north of the village of Purleigh. Mosklyns Farm is located to the south-west side of Chelmsford Road and comprises of the farmhouse and a farmyard containing a number of large agricultural buildings. The barns to which this application relates are two timber boarded barns of combined footprint 159m<sup>2</sup> previously used for agricultural storage in association with the established farm, located to the north-west of the farm and accessed from an existing but not in use access to the north. Works have begun on site following the previously granted prior approval application 15/01096/COUPA, these have resulted in one dwelling being completed (bungalow), however, the second dwelling is not complete with the building lacking fenestration.

#### 3.2 Proposal / brief overview, including any relevant background information

- 3.2.1 Planning permission is sought to convert a former agricultural building to a residential dwelling; prior approval was granted for similar works under application 15/01096/COUPA. It must be noted that Application 15/01096/COUPA permitted the change of use of two barns from agricultural to dwellinghouses. Condition one and condition two of application 15/01096/COUPA stated:

Condition one states:

*'The development hereby approved must be completed within a period of 3 years starting with the prior approval date.'*

Condition two states:

*'The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.'*

- 3.2.2 Whilst some development has been undertaken, the development as a whole (including the barn to the west), is yet to be completed, the works have not been carried out in accordance with the time restriction of condition one. Therefore, this application seeks to regularise the conversion of the barn the subject of this application as currently the dwelling is unlawful and does not benefit from formal consent. Furthermore, it is shown on the plans submitted as part of this application to include four rooflights to the south facing elevation alongside minor alterations to the fenestration on this elevation (replacement of door with window and the door to the eastern end moved more central).
- 3.2.3 It is proposed that the private amenity space will be located to the south of the dwellinghouse with the 'front' amenity space to the north. To the front amenity space, the existing 1.2 metre post and rail fence to the northern boundary is to remain and it is proposed to construct a new 1.2 metre fence to match the existing to the eastern boundary to divide the driveway and garden. The existing 1.5 metre high timber fence to the south of the site to the southern and western boundaries is to remain as is the 1.9 metre high wall to the eastern boundary.

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- 3.2.4 It is proposed to construct a cycle storage area, this will be located in the south eastern corner of the application site and would have a maximum height of 2.5 metres, a width of 2.4 metres and a depth of 1.8 metres.
- 3.2.5 It is also proposed to create a formalized footpath for private use to the south of the site, this would run in an easterly direction through the fields associated with the Farm to join the existing public footpath on Chelmsford Road. The proposed pathway will be finished in a permeable subbase.
- 3.2.6 This application is a resubmission of the previously refused application 20/00758/FUL which was refused for the following reasons:

*'The application site lies within a rural location outside of the defined settlement boundary of Purleigh where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would substantially alter the open character and intrinsic beauty of the countryside and would detract from the agricultural character and appearance of the site as a result of the domestication of the site and the inclusion of associated residential paraphernalia. If developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018)'*

- 3.2.7 The following amendments have been made:

- The private amenity space is to the north of the dwelling rather than the south
- Additional information has been provided to evidence that the pathway proposed to the rear of the dwelling and through the fields to adjoin Chelmsford Road would be user friendly.
- Additional information has been provided on the block plan to advise that a socket will be provided for a rechargeable handheld torch with an umbrella stand to encourage footpath use during inclement weather.
- Additional information has been provided in relation to the public transport options available from the site.

### **3.3 Conclusion**

- 3.3.1 It is not considered that the provision of a dwelling would be acceptable on this site; due to the location and design of the proposed dwelling and the detrimental impact this would have on the character and appearance of the surrounding countryside. The development would result in the inherent domestication of the site which would not make an overly positive contribution in terms of social or economic sustainability. The proposal is therefore unacceptable and contrary to the content of national and local planning policies.

**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

**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
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

**4.3 Relevant Planning Guidance / Documents:**

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

**5. MAIN CONSIDERATIONS****5.1 Principle of Development**

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990), and through Government policy, at paragraph 47 of the NPPF.
- 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).

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- 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 - 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 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 LPA in its application of NPPF policies applicable to conditions where the 5YHLS 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.

