



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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**to  
NORTH WESTERN AREA PLANNING COMMITTEE  
15 JUNE 2021**

<b>Application Number</b>	<b>22/00439/FUL</b>
<b>Location</b>	Land Rear of Hill Barn Rectory Lane Woodham Mortimer
<b>Proposal</b>	Proposed conversion of existing equestrian/storage buildings to form a live-work unit with associated development including the creation of a parking area.
<b>Applicant</b>	Mr Mervyn Clarke
<b>Agent</b>	Mrs Caroline Legg - Phase 2 Planning
<b>Target Decision Date</b>	17.06.2022
<b>Case Officer</b>	Hannah Dungate
<b>Parish</b>	<b>WOODHAM MORTIMER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor S White Reason: Effect on the countryside and sustainability.

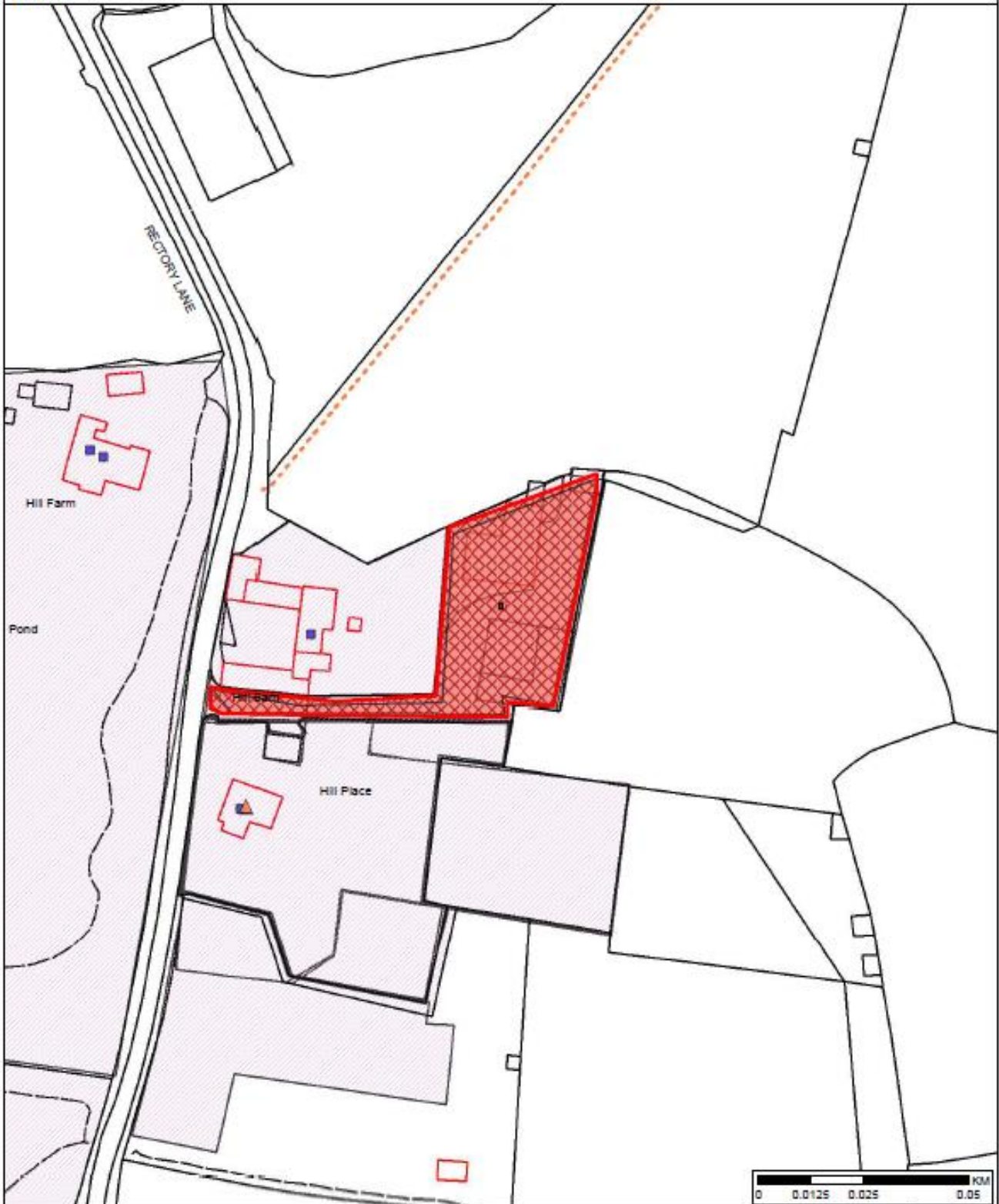
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

