



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
11 JANUARY 2023**

<b>Application Number</b>	<b>22/00499/FUL</b>
<b>Location</b>	Land rear of Hawthorns, Braxted Park Road, Great Braxted, Essex.
<b>Proposal</b>	Erection of twelve stables (6 stables for hobby use and 6 stables for commercial use) including tack and hay store incorporating permissive farm rides to connect to highway and bridle network.
<b>Applicant</b>	Mr John and Mr Jim Purdy.
<b>Agent</b>	Mr Russell Ford, Smart Planning
<b>Target Decision Date</b>	21.12.2022
<b>Case Officer</b>	Lisa Greenwood
<b>Parish</b>	<b>GREAT BRAXTED</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call in by Councillor J V Keyes. Policies S1, E1 and D1.


1. **RECOMMENDATION**

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

2. **SITE MAP**

Please see below.



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	Organisation: Maldon District Council
	Department: Department
	Comments:
	Date: 16/12/2022
MSA Number: 100018588	

### **3. SUMMARY**

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

##### Application site

- 3.1.1 The site is located to the south of Braxted Park Road, outside of a defined settlement boundary. The application form submitted to support the proposal confirms that the site measures circa 4350 square metres in area. Access to the site is via an existing and established access at Braxted Park Road.
- 3.1.2 Development (existing housing/commercial etc) at Braxted Park Road is sporadic, however, 1no. dwelling, Hawthorns, is located to the east of the site and Broadfield Fruit Farm is located to the west. The site is surrounded on all other sides by open countryside. The character of the site is rural.

##### The Proposal and Background Information

- 3.1.3 Planning permission is sought for the erection of twelve stables (6 stables for hobby use and 6 stables for commercial use) including tack and hay store incorporating permissive farm rides to connect to highway and bridle network.
- 3.1.4 The stables are proposed to be arranged in a 'u' shape layout, measuring 38.758 metres in width and 17.079 metres in depth, with a main eaves height of approximately 2.5 metres and a ridge height of 3.940 metres. The roof type will be of a pitched and hipped design, with a central archway extending to 5.619 metres in height. The materials proposed include weatherboarding, brick and a clay tiled roof. The individual stables will measure approximately 3.8 metres x 4 and 4.2 metres. 6no. parking spaces are proposed at the western flank.
- 3.1.5 The Planning Statement submitted to support the proposal states that 6no. stables are for the private domestic use of the applicant (a hobby use), and 6no. stables are for commercial use, with the potential to offer livery, riding lessons, and local guided trails or treks. Drawing no.21.7589/P201 Rev A, which has been submitted to support the proposal, shows the trails currently owned by the applicant.
- 3.1.6 The Planning Statement acknowledges that the stables will be served by "at least" 28 acres of paddock to the south of the site. It should be noted, however, that the paddock is outside of the development boundary (the red line boundary) and is considered to be agricultural land.

#### **3.2 Conclusion**

- 3.2.1 Incorrect and insufficient information has been submitted to support the proposal. The applicant is required to apply for a change of use, and for this to be set out within the description of development for any future planning application. This must also be supported by robust evidence to justify the requirement for the change of use (in this case, a change from agriculture to equestrian), and justification as to the requirement for this business, in this location.
- 3.2.2 With regard to the business itself, robust information is also required to provide the hours of opening, actual employee numbers, and full details to ensure horse welfare is maintained. This includes suitable long-term grazing arrangements for each horse, and a management plan.

3.2.3 The proposal has been found to be contrary to Policies S1, S8, E4 and E5 of the Local Development Plan (LDP) and the policies and guidance within the National Planning Policy Framework (NPPF) (2021). It is therefore recommended that planning permission is refused.

