



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
24 MAY 2023**

Application Number	23/00010/FUL
Location	Spital Farm, Station Road, Tolleshunt D'arcy, CM9 8HR
Proposal	Proposed demolition of agricultural barns and construction of 2No dwellings
Applicant	Messrs William & Robert Bradshaw
Agent	Mr Ian O'Hanlon - Tricker Blackie Associates Ltd
Target Decision Date	13.03.2023 Extension of time until 28.04.2023
Case Officer	David Green
Parish	TOLLESHUNT DARCY
Reason for Referral to the Committee / Council	Member Call in by Councillor J V Keyes, none given.

1. RECOMMENDATION

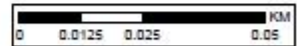
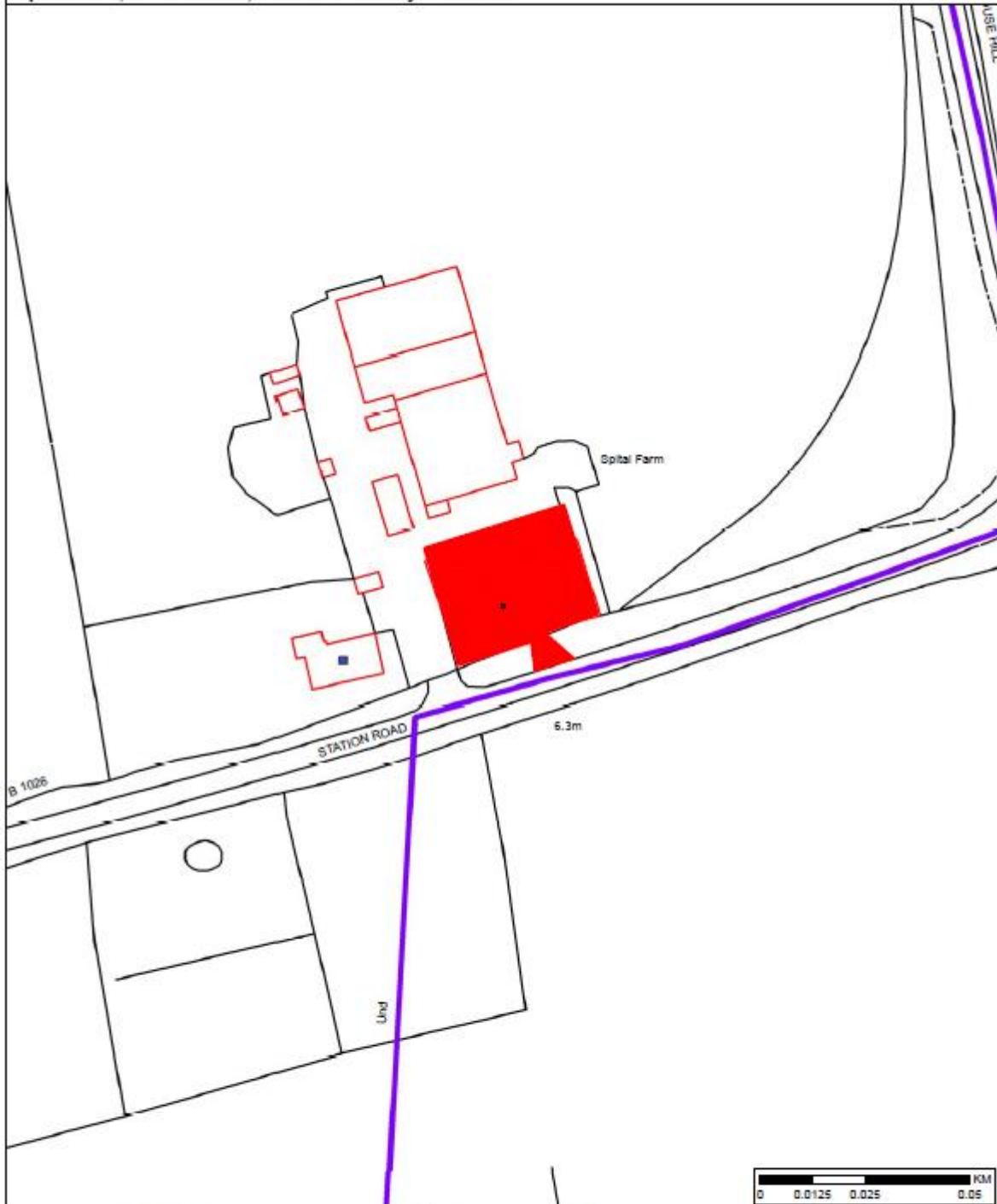
REFUSE for the reasons detailed in Section 8.