22\_00439 FUL  
NWAC



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Maldon District Council 100018588 2014



MALDON DISTRICT  
COUNCIL

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

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments:

Date: 01/06/2022

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site forms a parcel of land measuring 0.2 Hectares (Ha) currently occupied by an agricultural barn, which is used for equestrian purposes and agricultural storage. The site lies in a rural area outside of the defined settlement boundaries of the district. Open fields lie to the north and east of the site and the residential properties 'Hill Barn' and 'Hill Place', which is a grade II listed building lie to the south-west of the site.
- 3.1.2 Planning permission is sought for the conversion of the building from an agricultural / equestrian barn to a 'live-work unit' with associated parking area. The proposal would include the provision of a three-bedroom dwelling and an area labelled as 'Flexible Office Space'. The proposed office space would amount to 130sqm of floor space and the proposed residential dwelling would be approximately 276sqm which amount to approximately double the floorspace of the proposed office area.
- 3.1.3 The scale of the building in terms of width, height and depth would not be altered as a result of the proposal. The proposed physical changes to the building include the upgrading of the roof and walls with new materials, and new and upgraded window and door openings are proposed in the elevations of the existing building. The current covered storage area on the northern elevation would be infilled with walls. Minor internal alterations would be undertaken including the removal of existing and installation of new internal stud walls to provide an entrance hall, living room, dining and kitchen area, three bedrooms, three bathrooms, an en-suite and an open plan office space.
- 3.1.4 There is an existing outbuilding located within the north east corner of the site which is proposed to be altered to provide an open sided cycle parking area and an enclosed storage area.
- 3.1.5 There is an existing access to the site from Rectory Lane which would be retained and utilised and a formal parking area to the south of the building is proposed and additional landscaping has been indicated on the proposed site plan.
- 3.1.6 The application follows an approved application, 21/00936/FUL, for the conversion of the buildings to an office space, and an application, 19/00121/FUL for the conversion of the buildings to a dwelling with extensions, which was refused in April 2019 and the appeal was dismissed in April 2020. The current application seeks a live-work unit comprising of a three-bedroom property and an area for flexible office space to the side of the proposed property.

#### **3.2 Conclusion**

- 3.2.1 Having taken all material planning consideration into account, it is not considered that the development, comprising the conversion and alterations the existing equestrian/storage building to form a live-work unit would be acceptable in principle. The proposal fails to meet relevant criteria within policy E4 of the Local Development Plan (LDP), given that inadequate information to support the justifiable and functional need for the proposal has been submitted. The harmful visual impact resulting from the urbanisation of the existing rural site and countryside that has not been adequately justified and would not be off-set by the benefits in this instance. Therefore, it is considered that the development is contrary to policies S1, S2, S8, E4 and D1 of the 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 2021 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
- 54-58 Planning Conditions and Obligations
- 84–85 Supporting a prosperous rural economy
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

### **4.2 Maldon District Local Development Plan 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
- D3 Conservation and Heritage Assets
- E1 Employment
- E4 Agricultural and Rural Diversification
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

### **4.3 Relevant Planning Guidance / Documents:**

- Maldon District Vehicle Parking Standards Supplementary Planning Document (SPD) (VPS)
- Maldon District Design Guide SPD (MDDG) 2017
- Planning Practice Guidance (PPG)
- National Planning Policy Framework (NPPF)
- Statutory Development Plan (SDP)
- Local Housing Needs Assessment (May 2021) (LHNA)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development - Employment**

