



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
NORTH WESTERN AREA PLANNING COMMITTEE
25 May 2021

Application Number	20/01337/FUL
Location	Barn, Old Mill House Vineyard, Hazeleigh, Hall Lane, Woodham Mortimer
Proposal	Convert agricultural barn into vineyard manager's dwellinghouse with associated internal and external alterations, layout amenity area and plant native hedgerows and trees (amended proposal)
Applicant	Mr Richard Britton - The Old Mill House Vineyard Ltd
Agent	Mr Stewart Rowe - The Planning And Design Bureau Ltd
Target Decision Date	28 May 2021
Case Officer	Hannah Dungate
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call-in by Councillor K W Jarvis citing Policies E7 and D1 for the following reason: " <i>need to have farm worker/Manager on site and re-use of otherwise redundant building</i> "

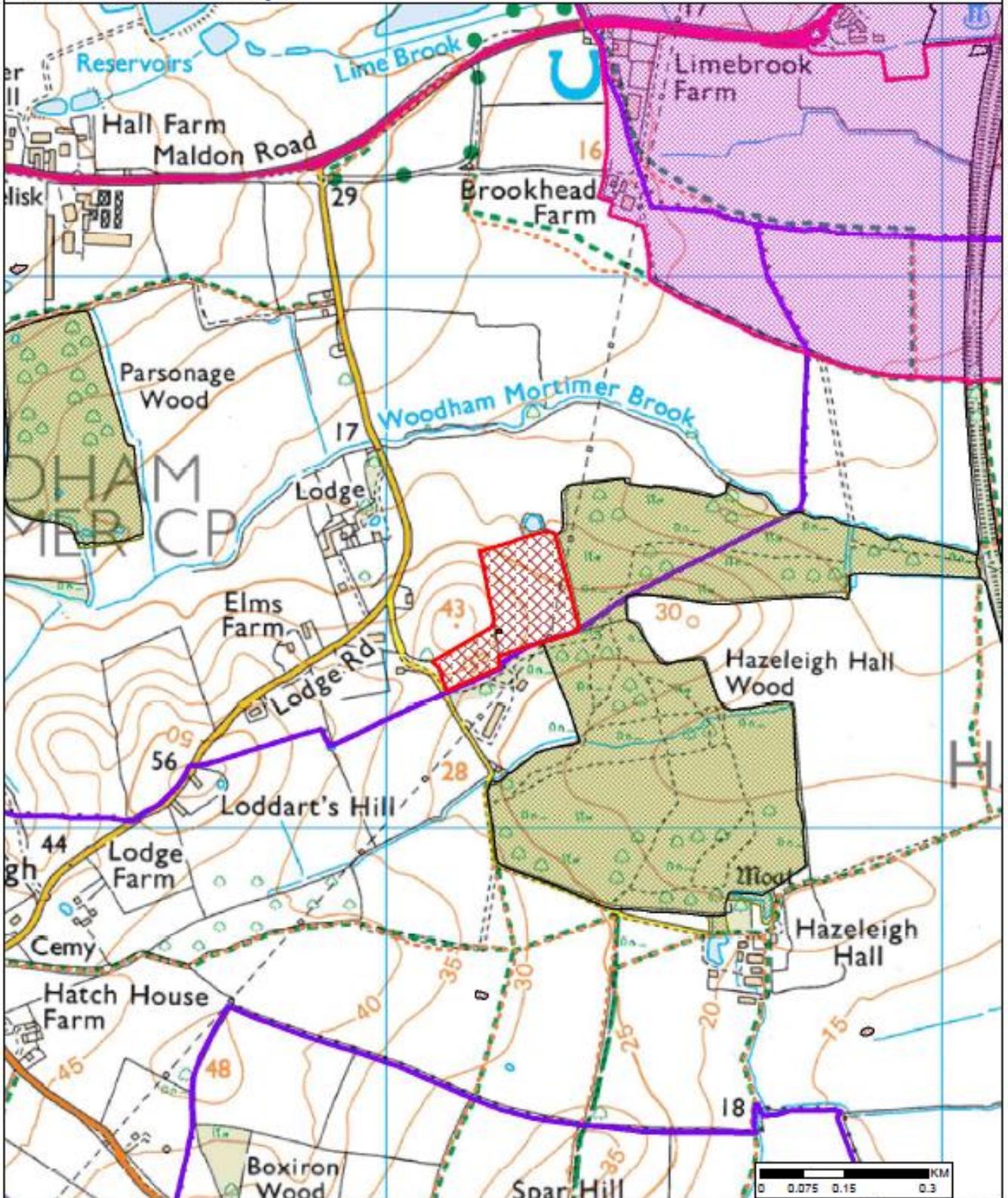
1. **RECOMMENDATION**

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

2. **SITE MAP**

Please see below.