2. SITE MAP

Please see below.

23/00010/FUL

Spital Farm, Station Road, Tolleshunt D'Arcy CM9 8HR



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	Organisation: Maldon District Council	
	Department: Department	
	Comments: North Western Committee	
	Date: 09/05/2023	
www.maldon.gov.uk	MSA Number: 100018588	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The application site is located on the northern side of Station Road. The site is located in the countryside, outside of any defined settlement boundary. The site forms part of a small group of farm buildings at Spital Farm which is located on the north side of Station Road (B1026) just west of its junction with Whitehouse Hill and Colchester Road. The application site/barn fronts onto the highway and is situated to the east side of the main vehicular access point serving the farmhouse and farm buildings. The group of buildings comprise the farmhouse, two large, modern, single storey barns to the north and a timber framed barn set around a small courtyard. It is the latter to which this application relates. The site is surrounded by open countryside. On the south side of the road, to the east is a large dwelling set within extensive grounds. Immediately to the south of the timber framed barns is a walled enclosure which has an historic access onto the highway.
- 3.1.2 The application site benefits from prior approval permission to convert the existing barn, on the subject site, to 2no. dwellings under planning reference 21/00619/COUPA. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.1.3 Following the approval of 21/00619/ COUPA a subsequent application 22/00685/ful for the demolition of agricultural barns and construction of 2No dwellings was refused for the following reasons:
1. The proposed development, by reason of its location, would be disconnected from services and facilities and would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unsustainable and contrary to the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
 2. The introduction of two residential dwellings and associated paraphernalia on the site would represent the inappropriate urbanisation of the site and would have a harmful 15 impact on the rural character of the area, to the detriment of the intrinsic character and beauty of the countryside. The harm is exacerbated by the visual prominence of proposed dwellings in terms of their height and overall bulk. In addition, concerns in respect to the appearance, design features and form of the dwellings are raised. The proposal is therefore considered to result in demonstrable harm to the character and appearance of the site and locality contrary to policies S8, D1 and H4 of the Maldon District Local Development Plan as well as the principles and guidance contained within the National Planning Policy Framework.
 3. The proposed development has the potential to have an unacceptable impact on highway safety. Insufficient information has been submitted to allow the Local Planning Authority to determine that the proposed development would not have a detrimental impact upon highways safety, contrary to policy T2 of the Maldon District Local Development Plan and Government advice as contained in the National Planning Policy Framework.

4. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, N2 and I1 of the Maldon District Local Development Plan and the NPPF.

3.1.4 The applicant is currently appealing against this refusal and the current application is also trying to present a revised scheme which attempts to address some of the previous reasons for refusal that were included in the decision for application 22/00685/FUL.

Description of proposal

3.1.5 Planning Permission is sought for the demolition of agricultural barns and construction of 2No dwellings.

3.1.6 The proposal seeks to form 2No dwellings along with associated amenity space and parking facilities on two plots. Plot 1-A is a 4 bedroom, two storey dwelling with a gross internal floor area of 220m², and Plot 2- A is a 3 bedroom, two storey with a gross internal floor area of 147m²

3.1.7 The principal entrances to each dwelling are clearly defined and at the front of the buildings, the courtyard is intended to provide the occupants with good quality, south facing outdoor space. There will be soft landscaping, planting within these areas and the courtyard walls will be rebuilt in brickwork.

3.1.8 Private amenity space is provided to the north side of the buildings and is contained by a 2.0m high brick wall. Each space will have a mix of amenity grass and paved courtyard areas. The positions for cycle storage and refuse bin storage have been carefully considered to be located in a practical sense but also to be discrete.