#### **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

##### **4.1 National Planning Policy Framework (NPPF) 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
- 55 – 59 Planning conditions and obligations
- 81-85 Building a strong, competitive economy
- 104-113 Promoting sustainable transport
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 173 Meeting the challenge of climate change, flooding and coastal change

##### **4.2 Maldon District Local Development Plan (LDP) 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
- E1 Employment
- E4 Agriculture and Rural Diversification
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment
- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG) (first released in 2014, but regularly updated)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (2018)

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

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

5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan 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 Prior to assessing the proposal against the relevant policies, it is pertinent to consider the current use of the application site and the permission applied for.
- 5.1.3 Whilst it is acknowledged that the application form submitted to support the proposal states that 240 square metres of non-residential floor space is to be provided, the description of development does not include a change of use. Further, the Planning Statement submitted to support the proposal refers to the use of the site as “agricultural.”
- 5.1.4 The Statement asserts that “*of relevance to this application is an appeal allowed immediately to the north of the site (Broadfield Fruit Farm).*” At Paragraph 6 of this appeal, the Inspector acknowledged that “*I am satisfied that the site forms part of the agricultural holding and that the appellant is in the farming business.*” The use of the site (and the associated land in the applicant’s ownership) has, therefore, been accepted as being agricultural.
- 5.1.5 Section 336 of the Town and Country Planning Act 1990 states that “agriculture” includes:
- “horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purpose.”*
- 5.1.6 To fall within the definition of “agriculture” means to have horses in the same way as cattle, sheep or pigs, i.e., to work on the land etc. The proposal seeks to erect 12no. stables, 6no. of which are for commercial purposes. The proposal has the potential of employing 1no. permanent member of staff and providing the riding of horses on the adjacent land and trails. The horses will graze on the land to the south of the site, which is outside of the red line boundary. This use cannot, therefore, be referred to as agricultural, and forms an equestrian use, which would require a change of use in the first instance.
- 5.1.7 Notwithstanding this, the Planning Statement submitted to support the proposal states that Policy E4 of the LDP is most pertinent to the application. However, Policy E4 relates to rural diversification, not a change of use. In any event, to support rural diversification, further information would be required to allow the Local Planning Authority(LPA) to understand the justifiable and functional need for the building / activity and how the proposed building / activity is directly linked, and ancillary to, the existing agricultural use.
- 5.1.8 Concern is also raised as to how the horses will be able to graze on the adjacent land. The Planning Statement suggests that the stables would be served by at least 28 acres of paddock to the south of the site, however, this land is outside of the red line boundary and is accepted as being in agricultural use. This conflicts with the proposed commercial use of the stables.
- 5.1.9 The Statement also refers to Policy E5 of the LDP, however, insufficient information has been provided to justify a tourist requirement in this location.

5.1.10 Whilst it is acknowledged that equestrian uses can be acceptable in rural areas and outside of settlement boundaries, in the opinion of the LPA, incorrect and insufficient information has been submitted to support the proposal. The applicant is required to apply for a change of use, and that this application is supported by robust evidence to justify the requirement for this business, in this location, demonstrating how the business will operate (hours of opening, actual employee numbers, grazing arrangements etc.). For the reasons aforementioned, the proposal has been found to be contrary to Policies S1, S8, E4 and E5 of the LDP and the policies and guidance within the NPPF (2021) and the principle of development has been found to be unacceptable.

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

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

5.2.2 The basis of Policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;

b) Height, size, scale, form, massing and proportion;

c) Landscape setting, townscape setting and skylines;

d) Layout, orientation, and density;

e) Historic environment particularly in relation to designated and non-designated heritage assets;

f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and

g) Energy and resource efficiency.

5.2.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.2.4 The application site lies outside of a defined settlement boundary. In accordance with 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. In addition, planning permission 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.

5.2.5 In addition, Policy H4 of the same Plan requires all development to be design-led and to seek to optimise the use of land having regard, among other things, to the location and the setting of the site, and the existing character and density of the surrounding area.