20/01337/FUL
Barn At Old Mill House Vineyard



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	Department:	Department
	Comments:	Not Set
	Date:	06/05/2021
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www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the eastern side of Hazeleigh Hall Lane, outside of any defined settlement boundary. The application site measures 3.5 hectares and is a field used for agricultural purposes; namely the growing of grapes. The site is occupied by a barn, which was approved in 2017 to be used for agricultural purposes in relation to the operation of the Vineyard. Since the approval and subsequent erection of the barn, it is stated that, due to a change in the operation and business plans of the Vineyard, the barn is now no longer required for agricultural use in association with the business.
- 3.1.2 A track, which has recently been formalised with hardstanding, leads to the barn and a brick wall, piers and iron gates have been erected at the site entrance, these developments do not benefit from planning permission and are therefore unauthorised.
- 3.1.3 The surrounding area is rural in nature. Hazeleigh Hall Wood is located to the rear (east) of the site, sporadic residential and agricultural development lies to the south and west of the site, undeveloped land lies to the north, with the listed building 'Old Mill House' further north of the site.
- 3.1.4 Planning permission is sought for the conversion of an agricultural barn into vineyard manager's dwellinghouse with associated internal and external alterations. The planning statement that has been submitted with the application states that as well as for efficiency and security reasons, the functional need for a dwelling on the land is to protect the crop during the frosty weather.
- 3.1.5 The agricultural barn measures a maximum of 15m wide by 10.3m deep and between 9.8 - 8.8m to the top of the ridge (due to the sloping ground level). The proposed conversion would not result in an amendment to the existing scale of the barn.
- 3.1.6 Since the previously refused application (20/00229/FUL) the proposed external alterations to the barn include the insertion of windows on the front, and side elevations and the replacement of the existing barn doors spanning the ground and first floor levels with glazing which would measure 3.6m wide and 4.85m in height.
- 3.1.7 The proposed dwelling would be internally altered to accommodate an open plan kitchen, dining and living room, a utility room, larder and WC and an office at ground floor level. Furthermore, four bedrooms, two with en-suites, and a family bathroom would be provided at first floor level.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, an objection is raised to the principle of the proposed development by reason of its location outside the defined settlement boundary, which would result in material harm to the character of

the area. The evidence supplied is also not considered adequate to sufficiently justify that there is an essential or functional need for a worker to live on site, and that there are not suitable dwellings available in the locality of the site to accommodate the worker, or that the scale and nature of the development is related to the needs of the business. Furthermore, the development would have an impact on the amenity of the character of the countryside. In light of the above, it is considered that the development would be contrary to the policies of the development plan to an extent that cannot be outweighed by the positive aspects of the proposal that have been set out by the applicant.

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
- 80-84 Building a strong, competitive economy
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment

4.2 Maldon District Local Development Plan (MDLDP) 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Change
- E5 Tourism
- N2 Natural Environment and Biodiversity.
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD

5. **MAIN CONSIDERATIONS**

5.1 **Principle of Development**

- 5.1.1 The 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 Local Development Plan (LDP).
- 5.1.2 The proposed development is for the conversion of an agricultural barn into a residential dwelling, to be occupied by the manager of the Vineyard.
- 5.1.3 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). Since the refusal of application 20/00229/FUL the Council has published an up to date 5YHLS which concludes that the Council cannot currently demonstrate a 5YHLS.
- 5.1.4 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)

- 5.1.5 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 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).