3.1.9 The design of the site layout has been influenced by the position and arrangement of the existing barn structures. Being south facing and with the working farm area to the north, the concept aims to allow the buildings to screen the modern barns to the north and to take advantage of the solar orientation and views to the south.

3.1.10 The Gross internal floor area of the Class Q approved scheme was 381m². The Gross internal floor area of the proposal refused under application 22/00685/FUL was 430m². The Gross internal floor area of this current application has been reduced to 367m².

3.1.11 The proposed development seeks to maintain the agricultural style and theme of the existing barns. The design of each dwelling is based upon a simple rectangular form of 5.9m in depth with cross wing protrusions over which the roof slope is then extended down to ground floor eaves level. A single storey pitched roof structure links the two dwellings and continues the defensible building line.

3.1.12 Following the refusal of application 22/00685/FUL the following adjustments have also been incorporated into the current scheme:

- 1) Eaves height lowered
- 2) Gap between properties increased

- 3) Length of 1½ storey element reduced
- 4) Elevations simplified
- 5) Emphasis on main two storey element increased
- 6) Dormer windows removed
- 7) Use of 'Velux' type roof windows
- 8) Barn qualities reinforced through use of smaller windows and less regimented fenestration.

3.1.13 The principle behind the design is to maintain the street scene appearance of the farmhouse with associated agricultural buildings, having the narrative of a barn conversion such that the main form is simple with 'barn-like' proportions. The linear orientation of the existing barn structure, with ridge running parallel to the highway, is maintained. Typically, the eaves height is 1 ¾ storey, fenestration is limited and the palette of external materials is traditional black painted timber boarding above red brick plinth and set beneath a slate pitched roof.

3.1.14 Having regard for the above, the design and impact of the proposed dwellings has improved from the dwellings refused under application 22/00265/FUL. However, the proposal would result in the urbanisation and domestication of the existing site, eroding its current agricultural character and appearance with the development being highly visible from the public realm. It is acknowledged that domestic paraphernalia associated with the residential use would occur if the prior approval permission was implemented. However, this is not considered to outweigh the harm of the proposed development, which would result in an unjustified intrusion of built form and urbanisation of the countryside to a degree that would be demonstrably greater than the harm that would result from the prior approval permission. It is therefore considered reasonable to maintain an objection on this basis.

3.1.15 To address refusal reason 3 of 22/00685/FUL the applicant has provided parking spaces within the courtyard at the front of the site designed in accordance with Maldon District Council (MDC) Parking Standards. Plot 1 is served with 3 spaces whilst Plot 2 is served with 3 spaces (MDC parking standards require only 2 as minimum). With regard to vehicle access the scheme proposes to use the historic vehicular access which will be widened to comply with Essex County Council (ECC) Highways standards and will provide a shared access for the two dwellings. The layout of parking provides sufficient space for the manoeuvring of cars such that they can enter and exit the site using forward gears. On this basis ECC Highways raise no objections to the proposed access and parking arrangements. Therefore reason 3 is no longer applicable.

3.1.16 To address refusal reason 4 of 22/00685/FUL the applicant has also provided a signed Unilateral Undertaking for the purposes of securing the financial contribution for Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Therefore reason 4 is no longer applicable.

3.2 Conclusion

3.2.1 Whilst changes made to the scheme to address the previous reasons for refusal are welcomed, the fact remains that the application site is located in an unsustainable location remote from all services, facilities and public transport options. Further, the

proposed dwellings would result in visual harm to the site and surrounding area. Whilst the prior approval on the site is noted, for the reasons highlighted above, it is still not considered that this outweighs the harm.

