



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**14 JULY 2021**

<b>Application Number</b>	<b>21/00594/FUL</b>
<b>Location</b>	Barns Adjacent To Mosklyns Farm, Chelmsford Road, Purleigh, Essex
<b>Proposal</b>	Partially retrospective alterations to barn, conversion to a dwellinghouse and associated works.
<b>Applicant</b>	Mr And Mrs Robert & Susan Strathern
<b>Agent</b>	Mr Mike Otter - GPO Designs Ltd
<b>Target Decision Date</b>	22.07.2021
<b>Case Officer</b>	Anna Tastsoglou
<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, S8

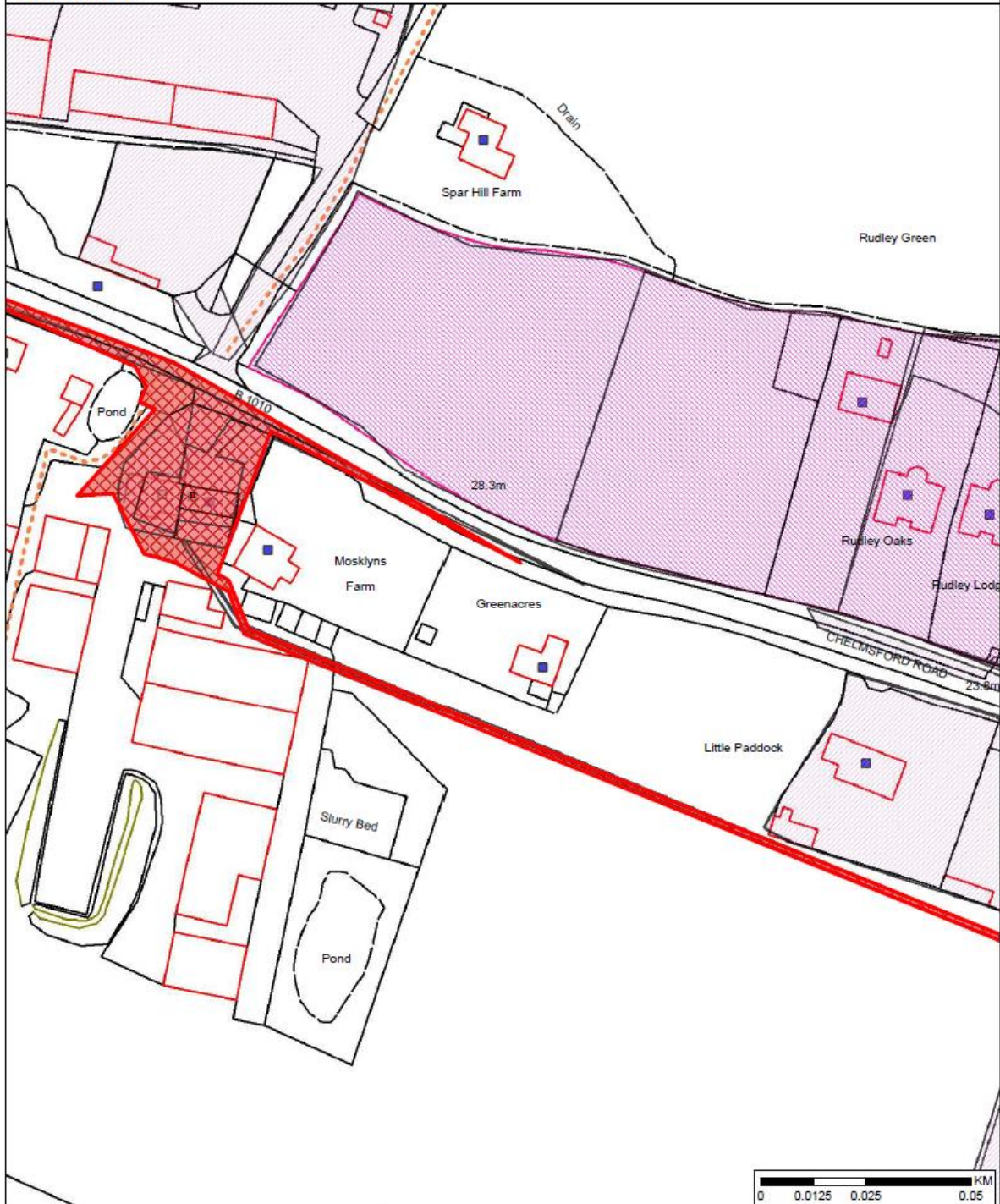
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see below.

