



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
19 JUNE 2024**

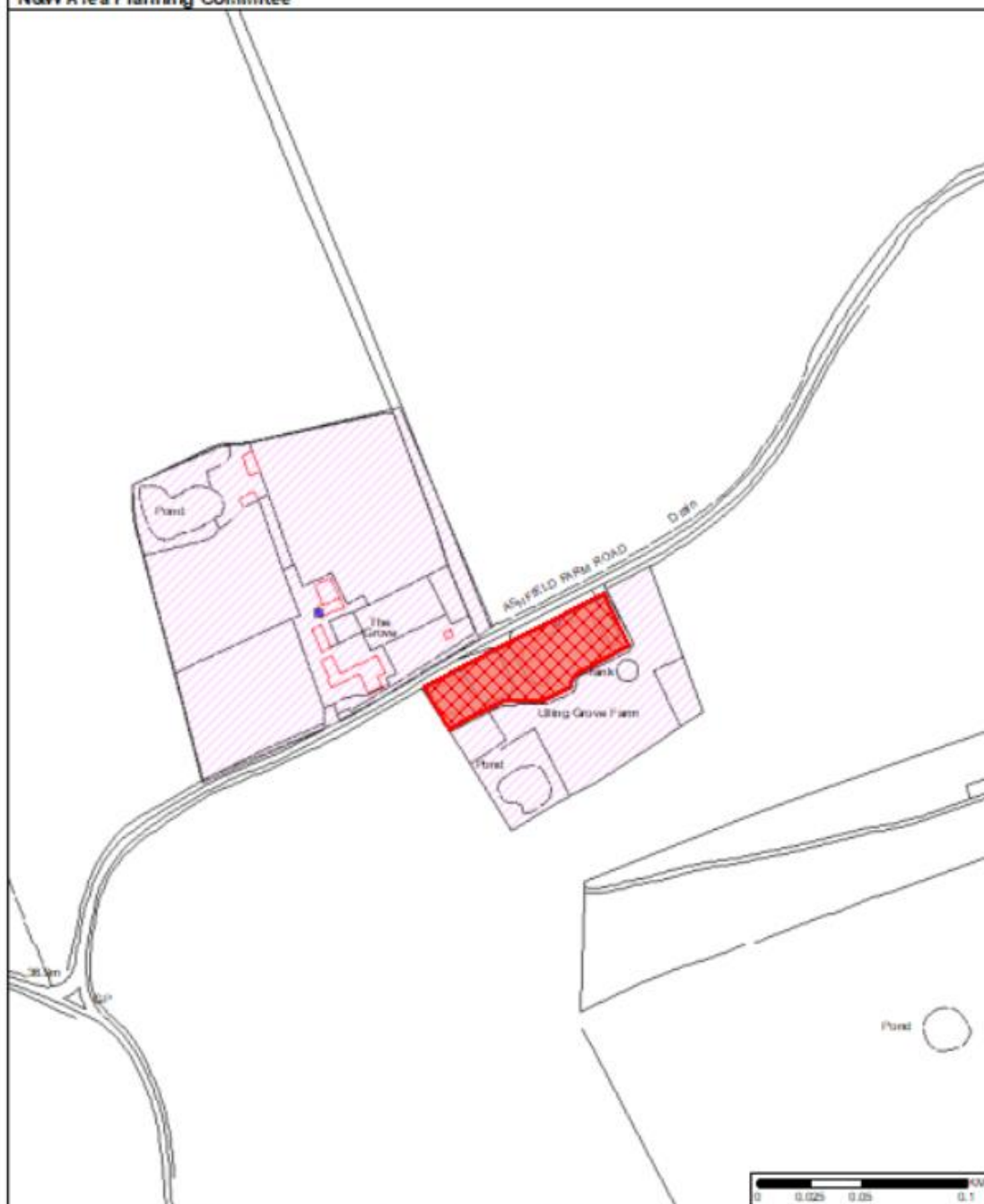
Application Number	23/00682/VAR
Location	Grove Farm, Ashfield Farm Road, Ulting, CM9 6QP
Proposal	Variation of condition 4 on approved planning permission 20/00120/HOUSE (Demolition of existing garage and construction of replacement garage)
Applicant	R Smith
Agent	Mr Paul Calder - Real8 Group
Target Decision Date	31.05.2024 (agreed Extension of Time)
Case Officer	Tim Marsh
Parish	LANGFORD AND ULTING
Reason for Referral to the Committee / Council	Member Call In - Councillor M F L Durham, citing Policies H4.7, E4.1 & E2.1


1. RECOMMENDATION

APPROVE subject to the conditions (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:	22 May 2024
	Date:	07/05/2024
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site

- 3.1.1 The application site is located to the southern side of Ashfield Farm Road and does not fall within any defined settlement boundary. It comprises of a large recently constructed garage, associated hard standing and access. It forms part of a wider property that includes a two storey detached dwelling constructed by means of a barn conversion.

Proposal

- 3.1.2 This is a s73 application to vary condition 4 (use restriction) of a garage constructed pursuant to application 20/00120/HOUSE. As currently worded the condition restricts the use of the garage for parking purposes only of the owner/occupier of Grove Farm. It is proposed to vary this to include the cleaning and maintenance of the personal vehicles and equipment of the owner/occupier of Grove Farm.

Conclusion

- 3.1.3 In light of the Environmental Health Officer's (EHO) advice it has been established that the potential noise generated from the proposed use of the garage for the cleaning and maintenance of personal vehicles and equipment would fall within acceptable limits and satisfies the relevant provisions of Local Development Plan (LDP) Policy D1. The application is recommended for approval accordingly. Since the development has been completed there is no need for a commencement condition and other conditions on the main permission remain as originally worded but have been renumbered accordingly.