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
- 47-49 Determining applications
- 55-58 Planning conditions and obligations
- 60-80 Delivering a sufficient supply of homes
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 52-173 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
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T2 Accessibility
- I1 Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

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

5. **MAIN CONSIDERATIONS**

5.1 **Principle of Development**

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990)), and through Government policy, at paragraph 47 of the NPPF;
- 5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five-Year Housing Land Supply (5YHLS).
- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 8 of the NPPF which states:

"For decision making this means:

"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

'Footnote 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)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37)
- 5.1.5 Work remains underway by the Council reviewing the suitability of the 5YHLS methodology through its 5YHLS Working Group established in August 2022. It has yet to conclude its work and present its recommendations to Council. However, the methodology used for calculating the housing land supply is therefore the same as in 2021/2022. On 30 March 2023, an Officer statement was delivered to Council advising that the 5YHLS, as of 30 March 2023, calculated using the same methodology as 2021/2022 stood at 5.1 years; an increase of 1.44 years. The statement to Council was caveated that this updated supply was still subject to

further checks and verification activities, which could mean it increases or decreases by the time it is presented to Council for approval in line with the Council decision on 23 February 2023 that the annual land supply statement must now be reviewed and agreed by Council prior to publication.

5.1.6 Whilst the above is not the official published position given that it is based on the use of the same methodology as the previous monitoring year, it is clear that the housing land supply will sit around the five-year mark, particularly as this data was up to date just one day prior to the closure of the monitoring year, which is a significant improvement on the last published figure of 3.66 years. This demonstrates that the LPA have been more proactive in decision making over the last monitoring period, which has been apparent both outside the settlement boundaries and on the Strategic sites where they can be deemed sustainable. Examples of this are:

- **22/00454/FUL** for 42 units within the South Maldon Garden Suburb which was resolved to be approved on the 22 September 2022 (subject to S106)
- **22/00887/OUTM** which was an outline application for 203 residential units of older persons, outside of the settlement boundary, which the District Planning Committee resolved to approve on the 27 October 2022 (subject to S106)
- An application for 18 units approved outside of the settlement boundary in Woodham Mortimer on the 5 October 2022 (**22/00482/OUT**).
- **21/00752/RES** at the North Heybridge Garden Suburb for 160 dwellings
- **21/00702/FUL** at Tollesbury for 25 dwellings
- **21/00030/FUL** for 7 dwellings

5.1.7 Whilst the Council will continue to take a proactive approach to decision making, the improvement on the 5YHLS figure gives some additional flexibility in the consideration of whether housing developments are or are not sustainable and therefore, has an impact on the planning balance, either removing the 'presumption' or tipping the balance to be more equal.

5.1.8 As outlined above the official 5YHLS figure is 3.66 years, albeit this is likely to increase to 5.1 years or thereabouts when the official figure for the 2022/23 monitoring period is published. There is likely to be little deviation from this figure as the unofficial 5.1-year figure was calculated one day prior to the end of the monitoring period. Nevertheless, the titled balance still applies, albeit is considered to be more level than previously stated due to the predicted increase in supply.

5.1.9 Therefore, it is necessary to assess whether the proposed development is a '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'

5.1.10 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.

5.1.11 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 of the 5YHLS status as identified above 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.

5.1.12 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'

5.1.13 Planning permission is sought for the construction of two dwellings which would be located outside of a defined settlement boundary. The closest defined settlement to the application site is Tolleshunt D'Arcy and the site is located around 1200m from the edge of the settlement in a north-east direction.

5.1.14 The application site is set within a rural area, removed from day-to-day services and facilities and sustainable transport modes. Tolleshunt D'Arcy is classified as one of the "small villages" within the district, as detailed within policy S8 of the LDP. A 'small village' is classified as containing few or no services and facilities, with little access to public transport with very limited or no employment opportunities. Therefore, it is considered that any future occupiers of the dwelling would be required to travel to access day to day facilities, work and education. The closest bus stop appears to be located around 0.8 miles from the application site and given the lack of footpaths or pavements, the narrow roadways and 60mph speed limit along Station Road, which links to the settlement, walking to the settlement and bus stop is considered to be unsafe and is unlikely to be a desirable option. Further, the buses which serve the bus stop are limited to 50 Seaside, 50A Seaside and 92 Seaside, which provide a limited service to Tollesbury and Colchester (dependent on direction) running from 07:48-17:05 weekdays and 07:45-17:05 on Saturdays. Given the latter, the location of the site would fail to discourage the use of private cars contrary to paragraph 105 of the NPPF which states that *"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes."*

5.1.15 Overall, it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and as such, the proposal would fail to accord with Policy S1, S8 and T2 of the LDP. The harm identified above is considered to weigh heavily against the proposal in the planning balance.