- 5.1.1 The Council is required to determine planning applications in accordance with its 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 The building is existing and is currently used for equestrian and agricultural purposes and lies outside of any defined development boundary where policies of restraint apply. The application site lies outside the settlement boundary of Woodham Mortimer.
- 5.1.3 Policy S8 of the LDP defines the settlements of the Maldon District within which residential development is to be generally directed. The policy goes on to state that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that the development falls within one of thirteen specific, defined categories. This list of acceptable development includes (b) Employment generating proposals (in accordance with Policy E1) and (e) The re-use of a redundant or disused building that would lead to an enhancement to the immediate setting (in accordance with Policy E4 and D3) but not for live / work units unless these units are within villages where the Council will actively support such development in accordance with Policy S7. These policies do not allow new residential development outside the existing urban area.
- 5.1.4 Policy S8 should be read in connection with Policies E1 and E4 of the LDP. Policy E1 relates to employment generating developments. The policy states that new proposals for employment uses will generally be directed to the designated employment areas (listed as E1(a)-E1(o)) prior to considering other sites within the District. It goes on to say that *'proposals to develop vacant employment sites and buildings, or to modernise or redevelop existing employment sites and buildings will be viewed favourably, especially where this supports the retention of existing businesses and / or provides employment space that meets the current needs of local businesses in the District'*. In the latter part of this policy, it states that *'outside the designated employment allocations, new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment and infrastructure considerations'*.
- 5.1.5 Policy E4 allows for the change of use of existing rural buildings to other employment generating uses. This policy stipulates that the Council *"will support the change of use of existing rural buildings to other employment generation uses if it can be demonstrated that:*
- a) *There is a justifiable and functional need for the proposal;*
  - b) *It will contribute to the viability of the agricultural business as a whole;*
  - c) *Any development respects the building's historic or architectural significance;*
  - d) *Any development will not negatively impact upon wildlife and the natural environment;*
  - e) *No storage of raw materials or finished goods is to take place outside the building if it would be detrimental to the visual amenity of the area; and*
  - f) *The use of the building would not lead to dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages."*
- 5.1.6 With regard to criterion (a), it has not been demonstrated that there is a justifiable and functional need for the proposal. No details of the business or businesses which will operate out of the reduced commercial floorspace has been provided. Although Policy S7 allows for live work units, this is within villages only. The proposal would lie outside of the settlement boundary.

- 5.1.7 Criterion (b) cannot be met as there does not appear to be an agricultural business that the use will contribute to.
- 5.1.8 In relation to criterion (c), the building is of limited historic or architectural significance. In any case the proposed alterations are limited. As such this criterion is met. Further consideration about the external alterations to the building and their impact upon the character and appearance of the area and the setting of the listed building within the vicinity of the site will be given in the following sections of this report.
- 5.1.9 Criterion (d) refers to the impact upon the natural environment and wildlife. A Preliminary Ecological Appraisal Incorporating Bat Survey Inspection has been submitted with the application, recommendations have been made within the report and should the application be approved a condition ensuring the development was carried out in accordance with the recommendations would be implemented. Further consideration about the impact of the development upon the natural environment and the local wildlife will be given in the following sections of this report.
- 5.1.10 Criterion (e) refers to a matter that could potentially be controlled with a condition if planning permission is granted.
- 5.1.11 Criterion (f) is considered to be met as the scale of the business that can be accommodated in this building is highly unlikely to lead to detrimental dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages.
- 5.1.12 Based on the submission, the Council understands that the proposal, if approved, would result in the creation of a three-bedroom dwelling at the site. The proposed office space would be half the size of the proposed dwelling and no details have been proposed as to how the office space would be utilised or who by. Having considered the modest office space proposed in connection with the dwelling it is considered that, if the development is approved, it would be tantamount to a new dwelling in the countryside. No information had been supplied to demonstrate the demand for the unit and in any event the size of the dwelling is likely to attract a family with children.
- 5.1.13 Furthermore, no justification or information on the type of business activity which would be undertaken has been provided in support of the case. The Council is not convinced that the proposal for a three-bedroom dwelling, with loosely connected office space, would result in any significant benefits to economic growth, or would contribute to any great extent to supporting a prosperous rural economy, or materially add to community cohesion. The proposal would therefore be contrary to Policy E4(a) of the LDP.
- 5.1.14 In addition to the above policies, Paragraphs 80 and 81 of the NPPF 2021 advises that Local Planning Authorities should, amongst other things '*be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances*' to help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity taking into account, both local business needs, and wider opportunities for development. The Council have considered these policies and while it is accepted that live / work units offer a flexible approach to employment which is not necessarily at odds with government advice on economic development. However, in this instance the Council would question the scale of employment that the scheme would actually generate particularly when

