



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
17 AUGUST 2022**

Application Number	22/00332/FUL
Location	Land Rear of Primley Lodge, Grange Road, Tillingham
Proposal	Retrospective planning application (S73A) for the change of use of land for the siting of a storage container in respect to the horticultural and forestry use of the land and the provision of a hard surfaced access track
Applicant	Mr Alex Whitaker
Agent	Mr Mark Jackson- Mark Jackson Planning
Target Decision Date	09.09.2022
Case Officer	Devan Hearnah
Parish	TILLINGHAM
Reason for Referral to the Committee / Council	Major application on site area.

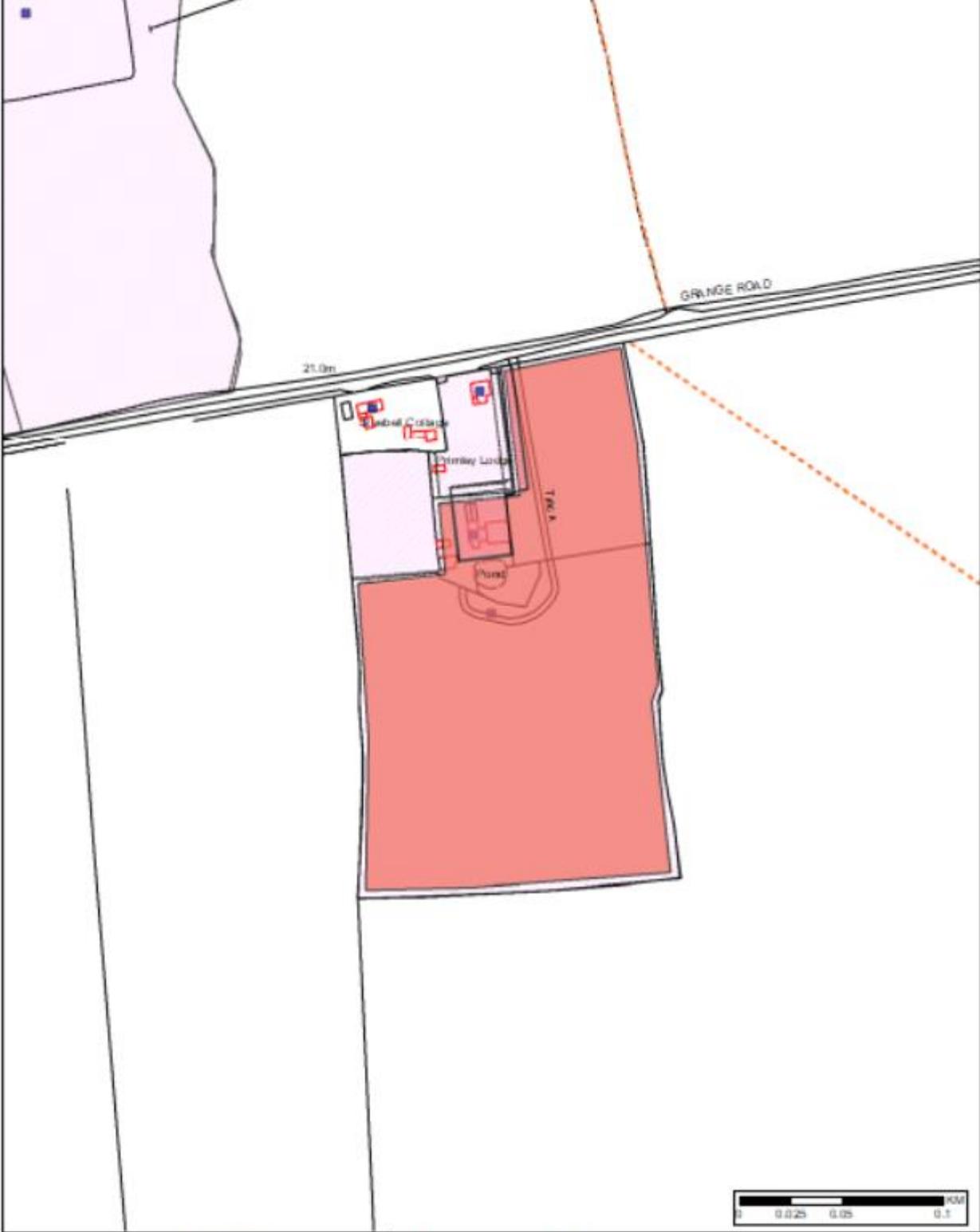
1. RECOMMENDATION

APPROVE subject to the conditions set out in section 8.