5.1.16 As stated in a preceding section of this report; the application site benefits from prior approval permission to convert the existing barn, on the subject site, to 2no.

dwelling under planning reference 21/00619/COUPA. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The previous planning history of a site is a material planning consideration and is pertinent in the consideration of this application. Therefore, this permission, whilst not being a traditional planning application is still a material consideration in the determination of this planning application.

- 5.1.17 Whilst it is an accepted, point of planning law, that any consideration which relates to the use and development is capable of being a planning consideration (*Stringer v Minister of Housing and Local Government* [1970]) and the weighting given to a material consideration is a question of planning judgment, which is a matter for the decision maker (*Tesco Stores Ltd v Secretary of State for the Environment* [1985]) the weight given to a material consideration must be reasonable and where relevant should reflect government legislation, guidance and case law. If this is not done the Council can be seen as being unreasonable or erred in its judgement.
- 5.1.18 As previously detailed, prior approval was granted under 21/00619/COUPA for the change of use of the agricultural building to a dwellinghouse. An application for prior approval is an assessment against set criteria contained within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to whether or not a development could gain deemed consent. The current application relates to the demolition of the existing building and the construction of a larger and visually different development. An application for full planning permission is therefore, required. Under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) the Council was only able to consider whether the location and siting of the building would make it impractical or undesirable to change the use to residential, but not a test in relation to the sustainability of location.
- 5.1.19 The development sought under this application is not for prior approval and it is therefore necessary to assess the proposal against the policies contained within the LDP alongside the NPPF, NPPG and relevant SPDs. Furthermore, the previous prior approval application does not mean that the principle of the development has been accepted. The starting point for consideration of a prior approval application is not the development plan and conflicts with the LDP and Government Guidance are not material to the determination of such an application. This is materially different to an approach such as the case with this application where the starting point is the Development Plan.
- 5.1.20 As highlighted above, a prior approval application was previously granted for the conversion of the barn to 2no. residential units. This was subject to conditions, including condition 2 which stated that the development shall be carried out in complete accordance with the approved drawings. The proposed development is much larger in scale and is of a more residential appearance than the prior approval permission. It is not considered that the prior approval process could allow for a similar development, as to that being submitted under the planning application, being allowed.
- 5.1.21 It is considered appeal decision APP/X1545/W/18/3194812 is relevant to this consideration. The appeal was for the conversion of a barn to a residential dwelling and associated alterations which were not considered as part of a previously granted prior approval application. At paragraph 11 of the appeal decision the Inspector said that where there are minor differences between the proposed development and the approved scheme then there is a realistic prospect of the approved scheme being implemented in the event that the appeal fails. Furthermore, there was no evidence

that the fall-back position could not be implemented and that a very similar development could be carried out within the site.