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- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The Local Development Plan (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 approximately 712 metres beyond the defined settlement boundary for Purleigh, within the countryside. Purleigh is classed as a smaller village; containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. It is therefore considered that the occupiers of the dwelling would be required to travel outside of Purleigh for day to day services and facilities. It is noted that within the supporting information provided as part of this application there are bus stops located at Spar Lane and the Post Office in Purleigh; whilst it is noted that the bus route map shows the route as stopping at Spar Lane, there is no evidence of this on the bus timetable. The D1 and D2 service offers a fairly regular service to Maldon and Southminster via the D1 and D2 routes, but the closest bus stop to the site as per the timetable is the Purleigh Post Office which sits approximately 1450 metres from the application site. This would include occupiers walking 220 metres along an unlit country path to the formalized footpath to the east of the site. Whilst, it is noted that the Applicants are willing to create a footpath through the fields to allow safer access to the formalized path, and have sought to overcome concerns by providing a handheld torch and umbrella, this is still not considered to promote safe pedestrian accessibility to the site and service, this also adds a further 80 metres on to the journey.
- 5.1.10 The current proposal for the retention of the existing dwelling is necessary to regularise the works that have been implemented, this is due to the fact that the second conversion has not been completed in accordance with condition 1 of the approved prior approval application 15/01096/COUPA. The weight attributed to a material consideration is up to the decision maker, but it is a point of planning law that the ability to comply with the requirements of a permission, or in this case lack of ability to, substantially affects the weight that should be attributed to it.
- 5.1.11 An application for prior approval is an assessment against set criteria contained within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to whether or not a

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development could gain deemed consent. Given that the whole of the development is not completed and the differences between the prior approval application and this application, as outlined in paragraph 3.2.3, an application for full planning permission is required for the works and has been submitted. Therefore, as this application is not for prior approval it is necessary for the Council to assess the proposal against the policies contained within the Maldon District Local Development Plan (MDLDP) and guidance contained within the NPPF and MDDG. Furthermore, the previous prior approval application does not mean that the principle of the development has been accepted. The starting point for consideration of a prior approval application is not the development plan. Conflicts with the Plan and Government Guidance are not material to the determination of such an application. Therefore, this assessment is materially different to the assessment of a planning application whereby the starting point is the Development Plan.

- 5.1.12 As highlighted above, a prior approval application (15/01096/COUPA) was previously granted on 2 December 2015 for the conversion of the barns to residential accommodation. This was subject to conditions, including condition 1 which stated that the development approved must be completed within a period of 3 years starting with the prior approval date. To date, the development is incomplete, awaiting the installation of windows and doors. It should be noted that a further prior approval application was submitted on 6 November 2019 (19/01162/COUPA) which sought to extend the time limit condition. However, this application was refused; "*planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made*" (PPG). Whilst the condition imposed under 15/01096/COUPA does not restrict the time limit for when the development can be started per se, there is no such condition within the prior approval process, it does restrict the timeframe for the undertaking of the development. This is similar in nature to the time limit condition required through the granting of a planning application and the principle of such a restriction on the variation of the S73 conditions should be considered in a similar vein. Therefore, given that the development is incomplete, the prior approval permission has fallen away. Therefore, there is no fall-back position and planning permission is required.
- 5.1.13 Furthermore, condition 2 stated that the development shall be carried out in complete accordance with the approved drawings, when the agricultural buildings were altered and converted for residential accommodation the development was not carried out in accordance with the approved plans and therefore contrary to condition 2. The discrepancies between the approved plans and the development as implemented are outlined above. It is an accepted point of case law that approval is required prior to the works being undertaken. Therefore, given that the development did not comply with the approved scheme and that the majority of the work has been undertaken, the prior approval permission has fallen away. Therefore, there is no fall-back position and planning permission is required.
- 5.1.14 APP/X1545/W/18/3194812 is considered relevant. The appeal was for the conversion of a barn to a residential dwelling and associated alterations which were not considered as part of a previously granted prior approval application. It is important to note that this application was not retrospective in nature. At paragraph 11 of the appeal decision the Inspector outlines that where there are minor differences between the proposed development and the approved scheme then there is a realistic prospect

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of the approved scheme being implemented in the event that the appeal fails. Furthermore, there was no evidence that the fall-back position could not be implemented and that a very similar development could be carried out within the site. In this instance and for these reasons the fall-back position provided a material consideration which carried significant weight in determining the full application. Whilst the fenestration pattern has altered as part of this application and the construction of the development; these alterations are considered to be minor and would not be so significant that the proposed development would no longer benefit from prior approval and that this alone would not constitute unlawful development. The breach of planning control relates predominately to the fact that the development remains incomplete. Therefore, given that the previous prior approval has not been fully implemented, there is no fall back position to apply weight to as part of this appeal.