comparing it to the level of habitable accommodation proposed. As such, it is considered that any benefits from having a modest sized office space that is loosely connected to the dwelling and could reasonably be accommodated in a larger traditional dwelling without needing to be considered as a live/work unit, would be substantially eroded by heavy reliance on car travel to access even the most basic services. It should be noted that the criteria contained within policy E4 is not intended to restrict or provide an undue burden to the rural economy but to ensure that there is a real and functional need for such re-use of an existing building which is not speculative or at a whim and it is considered that in this case this has not been demonstrated.

## **5.2 Principle of Development – Residential Housing**

5.2.1 The Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.2.2 Given that the proposed employment use of the site as a live-work unit has not been justified, and the fact that the level of residential accommodation is more significant than the level of employment land proposed, the proposed development should be considered as a dwelling; the proposal would include the construction of one three-bedroom property in the countryside.

5.2.3 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). The Council has published an up to date Five Year Housing Land Supply which concludes that the Council cannot currently demonstrate a 5YHLS.

5.2.4 Where a 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.”*

5.2.5 Footnote 8 - 8 This includes, for applications involving the provision of housing, situations where the LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).

- 5.2.6 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 5 year housing land supply cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.2.7 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.’
- 5.2.8 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.
- 5.2.9 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.
- 5.2.10 Paragraph 79 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.’*
- 5.2.11 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment.
- 5.2.12 The application site lies outside the defined settlement boundary of Woodham Mortimer and is located within the countryside. Woodham Mortimer is a small residential village with limited services or local facilities. The village therefore has very poor sustainability credentials from an accessibility perspective. A wide range of services and facilities are available in Danbury approximately 3.8km away from the application site. Public transport is available at Post Office Road or on Maldon Road



(A414) where the future occupiers of the site can travel to Chelmsford to Burnham-on-Crouch / Chelmsford to Burnham-on-Crouch and beyond. These services run frequently during the day - 6am and 11pm. However, there are no footways or street lightings to link the application site to Post Office Road and therefore it is unlikely to be attractive or would encourage the future occupiers of the site to use public transport. This would not only deter pedestrians from using the local bus services especially during winter months and inclement weather but could also deter the future occupiers from cycling to the local villages. Having considered the location of the site, its distance from services and facilities, the total trips generated by the future occupiers of the new property would outweigh the modest sustainability benefits in reduced travel as a consequence of utilising the office space for work. It is likely that the future occupiers of the proposed dwelling on this site would be heavily reliant on trips by private car for most of their day to day needs and therefore would fail to achieve sustainable development in accordance with Development Plan Policies (DPP).

- 5.2.13 It is noted that the applicant has argued in their submission that there is a fallback position for the site to be used for commercial purposes following the grant of permission under 21/00936/FUL. They have also argued that this would have more harm to the environment and greater traffic implications on the local area than the proposed live-work unit. However, this is not considered by the Council to be a fallback position, given how widely different policies surrounding employment generating proposals and residential accommodation within the countryside are. Notwithstanding this, despite the fact that permission has been granted for the site to be used as offices, there is no guarantee that the site would be implemented. It is evident from the planning history of the site, that the applicants seek to convert the building to residential accommodation, given that three subsequent applications have been submitted to this effect. Furthermore, the Council's policy supports the principle of the use of rural buildings for employment generating purpose subject to a number of specific criteria, there is nothing within the adopted policies that has a similar support for the market housing.
- 5.2.14 In dismissing the previous appeal for residential accommodation at the site, it should be noted that the Inspector dismissed the appeal on the basis that "*the appeal development does not constitute a suitable location for the proposed dwelling as the proposal and would fail to comply with Policies S1, S2, S8 of the Maldon District Approved Local Development Plan 2014-2029 (2017), which seeks amongst other things, to deliver homes in the most sustainable locations.*" Given that it has not been suitably demonstrated that the office space would be justified, and the proposal would therefore amount to a new dwelling within the countryside, it is considered, in line with the Inspector's previous decision, that the proposal would not be in a suitable accessible location, with the future occupiers' heavily relying on private vehicles and would not therefore accord with the development plan.
- 5.2.15 In economic terms, it is reasonable to assume that the support for local trade from the development would be extremely limited as there is no guarantee that the limited construction works required for this development would be undertaken by local businesses; the economic benefits of the proposal are therefore considered minor. This is further reduced by the lack of evidence surrounding the proposed office use of the site. Due to the very limited provision of local businesses, shops and services within the area and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 5.2.16 The other aspects of the environmental dimension of sustainable development (including the impact of the development on the character and appearance of the