- 5.1.6 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'.
- 5.1.7 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.
- 5.1.8 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 are 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.
- 5.1.9 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.'*
- 5.1.10 The site lies a considerable distance from any defined settlement boundaries of the district. The nearest settlement to the application site is Maldon, which is in excess of 1.4 miles from the application site and the settlement of Woodham Mortimer which is around 1.5 miles from the application site. The closest bus stop to the site is around 0.8 miles away which is only accessible by foot along an unlit and unpaved road. The Council accepts that the proposal would not result in an isolated dwelling in the countryside as there are dwellings within the vicinity of the site. However, the site is in a rural location, and the future occupiers of the dwelling would need to travel for day to day services and facilities to other nearby villages and towns. These

settlements are a reasonable distance away and are not readily accessible by safe public footpaths or public transport. The proposal would therefore conflict with the aforementioned policies and the principles contained within the NPPF in terms of sustainable development.

- 5.1.11 Given the above, it is not considered that the proposed development would amount to a sustainable development.

5.2 Principle of Development – Agricultural Workers Dwelling

- 5.2.1 Policy H7 requires *“Permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:*

- 1) *Evidence has been submitted to the satisfaction of the Council that there is an existing agricultural, forestry, fishery or other commercial equine business-related functional need for a full-time worker in that location;*
- 2) *There are no suitable alternative dwellings available, or which could be made available in the area to serve the identified functional need;*
- 3) *It can be demonstrated that the enterprise is, or will be in the case of new businesses, a viable business with secure future prospects;*
- 4) *The size and nature of the proposed structure is commensurate with the needs of the enterprise concerned; and*
- 5) *The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area and is acceptable when considered against other planning requirements.”*

- 5.2.2 The supporting text of Policy H7 goes onto state that *“The Council will support permanent (or temporary) accommodation in the countryside in exceptional circumstances to sustain the effective operation of a viable rural business. Evidence will be required within an application to outline why accommodation is required to support the business in that particular location. Any evidence provided should seek to establish, to the Council’s satisfaction, that the business needs one or more workers to be readily available at most times, for example to provide essential care to animals or processes at short notice. The application must demonstrate that new residential accommodation on that site is essential, rather than convenient, for the enterprise.”*

Evidence of the Functional Need for a full-time worker in this location

- 5.2.3 The below extracts have been taken from the submitted planning statement, which supports the proposal:

‘It would be beneficial to have a vineyard manager on site each day in order to manage agricultural operations, direct the contract staff, provide security for the holding and for a site office to exist to administrate the agricultural business. Other tasks, associated with addressing the effect of inclement weather, are also necessary on occasion’.

‘The proposed dwelling is necessary to improve the efficiency and security of the existing agricultural enterprise. Specifically, an on-site presence will enable the farm manager to be available from early in the morning until late in the evening,

particularly during the intensive harvest period, to manage staff and to ensure that the necessary agricultural activities including pruning, feeding, watering, pest control, maintaining trellises etc. are properly undertaken on a daily basis. In addition unauthorised entry to the vineyard and the potential for damage to the crop would be discouraged by having a permanent member of staff living on site and in a location from where both fields can be seen.'

- 5.2.4 Since the previously refused application, it has also been suggested as part of the most recent submissions that, as well as for efficiency and security reasons, the functional need for a dwelling on the land is to protect the crop during the frosty weather. It has been stated that the conversion of the barn to the vineyard manager's dwelling would allow a permanent on-site manager/member of staff to deploy heaters in the way of bougie candles and/or portable wind machines promptly and avoid crop losses due to frost.
- 5.2.5 As part of the submission, the information provided states that in 2020, there were three months of the year where the grape crop was impacted by frost, between March and May, which resulted in a loss of crop of up to 20%. During the application process, further information was provided to suggest that the predicted loss in expected grape tonnage at harvest time in October 2021, would be between 5-30%.
- 5.2.6 As frost only occurs periodically for a few months out of the year, and normally with some warning, it is not considered that there is a functional need for a permanent dwelling to be located on site on a year-round basis, above and beyond the existing property serving the vineyard, Old Mill House, which is located less than 150m away. It is unclear as to why there is a need for an additional dwelling to be provided in relation to the vineyard.
- 5.2.7 Whilst acknowledging that the vineyard manager will sometimes be required on site, there is no reason to suggest that a member of staff cannot carry out their duties on a shift basis and then return to their residential properties after this. The Planning Statement states that an external contractor is employed at the site to manage the vines and pick and pack the fruit during the harvesting window. The contractor is said to be '*entirely self-contained in that it brings its own vehicles, machinery, consumables, and staff to site*'. From this, it can be understood that the entire outfit of working operations at the site currently enters and leaves the site on any given day and does not reside overnight. It is also stated in the Planning Statement that the property would be beneficial in allowing '*on-site presence from early in the morning until late in the evening*', meaning that overnight stay is not an essential need of the business. It is therefore considered that a vineyard manager could carry out their duties, similar to the situation with the other employees, without the need for a member of staff to reside on site on a 24/7 basis. It is also stated that the current vineyard manager only works from morning to evening at present, which would negate the need for essential overnight accommodation at the premises. If a presence is required overnight at the site, it is noted that there is sufficient space for a member of staff to reside overnight on a shift basis within the existing agricultural barn, without the need to convert it to a four-bedroom residential property.
- 5.2.8 The Planning Statement and information submitted with the application has made mention of a secondary site recently purchased by the applicant which is used as a

