



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
26 MAY 2021

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| Application Number | 20/01347/FUL |
| Location | The Barn, Steeple Road, Mayland |
| Proposal | Within the curtilage of the dwelling house form a fenced enclosure (40m x 21.2m) to provide a drained all-weather surfaced area for exercising horses owned by the occupiers |
| Applicant | Mr F Wiffen |
| Agent | Chris Francis – West & Partners |
| Target Decision Date | 28.05.2021 – EOT |
| Case Officer | Hayleigh Parker-Haines |
| Parish | STEEPLE |
| Reason for Referral to the Committee / Council | Member Call In – Councillor M W Helm – Policy Reasons D1 and S8 |

1. RECOMMENDATION

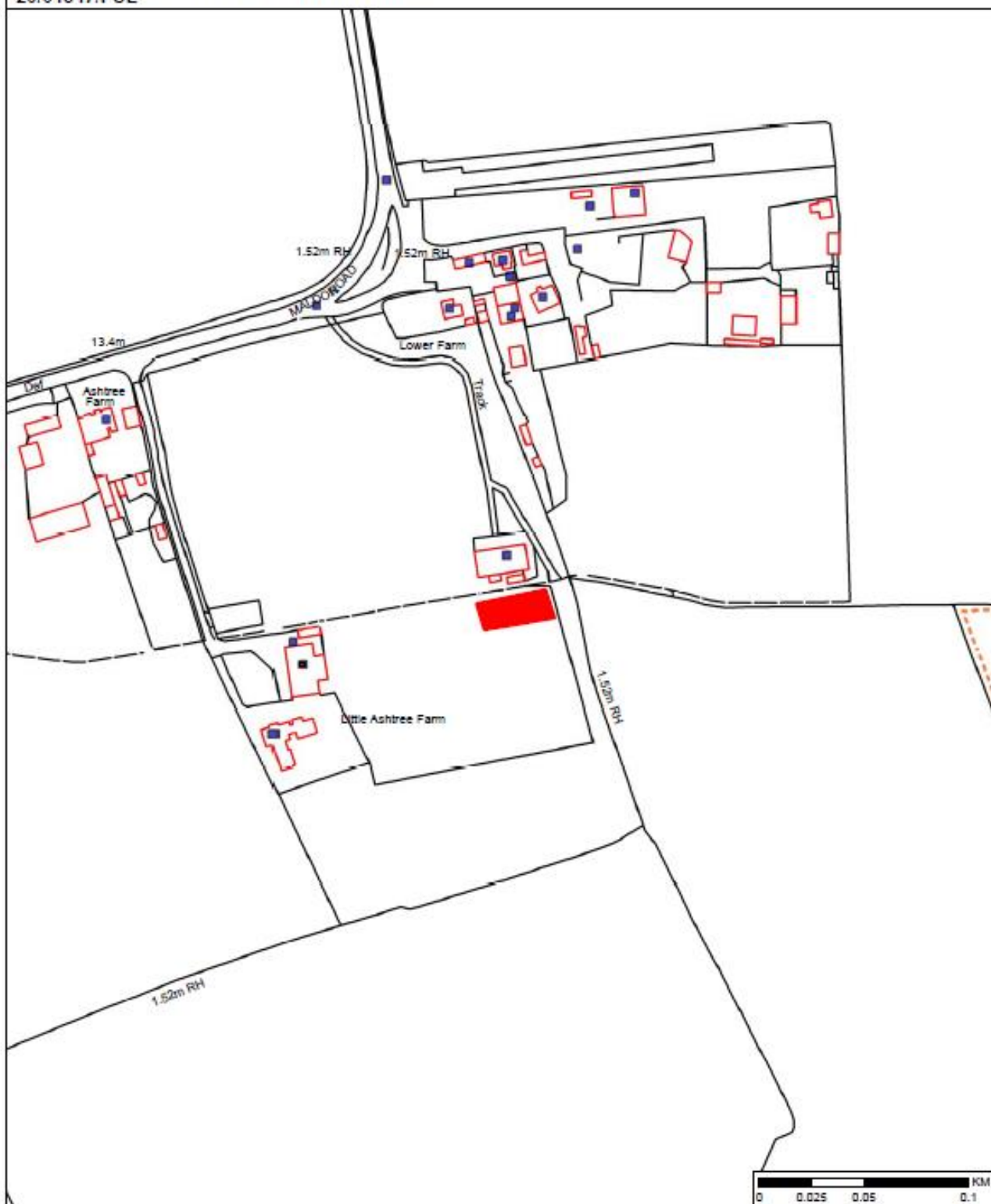
APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see below.