- 5.1.22 As highlighted by the Applicant in supporting documents provided as part of the application process, the Courts have acknowledged that the weight to be attributed to the 'fallback position' is affected by the "real prospect" of the development coming forward.
- 5.1.23 As part of the previous recommendation for refusal (22/00685/FUL) it was considered that the proposed development was of a notably larger scale than that approved under the terms of 21/00619/COUPA, the existing barn has a floor area of 381m² whilst the development proposed in the planning application that was refused had a floor area of 430m². In addition, the overall height and bulk of the proposed development in that refusal was significantly increased when compared to the approved conversion. Whilst the maximum ridge height on the existing barn is 6.4m the maximum ridge height on the scheme that was refused was 7.4m. In that scheme whilst the majority of the existing barn is at a lower level than 6.4m, the proposed replacement building in the refused application had the majority of the proposed dwellings at 7.4m in height. This was felt to result in an unacceptable overall increased bulk of the development at the site and was therefore considered to have a significant visual impact.
- 5.1.24 In this current application, the following adjustments have been incorporated into the scheme:
- 1) Eaves height lowered
 - 2) Gap between properties increased
 - 3) Length of 1½ storey element reduced
 - 4) Elevations simplified
 - 5) Emphasis on main two storey element increased
 - 6) Dormer windows removed
 - 7) Use of 'Velux' type roof windows
 - 8) Barn qualities reinforced through use of smaller windows and less regimented
 - 9) Max ridge height reduced from 7.4m to 7.1m (existing barn 6.4m)
 - 10) Gross internal floorspace reduced from 430m² to 367m² (existing Barns 381m²)
- 5.1.25 These amendments have reduced the scale of the proposed buildings but it is still considered that the overall increased bulk of the development at the site, if this application was approved, would have a greater visual impact than a conversion of the existing barns.
- 5.1.26 Furthermore, the Applicant has not put forward an argument as to why the conversion is not being brought forward. Whilst it was accepted the structure had the potential to be structurally secure and be converted it has not been evidenced, as part of this application, that this is definitively the case. Whilst this is not the sole factor in the determination of this application or the consideration in the balancing exercise it does weigh against the weight that can be attributed to the 'fallback position' as there is a lack of definitive evidence that there is a "real prospect" of the existing building being converted. It is worth noting that a number of previously approved prior approvals have subsequently been found to be undeliverable.
- 5.1.27 Overall, the site is located in an unsustainable location remote from facilities needed for day-to-day living where, in normal circumstances, the Council would look to resist additional residential development, there is a need to be conscious of site-specific material considerations that weigh in favour of the proposal. The previous permission was granted under prior approval and is therefore not subject to the same

assessment in terms of sustainability, regard must be had to the fact that there is an existing permission for a dwelling on the site. Furthermore, consideration must be had to the Council's aforementioned 5YHLS situation and the reduced housing need, within the District, for smaller dwellings. However, for the reasons laid out above it is not considered the previous permission is of such a weight to overcome the conflict with the Council's policies or Government guidance.

- 5.1.28 Whilst other material considerations are discussed below, based on the above, it is considered that a residential development in this location is unacceptable.

5.2 Housing Need and Supply

- 5.2.1 Whilst the Council will continue to take a proactive approach to decision making, the improvement on the 5YHLS figure gives some additional flexibility in the consideration of whether housing developments are or are not sustainable and therefore, has an impact on the planning balance, either removing the 'presumption' or tipping the balance to be more equal.
- 5.2.2 As outlined above the official 5YHLS figure is 3.66 years, albeit this is likely to increase to 5.1 years or thereabouts when the official figure for the 2022/23 monitoring period is published. There is likely to be little deviation from this figure as the unofficial 5.1-year figure was calculated one day prior to the end of the monitoring period. Nevertheless, the titled balance still applies, albeit is considered to be more level than previously stated due to the predicted increase in supply.
- 5.2.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.4 The proposal would provide one four-bedroom dwelling and one three-bedroom dwelling. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings: specifically, 25-35% 2-beds and 40-50% 3-beds. Therefore, as the proposal would provide one three-bed unit it would contribute towards the greatest housing need and therefore holds positive weight in the planning balance albeit limited due to the provision of a single dwelling and the latest 5YHLS figures which suggest that the required housing needs are being met by already approved housing developments.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.

- 5.3.3 This principle has been reflected in the approved LDP. 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 is located in a rural area which is predominantly characterised by open and undeveloped countryside. The development within the vicinity of the site is predominantly agricultural, with the residential development being limited to farmhouses, which are traditional in appearance.
- 5.3.6 The application site currently appears to be part of a larger agricultural complex and occupies a barn, which fronts the highway. The proposed development would result in the demolition of the existing historic barn, the subdivision and change of use of the plot to create two residential units and the erection of 2no. two storey dwellings. The proposed dwellings would be highly visible from the public realm.
- 5.3.7 The proposed development would result in the urbanisation and domestication of the site, creating a form of development which would detract from the rural and undeveloped character and appearance of the site and rural locality. This would fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural locality.
- 5.3.8 On the previous refusal it was felt that the poor design of the dwellings further exacerbated the harm of the proposed dwellings. The current application however has amended dwelling designs, so they are greatly improved. However, it is still considered that the appearance and form of the dwellings would result in a detrimental visual impact. The existing barn is low level with a staggered ridge height, whereas the proposed dwellings, would result in much more prominent and utilitarian development at the site. The revised fenestration detailing has improved from the previous scheme and is more reflective of the traditional and agricultural development in the area.

