



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
NORTH WESTERN AREA PLANNING COMMITTEE
15 JUNE 2021

Application Number	22/00443/FUL
Location	Land Rear of Hill Barn Rectory Lane Woodham Mortimer
Proposal	Proposed conversion of existing equestrian/storage buildings to form 1No. new dwelling and associated development.
Applicant	Mr Mervyn Clarke
Agent	Mrs Caroline Legg - Phase 2 Planning
Target Decision Date	17.06.2022
Case Officer	Jade Elles
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call In by Councillor S White Reason: Effect on the countryside and sustainability.

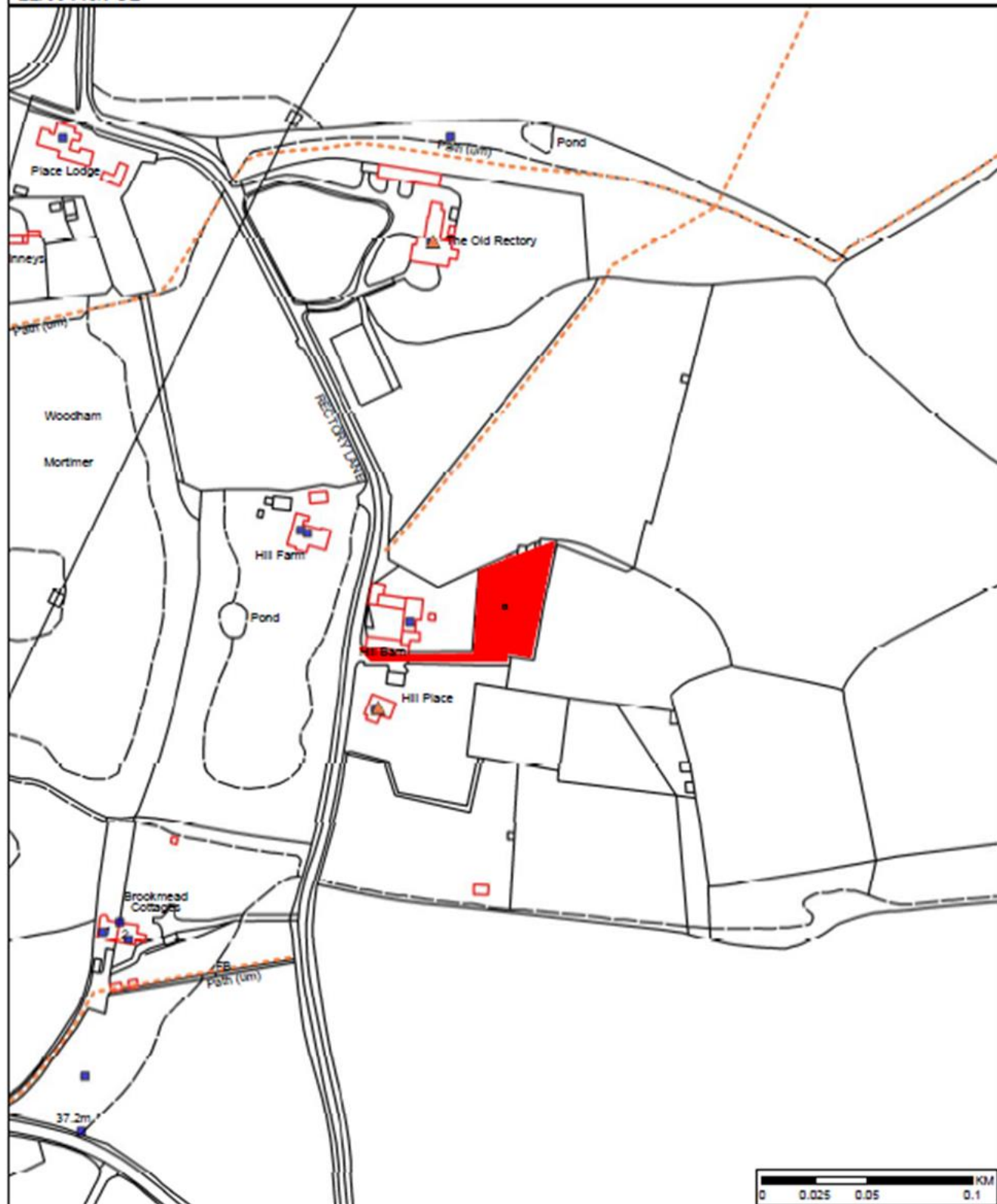
1. RECOMMENDATION

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

2. SITE MAP

Please see below.