The Barn, Steeple Road, Mayland

20/01347/FUL



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: SE Area Planning Committee

Date: 14/04/2021

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located within the wider site which is situated to the south of Steeple Road and is accessed via a private lane of which the dwelling is located to the east and does not fall within any defined settlement boundary. Planning permission to convert the barn to a dwelling was allowed on appeal (application reference 17/00860/FUL, appeal reference: APP/X1545/W/18/3194812)
- 3.1.2 Planning permission is sought for the construction of a fenced enclosure. This would be located to the north-eastern corner of the site. The proposed enclosure would have a width of 21.2 metres and a depth of 40 metres and would be bordered by a timber post and rail fence measuring a height of 1.3 metres. It should be noted that works commenced on site on 1 September 2020. A Lawful Development Certificate to confirm the works carried out was submitted and refused (see history section 6 below). An appeal against the Council's decision is currently at appeal.

3.2 Conclusion

- 3.2.1 The proposed development by reason of its scale, bulk and siting would not cause harm to the intrinsic character and beauty of the countryside. Furthermore, subject to conditions it is not considered that the proposal would result in material harm to the amenity of the neighbouring occupiers and would not result in an increased highway safety risk. Therefore, the proposed is in accordance with policies, S1, S8 and D1 of the approved Maldon District Local Development Plan (MDLDP).

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
- 117-118 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
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG) (2017)
- 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 approved Local Development Plan (LDP) unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).
- 5.1.2 Policy S8 resists development outside of the settlement boundaries. However, whilst the development is located outside of a defined development boundary, within the rural countryside, it is considered reasonable to support the provision of structures that are ancillary to outdoor recreational facilities such as the keeping of horses, in rural locations within the district. Therefore, the proposed enclosure is considered to be acceptable in principle. Other material considerations, such as the impact of the proposal on the residential amenity and on the character and appearance of the area, are discussed in the following sections of the report.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. 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”.

- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - b) Height, size, scale, form, massing and proportion;
 - c) Landscape setting, townscape setting and skylines;
 - d) Layout, orientation, and density;
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.5 The proposed menage would be set over 100 metres from the boundary with the main Maldon Road and the access road to the site and would therefore not be highly visible within public vantage points. The existing site's boundary are already denoted

by post and rail fencing, similar to that of the proposed ménage, and therefore, it is not considered that this would be an overly incongruous feature within the streetscene. Furthermore, due to the nature of the development and the limited built form it is not considered to be an overly dominant form of development. Whilst the proposed ménage is of a considerable size, which is common for this form of development, the site is of a significant size which can accommodate development of this scale. Furthermore, developments of this type are not out of keeping with the rural character of the area and given that the proposed ménage is of a typical style and design for this type of development, it is not considered that the proposal would appear out of place or materially harm the intrinsic character and beauty of the countryside.

- 5.2.6 The proposed ménage would be bordered by a timber post and rail fence. These proposed materials are not unusual for this type of development.
- 5.2.7 Therefore, it is considered that the development, by reasons of its scale, design and appearance would not result in demonstrable harm to the character and appearance of the countryside in accordance with policies S1, S8 and D1 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The application site is bordered by one neighbouring property, to the south and west, known as Little Ashtree Farm. The proposed development would sit over 70 metres from this neighbouring property (Little Ashtree is located to the south west of the ménage). Due to this significant degree of separation it is not considered that the proposed development would represent an unneighbourly form of development.
- 5.3.3 However, this is based on a reasonable use expected from the development being used ancillary to the single dwelling it is associated. Therefore, a condition restricting the use of the site for commercial use i.e. livery or riding school is necessary to prevent an inappropriate level of vehicle access and movement to ensure that the use of the site does not result in unacceptable impacts on the amenity of the occupiers of neighbouring properties.
- 5.3.4 A condition is recommended to ensure that no external lighting is provided to the stables, without permission being first obtained from the Local Planning Authority (LPA), to prevent unacceptable light spillage and resultant impact on amenity and enjoyment of private gardens.
- 5.3.5 Therefore, it is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the