**North Western Committee**  
21/00594/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	15/06/2021
	MSA Number:	100018588
www.maldon.gov.uk		

### 3. **SUMMARY**

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

- 3.1.1 The application site is located outside of any development boundary, in a rural setting, to the northwest of the village of Purleigh. Mosklyns Farm is located on the southwestern side of Chelmsford Road and comprises of the farmhouse and a farmyard containing a number of large agricultural buildings.
- 3.1.2 The barn to which this application relates is a timber boarded barn, previously used for agricultural storage in association with the established farm, located to the northwest of the farm and accessed from an existing access to the north of the dwelling. This barn is two storey in nature and is adjoined to a single storey barn to the eastern side, the latter of which was granted planning permission on the 11<sup>th</sup> February 2021 following a reconsidered application at the North West Planning Committee of the 10<sup>th</sup> February 2021 under the terms of application 20/01154/FUL. Works had begun on site following the previously granted prior approval application 15/01096/COUPA, these have resulted in the barn, the subject of this application being partially completed.
- 3.1.3 The application is therefore partially retrospective as consideration is also sought for the works carried out in addition to new works, and as such seeks permission for the conversion of a former agricultural building to a residential dwelling. It is noted that a similar application, reference number 21/00211/FUL, for a partially retrospective application to convert the barn to a dwellinghouse with associated works was previously refused on the 4<sup>th</sup> May 2021 for the following reasons:
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).*
  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.*
- 3.1.4 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, including the barn to which this application relates. Conditions 1 and 2 of application 15/01096/COUPA stated:

#### Condition 1:

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

## Condition 2:

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

- 3.1.5 Whilst some development has been undertaken, the development as a whole, is uncompleted under the requirements of the Prior Approval application (COUPA), and as such fall foul of the time restriction of condition one. Therefore, this application seeks to regularise the external works carried out to the barn, the subject of this application, and gain permission for the conversion of the building to a dwelling house. Furthermore, minor alterations are shown to the submitted plans in comparison to the plans approved under the terms of 15/01095/COUPA (replacement of a door with a window to the front elevation, addition of door and relocation of first floor window to the western side elevation and removal of bi-fold doors and replacement with a window, relocation of window and door and an additional window to the rear elevation)
- 3.1.6 It is proposed that the amenity space would be located to the south and west of the dwellinghouse. The existing 1.2 metre post and rail fence to the western boundary is to remain and it is proposed to construct a new 1.2 metre fence to match the existing to the eastern boundary. A 1.5 metre high timber fence is proposed to be installed to the south of the site.
- 3.1.7 A cycle storage area is proposed to be erected on the southeastern 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. A refuse storage area is proposed adjacent to the cycle store.
- 3.1.8 It is also proposed to utilise the formalised footpath for private use to the south of the site approved under the terms of 20/01154/FUL, this would run in an easterly direction through the fields associated with the Farm to join the existing public footpath on Chelmsford Road. Within the applicants supporting information is stated that the footpath will be an all weathered footpath and that a handheld torch and umbrella will be provided.
- 3.1.9 Vehicle access to the site will be gained via Chelmsford Road which along the northern boundary of the site. Three parking spaces are proposed to be formed to the north of the building. The existing access road onto Chelmsford Road would be retained.

## **3.2 Conclusion**

- 3.2.1 The application seeks to regularise part of the originally implemented Prior Approval scheme which has not been completed within the time period or in accordance with the details approved as the approval has expired. As such, the prior approval has fallen away and the development is now unauthorised. The criteria for the determination of a Prior Approval scheme is under Permitted Development legislation and as a result its principle, form and nature is not that of a development that would be considered under Section 38 of the Town and Country Planning Act (a planning application subject to the Local Development Plan (LDP) policies and other material considerations). As such, under this planning application, the development fails to comply with Development Plan policies and those policies within the National Planning Policy Framework (NPPF). Specifically, the development is considered unacceptable due to its poor sustainability credentials and unacceptable appearance which represents harm to the countryside. The proposal is therefore contrary to

policies S1, S8, D1 and H4 of the LDP and guidance contained within the NPPF. Furthermore, a previous application for a similar form of development was refused planning permission by the Council. Whilst the approval at the adjoining site is a material consideration for the determination of this application it is not considered to outweigh the conflict with the development plan highlighted below or the material consideration that is the planning history of the site.