- 5.1.15 As outlined above, it is considered that the site is poorly connected by means of sustainable transport and facilities. Furthermore, the previous prior approval decision is no longer extant, and the development remains incomplete. Therefore, the previous decision does not provide a fall-back position and the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.
- 5.1.16 It should also be noted that a planning application to regularise the development subject of this planning application and to allow the conversion of the adjoining agricultural building to a dwelling was refused planning permission by the NW Planning Committee on 3 June 2020

### **5.2 Housing Need**

- 5.2.1 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 Policy H2 of the LDP and its preamble (paragraph 5.2.2), which when read alongside the evidence base from the Strategic Housing Market Assessment (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, and around 71% of all owner-occupied properties having three or more bedrooms. The Council is therefore encouraged in the approved policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.2.3 Whilst the LDP carries limited weight at present, the NPPF is clear that housing should be provided to meet an identified need. Therefore, it is still considered that weight should be afforded to the evidence base from the SHMA.
- 5.2.4 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. The proposal

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would provide a two three bedroom property. Taking into account, the Council's current position, the proposal would make a contribution to improving the Council's housing stock. However, the benefits of the scheme in regard to this are negligible as there would be a net gain of one dwelling, of a size needed by the Council, and, this is therefore, given minimal weight.

### **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 in creating better places to live 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 local design standards, style guides in plans or supplementary planning documents".*

- 5.3.3 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;
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 The application site is visible within the public realm and is therefore considered to impact on the character and appearance of the site and surrounding area. Prior to the conversion that has taken place, the buildings within the site were of a typical agricultural character and appearance. It is considered that the alterations involved in the conversion of the buildings to residential have been carried out in a sympathetic manner, of which the overall character of the buildings has not changed; the external materials remain similar to the original barn, with the form and design of the buildings remaining unaltered besides the addition of fenestration. Therefore, it is not considered that the design of the dwellings would result in a significant detrimental impact on the character and appearance of the site or the surrounding area.

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- 5.3.6 The current application proposes additional alterations to the external appearance of the barns, to those approved under the prior approval process, which would give the resulting dwelling a more domestic appearance. Furthermore, due to the level of hardstanding proposed to the front of the dwelling and the associated residential paraphernalia, it is considered that the visual impact of the domestic paraphernalia associated with the dwelling, car parking arrangements and the hardstanding proposed would result in an unacceptable level of domestication within the countryside. Whilst it is noted that the private amenity space has been relocated to the rear as part of this application and this would represent an improvement to the scheme, it is not considered that this would overcome the above-mentioned harm. Therefore, it is considered the proposal would result in an urbanising effect and detract from the rural character of the area and would not represent a visual improvement of the site and surrounding countryside. It is worth noting at this point, and as highlighted in detail above, the previous prior approval application is a material consideration of a demonstrable weight in the determination of this application.
- 5.3.7 Having regard to the above, it is considered that the proposal would result in an intensified level of domestication at the application site, within the countryside, that would result in material harm to the character and appearance of the surrounding countryside contrary to Policies, S1, S8, H4 and D1 of the LDP.

### **5.4 Impact on Residential Amenity**

- 5.4.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 The application site is bordered by two neighbouring properties. To the east is Mosklyns Farm and to the west is Ramblers Cottage.
- 5.4.3 The proposed development would sit 4.7 metres from the neighbouring property Mosklyns Farm. This neighbouring property has three ground floor windows on its western side elevation facing the development. There would be two ground floor windows facing this neighbouring property, which would serve a bedroom, however, due to the location of the development in relation to this neighbouring property (rear elevation in line with front elevation of neighbouring property) it is not considered that these windows would offer any views into the neighbouring property. Furthermore, due to the single storey nature of the development and the degree of separation it is not considered that the proposed development would have an overbearing impact on this neighbouring property. Therefore, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.
- 5.4.4 The proposed development would sit 20 metres from the shared boundary with Ramblers Cottage and 42 metres from the neighbouring property. It is noted that there is one first floor window proposed to the western side elevation facing this neighbouring property. However, due to this substantial degree of separation, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.

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- 5.4.5 For the reasons discussed, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts. Therefore, the proposal is in accordance with policy D1.