Land Rear of Hill Barn, Rectory Lane, Woodham Mortimer
22/00443/FUL



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Organisation: Maldon District Council

Department: Department

Comments: North Western Committee

Date: 06/06/2022

MSA Number: 100018588



MALDON DISTRICT COUNCIL

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 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 four-bedroom bungalow. There will be a lounge, dining room, study, kitchen, utility room, three bathrooms, one WC and four bedrooms.
- 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 the layout of the dwelling.
- 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 with the garden to the east.
- 3.1.6 The application follows an application, Reference 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 reason for refusal was:
- 1. Policies S1 and S8 of the Maldon District Local Development Plan seek to provide control over development in rural areas that are beyond defined settlement boundaries, to ensure that new residential developments are directed to appropriate and sustainable locations and that the countryside is protected for its landscape value as well as its intrinsic character and beauty. The application site is in a rural location outside of the defined settlement boundary for Woodham Mortimer where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. The development of this site does not therefore constitute sustainable development. It is also located a considerable distance from facilities, schools and support services and therefore has poor accessibility. Furthermore, the proposed dwelling would lead to the domestication of the site in a manner that would erode the setting and the wider rural landscape, thereby resulting in an incongruous form of development that would have an urbanising effect by way of visual intrusion and encroachment into the rural landscape setting. As such, the proposal would be contrary to policies S1, S2, S8 and D1 of the Maldon District*

Local Development Plan and Government guidance contained in The National Planning Policy Framework.

- 3.1.7 It is now proposed to keep the accommodation on one level and the building the same scale as the existing, with no proposed extensions.
- 3.1.8 It is worth noting that an application was approved, 21/00936/FUL, for the conversion of the buildings to an office space. The design of the current proposal is also the same as that approved under application 21/00936/FUL, for the conversion of the buildings to an office space.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, it is not considered that the development can be found acceptable, due to its unsustainable and inaccessible location and due to the harmful visual impact resulting from the urbanisation and domestication of the existing rural site and countryside. Therefore, it is considered that the development is contrary to policies S1, S8, D1 and H4 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
- 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 2017 (MDDG)
- Planning Practice Guidance (PPG)
- National Planning Policy Framework (NPPF)
- Local Development Plan (LDP)
- Five-Year Housing Land Supply (5YHLS).

5. MAIN CONSIDERATIONS

5.1 Principle of Development

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

5.1.2 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 5YHLS which concludes that the Council cannot currently demonstrate a 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 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."

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

5.1.5 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of

the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).

- 5.1.6 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out of date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted.'
- 5.1.7 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.8 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up-to-date five-year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three-dimension tests of the NPPF, the LPA are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.
- 5.1.9 Paragraph 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.'*
- 5.1.10 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.
- 5.1.11 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 / Chelmsford to Burnham 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.

- 5.1.12 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.*” It is therefore considered that, in line with the Inspector’s previous decision, 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.
- 5.1.13 The Planning Statement states that application FUL/MAL/93/0684/B at Hill Barn were approved for the conversion of barns to residential developments and therefore set a precedent for this type of development. It is considered that each application must be assessed on its own merits, and given the age of those applications, planning policies have changed significantly since then, with the creation of the NPPF and adoption of the current LDP, and therefore it is not considered that weight should be given to that decision in the assessment of the application.
- 5.1.14 The Planning Statement also considers that the LDP policy position is different now, to application 19/00121/FUL which was refused and dismissed at appeal, and that the Council can no longer demonstrate a 5YHLS. It is noted that the LDP is being reviewed however this does not, at present, alter the policy position of the current LDP and the adopted policies, and the full assessment regarding the lack of a 5YHLS is set out above.
- 5.1.15 It is noted that planning permission was approved under the terms of 21/00936/FUL for the change of use of the barn to form offices, and the Planning Statement considers the external appearance to be almost identical. However, the main difference in the assessment of that 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. The development approved under the terms of 21/00936/FUL complied with the relevant employment and rural diversification policies in the LDP and guidance contained in the NPPF, whereas there are no policies which support residential development in unsustainable areas.
- 5.1.16 Having regard to the above assessment, it is not considered that the principle of development can be found acceptable.

5.2 Housing Mix

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the 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 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 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 (May 2021) identifies that the greatest need is for three-bedroom dwellings.
- 5.2.4 It is therefore not considered the four-bedroom residential unit proposed would contribute positively to the identified housing need and be responsive to local circumstances.

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 any local design standards or 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:

- 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.
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 The application site 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.
- 5.3.6 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.
- 5.3.7 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. The development approved under the terms of 21/00936/FUL complied with the relevant employment and rural diversification policies in the LDP and guidance contained in the NPPF, whereas there are no policies which support residential development in unsustainable areas.
- 5.3.8 At present, the site contains primarily rural farm buildings which are appropriate to this location. However, the development of a four-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. This was the view of the inspector in refusing the appeal relating to application 19/00121/FUL for a dwelling and its impact on the rural area.
- 5.3.9 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.
- 5.3.10 The external appearance of the existing building is that of an agricultural barn. The proposal would alter the fenestration and add more glazing to the building. The scale and form of the building would not be altered; however this is not considered to alter the concerns raised above.

- 5.3.11 The materials proposed consist of black weatherboarding over a brick plinth with red pantiles for the roof. Whilst there are no significant objections to the materials, this is not considered to outweigh the concerns raised above.
- 5.3.12 The proposed alterations to the existing outbuilding, whilst minor, would exacerbate the harm arising from the domestication and urbanisation of the site. 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.
- 5.3.13 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.
- 5.3.14 The development would alter the rural character of the area and would have an unacceptable visual impact on the countryside though the urbanisation and 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, D1, and H4 of the LDP.