5.3.9 Having regard for the above, the design and impact of the proposed dwellings has improved from the dwellings refused under application 22/00265/FUL. However, the proposal would result in the urbanisation and domestication of the existing site, eroding its current agricultural character and appearance and it is noted the development would be highly visible from the public realm. It is acknowledged that some associated domestic paraphernalia associated with the use would occur if the prior approval permission was implemented. However, this is not considered to outweigh the harm of the proposed development, which would result in an unjustified intrusion of built form and urbanisation of the countryside to a degree that would be demonstrably greater than the harm that would result from the prior approval permission. Therefore, it is reasonable to object to the proposed development on this basis. It therefore follows that the proposed development would fail the environmental strand of sustainability and is considered to weigh heavily against the proposal in the planning balance.

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 no adjoining neighbouring occupiers, the closest neighbouring property is the farmhouse on the larger agricultural complex at 'Spital Farm' which is located directly to the west of the site and existing barn. The neighbouring dwelling has recently gained permission for a two-storey side extension under the terms of application 21/00501/HOUSE. There is a separation distance of approximately 13m between the rear corner of the extended neighbouring property and the front corner of the dwelling proposed to occupy plot 1. The front elevation of the dwelling proposed to occupy plot 1 would be sited in line with the rear elevation of the neighbouring dwelling and there are no first-floor windows proposed on the western side elevation of the proposed dwelling within plot 1. Therefore, given fenestration detailing, orientation and separation distance, the proposed development would not give rise to an overbearing impact, loss of light or overlooking to the detriment of the neighbouring occupiers.

5.5 Access, Parking and Highway Safety

5.5.1 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 (VPS).

5.5.2 In terms of parking spaces these will be provided within the courtyard at the front of the site and have been designed in accordance with MDC Parking Standards with Plot 1 and 2 being served with 3 spaces (MDC parking standards require only 2 as minimum)

5.5.3 The reinstated historic vehicular access will be widened to comply with ECC Highways standards and will provide a shared access for the two dwellings. The layout of parking provides sufficient space for the manoeuvring of cars such that they can enter and exit the site using forward gears.

5.5.4 In terms of access and highway safety the Highways Authority has confirmed that there are no objections to this application subject to conditions. Therefore, no concerns in respect of Access, Parking and Highway Safety are raised.

5.6 Private Amenity Space

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) SPD advises a suitable garden size for each type of dwellinghouse, namely 50sqm of private amenity space for dwellings with 1 or 2 bedrooms and 100sqm for dwelling with 3 or more bedrooms.
- 5.6.2 The site layout shown on the block plan demonstrates that the proposed dwellings would be served by a private amenity area in excess of 100sqm. Therefore, no concerns in this respect are raised.

5.7 Ecology

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

- 5.7.2 Policy N2 of the LDP which states that:

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

- 5.7.3 The application has been supported by an Ecological Survey and Assessment which includes the likely impacts of the development on designated sites, protected species and priority species and habitats.
- 5.7.4 The Council's Lead Countryside and Coast Co-ordinator has confirmed that they are satisfied with the submitted information subject to conditions in relation to mitigation and enhancement measures, as set out within the report. It is considered that the requirements are reasonable and appropriate, and as such these conditions will be imposed, should the application be approved.
- 5.7.5 In respect of the off-site impact, Natural England (NE) has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.6 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 zones of influence constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), 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.
- 5.7.7 Prior to the RAMS being adopted, NE advised that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - NE

have provided an HRA record template for use where recreational disturbance is the only HRA issue.