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

- 5.5.1 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.
- 5.5.2 The proposed development would result in a two bedroom dwellinghouse. The minimum parking provision required is two spaces. It is shown on the block plan provided that there are to be two 5.5 metre by 2.9 metre vehicle parking spaces to the north of the dwellinghouse. Which are in line with the minimum required sizes within the SPD. Therefore, there are no concerns in relation to parking. Furthermore, it is proposed to include a storage area for bicycles.
- 5.5.3 It is noted that there is proposed to be a private footpath constructed to allow access to the formal public footpath on Chelmsford Road. However, it is assumed this would be unlit and therefore, it has not clearly demonstrated that this would result in the provision of high quality and safe pedestrian access that would discourage the use of the private motor vehicle particularly at times of inclement weather. Whilst it is acknowledged that the Applicant has sought to overcome this by providing a handheld torch and umbrella, this is not considered to be sufficient to allow the footpath to be considered 'safe; and well lit and would therefore, remain an unattractive option for the future occupiers of the dwelling. Therefore, it is still considered that the occupiers of the dwelling would be likely to rely on the provision of a private motor vehicle to meet their day to day needs for facilities, services, work etc.
- 5.5.4 Access to the dwelling would be from the existing access to the north of the dwelling from Chelmsford Road. The Highway Authority have no objections to the access and have not recommended any conditions. Therefore, it is not considered that the development would be detrimental to highway safety in terms of the access.

### **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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100 square metres of private amenity space for dwellings with three or more bedrooms, 50 square metres for smaller dwellings and 25 square metres for flats.
- 5.6.2 The block plan provided as part of this application shows that the amenity space would be located to the south of the site and would be in excess of the standards required for a two bedroom dwelling ( $99m^2$ ), and therefore, there are no concerns in

relation to this.

## **5.7 Planning Balance and Sustainability**

- 5.7.1 One of the key priorities within the NPPF 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.
- 5.7.2 Notwithstanding, and as noted at 5.1.7 above, the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making and case law (noted in preceding paragraphs), confirms that other policies in the plan are still relevant for decision making purposes where they are applicable to the proposal under consideration.
- 5.7.3 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.
- 5.7.4 With regard to the 3 tests of sustainability, in economic terms, given that the development is largely complete and only involved limited construction works, the benefits would be extremely limited given the scale of the development. Equally, there is no guarantee that the limited construction works required to complete the development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minimal. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area. Any economic benefits would therefore be considered negligible.
- 5.7.5 In social terms the development should assist in supporting a strong, vibrant and healthy community. Residents are required to travel further afield for day to day facilities and amenities. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and Policies S1, S8 and T1 of the local development plan. Furthermore, due to the limited number of dwellings proposed the social benefits are considered to be of a minimum.
- 5.7.6 In environmental terms , it is considered that the development of the site would result in the inevitable domestication of the site, which is not supported within the Countryside unless other material considerations weigh heavily in favour of the proposed development. The in-accessible location of the site further weighs against the proposal in environmental terms. Furthermore, as stated within section 5.3 of this report, it is considered that the provision of a dwelling in this location would have a detrimental impact on the character and appearance of the surrounding area. Therefore, it is considered that this would weigh against the proposed development.
- 5.7.7 Having regard to the poor sustainability credentials of the site and the fact that there are limited public benefits to the scheme, i.e. The proposal is for market housing and

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not affordable, it cannot be determined whether the dwelling would make a positive contribution in terms of housing mix and the proposal is contrary to Policies S1, S8, D1 and H4 of the LDP, it is not considered that there are benefits that outweigh the harm on the character and appearance of the area.

### **5.8 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS.**

- 5.8.1 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.*'
- 5.8.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.8.3 In terms of off-site impacts, Natural England have advised that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. Natural England advise that Maldon District Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.4 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.
- 5.8.5 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), Houses in Multiply Occupation (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.

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- 5.8.6 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 has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.7 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 does 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 and has currently been set at £122.30 per dwelling.
- 5.8.8 To accord with Natural England's requirements, an Essex Coast RAMS 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 previously listed sites? Yes (Blackwater Estuary SPA and Dengie SPA)

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- 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.

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority 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 £244.60 is necessary. Given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.

- 5.8.9 It is noted that the Applicant has made this payment, and therefore, the impact of the proposal could be mitigated and therefore this aspect would not form part of the refusal.