development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.4.2 It is stated within the supporting planning statement that the existing entrance to the wider site as shown outlined in blue is to be utilised as part of the application. On this basis, the proposal is not considered to result in any demonstrable harm by way of highway safety. Furthermore, due to its ancillary relationship with the adjoining dwelling it is not considered that there is a need for specific onsite car parking provision.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.5.2 The proposed enclosure would be located outside of what is considered to be the private amenity space afforded to the dwelling and therefore, there are no concerns in relation to the loss of amenity space.

6. ANY RELEVANT SITE HISTORY

- **15/00976/FUL** – Conversion of existing barn to dwelling with associated alterations – Refused
- **16/00308/COUPA** - Conversion of an agricultural building to one new residential dwelling. – Prior Approval Granted
- **17/00419/FUL** - Variation of condition 2 on approved application COUPA/MAL/16/00308 (Conversion of an agricultural building to one new residential dwelling.) – Refused
- **17/00860/FUL** - Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding. – Refused – Appeal Allowed
- **18/01073/LDP** - Claim for lawful development certificate for the siting of a caravan to be occupied and used as a store during building works for the conversion of the barn. – Approved
- **18/05152/DET** - Compliance of conditions notification of approved application FUL/MAL/17/00860 allowed on appeal APP/X1545/W/18/3194812 Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding. Condition 4. Hedgerow Condition 5. Surface water and foul drainage scheme – Conditions Cleared
- **19/05100/DET** - Compliance with conditions notification of approved application FUL/MAL/17/00860 (Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding.) Condition 6 - Hard and soft landscaping works. Condition 7 - Parking. – Conditions Cleared
- **19/01180/LDP** - Claim for lawful development certificate for the erection of two outbuildings (coach house and loose boxes) – Approved

- **20/00983/LDP** - Claim for lawful development certificate for a proposed fenced enclosure to provide a drained all-weather surfaced area for exercising horses incidental to the of the occupation of the premises as a residential house. – Refused – Appeal in Progress

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

| Name of Parish / Town Council | Comment | Officer Response |
|-------------------------------|-------------|------------------|
| Steeple Parish Council | No response | N/A |

7.2 Internal Consultees

| Name of Internal Consultee | Comment | Officer Response |
|----------------------------|---|------------------|
| Environmental Health | No objections, subject to the inclusion of one condition in relation to floodlighting, should the application be approved | Comments noted |

7.3 External Consultees

| Name of External Consultee | Comment | Officer Response |
|---|---|------------------|
| Essex County Council Highways Authority (ECC) | No objection - The proposed will not alter or intensify the use of the existing access with the public highway. | Comments noted |

7.4 Representations received from Interested Parties

- 7.4.1 One letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

| Objection Comment | Officer Response |
|--|---|
| The applicant details listed upon the application include a company name. However Mr Wiffen is not a listed Director. However the nature of the business is buying and selling of own real estate. This is of concern as to why the menage is required unless the future intention is to use the area of land for an additional or alternative purpose | Comments noted. However, the planning application can only be assessed based on the information provided. Any future use of the site is likely to require another permission. |
| Concerns in relation to the nature and intended use of the development. The development is not incidental. The size and positioning of the development is not aligned to the dwelling, it is instead of a more commercial nature. | Comments noted – however, the use of the proposed enclosure to remain ancillary to the dwelling can be secured via an appropriately worded condition |