vineyard for the business. This site is located 400m away from the site. Although this site is not the subject of this application, the applicant has argued that the proposed property is needed so that the Vineyard manager can '*speedily deploy candles in the event of frost*'. It has also been stated that '*no houses for sale or rent in the immediate locality to the application site would provide the necessary vantage point for surveillance of the two fields at Old Mill House Vineyard,*' If this is the case, this would also suggest that the location of the proposed property would not be able to provide a suitable vantage point for surveillance in relation to the third vineyard site, nor would the vineyard manager be able to speedily deploy candles at this site in the event of frost. With this in mind, it is difficult to see how the proposed dwelling would be able to sustain the future operation of the business as it expands across several other sites or how it would be necessary to improve the efficiency and security of the business, as it has been suggested by the applicant.

5.2.9 In relation to security concerns at the site, it is considered that other security measures could be put in place that would not require a person to live on site. The same is considered for trespassers into the site and for other security risks. In a recent appeal decision for the provision of a temporary security caravan at Carbuncle Farm, Maldon Road, Burnham-on-Crouch (APP/X1545/W/20/3253807), the Inspector noted that "*I am not convinced that there is an essential need for a rural worker to live on the site given the availability of other options to the appellant to deter and prevent thefts from the site, such as installing gates and other security measures or storing valuable equipment elsewhere.*" As an electric gate and CCTV could be installed at the application site, if it has not yet been already, it is not considered that there is basis to accept that the erection of a dwelling at this location is a proportionate means of addressing these concerns.

5.2.10 Whilst it would be convenient, or "*beneficial to have the vineyard manager on site*", as described by the applicant, it is not considered that it has been adequately demonstrated that there is an essential functional need for a worker to live at the site and would not therefore accord with Policy H7 of the Maldon LDP.

Availability of Suitable Alternative Dwellings

5.2.11 In relation to criterion 2 of policy H7, as part of both the current and previous application, no evidence has been submitted with the application demonstrating that there are no other available dwellings in the wider area which could be made available to the member of staff. For the reasons discussed above, the proposed property is not therefore considered necessary to be located in the immediate vicinity of the site. This would also include the existing dwelling on site.

Viability of Business

5.2.12 Criterion 3 of Policy H7 requires it to be demonstrated that the business will be viable with secure future prospects. Although the previous application was accompanied by Forecast Income and Expenditure figures and a Business Plan, these have not been submitted as part of the current application and no new information has been provided regarding the viability of the business since the period of 2020. The previous records only showed one year of sales, in 2019, and recorded the net

income at a loss for the years between 2017-2019. The remaining figures shown until 2022 are projected figures and are not therefore reliable. Furthermore, no updated information about the previous year, 2020, have been provided with the current application.