#### **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
- 59–79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 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
- H2 Housing Mix
- 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 (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD

#### **5. MAIN CONSIDERATIONS**

##### **5.1 Principle of Development**

5.1.1 The Council is required to determine planning applications in accordance with its 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).

- 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 making 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.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within

the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF' the LPA 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.

5.1.8 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 using a private vehicle 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 is information about bus services. Whilst it is noted that the bus route map shows the route as stopping at Spar Lane, which is the nearest bus stop to the application site, this is not reflected 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 is located approximately 1450 metres from the application site. The applicant has submitted correspondence with the Heddingham Buses Manager confirming that bus drivers would be expected to stop at Spar Lane bus stop upon request. This would involve occupiers walking 220 metres along an unlit country path to the formalized footpath to the east of the site. It is noted that the applicants are willing to create an all weather footpath, as approved under the terms of 20/01154/FUL, through the fields to allow safer access to the formalized path, and have sought to overcome concerns raised previously by providing a handheld torch and umbrella. The proposal would therefore result in two households being reliant to access facilities and public transport through an unformalized footpath. Although this footpath was previously accepted under the terms of application 20/01154/FUL as a solution to avoid pedestrians walking along Chelmsford Road which in this section has no pedestrian footpath, in no circumstances could be considered as the most suitable way to access everyday facilities and services. It should be also noted that this would add a further 80 metres on to the journey of the future occupants to access facilities. On that basis, it is considered that the future occupiers of the dwelling would not have easy access to public transportation and therefore, would be mainly dependent on private modes of transport to meet their everyday needs.

5.1.10 The current proposal is partially retrospective in nature; in relation to the retention of the external works that have taken place to convert the barn to a dwelling under the previously approved application (15/01096/COUPA). As detailed above these works have not been completed in accordance with the time condition. 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 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, an application for full planning permission is therefore 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 a prior approval 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 the 2<sup>nd</sup> 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<sup>th</sup> 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, there is no fall-back position and planning permission is required.
- 5.1.13 In addition, 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, as previously stated, there is no fall-back position and planning permission is required.
- 5.1.14 This stance is further supported by a recent appeal decision (APP/X1545/W/18/3216373) which was dismissed. This was related to a section 73A application for the change of use of barns to three dwellinghouses. This appeal decision relates to a development carried out which was not in accordance with the plans as approved by the prior approval application (similar to that of this current application) and therefore, the Inspector determined that the previously granted prior



approval provided no fall-back position for residential development on the site. This is explained in more detail below.

- 5.1.15 Point 26 of the appeal decision states; *'The prior approval scheme was not commenced and then carried out. The three year time limit for completion of the prior approval scheme has not and cannot be met. That being the case the prior approval is no longer extant'*. As is the case with the dwelling the subject of this application, the development the subject of the appeal had not been carried out in accordance with the plans as approved by the prior approval. The Inspector concluded that the prior approval was no longer extant and, as such, did not form a basis for the principle of residential development in this location, as is the case with the current application.
- 5.1.16 Point 71 of the appeal decision states; *'A prior approval under the GPDO for a material change of use under Class Q is for a specific proposal that does not fall within any of the exceptions or limitations and which meets all the stated conditions. Unlike an outline planning permission, the prior approval did not establish the acceptability of a residential use on the appeal site and allow for details to be submitted at a later date.'* This point provides further clarification in relation to the purpose of a prior approval application under Class Q. The principle of the development of the site and the sustainability of a site are not considerations (let alone material considerations) under a prior approval application and therefore any prior approval application does not result in the principle of a residential use of the site or the sustainability of the site being accepted. This is the distinct and fundamental difference between development under a Development Order to which policies and guidance do not apply, and development by virtue of a planning permission in accordance with the Development Plan (Local Plan) and the NPPF 2019. Furthermore, as stated above, due to the prior approval application no longer being extant, there is no fall-back position for the use of the site as residential in the form which was approved. Again, and to be clear, no principle exists for the use of the site as residential under a prior approval application.
- 5.1.17 Point 73 of the appeal decision states; *'The 2016 prior approval has no weight and is not a factor that weighs in favour of the built development.'* *'There is no valid fallback position.'* As previously stated, this is considered to be the same circumstances as the development the subject of the application before Members.
- 5.1.18 It is noted that the adjoining barn to the east of the application site was granted planning permission under the terms of application 20/01154/FUL for the following reasons:
- 'Since the determination of the last planning application the Council is no longer able to demonstrate a 5 Year Housing Land Supply. This is considered to weigh in favour of the proposed development. Furthermore, the previous reason for refusal regarding private amenity space has now been overcome. It is not considered that the new material consideration would alter this resolution and therefore, the scheme should be approved in accordance with the conditions as recommended.'*
- 5.1.19 The determination of the application referred above is a material consideration in the determination of the current application, given the similarities between the two sites and applications. However, this is not considered to outweigh the above explained conflict with the adopted policies or the refusal of the previous applications 21/00211/FUL and 20/00310/FUL in relation to this property.
- 5.1.20 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.