area, nature conservation and residential amenity) are discussed in the relevant sections below.

### **5.3 Housing Mix**

- 5.3.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the of the Statutory Development Plan (SDP) as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.3.2 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.
- 5.3.3 The Council currently encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. However, the most up-to-date Local Housing Needs Assessment (LHNA) (May 2021) identifies that the greatest need is for three-bedroom dwellings.
- 5.3.4 It is considered the three-bedroom residential unit proposed would contribute positively to the identified housing need and be responsive to local circumstances, which would weigh in favour of the proposal. However, as only one unit is proposed, it is considered that the social and economic benefits of the residential development proposed would not be significant.

### **5.4 Design and Impact on the Character of the Area**

- 5.4.1 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.
- 5.4.2 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 any local design standards or style guides in plans or supplementary planning documents”.*

- 5.4.3 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:-
- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - Height, size, scale, form, massing and proportion;
  - Landscape setting, townscape setting and skylines;
  - Layout, orientation, and density;
  - Historic environment particularly in relation to designated and non-designated heritage assets;
  - Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
  - Energy and resource efficiency.
- 5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.4.6 Policy E1 of the LDP states that design is one of the considerations if new provision for employment space or the expansion of existing employment areas is proposed outside the designated employment allocations. In addition, policy E4 of the LDP, refers to the impact of the development upon the character of the building, the natural environment and the visual amenity of the area.
- 5.4.7 The application site is located within a rural area, set back from Rectory Lane by 55m behind a residential dwelling. To the south-west of the site is a further residential dwelling and open countryside lies to the north, east and west of the site.
- 5.4.8 The external appearance of the existing building is that of an agricultural barn. The existing openings on the eastern side elevation would be infilled with glazed windows, with glazed doorway openings, the barn doors currently in situ would be retained. There are three existing windows and a doorway on the southern elevation which would be replaced with glazed doorways and two larger window openings. The northern elevation would contain an enlarged window opening and new doorway and the western elevation would be altered with a large window opening and a doorway. The scale and form of the building would not be altered.
- 5.4.9 In terms of materials the existing corrugated iron roof would be replaced with a material that matches the existing and the black timber waterboarded walls would be retained and inserted where necessary, black metal gutters and downpipes are proposed and black aluminium framed windows, the existing shutters currently in situ would be retained. The proposed materials are considered to be sympathetic to the rural building.