- 5.2.13 While the projected figures submitted with the previous application appear positive, given that the business is still in its infancy, there are no certainties that the projected figures will become a reality. Notwithstanding this, it is noted that temporary permission for three years, for a temporary dwelling such as a caravan, could be granted to enable viability to be demonstrated at the end of that period, if all other aspects of Policy H7 were met. However, it is not considered appropriate to impose a condition that would result in a temporary permission for a development such as this.
- 5.2.14 However, in this instance, it is not considered that the information provided confirms that the operation would be viable; criteria 3 of policy H7 has not therefore been met.
- 5.2.15 In considering this matter further, an appeal decision is attached at **APPENDIX 1** for a similar development in Shrewsbury. Attention is drawn to paragraphs 9 – 17. The point is the level of detail and circumstances of this appeal case are more than and in excess of that proposed under this current application. The Inspector sets out strict criteria which must be met in order for an exception to policy can be supported. The detail and circumstances do not exist and have not been presented with this application in order for an exception to be made. These details are set out above at 5.2.12.

Size and Nature of Structure

- 5.2.16 The applicant has provided justification for the size and nature of the dwelling, stating that *'The size of the dwelling is also commensurate with that of the wider holding (spread across two sites). A farm manager (either the existing one or any future manager) could quite conceivably have a family and so a four-bedroom property is considered to be necessary in order to retain (and attract in the future) a suitable manager. In any case the proposal concerns the conversion of an existing building and so its size is pre-determined by this fact'.*
- 5.2.17 It is noted that the building is existing and would not be extended as a result of the proposal. However, it is necessary to consider the requirements of the Council's adopted policy; it is considered that the needs of the business do not justify the siting of a permanent residential dwelling on site, and that this employee could make use of the existing facilities on site, whilst on shift. Furthermore, it is not considered that the siting of a generous four-bedroom house, would be commensurate to the identified needs of the enterprise concerned and would rather provide a dwelling of an aspirational scale rather than commensurate with the need of the enterprise. As such, the development would be contrary to criteria 1 and 4 of policy H7.

Impact on the Character and Appearance of the Countryside

- 5.2.18 Criterion 5 of policy H7, requires that “*the development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area, and is acceptable when considered against other planning requirements.*”
- 5.2.19 The proposal is to convert the existing agricultural barn into a residential use. The barn was constructed in 2017 and is structurally sound. It is a traditional example of an agricultural barn in terms of design and materials.
- 5.2.20 Hazeleigh Hall Lane is a rural county lane characterised by sporadic residential and agricultural development with vast expanses of undeveloped agricultural land. The application site accommodates a building that is agricultural in nature and appearance, which contributes to the rural character.
- 5.2.21 Whilst it is noted that, a large number of windows previously proposed to the rear elevation have been removed as part of the current scheme and two new windows have now been proposed in the western side elevation, a large extent of glazing is still proposed within the front and rear elevations. The applicant has also stated within the Planning Statement that ‘*the extent of domestic garden has been considerably reduced*’ however, no plans have been provided to show this as part of the current application.
- 5.2.22 As a result of the proposed change of use of the building, this would introduce a residential fenestration scheme to the front and rear elevations, a formal parking area to the front of the barn and associated residential garden land at the rear. It is also noted that an extensive decking structure has been constructed at the rear of the existing barn which does not appear to benefit from planning permission and is therefore unauthorised. The conversion of the barn to a residential dwelling would inherently result in the intrusion of domestic paraphernalia within open countryside which would create urbanised clutter in this rural locality resulting in the urbanisation of the site to the detriment of the countryside.
- 5.2.23 Whilst it is noted that the barn is existing and due to the sloping ground level is largely screened from Hazeleigh Hall Lane, it is not considered that this justifies the conflict with the planning policy or identified harm. The proposed conversion would fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural area contrary to policy D1, S8 and stipulation (5) of policy H7 of the Maldon District Local Development Plan (MDLDP).
- 5.2.24 The development is considered to be harmful to the character and appearance of the countryside contrary to the stipulations of policies S1, S8, H7 and D1 of the LDP.
- 5.2.25 For the reasons discussed in detail above, it is considered that the need of the existing agricultural barn to be used permanently as staff accommodation and/or a family home, on a year-round basis, has not been justified and would not therefore accord with Policy H7 of the Maldon LDP. The preamble of policy H7 advises that “*The application must demonstrate that new residential accommodation on that site*

is essential, rather than convenient, for the enterprise” and it is not considered that this has been demonstrated.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017)
- 5.3.2 Due to the remote location of the proposed property, around 75m away from any nearby properties, it would not cause harm to the amenities of any neighbouring residents.
- 5.3.3 Whilst the occupier of the proposed property could be subject to some noise disturbance from ongoing operations at the vineyard during the day, given the nature of the proposal to be used in association with the vineyard, it would not be reasonable to object to the proposal on these grounds.