## 6. ANY RELEVANT SITE HISTORY

- **15/01096/COUPA** – Change of use of two existing barns from agricultural to dwelling houses (2.12.2015)

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- **19/01162/COUPA** - Variation on condition 1 & 2 approved planning permission COUPA/MAL/15/01096 Change of use of two existing barns from agricultural to dwelling houses (27.01.2020)

### 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

#### 7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The Parish Council believes that the proposed development is sustainable, complies with planning legislation and does not conflict with policies contained within the LDP and guidance contained within the NPPF	Comments noted

#### 7.2 **External Consultees**

Name of External Consultee	Comment	Officer Response
Essex Country Council Highways Authority	No response at the time of writing this report	N/A

#### 7.3 **Representations received from Interested Parties**

##### 7.3.1 **Representations supporting the application:**

23 Letters of support have been received.

Supporting Comment	Officer Response
Supports the proposal	Comments noted
The barn has tidied up the farm and lifted the look in the area/Improvement	Comments noted
The conversion is an asset to the local area	Comments noted
There are no negatives and it would be beneficial to the livestock on the farm, the business and Purleigh village in general	Comments noted
The conversion is not out of place and is in a location that other development has taken place.	Comments noted
The conversion ensures the Applicant remains part of the local community, offering sustainability to the shop, public house, village hall and potentially for the nursery and primary school	Comments noted

## 8. REASON FOR REFUSAL

1. The proposed development, by reason of its location and design 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)
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### Members' Update:

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The Parish Council believes that the proposed development is sustainable, complies with planning legislation and does not conflict with policies contained within the LDP and guidance contained within the NPPF.	Comments noted.

### 7.2 External Consultees (*summarised*)

Name of Parish / Town Council	Comment	Officer Response
Essex Country Council highways	No objections.	Comments noted.

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

#### 7.3.1 Representations supporting the application:

30 Letters of support have been received.

Supporting Comment	Officer Response
Supports the proposal	Comments noted
The barn has tidied up the farm and lifted the look in the area/Improvement	Comments noted
The conversion is an asset to the local	Comments noted

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<b>Supporting Comment</b>	<b>Officer Response</b>
area	
There are no negatives and it would be beneficial to the livestock on the farm, the business and Purleigh village in general	Comments noted
The conversion is not out of place and is in a location that other development has taken place.	Comments noted
The conversion ensures the Applicant remains part of the local community, offering sustainability to the shop, public house, village hall and potentially for the nursery and primary school	Comments noted

**Extract from Minutes of North Western Area Planning Committee (13 January 2021)**

**175. 20/01154/FUL - BARNS ADJACENT TO MOSKLYNS FARM,  
CHELMSFORD ROAD, PURLEIGH**

A Members Update had been circulated prior to the meeting that detailed representations received from Purleigh Parish Council, an external consultee, and 30 letters of support.

Following the Officer's presentation, the Chairman moved the Officer's recommendation that planning application 20/01154/FUL - Barns adjacent to Mosklyns Farm, Chelmsford Road, Purleigh be refused for the reasons as detailed in Section 8 of the report. This was duly seconded.

Councillor Mrs J L Fleming, having called in the application opened the discussion and outlined a number of reasons why she was in support of this application. In particular, she noted that the character of the road had altered significantly in the last 5 to 10 years, that houses across the road had been granted at appeal and how the applicants had put in a permitted path providing access to local services.

Councillor Miss S White proposed that the application be approved, contrary to Officers' recommendation highlighting that the amenity space had improved and overcame a previous reason for refusal. The proposal was duly seconded. In response to this and other comments made, the Lead Specialist Place reminded Members that they needed to give significant weight to the previous Committee decision of refusal including site location and drew their attention to the detailed assessment in the Officers' report.

Following further discussion, the Chairman put the Officer's recommendation to refuse the application to the Committee and upon a vote being taken it declared was lost.

A number of reasons for approval were discussed and along with information provided by the Lead Specialist Place. Councillor Miss White proposed that the application be approved, contrary to the Officer's recommendation, for reasons

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relating to the lack of a Five-Year Housing Land Supply and that the applicants had addressed the amenity space not meeting the Council's requirements. This was duly seconded and upon a vote being taken was approved. It was agreed that conditions relating to the approval would be delegated to Officers in consultation with the Chairman of the Committee and Ward Members.

**RESOLVED** that the application be **APPROVED** subject to conditions delegated to the Lead Specialist Place in consultation with the Chairman and Ward Members.