- 5.7.8 The application site falls within the 'Zone of Influence' 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 likely significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.7.9 The proposal is for one new dwelling and 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.
- 5.7.10 To accord with NE's requirements, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment

Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

Summary of appropriate assessment

- 5.7.11 The application proposes the erection of two dwellings. Given that the site is located within a zone of influence (Zol) for the Essex Coast RAMS, it is expected that the development of a further dwelling would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.
- 5.7.12 The Essex Coastal RAMS is currently under preparation and it therefore constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £157.76 and thus, the developer contribution should be calculated using this figure. As the proposal is for two dwellings a fee of £313.52 would be required. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development may not be able to be mitigated and thus, this would constitute a

reason for refusal of the application. The applicant has previously signed an agreement to cover this element and has also provided a draft agreement to ensure this matter is covered on this application. Accordingly, it is considered that this issue could be addressed and cannot be used as a reason for refusal.

5.8 Planning Balance and Sustainability

- 5.8.12 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 and the latest evidence on the 5YHLS. The tilted balance still applies, albeit it is considered to be more level than previously stated due to the predicted increase in supply therefore the LPA must give appropriate weight to the NPPF and its fundamental position of sustainable development, which is the defining purpose of the planning system, as a material consideration.
- 5.8.13 The key priority within the NPPF, 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.
- 5.8.14 Notwithstanding the considerations as contained in those paragraphs, 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.
- 5.8.15 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.
- 5.8.16 With regard to the 3 tests of sustainability, in economic terms, there would be little support for local trade due to the limited provision of local businesses, shops and services and the minor nature of the development would result in there being a very limited increase in footfall or economic benefit to the area.
- 5.8.17 In social terms the proposal would provide limited benefits to the vibrancy of the local area, given the lack of services and facilities and as mentioned above the occupiers of the site would be reliant on private cars. The application is for two dwellings and therefore provides limited benefits in terms of the housing stock.
- 5.8.18 In environmental terms, due to the location of the site there is limited access to services, facilities and public transport infrastructure; the occupiers of the dwelling will be reliant on private motor vehicles to satisfy the requirements of day-to-day living. The development would also harm the character and appearance of the site and surrounding area.
- 5.8.19 Overall, taking the above into account, the development is not considered to be sustainable, with the harm significantly outweighing the relatively minor benefits of the scheme. Therefore, the development is considered to be unacceptable.

5.9 Conclusion

- 5.9.12 The application site is located in an area that is removed from all services, facilities and public transport options. Further, the proposed dwelling would result in visual

harm to the site and surrounding area. Whilst the prior approval on the site is noted, for the reasons highlighted above, it is not considered that this outweighs the harm.

6. **ANY RELEVANT HISORY TO SITE AND IMMEDIATE SETTING**

- **21/00619/COUPA** - Change of use of 1No. agricultural buildings into 2No. dwellinghouses. Change of use from cold store to wholesale meat cutting and packing plant – Approved 04.08.2021
- **22/00685/FUL** - **Proposed demolition of agricultural barns and construction of 2No. dwelling** – Refused 09.08.2022 (appeal Pending)

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tolleshunt D'Arcy Parish Council	The Parish Council recommends granting of Planning permission.	Noted.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	From a highway and transportation perspective the impact of the proposal is acceptable to the Highways Authority, subject to conditions.	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to imposition of conditions.	Noted.
Ecology	No objection subject to imposition of conditions.	Noted.
Archaeology	The proposed development will impact on a historic barn complex. Therefore any development should be conditioned so it is proceeded by a programme of historic building recording.	Noted.

7.4 Representations received from Interested Parties

7.4.1 No representations have been received for the application.

8. REASONS FOR REFUSAL

- 1 The proposed development, by reason of its location, would be disconnected from services and facilities and would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unsustainable and contrary to the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
- 2 The introduction of two residential dwellings and associated paraphernalia on the site would represent the inappropriate urbanisation of the site and would have a harmful impact on the rural character of the area, to the detriment of the intrinsic character and beauty of the countryside. The harm is exacerbated by the visual prominence of proposed dwellings in terms of their height and overall bulk. The proposal is therefore considered to result in demonstrable harm to the character and appearance of the site and locality contrary to policies S8, D1 and H4 of the Maldon District Local Development Plan as well as the principles and guidance contained within the National Planning Policy Framework.