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 has two neighbouring properties, Hill Barn, Rectory Lane to the west and Hill Place, Rectory Lane to the south-west.
- 5.4.3 The building is located 4.7m from the boundary with Hill Barn to the east and approximately 32m from the neighbouring dwelling on this site. As the scale of the building is remaining as single storey, it is not considered that the proposed development would have an overbearing impact or result in a loss of light to this neighbouring dwelling. All windows and doors are at ground floor level and therefore there are no concerns regarding overlooking or a loss of privacy to this neighbour.
- 5.4.4 The proposed development would be 67m from the dwelling of Hill Place to the south. 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.
- 5.4.5 Due to the separation distance between the proposed dwelling and the neighbouring sites, it is not considered that the future occupiers of the proposed dwelling would be subject to any unneighbourly impacts by way of overshadowing or a loss of privacy.
- 5.4.6 Having regard to the above, there are no concerns regarding residential amenity.

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.
- 5.5.2 The proposal relates to a 4-bedroom dwelling and therefore three parking spaces are required measuring 2.9 metres by 5.5 metres. A large area for parking and turning is shown on the block plan which would have space for more than the 3 parking spaces required and therefore there are no objections in terms of parking.
- 5.5.3 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.

5.6 Ecology

- 5.6.1 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.
- 5.6.2 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."

- 5.6.3 A Phase One Environmental Desk Study Report and Bat Survey have been submitted as part of the application. The Ecology consultant has no objections to the proposal, subject to conditions for biodiversity enhancement and mitigation measures and therefore there are no objections in this respect.

5.7 Private Amenity Space

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.7.2 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 would be of a sufficient size to meet the minimum 100sq.m. recommended in the adopted standards.
- 5.7.3 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.

5.8 Ecology regarding development within the Zone of Influence (Zol) for the Essex Coast RAMS

- 5.8.1 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.
- 5.8.2 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.”*
- 5.8.3 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).
- 5.8.4 The proposal is for an additional residential unit. NE has produced 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.
- 5.8.5 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 site 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 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.
- 5.8.7 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.

- 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 (ZoI) 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 likely significant effect 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.

5.9 Sustainability and the Tilted Balance

- 5.9.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development, which is the defining purpose of the planning system, as a material consideration.
- 5.9.2 The key priority within the NPPF, stated at paragraph's 7 and 8 is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.9.3 Notwithstanding the considerations as contained in those paragraph's, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land, which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.9.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.9.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development. This

would however be very limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the application to this effect. Any economic benefits would therefore be considered minimal.

- 5.9.6 In social terms the proposal would be unlikely to support a strong vibrant and healthy community, given the scale of the development for one dwelling and as there are limited facilities within the area to access. The proposal, as it is for one dwelling, makes a negligible contribution to the housing need.
- 5.9.7 In environmental terms the inaccessible location of the site in terms of the wider District would not offer any environmental benefits, as it would not remove the need to use private cars for access to everyday needs and services and there is inadequate access to public transport. It is also noted that the proposal would result in the urbanisation of an existing rural site and the design of the dwelling would harm the character of the area.
- 5.9.8 Having regard to the above, the development cannot be found to be sustainable.

6. **ANY RELEVANT SITE HISTORY**

- **19/00121/FUL** – Proposed conversion of existing equestrian/storage building to form 1No. 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 15th 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.
- **22/00439/FUL** – Proposed conversion of existing equestrian/storage buildings to form a Live-Work unit with associated development including the creation of a parking area. – 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	It is the Councils opinion that the conversion of the equestrian/storage buildings to a single dwelling would not provide a negative impact to the current site. It was noted however, that plans associated with the application named the site as Parsonage Wood Farm which provided some confusion.	Comments 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. No objection subject to conditions.	Comments noted. Conditions would be recommended if the application were to be approved.
Essex County Council Highway Authority (ECC)	No objection subject to conditions.	Comments noted. Conditions would be recommended if the application were to be approved.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection.	Comments noted.
Environmental Health	No objection subject to conditions.	Comments noted. Conditions would be recommended if the application were to be approved.

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.	Comments noted.
The application will avoid the buildings falling into disrepair and would be of benefit to the area.	Comments noted.

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

Objection Comment	Officer Response
Allowing the application, contrary to the policies in the local plan, would set a precedent.	Comments noted. Each application is assessed on its own merits, however, it is noted that this proposal is contrary to the policies in the local plan and national guidance, as discussed within the report.

Objection Comment	Officer Response
Concerns that the previous applications to convert the building into an office would lead to the conversion into a dwelling.	Comments noted.

8. **REASONS FOR REFUSAL**

- 1 The application is for a new dwelling and the site lies within a rural location outside of a defined settlement boundary where policies of restraint apply. 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 (2021).
- 2 The proposed dwelling would lead to the domestication of the site in a manner that would erode the setting and the wider rural landscape, thereby resulting in an incongruous form of development that would have an urbanising effect by way of visual intrusion and encroachment into the rural landscape setting. As such, the proposal would be contrary to policies S1, S2, S8, D1 and H4 of the MDLDP and Government guidance contained in 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 MDLDP and the NPPF.