- 5.2.6 It is acknowledged that equestrian uses can be suited to rural locations outside of defined settlement boundaries. Whilst the proposed stables would be a large structure, it would have a traditional appearance, which includes the use of traditional materials such as weatherboarding.
- 5.2.7 The site is set well back from the highway, and if viewed within the site to the south, or at the streetscene, would appear to be in keeping with rural buildings typically found within the open countryside.
- 5.2.8 On balance, it is not considered that as a result of the design, layout, scale and bulk of the proposal, no material harm to the character and appearance of the site, nor the intrinsic character and beauty of the countryside, would result from the proposed development. This is in accordance with Policies S1, S8 and D1 of the LDP and the policies and guidance within the NPPF (2021).

### **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 proposed development is located in excess of 90 metres to the south west of the nearest residential development, 'Hawthorns', and in excess of 80 metres to development to the north.
- 5.3.3 Owing to the significant separation distance between the residential development and the proposed stables, it is not considered that the development will result in a loss of residential amenity to either neighbour and is acceptable in this regard.

### **5.4 Access, Highway Safety**

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted Parking Standards and maximising 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 Access and Highway Safety**

- 5.4.2.1 The proposal has been reviewed by the Highways and Transportation team at Essex County Council. In this regard, the proposal has been found to be acceptable, subject to the imposition of planning conditions regarding the submission and approval of a Construction Management Plan to the LPA; visibility splays; parking and turning.

#### **5.4.3 Parking Provision**

- 5.4.3.1 The proposal seeks to provide 6no. parking spaces. In accordance with the Parking Standards, non-residential parking bays should measure 2.9m x 5.5m. Drawing no. 1348/01c shows that the spaces are in accordance with the size required and are acceptable in this regard.

- 5.4.3.2 The Parking Standards has not yet been updated to reflect the changes to the Use

Class Order, effective as of 1 September 2020. Against the previous Use Class order, the proposed commercial element of the development would have been classified as 'Use Class D2'. The application form submitted to support the proposal states that there will be 240 square metres of non-residential floor space provided. In accordance with the Standards, a D2 must provide 1 space per 22 square metres. 11 parking spaces must therefore be provided on site. Whilst it is acknowledged that the drawing does not make provision for 11no. parking bays, there is additional space on-site where parking for 11no. vehicles could be provided. Should planning permission be forthcoming, a suitably worded condition would be required to ensure the correct level of parking is achieved on site.

## **5.5 Flood Risk and Drainage**

- 5.5.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.
- 5.5.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.
- 5.5.3 With regard to drainage, the proposal has been reviewed by the Council's Environmental Health Officer, who has noted that should planning permission be forthcoming, additional information is required with regard to surface water drainage and foul water; this can be secured via the imposition of a suitably worded planning condition.

## **5.6 Biodiversity and Geodiversity**

- 5.6.1 The presence of protected species is a material consideration, in accordance with the NPPF (2021), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981, as well as Circular 06/05. In the UK, the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9 (5) of the Conservation Regulations 2010, which states "*a competent authority, in exercising any of their functions, must have regards to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.*"
- 5.6.2 The proposal has been reviewed by the Council's Ecological Consultant (Place Services, Essex County Council). The Consultant raises no objection to the proposal, but notes that should planning permission be forthcoming, the mitigation measures identified in the Preliminary Ecological Appraisal submitted to support the proposal should be imposed by way of a condition and implemented in full. This is necessary to conserve and enhance protected and priority species, particularly nesting birds and badgers.

## **5.7 Tree Impact**

- 5.7.1 Policy D1 of the LDP encourages all development to make a positive contribution in terms of landscape setting.
- 5.7.2 The proposal has been reviewed by the Council's Arboricultural Consultant, who raises no objection to the scheme. However, if the Council is minded to approve the application, a soft landscaping scheme demonstrating how the proposal will contribute to ecological enhancements can be provided, as included in the ecological report. Further, the use of appropriate tree specimens is encouraged.