2. SITE MAP

Please see below.

22/00332/FUL
SEAC



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Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	Not Set
Date:	28/07/2022
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Application site

- 3.1.1 The application site is located on the south side of Grange Road, outside of the defined settlement boundary of Tillingham. The site is located on the east side and southern side of Primley Lodge, a residential property and is occupied by two existing, dilapidated agricultural buildings and a container which does not benefit from planning permission, sited directly to the rear of Primley Lodge. There is also a pond to the rear of the buildings, with an open field to the south. The eastern part of the site consists of a track, which does not benefit from planning permission and a planted Orchard area.
- 3.1.2 The surrounding area is predominantly rural in nature, with sporadic residential development along Grange Road, and the main settlement of Tillingham lies approximately 270m to the west.

Proposal

- 3.1.3 Retrospective planning permission (Section 73A) is sought for the change of use of the land for the siting of a storage container for a period of twelve months in association with the use of the site, and the laying of hard surfacing to form an access track into the site. A grass / mud track was present at the site in 2005. However, it does not appear that historically there has been hard surfacing along the track prior to the laying of the surface subject of this application. Therefore, the description of works has been amended to reflect that the hardstanding is not existing.
- 3.1.4 The storage container is located within the south western parcel of the site, 20m from the boundary shared with Primley Lodge and 4.6m north of an existing outbuilding. It has a width of 2.3m and a length of 9.1m, with an overall height of 2.3m. The container is sought for a temporary 12-month period, in order to provide secure storage within the site whilst the Applicant seeks a permanent premises within the site. Currently application 22/00334/FUL is pending consideration for this purpose, and is presented to Members under this agenda, which involves the extension to one of the existing outbuildings. However, this does not form a consideration of this application.
- 3.1.5 The hard surfaced track has a width of 3m and runs from the site access within the northern part of the site at a distance of 90m before, before returning to a grass surface where it enters the southern field and running around the rear of the existing pond and into the western parcel of the site. There is a turning head at the 90m point that has a 5m width and 7m depth. The surfacing material of the first 90m is gravel.
- 3.1.6 The application has been supported by a covering letter, Design and Access Statement (DAS) and a supporting letter from the Applicant, which contains the following information relevant to this application:
- The future use of the smallholding is to set aside 6 acres of the total area for woodland in the south field in a rewilding context, which includes an element of a harvestable wood crop. The area will develop into a harvestable crop within an approximate 10 year cycle.
 - Connected will be the provision of facilities for a seed bank, the growing and selling of herbs and the sale of sapling trees.

- A fruit orchard is being planted in the north, which will comprise of approximately 100 fruit trees. The fruit crop and associated products are hoped to be sold locally.
- Beehives have already been installed. The honey will be made available for sale to the general public.
- 10kg of meadow flowers has been invested in the front field to compliment the orchard and the bees.
- The existing buildings have an established agricultural use as determined by planning appeal decision APP/X1545/A/14/2218637.
- To the periphery of the site is an established track which has been resurfaced and is shown as existing in 2005 Aerial photography.
- Temporary permission for a period of 12 months is sought for the container, to enable the Applicant to manage the holding whilst the application to extend the outbuilding is considered and the works potentially undertaken.
- The former use of the site was Agriculture, and this use is in line with the Government's objectives for farming into the future.
- The landscape recovery and local nature recovery schemes are linked to the agricultural transition that is occurring.
- The Applicant will only bring one vehicle onto the site and very occasionally might a tractor or mini digger be brought onto the site.

3.2 Conclusion

- 3.2.1 The track and storage container are not considered to demonstrably impact on the character and appearance of the site and countryside to a degree that would warrant the refusal of the application, partly because the benefits of development in assisting agricultural / forestry production is considered to outweigh the material harm on the countryside and site and given the siting of the storage container would be for a temporary period of twelve months, after which the land would be returned to its previous state. Furthermore, it is not considered that the development would have demonstrable impacts on neighbouring amenity and nor would it cause demonstrable impacts on the local highway network. Therefore, it is considered that the development would be acceptable.