5.1.21 Furthermore, it is considered pertinent to note that point 84 of the above mentioned appeal decision states; *'The final element of Policy S1 in effect adopts the tilted balance expressed in the Framework. The most recent annual update of the District's five year housing land supply shows a slight shortfall at 4.90 years. This follows on from the years when a five year supply of deliverable housing sites has been demonstrated. A comparison of the position in 2019/20 with 2018/2019 indicates that the change is part due to a reduction in anticipated supply from major sites of 10+ dwellings and strategic allocations. Small sites and windfalls are in a healthy position. The record on completions shows an upward trend. With these factors in mind I attach limited weight to the identified shortfall in this case.'* As stated above, members attached significant weight to the Council's inability to demonstrate a 5YHLS. However, the findings of the Inspectorate are wholly different to this whereby due to the limited shortfall and overall upward trend of completions, limited weight should be afforded to this. It is also pertinent to note that the appeal properties were occupied at the time of the decision, and their circumstances and human rights were taken into consideration by the Inspector. The current application site is not occupied and as such, human rights is not a consideration that would weigh in favour of the development.

5.1.22 The current proposal follows the refusal of application 21/00211/FUL. As stated above, no changes have been incorporated into the current proposal, with the exception of the parking arrangement to the north of the proposed dwelling, which was not a reason for refusing the application. Taking into account that the planning history of the site has not altered or the proposal itself, there is no material reason to recommend approval of the current application.

5.1.23 In light of the above assessment, it is not considered that the principle of providing a dwelling in this location is founded.

## **5.2 Housing Need and Supply**

5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities (LA's) should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.

5.2.3 The proposal would provide one new three-bedroom dwelling. Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which, when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an

unbalanced number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units. The Council therefore, encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated SHMA, published in June 2014 identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% of housing to be for three-bedroom plus units. Therefore, in this instance the benefits of the scheme in this regard would be negligible as there would be a net gain of one dwelling and therefore, this is 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 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”.*

5.3.3 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;
- d) Layout, orientation, and density;

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 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.3.6 The application site is visible from 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 building within the site was of a typical agricultural character and appearance. It is considered that the alterations involved in the conversion of the building to residential have been carried out in a sympathetic manner. The overall character of the building has not materially changed; the external materials remains similar to the original barn, with the form and design of the building remaining unaltered. Therefore, it is not considered that the design of the dwelling would result in a significant detrimental impact on the character and appearance of the site or the surrounding area
- 5.3.7 The current application proposes additional alterations to the external appearance of the barn, to those approved under the prior approval process, which would give the resulting dwelling a more domestic appearance. Furthermore, 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. The applicant has submitted photographs showing the northern part of the application site, which currently does not benefit from any form of landscaping and is mainly occupied by construction machinery and materials. Although it is accepted that the current appearance of the site is not attractive, this is a temporary situation and it does not set a precedent of the acceptability of the level hardstanding proposed. 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.
- 5.3.8 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.

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

- 5.4.1 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).
- 5.4.2 The application site is bordered by two neighbouring properties. To the east is the residential dwelling known as September Barn and to the west is Ramblers Cottage. The proposed development would result in increased levels of activity, by reason of the erection of an additional dwelling. However, it is not considered that the proposed residential development would have a materially harmful impact on the residential amenity of the neighbours, in terms of noise and disturbance, given the nature of the use, which is compatible with the use of the existing residential area.
- 5.4.3 The proposed development would sit on the shared boundary with the neighbouring property to the east. As there is no increase in the external dimensions of the structure as part of the application it is not considered that the proposed development would result in an unacceptable loss of light or that the works would have an overbearing impact on this neighbouring property. There is one first floor window proposed to the rear elevation of the proposed dwelling, however this is on the gable projection and whilst it would offer limited views of the southern most point of the neighbouring amenity space it is not considered that this would result in an unacceptable loss of privacy to this neighbouring property.