## 5.8 Other Matters

### Horse welfare

- 5.8.1 Consideration has also been given to the welfare of the horses and whether the proposed facilities and land area would be compliant with the Department for Environment, Food and Rural Affairs (DEFRA) Code of Practice (2017). This Code acknowledges that the British Horse Society minimum stable size recommendations for a large horse is 3.65m x 4.25m.
- 5.8.2 As previously stated, insufficient information has been submitted to support this proposal, and this includes information with regard to the size of the horses proposed to be kept at the stables. Notwithstanding this, the stables proposed are shown to measure 3.8 metres x 4 and 4.2 metres, and this is considered to be adequate.
- 5.8.3 The Code also states that as a general rule, each horse would require approximately 0.5-1 hectare of grazing land of a suitable quality if no supplementary feeding is provided. The Planning Statement submitted to support the proposal states that there is the potential for the horses to graze on land an area of paddock land measuring 28 acres to the south of the site. This is problematic, however, as the land lies outside of the red line boundary. Whilst currently in the applicant's ownership, the applicant could sell this parcel of land and there would be no reasonable way for the LPA to ensure that the paddock land remains linked to the stables and that grazing could be provided.
- 5.8.4 Further, insufficient evidence has been provided to demonstrate that the parcel of land discussed forms a paddock. The Planning Statement submitted to support the proposal states that the land is agricultural, and whilst the appeal statement submitted to support the proposal references a grassed paddock, this is located to the north of the site. For the reasons aforementioned, additional information is required to allow the LPA to accurately assess the proposal as a whole. A revised application is therefore required, and this should include not only robust supporting evidence providing all the information required to satisfy the welfare of the horses (this should include a management plan), but details regarding and justifying the change of use.

### Conditions of use

- 5.8.5 As stated, the proposal has been reviewed by the Council's Environmental Health Officer, who has stated that should planning permission be forthcoming, the imposition of conditions is required regarding the use of the stables; stable waste; the burning of waste; floodlighting; and the construction of a menage.

## 6 ANY RELEVANT SITE HISTORY

The planning history below relates to the immediate site only.

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
15/00555/FUL	Alterations to existing access, creation of hard surfaced access track, extension to established storage yard and comprehensive new landscaping.	Withdrawn.

## **7 CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### **7.1 Representations received from Parish/Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Great Braxted Parish Council	No comments received.	Noted.

### **7.2 Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
County Highways	No objection, subject to the imposition of planning conditions.	Noted.
Ecology (Place Services)	No objection, subject to securing biodiversity and mitigation and enhancement measures.	Noted, and discussed at Section 5.6 of this report.

### **7.3 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Arboricultural Consultant	No objection, subject to the imposition of a planning condition to secure a soft landscaping scheme demonstrating how it will contribute to ecological enhancements.	Noted, and discussed at Section 5.7 of this report.
Environmental Health	No objection, subject to the imposition of planning conditions.	Noted, and discussed at Sections 5.5 and 5.8 of this report.

### **7.4 Representations received from Interested Parties**

No letters of representation have been received.

## **8. REASONS FOR REFUSAL**

1. Incorrect and insufficient information has been submitted to support the proposal. The applicant is required to apply for a change of use, and for this to be supported by robust evidence to justify the requirement for the change of use (in this case, a change from agriculture to equestrian), and justification as to the requirement for this business, in this location. In the absence of such information, the Local Planning Authority is not able to provide an accurate assessment of the development proposed. The proposal has been found to be contrary to Policies S1, S8, E4 and E5 of the Maldon District Council Local Development Plan (2017), and the policies and guidance in the National Planning Policy Framework (2021).

2. Insufficient information has been provided with regard to the welfare of the horses and the business proposed. Robust information is required with regard to the operational activities associated with the business, and full details to ensure horse welfare is maintained. This includes suitable long-term grazing arrangements for each horse, and a management plan. In the absence of such information, the Local Planning Authority is not able to provide an accurate assessment in this regard. The proposal is therefore contrary to Policies S1, S8 and E4 of the Maldon District Council Local Development Plan (2017) and the policies and guidance in the National Planning Policy Framework (2021).