5.4 Access, Parking and Highway Safety

- 5.4.1 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. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council’s adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The proposed conversion would result in the creation of a four-bedroom dwelling. The recommended parking provision for a four-bedroom dwelling is three car parking spaces, which could be accommodated to the front of the site.
- 5.4.3 The existing access to the site would be utilised and the highway authority has been consulted and raised no objection to the proposal. Therefore, no concerns in terms of parking, access or highway safety are raised.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 Although a proposed plan showing the extent of garden area proposed has not been included with the application, it is stated in the Planning Statement that the garden

area would be reduced from 330 sqm to 150sqm which would be in excess of 100m². Therefore, no concerns in this respect are raised.

- 5.5.3 A condition in respect of the landscaping scheme and boundary treatments would be imposed should the application be approved.

5.6 Ecology regarding development within the Zone of Influence (Zol) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

- 5.6.1 The application site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast 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.

- 5.6.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and standard advice an Essex Coast 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. The findings from HRA Stage 1: Screening Assessment are listed below:

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

Is the development within the Zone of Influence (Zol) 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 one dwelling

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**

- 5.6.3 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.

- 5.6.4 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE would not provide bespoke

advice. However, NE's general advice is that a 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.

- 5.6.5 The Essex Coastal RAMS is currently under preparation and it therefore, constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £127.30, based on the Retail Price Index (RPI) uplift, and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development may not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

5.7 Conclusion

- 5.7.1 The proposed development of an agricultural workers dwelling is considered unacceptable in this instance. As per the above assessment, the supporting information and revised plans provided have failed to overcome the reasons for refusal on the previous application. The proposed development fails to accord with the guidance within the NPPF and policy H7, S8 and D1 of the LDP. The evidence supplied is not considered adequate to sufficiently justify the functional need or viability of the business. It is not considered that the harm caused by the erection of a dwelling in an unsustainable location is outweighed by the need for an agricultural workers' dwelling. Furthermore, the change of use of the agricultural barn to a residential dwelling would demonstrably harm the open and undeveloped countryside.

6. ANY RELEVANT SITE HISTORY

- **20/00229/FUL** – Convert agricultural barn into vineyard manager's dwellinghouse with associated internal and external alterations. Refused 27/05/2020 for the following reasons:
 1. The proposed development would result in the creation of a dwelling outside of a defined settlement boundary, in an unsustainable location, remote from community services and essential support services/facilities and inaccessible by a range of means of transport. The proposed conversion of the existing agricultural building would have a detrimental impact on the character and appearance of the surrounding countryside. Inadequate evidence has been provided to demonstrate that an essential functional need exists for an essential workers dwelling at the site or that the business is viable. Therefore, it is considered that the harm identified is not outweighed by other material planning considerations. The proposal is therefore contrary to policies S1, S8, H7,

T1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

2. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.
 - **17/00130/FUL** – Erection of general-purpose agricultural building to Vineyard (amended proposal). Approved 03/04/2017 subject to S106 (which ensured permission 16/01076/FUL would not be carried out).
 - **16/01076/FUL** – Erection of general-purpose agricultural building to vineyard. Approved 29/11/2016.

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	No response received at time of writing	Noted

7.2 Statutory Consultees and Other Organisations

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

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	Condition relating to foul drainage and informatives recommended	Noted

7.4 Representations received from Interested Parties

- 7.4.1 No representations have been received for the application.

8. REASONS FOR REFUSAL

1. The proposed development would result in the creation of a dwelling outside of a defined settlement boundary, in an unsustainable location, remote from community services and essential support services/facilities and inaccessible by a range of means of transport. The proposed conversion of the existing agricultural building would have a detrimental impact on the character and appearance of the surrounding countryside. Inadequate evidence has been provided to demonstrate that an essential functional need exists for an essential workers dwelling, of this scale, at the site or that the business is viable. Therefore, it is considered that the harm identified is not outweighed by other material planning considerations. The proposal is therefore contrary to policies S1, S8, H7, T1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

2. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.