- 5.4.10 The site is in a rural area and currently in an agricultural/equestrian use. The proposed change of use and associated alterations to the existing building and site would result in a degree of urbanisation to the existing site. Although it is acknowledged that the change of use of the buildings to commercial premises has already been approved, the main difference in the assessment of this application when compared to the current application, is that a justifiable and functional need for the building had been demonstrated which was considered to mitigate the harm identified as a result of the scheme. The visual harm arising from the development was therefore considered to be outweighed by the economic and employment benefits.
- 5.4.11 However, the current proposal has not been adequately justified and would be tantamount to a new residential dwelling within the countryside. At present, the site contains primarily rural farm buildings which are appropriate to this location. However, the development of a three-bedroom property would inevitably result in domestic paraphernalia at the site, which would encroach into the countryside. It is considered that the proposed scheme of one new dwelling within the countryside would undermine the character of the area by introducing overtly domestic features. For the reasons set out above, the domestication of the site is not considered to be outweighed by any other minor benefits of the proposal. This was the view of the inspector in refusing the above referenced appeal against a dwelling and its impact on the rural area.
- 5.4.12 It is noted that the views of the application site are not readily available from Rectory Lane and the site is surrounded by numerous trees and a native hedgerow which would help to screen the site from certain vantage points. A public footpath lies to the north of the site which would provide glimpses of the proposed development from the public right of way. The site would not therefore be wholly screened from public view, and any existing screening from the existing vegetation would not be considered to be sufficient mitigation to overcome the harm identified in the above points.
- 5.4.13 The proposed alterations to the existing outbuilding are considered to be minor and would have a neutral visual impact. Although the proposed parking area would be immediately to the front of the existing building and would have a formal arrangement in the rural area, it would be constructed using grasscrete. It is also noted that this element of the proposal has been previously approved, and it would not be reasonable to object to it in this instance.
- 5.4.14 Hill Place is a grade II listed building sited to the south west of the site, in excess of 65m from the subject building. In accordance with section and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The Council's Conservation and Heritage Specialist has advised that due to the distance and established vegetation which separates the two sites, the proposal will cause no harm to the significance of the heritage asset.
- 5.4.15 Given the above assessment it is considered that the visual harm arising to the site as a result of the proposal has not been adequately justified or mitigated. The development would alter the rural character of the area and would have an unacceptable visual impact on the countryside though the urbanisation and intensification of domestication of the site, detrimentally harming the character and appearance of the locality and the intrinsic beauty of the open countryside, contrary to policies S8, E1, E4, D1, H4 and D3 of the LDP.

## **5.5 Impact on Residential Amenity**

- 5.5.1 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).
- 5.5.2 The application site has two neighbouring properties, Hill Barn, Rectory Lane to the west and Hill Place, Rectory Lane to the south-west.
- 5.5.3 The building is located 4.7m from the boundary with Hill Barn and approximately 32m from the neighbouring dwelling on this site. As the scale of the building is not changing, it is not considered that the proposed development would have an overbearing impact or result in a loss of light to this neighbouring dwelling. The western elevation of the building faces the rear boundary of the neighbouring site, the proposal would result in an enlarged window opening within this elevation. However, the window and existing door are at ground floor level and the existing boundary fence and vegetation screen any views into the rear garden of this property.
- 5.5.4 The proposed development would be 32m from the boundary with Hill Place and approximately 67m from the neighbouring dwelling on this site. Due to this distance, it is not considered that the proposed development would impact upon this neighbouring property by way of loss of light or loss of privacy.
- 5.5.5 The definition of an E(g) business is *'Uses which can be carried out in a residential area without detriment to its amenity.'* Therefore, as long as the building is used for a E(g) and residential purposes as proposed, it is not considered that noise or odour would be produced to an extent that would be detrimental to the residential accommodation which is in excess of 30m from the site.
- 5.5.6 No further concerns are raised in terms of impact on the residential amenity of the area.

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

- 5.6.1 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.
- 5.6.2 The application proposes 130sq m of office space. The Vehicle Parking Standards (VPS) recommend 1 space per 20sq m of office space which results in a requirement of seven car parking spaces (rounded up). The proposal also requires the provision of three car parking spaces for a three-bedroom dwelling. The area to the front of the building is large enough to comfortably accommodate 10 car parking spaces in line with the recommended bay size of 2.9m by 5.5. Whilst it is noted that submitted block plan shows only nine car parking spaces, a condition could be imposed to ensure the parking provision serving the site is in line with adopted VPS.
- 5.6.3 It is noted that the Essex County Council Highways Authority (ECC) has been consulted and have raised no concerns to the proposal in respect of access or highway safety.

## **5.7 Ecology**

5.7.1 The NPPF (the Framework) states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

5.7.2 Policy N2 of the LDP which states that:

*“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”*

5.7.3 A Phase One Environmental Desk Study Report and Bat Survey have been submitted as part of the application. Although the Council’s Ecology Consultant has been consulted, no response has been received. However, given the response received from the Ecology consultants as part of the previous applications, it is considered that no objections are raised in relation to the proposed change of use, subject to conditions for biodiversity enhancement and mitigation measures.

## **5.8 Private Amenity Space**

5.8.1 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 (MDG) 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.