- 5.4.4 The proposed development would sit 10 metres away from the shared boundary with Ramblers Cottage and over 20 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.
- 5.4.5 For the reasons stated above, 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.

## **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 three bedroom dwellinghouse. The minimum parking provision required is three spaces. It is shown on the block plan provided that there would be adequate hardstanding to the front of the site to accommodate parking provision for a minimum of three vehicles. The spaces shown are in line with the minimum required size standards within the SPD. Following amendments from the previously refused application 21/00211/UL, the parking arrangement has been altered so that the parking spaces would be situated in a tandem and side by side arrangement. It is considered that this is an appropriate parking arrangement and provision that meets the requirements of the SPD.
- 5.5.3 The proposal would also provide storage area for bicycles and one vehicle charging point in accordance with standards as set out in the Vehicle Parking SPD.
- 5.5.4 Access to the dwelling would be gained from the existing access to the north of the dwelling from Chelmsford Road. Although no consultation response has been received from the Highway Authority (HA) at the time of writing this report, it is noted that no objection to the access or conditions were recommended for application 21/00211/FUL which was for the same proposal. Therefore, it is not considered that the development would be detrimental to highway safety in terms of the access.

## **5.6 Private Amenity Space**

- 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 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.6.2 The block plan provided as part of this application shows that the amenity space would be located to the rear and western side of the dwelling and would measure approximately 92m<sup>2</sup> (not taking into account the cycle and waste storage areas), and falls short of the requirement for 100m<sup>2</sup> of private amenity space recommended for a

three bedroom dwelling. However, this is considered to be a minor shortfall that would not result in an unacceptable living conditions for future occupiers of the barn.

## **5.7 Other Matters**

- 5.7.1 Within the NPPF there 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 changes to the planning system and emphasises the need to plan positively for appropriate new development. In this regard, there are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the LDP which emphasises the need for sustainable development.
- 5.7.2 In economic terms, given that the development would only involve limited construction works, the benefits would have been extremely limited given the scale of the development, 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.
- 5.7.3 In social terms, development should assist in supporting a strong vibrant and healthy community. The application site lies in excess of 700 metres of the defined development boundary of Purleigh and approximately 1450 metres from bus services to Maldon, which are infrequent and access to local services are very limited. 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 LDP. It is acknowledged that the use of a private footpath through the farm is available to the Applicant however this alone is not considered to result in the sustainability of the site.
- 5.7.4 It is noted that as part of the application information has been provided in relation to the sustainability of the site. This includes transport and walking routes documents, as well as correspondence with the bus service provider. Furthermore as part of the previously refused application, a sustainability score card was submitted; however, this supporting document contribute limited weight in the determination of this application as the outcome of the sustainability scorecard relied on the answers input by the Applicant and it is noted that the answers were very generous and did not necessarily reflect the true character and nature of the application site. Furthermore, although confirmation from the bus service provider has been submitted confirming that buses will stop at Spar Lane upon request it is noted that the future occupiers would be required to walk approximately 220 metres along an unpaved, unlit road until they reached the formal footpath along Chelmsford Road, or utilising the private footpath approved under the terms of application 20/01154/FUL. However, it is not considered that this alone would make the site sustainable.

## **5.8 Ecology regarding development within the Zone of Influence (Zoi) 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 (NE) have advised that this development falls within the 'Zone of Influence' (Zol) 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 (MDC), 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. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.4 NE 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 Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational Zol of these sites cover the whole of the Maldon District.
- 5.8.5 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol 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 Multiple 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.
- 5.8.6 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level HRA – NE 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, NE does 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 and has currently been set at £127.30 per dwelling.
- 5.8.8 To accord with NE'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 (Zol) 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 £127.30 is necessary.