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
- 92 – 103 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 126-136 Achieving well-designed places

- 152 – 169 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural 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
- D5 Flood Risk and Coastal Management
- D2 Climate Change and Environmental Impact of New Development
- E4 Agricultural and Rural Diversification
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (VPS)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Policy S8 of the Local Development Plan (LDP) states that planning permission for development outside of the defined settlement boundaries, garden suburbs and strategic allocations will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted on and provided it is for one of a number of stated uses. Of relevance to this proposal is that agricultural and forestry related development in accordance with Policy E4 is deemed to be an acceptable development in the countryside.

5.1.2 It has been accepted previously that the application site has an historic agricultural use. Furthermore, it is accepted that the use of land for agricultural, horticultural or forestry related uses does not require planning permission. Therefore, on this basis it is necessary to consider the provision of the hardstanding and container in relation to Policy E4 of the LDP, but the use of the land itself for the planting of a woodland, a meadow, orchard, and bee keeping does not require further consideration.

5.1.3 Policy E4 states that the Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses so long as:

- 1) There is a justifiable and functional need for the building / activity
- 2) The function of the proposed building/ activity is directly linked, and ancillary to, the existing use; and
- 3) The building / activity could not reasonably be located in existing towns, villages or allocated employment areas.

- 5.1.4 The hardstanding provides an all-weather access through the site and would facilitate the use of the site to grow and sell produce for agricultural and forestry purposes. It is considered that a hard surfaced track is a justifiable addition to the site, as the Applicant has explained that often the unsurfaced track could become hard to use and boggy, requiring the need for vehicles to be towed from the site. Therefore, without the track it is acknowledged it may not be possible to maintain and manage the site to the degree that would be possible without the provision of the track. Furthermore, the track only serves the land subject of the application site and would be directly linked to the management of the site it serves. Given that the track has this direct link to the activity within the holding it could not be located anywhere outside of the site. Therefore, the proposed track is considered to be in accordance with Policy E4.
- 5.1.5 The purpose of the temporary container is to provide secure on-site storage whilst the Applicant continues the management of the land for agriculture and horticultural purposes, whilst a permanent structure is sought on site, which is considered under application 22/00334/FUL, under consideration as part of this Committee agenda. It is accepted that the proposed activity on the land will require some equipment and machinery in order to be able to operate, and it is reasonable to expect there to be a secure location within the site to store these elements. Currently, the existing buildings are not of a condition to be able to provide the degree of storage likely needed to facilitate the functionality of the land in the interim. Furthermore, as the purpose of the container is to store equipment directly related to the agricultural and forestry activities on the site, the container is considered to have a direct and ancillary link the use of the land. Likewise, the machinery needs to be located in close proximity to the land in order for equipment and machinery to be readily available and as such it is not considered that the activity could be reasonably located in existing towns, villages or allocated employment areas. Further to this, the container is of a standard size and is largely screening from public view and would not provide a provision over and above what can reasonably be expected to be required on the site.
- 5.1.6 In consideration of the above it is considered that the proposed works would be in accordance with Policy E4 of the LDP and therefore, the principle of development can be established.

5.2 Landscape and Visual Impact

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 of the LDP and is found within the Maldon District Design Guide (2017).
- 5.2.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.4 The track is visible from Grange Road, but only as a result of glimpses through the site entrance. Given its low level any views between the existing boundary hedge are likely to be limited to glimpses as vehicles or any pedestrians passing by the site.

Whilst the track is of a fairly significant length, it is not overly large in width and consists of gravel, which is a more sympathetic material to the character of the area than the use of harsher forms of surfacing such as tarmac or paving. Therefore, whilst it is considered that the track causes some harm to the character and appearance of the site and countryside, the degree of harm is not considered to be significant, and it is considered that the track has been designed in a way to minimise the harmful impacts as much as possible. Therefore, in weighing the need for the track and the benefits of the scheme, which involve indirect benefits of assisting in agricultural, horticultural and forestry production, it is considered that the level of harm resulting from the track would be outweighed by the need and benefits of the proposal.