5.8.2 The proposed block plan shows that there would be a grassed area to the eastern side of the proposed dwelling. However, no details have been provided to show that this area would be private or enclosed. Notwithstanding this, subject to the submission of appropriate details, it is considered that this area could be of a sufficient size to meet the minimum 100sq.m. recommended in the adopted standards.

5.8.3 Based on the above, it is considered that the quality of life for the occupiers of the proposed development would be acceptable in this instance, in accordance with Policies D1 and H4 of the LDP.

## **5.9 Ecology regarding development within the Zone of Influence (Zoi) for the Essex Coast RAMS**

5.9.1 The NPPF (the Framework) states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

5.9.2 Policy N2 of the LDP states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”*

5.9.3 Additional dwellings would have the potential to have an impact on the nature conservation interests for which the nearby Blackwater Estuary has been designated

as the site is located within the Impact Risk Zone of the designated sites, as identified by Natural England (NE). NE have advised that the LPA would need to complete a Habitats Regulations Assessment (HRA) for the development based on the emerging strategic approach relating to Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

- 5.9.4 The proposal is for an additional residential unit. 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 Maldon District Council (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 'Zones of Influence (Zol)' of these sites cover the whole of the Maldon District.
- 5.9.5 NE anticipate that, in the context of the LPA's duty as a 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.
- 5.9.6 The application site falls within the 'Zol' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.9.7 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.
- 5.9.8 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 below sites? - Yes

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.

- 5.8.9 Summary of Appropriate Assessment: As a competent authority, the LPA concludes that the project would have a LSE on the sensitive interest features of the European designated sites. Based on this, it is considered that mitigation, in the form of a financial contribution of £137.71, is necessary in this case. It is noted that the applicant has not submitted a completed Unilateral Undertaking, as such the necessary financial contribution has not been secured. Taking into account the guidance of NE, it is considered that the likely impact of the development, in the absence of mitigation, would be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission.

## 6. ANY RELEVANT SITE HISTORY

- **19/00121/FUL** – Proposed conversion of existing equestrian/storage building to form 1 No. new dwelling including the addition of a first floor, front extension, replacement single storey side extension, demolition of the existing open bay lean-to, changes to the fenestration and associated works – Refused and Appeal Dismissed.
- **20/01021/FUL** – Proposed conversion of existing equestrian/storage barn building to form offices (Use Class E (g)) and associated development (Re-submission of planning application ref: 20/01021/FUL refused on the 15 January 2021) – Refused.
- **21/00936/FUL** – Proposed conversion of existing equestrian/storage barn building to form offices (Use Class E (g)) and associated development – Approved.
- **22/00443/FUL** – Proposed conversion of existing equestrian/storage buildings to form 1 no. New dwelling and associated development – Pending Consideration.

## 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 report.	Noted.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	Undertake HRA to secure any necessary mitigation.	Noted.
Essex County Council Highway Authority (ECC)	No objection subject to conditions.	Noted.



### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection.	Noted.
Environmental Health	No objection subject to conditions.	Noted and conditions recommended.

### 7.4 Representations received from Interested Parties

7.4.1 **One** letter was received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
The barn is well screened by bushes and trees, including 12 trees planted 2021/2021. The screening of the site is effective, visually attractive and in keeping with the surroundings.	Noted.
The application will avoid the buildings falling into disrepair and would be of benefit to the area.	Noted.

## 8. REASONS FOR REFUSAL

- 1 The application site lies within a rural location outside of a defined settlement boundary where policies of restraint apply. The scale of the proposed residential accommodation is considered to be disproportionate to the commercial floorspace and would be tantamount to the erection of an independent dwelling within the countryside. The proposed development would be remote and disconnected from local services and facilities by reason of its location and would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D1, H4 and T2 of the MDLDP (2017) and Government advice contained within the NPPF (2019).
- 2 The proposal would lead to the domestication of the site in a manner that would have an urbanising effect that would erode the rural setting to the detriment of the intrinsic character and beauty of the countryside which has not been adequately mitigated or justified and would therefore be contrary to the overarching objectives contained within policies S1, S8, D1, E4, H4 and T2 of the MDLDP and Government advice contained within the NPPF.
- 3 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, I1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.