5.8.9 It is noted that in the absence of a formal legal agreement the appropriate mitigation has not been secured.

**6. ANY RELEVANT SITE HISTORY**

6.1.1 The relevant planning history is set out in the table below:

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
15/01096/COUPA	Change of use of two existing barns from agricultural to dwelling houses	Prior Approval Granted
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	Prior Approval Refused
20/00310/FUL	Conversion of barn and cartlodge to 2 new dwellings	Refused
20/01154/FUL (should be noted this relates solely to the barn attached to the eastern elevation of the barn the subject of this application)	Retention of existing dwelling.	Approved
21/00211/FUL	Partially retrospective alterations to barn and conversion to dwellinghouse and associated works	Refused for the following reasons: 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



Application Number	Description	Decision
		<p>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)</p> <p>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.</p>

6.1.2 Relevant planning history of sites in the immediate vicinity:

Application Number	Description	Decision
19/00213/FUL (Little Paddock Chelmsford Road)	Section 73A application for a single storey extension to the former garage and conversion of the former garage to residential use.	Approved (Note: The garage approved to be used as annex to the main dwelling and not as a new dwelling)
18/01426/FUL and 19/00808/FUL (Former Veterinary Surgery Chelmsford Road)	Demolition of existing B1 office and construction of new dwelling house including change of use to residential	Refused for the following reason: <i>The application site lies within a rural location outside of a defined settlement boundary where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord</i>

Application Number	Description	Decision
		<p><i>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 site is poorly located relative to facilities, services and sustainable modes of transport. The proposed development would result in the loss of an employment use and it has not been demonstrated to the satisfaction of the LPA that there is no demand for an employment use at this site.</i></p> <p><i>Furthermore, the proposal would substantially alter the character and intrinsic beauty of the countryside, particularly through the introduction of a domestic character to this rural site. The development would therefore be unacceptable, does not constitute sustainable development and is contrary to policies S1, S2, S8, E1, D1 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018).</i></p>
<p>15/00691/OUT and 16/0001/FUL (Treelawn Nursery Chelmsford Road)</p>	<p>Outline application for the demolition of existing chalet dwelling and erection of 3No. detached houses</p>	<p>Allowed on appeal; however, this was prior to the adoption of the Local Development Plan and thus, this decisions carry very limited weight. This site is closer to the settlement boundary, directly adjacent to a footpath and the character of this section of the road is considerably more domestic than that of the application site.</p>
<p>17/01022/RES(Treelawn Nursery Chelmsford Road)</p>	<p>Reserved matters application for the approval of layout, scale, appearance and landscape on application OUT/MAL/15/00691 approved on appeal APP/X1545/W/16/3148836</p>	<p>Approved</p>

Application Number	Description	Decision
	(Outline application for the demolition of existing chalet dwelling and erection of 3No. detached houses).	
18/00111/OUT (Land Adjacent Tye Meadow Spar Lane)	The demolition of existing outbuilding and erection of a detached 2 bedroom bungalow	Allowed on appeal - This site is closer to the settlement boundary, directly adjacent to a footpath and the character of this section of the road is considerably more domestic than that of the application site.
17/01160/FUL (Land Adjacent Sunnycot Chelmsford Road)	Erection of detached two bedroom chalet bungalow with associated cart lodge, access and amenity.	Allowed on appeal - this application was allowed on appeal (APP/X1545/W/18/3203376), whereby it was concluded that the proposed development would not represent any harm to the character and appearance of the surrounding area as the site was not isolated or remote from other properties and would therefore, be read in context with these properties. Furthermore, the Inspector concluded that the proposed development would be suitably located as there is a footpath leading to the main settlement of Purleigh whereby there are a number of services and facilities. It should be noted that Sunnycot is located approximately 200 metres closer to the settlement boundary of Purleigh and also the pattern of development is significantly different to that at the application site. Furthermore, each application should be determined on its own individual merits

### 6.1.3 Other appeal decisions:

Application Number	Description	Decision
17/00860/FUL (APP/X1545/W/18/3194812) (Barn Little Ashtree Farm Steeple Road Mayland)	Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding.	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 of the approved

Application Number	Description	Decision
		<p>scheme being implemented in the event that the appeal fails.</p> <p>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.</p> <p>Whilst the fenestration pattern has altered as part of this application and the construction of the development; these alterations are considered to be minor, in relation to the prior approval process, 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 is unlawful and most fundamentally, fails to comply with planning policy.</p>

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	Recommend granting planning permission because the development is appropriate on the site.	Comment noted.

### 7.2 Representations received from Interested Parties

7.2.1 No representations were received for this application at the time of writing this report.

## **8. PROPOSED REASONS 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).
- 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.