- 5.2.5 Whilst the container is a functional and unsightly addition to the site, it is sited to the rear of Primley Lodge and there are no significant public views of it, with it being well screened by existing vegetation, this is not a form of development that the Council would look to support in the long term. However, the container is only proposed on a temporary basis of twelve months and therefore, the impacts on the character and appearance of the site and countryside will be short term. Furthermore, the applicant has put forward a functional need for the container. Having regard to this, it is not considered that the harm is substantial enough to warrant the refusal of the application and landscape and visual impact grounds.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The application site lies adjacent to Primley Lodge, whose boundary adjoins the north, east and west boundary of the site. The container is located 66m from Primley Lodge and 20m from the shared boundary and the access track is located 12m from the neighbouring dwelling and a minimum of 5m from the shared boundary.
- 5.3.3 The container and track are not considered to cause overlooking or a loss of privacy, nor do they have an overbearing impact on the neighbouring occupiers. Furthermore, the provision of the container to store equipment on the site is not considered to facilitate any greater noise impacts than what could already be provided on the site through utilising and repairing the existing buildings for the same purposes. However, the access track would facilitate a more intensive use of the site, particularly as the business matures and production improves and could assist in the facilitation of visitors to the site for the sale of goods. Whilst the Applicant's Agent has advised in an email dated 28 July 2022 that there will be no sale of goods directly from the site, the sale of goods from the nursery could be undertaken without express planning permission, which could result on a demonstrable impact to Primley Lodge as a result of noise coming from increased vehicle movements. The Local Planning Authority have very limited information relating to how the business would operate in terms of the sale of goods. Therefore, it is considered reasonable and necessary to impose a condition requiring opening hours to be agreed and also for a noise management plan.

5.4 Access, Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment. Similarly, policy D1 of the approved LDP seeks to maximise connectivity within the development and

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

- 5.4.2 The application site is accessed via Grange Road within the northern part of the site. There is a separate application pending which considers the provision of a hard surface track to provide access to the outbuilding. However, even without the provision of the hardstanding, there is an existing access to the site. No alterations are proposed to this access and it is considered sufficient to serve the proposal.
- 5.4.3 In relation to vehicle movements, the supporting statement suggests that only one vehicle will be accessing the site, and on occasion a mini digger or tractor may be brought onto the site, with no larger vehicles being required. However, as stated previously, it is noted that the sale of goods from the site could take place without express planning permission. Nevertheless, it is not considered that the access would intensify the use of the site to such a degree which would be considered to result in a significant increase in vehicle movements that would impact demonstrably on the local highway network. Therefore, for these reasons it is considered that the development would be in accordance with policies D1 and T2 of the LDP. The Local Highway Authority have also been consulted and have raised no objection on this basis.

5.5 Impact on Ecology and Biodiversity

- 5.5.1 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”. Conservation and enhancement of the natural environment is also a requirement of the NPPF.
- 5.5.2 The application has been supported by an Extended Phase 1 Survey (March 2022) which the findings of which are largely agreed with. However, the survey only includes intentions such as the planting of the Orchard and a second pond creation. However, these are not recommendations in the Phase 1 Survey or firm commitments. Therefore, the Council’s Ecological Consultant has advised that Biodiversity Enhancement Strategy should be secured by a condition, requiring information such as specific details of the secondary pond size, number of next boxes to be installed, numbers and varieties of Orchard trees, margins for minimal intervention management of southern area boundaries (noted for small mammals & raptors). They also state that it should also include some of the positive actions taken to date observed in the report such as the installation of Bee Hives and set aside grassland, and should identify additional enhancements to these.
- 5.5.3 It is also suggested that there should be an investigation into the potential to remove some of the numerous Willow trees to reduce the quantity of water being abstracted and shading the pond area and consideration to committing to avoiding fish stocking the current pond at any point.
- 5.5.4 The Applicant’s Agent confirmed in an email dated 20 June 2022 that the Applicant will be able to implement the additional biodiversity requirements. However, this did not provide the detail required in relation to the above points. Notwithstanding this, given that this application relates to the hardstanding and container only, it is not considered reasonable or necessary to impose this condition as part of this application and it should relate to application 22/00334/FUL for the polytunnels and extension to the outbuilding only, which is being considered separately to this

application. Therefore, it is considered that the development would not demonstrably impact on biodiversity to a degree that would warrant refusal of the application.