| Objection Comment | Officer Response |
|---|---|
| Degree of separation from the host dwelling which results in the development having a limited impact on the applicant's property but maximum impact upon the neighbouring landowners | The impact on neighbouring amenity is discussed in section 5.3 of the report |
| There is only a Shetland pony and an elderly horse (30+ years) owned by the Applicant – the proposed menage is excessive if it is proposed to be used to exercise these horses | Comments noted |
| Concerns that the Applicant is gradually and continually extending the request of the LPA as to what should be sited on the address. What was a single residential property has already matured into a house, loose boxes and now a menage. This in turn might seek to permit further development or the incurrence of a large stable/commercial riding school or the extension of the menage into an additional area for residential development | The planning application must be determined on the basis of the information provided. Any subsequent changes of use on site would be subject to another planning permission |
| As part of the approval for the dwelling conditions were imposed to secure the appearance was appropriate to the locality. These conditions, which have originally been met, should not now be disregarded by the allowance to construct an alternative external surface | Comments noted and the impact of the proposal on the character and appearance of the site and surrounding area is discussed in section 5.2 of this report. |
| Condition 8 of the original planning permission restricted permitted development rights for the construction of outbuildings and extensions. The applicant has already been granted certificates which contravene such planning conditions | Having looked at the site history there is not an approved application with an 8 th condition. The dwelling was constructed under the permission 17/00860/FUL which was allowed at appeal; whereby as stated at the start of this report, permitted development rights were not removed. |
| The access road is not fit for access by large commercial vehicles that would be required for the development and upkeep of the menage itself | Essex County Council Highways were consulted as part of this application and raised no objection |
| The track which runs alongside the menage is owned wholly by the owners of the neighbouring property to the south. The Applicant has no right of way and no right of access to this track. The construction of a menage over that land would in fact amount to a trespass and a civil nuisance | From the plans submitted it is not shown that the menage would be constructed on the bordering track, these current plans compared to the original approval and that nothing has been submitted to contrary, it is considered that the menage is to be constructed on land within the Applicants ownership. |
| Steeple Road itself is narrow and the presence of machinery or commercial vehicles required to construct and maintain the menage would cause a substantial and inherent safety risk for road users | Comments noted, however, given the use of the menage in association with the residential dwelling rather than a commercial use it is not considered that this would result in a significant increase in traffic to and from the site. |

| Objection Comment | Officer Response |
|--|---|
| | Furthermore, there is no evidence to suggest that following the completion of the construction of the enclosure, any heavy machinery would be required to access the site on a regular basis. |
| The proposal would also impact on noise pollution and potential flooding onto the privately owned track. | Comments noted however, there is no residential amenity afforded to the track and the impact on neighbouring amenity is assessed within section 5.3 of this report. Environmental Health have been consulted in relation to the application and have raised no concerns in relation to either noise or flooding, subject to the imposition of appropriate conditions. |
| The eastern edge of the proposed menage is not located on land within the Applicants ownership. | From the plans submitted it is not shown that the menage would be constructed on the bordering track, these current plans compared to the original approval and that nothing has been submitted to contrary, it is considered that the menage is to be constructed on land within the Applicants ownership. |

7.4.2 **Two** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

| Supporting Comment | Officer Response |
|---|------------------|
| I fully support this application which is required for the welfare of the horses; it will not cause any nuisance or loss of amenity nor any intrusion into the overall rural character of this part of the local area. | Comments noted |
| The land in question was formerly farmland associated with the grazing of livestock and neighbours to both the north-west and south keep horses. It is reassuring to see properties of this type being used in a way that retains the rural aspect of the community | Comments noted |
| There is no visual detriment to any surrounding neighbours. It is entirely proportionate in size for the surrounding paddocks | Comments noted |
| It improves the poor state of the existing clay land | Comments noted |

8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 2008/001, 2008/1011, 2008/1010 and 2008/100

REASON To ensure that the development is carried out in accordance with the details as approved.

3. The materials used in the development hereby approved shall be as set out within the application form/plans hereby approved.

REASON In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework

4. No floodlighting or other external form of illumination of the site shall be undertaken without the prior written approval of the local planning authority.

REASON To protect the amenity and character of the area and the amenity of neighbouring occupiers in accordance with policies S1, S8 and D1 of the Local Development Plan.

5. The menage hereby permitted shall be used solely for the private exercising of horses' ancillary to the occupiers of The Barn, Steeple Road, Mayland as shown outlined in blue on the location plan and shall not be used for business or commercial use including for the purposes of livery or any riding school activity.

REASON To protect the amenity and character of the area and the amenity of neighbouring occupiers in accordance with policies S1, S8 and D1 of the Local Development Plan.