5.6 Arboricultural Impacts

5.6.1 The application has been supported by an Arboricultural Report and Implications Assessment dated 10 April 2022. However, the tree report is not in accordance with the requirements of BS5837:2012. Nevertheless, given the application is retrospective the Council's Arboricultural Consultant has advised that a condition requiring a soft landscaping plan would be sufficient to mitigate any harm, which should include details of proposed shrub / hedge planting, along with wildflower planting and the orchard planting. However, given that the works subject of this application will not impact on existing trees and that the proposed planting is part of the agricultural / forestry practice on the site and doesn't require planning permission and would not have a direct impact on the track or container, it is not considered reasonable or necessary to impose this condition.

5.6.2 As it is not considered that the proposal will have a materially harmful impact on the existing trees within the site to a degree which would demonstrably impact on the character and appearance of the area or the ecological credentials of the site.

5.7 Flood Risk and Surface Water Drainage

5.7.1 The application site lies within Flood Zone 1 and has a low risk of groundwater and reservoir flood risk, but due the development site being greater than 1ha in area, a Flood Risk Assessment (FRA) has been submitted.

5.7.2 The FRA found that there is a small area along the informal access track which is located within the medium and low risk extent (between 1000 years and 30 years). During the worst-case low risk events 14m of the informal track would be considered hazardous. However, this could be suitably managed by avoiding the part of the track that falls within this area and there will be safe exit from the site via other parts of the track or field onto Grange Road. Furthermore, the level of hardstanding proposed is not considered to result in a significant increase in flood risk. Therefore, there is no objection in relation to existing flood risk.

5.7.3 Considering the above, the proposal is considered to be in accordance with Policy D5 of the LDP.

6. ANY RELEVANT SITE HISTORY

- **14/00067/FUL** - removal of existing outbuilding and construction of new detached single storey dwelling – refused and appeal dismissed.
- **22/00334/FUL** - Planning application for the erection of two polytunnels and the extension of an existing outbuilding for storage and workshop in respect to the horticultural and forestry use of the land.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish/Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tillingham Village Council	No response received at the time of writing this report	Noted, any updates will be reported through the Members' Update process.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No objection	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No comment to make	Noted
Tree Consultant	The tree report provided was not in accordance with the requirements of BS5837:2012, but as this is a retrospective application a condition requiring soft landscaping plan to detail the replacement planting proposed, and further tree planting would be sufficient. Details of the soft landscaping would enhance the site in terms of ecology and amenity	Addressed at section 5.5 of the report
Ecology	No objection subject to a condition requiring: - A Biodiversity Enhancement Report	Addressed at section 5.6 of the report

7.4 Representations received from Interested Parties

7.4.1 Ten letters of objection have been received. The reasons are summarised in the table below:

Objecting Comment	Officer Response
No justification for extra storage on site when there are existing outbuildings	- The existing buildings are dilapidated and in a state of disrepair
No evidence of commercial activity that	

<p>would require a track or storage</p> <p>The hard surface track was not in place prior to the works subject of this application</p> <p>The agricultural/forestry works are not being carried out</p> <p>The outbuildings were in the rear garden of Primely Lodge and not used for agricultural purposes.</p> <p>Impacts on the character and appearance of the area</p> <p>The outbuilding has been converted</p>	<ul style="list-style-type: none"> - Addressed at sections 5.1 - Addressed at section 3.1 - There is no requirement for the activities to be being carried out prior to the submission of the application. <p>Inspectors considering previous appeal decisions at the site deemed the buildings to be agricultural buildings.</p> <p>This application is not related to this matter and this is discussed under application 22/00334/FUL included within this Agenda.</p>
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8. PROPOSED CONDITION

- 1 The storage container hereby approved shall not be retained on the site after the expiry of 12 calendar months from the date of this decision.
REASON: In the interests of the character and appearance of the area and to ensure the development is carried out as approved in accordance with Policies S8 and D1 of the Maldon District Local Development Plan.