4. MAIN RELEVANT POLICIES

4.1 National Planning Policy Framework 2023 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
- 55-58 Planning Conditions and Obligations
- 123-130 Making effective use of land
- 131-141 Achieving well-designed and beautiful places

4.2 Maldon District Local Development Plan (2017)

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land

4.3 Relevant Planning Guidance / Documents:

- Vehicle Parking Standards (VPS) (2018)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The principle of development is established by the main permission granted under application 20/00120/HOUSE which the application subject of this report seeks to vary.

5.1.2 Condition 4 of the permission currently reads as follows

The garage hereby approved shall remain incidental to the residential use of the dwelling known as Grove Farm and shall only be used for parking purposes and shall not be occupied at any time other than for these purposes.

Reason: To ensure that the development is carried out in accordance with the details as approved proposed changes relate only to the proposed dwelling on plot 5 and therefore the only issues raised are those of design, amenity, affordable housing and designated sites.

5.1.3 It is proposed to vary the condition to read as follows (changed wording in bold font):

*The garage hereby approved shall remain incidental to the residential use of the dwelling known as Grove Farm and shall only be used for parking purposes **and the cleaning and maintenance of the personal vehicles and equipment of the owner/occupier of Grove Farm**, and shall not be occupied at any time other than for these purposes.*

Reason: To ensure that the development is carried out in accordance with the details as approved.

5.1.4 The proposed change thus relates only to the potential impacts on residential amenity associated with the use of the garage for specified uses in addition to the parking of vehicles, in particular noise the position with which is considered below:

5.2 Residential amenity

5.2.1 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 Maldon District Design Guide (MDDG) (2017).

5.2.2 The garage is sited approximately 19m west of main dwelling at the Grove which is bordered by fields to the north, south, east and west. It is significant that in paragraph 5.3.3 of their report on the original application for the garage the case officer states that:

'It is noted that, in the letter of objection received from the neighbours, concerns are raised in relation to the possible intended use of the building and the associated noise which may be generated. However, it is proposed that the outbuilding would be used incidental to the use of the dwelling and, if necessary, a condition could be imposed to ensure that the use of the outbuilding would remain incidental to the main dwelling. If a statutory noise nuisance is caused, this would be a matter to be dealt with by under Environmental Health legislation'.

5.2.3 The case officer recommended Condition 4 accordingly.

5.2.4 The applicant states in their supporting statement inter alia that:

"The applicant, as a hobby, races cars with their family. This is not their vocation, merely a hobby they undertake outside of work, on certain days throughout the year. Only personal vehicles, and no other vehicles outside their ownership, are being kept on the site. Garden machinery and tractors are also stored and maintained.

The above demonstrates that no commercial activity is taking place on the site; no third party vehicles would be brought onto the site for cleaning or maintenance, with only the applicant's vehicles (parked in the garage) being cleaned and maintained, when necessary.

While the condition limits the use of the garage for the parking of vehicles only, it is not held that the cleaning of these vehicles or the carrying out of simple maintenance would significantly impact on the scheme as it was approved or cause any such significant impact on the surrounding area or neighbouring amenities that would be materially harmful. The development would remain incidental to the enjoyment of the dwellinghouse in that the activities would be limited to the owner/occupier of Grove Farm and their personal vehicles and the applicant would be willing to accept an additional restrictive condition along those lines to ensure that no commercial activities would be carried out from the site, should the Council feel that this is necessary".

- 5.2.5 The residents of the closest neighbouring property to Grove Farm object strongly to the application, in summary on grounds that the building has been used like a professional workshop with a frequency of usage and volume of noise more akin to an industrial site than a domestic residence in a quiet country lane.
- 5.2.6 It is clear from the officer's report that Condition 4 was imposed, inter alia, to prevent the garage from being used for unneighbourly activities. It is also evident from the applicant's supporting statement and the neighbour's objection that the building is already being used for unauthorised activities which have caused nuisance. In light of this the EHO was consulted and requested a noise impact assessment, observing that the preparation of race cars by its nature includes some noisy activities and that the noise impact assessment should include an assessment of the sound insulation of the building as well as predictions of noise levels at the nearest noise sensitive receptor.
- 5.2.7 The applicant has since provided a noise report which concludes that predicted noise levels within the outdoor amenity areas of the nearest residential receptor when the garage / inverter and pressure washer are in use are well below the World Health Organization (WHO) guidance criteria which is deemed to be an acceptable noise situation.
- 5.2.8 The Council's EHO has confirmed that they are happy with the noise assessment report's conclusions and advised that there is low risk of adverse effects from typical use of the internal parts of the garage for cleaning and maintenance of vehicles. They have also advised that provided the use is restricted to the occasional cleaning and maintenance of the applicant's personal vehicles and does not stray into more intense uses such as the same activities for their family motorsports vehicles, there should be no significant adverse impacts from noise, clarifying that the proposed re-wording of the condition which forms the basis of the application already provides some protection with regards to this, as the use as a garage will still have to be incidental to the domestic dwelling.

6. **ANY RELEVANT SITE HISTORY**

- **20/00120/HOUSE** - Demolition of existing garage and construction of replacement garage – Approved 09.04.2020.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Parish/ Town Council**

Name of Parish / Town Council	Comment	Officer Response
Langford and Ulting Parish Council	We recommend the granting of planning permission. There were no objections to the variation on condition 4.	Noted

7.2 **Internal Consultees**

Name of Internal Consultee	Comment	Officer Response
Environmental Health	I have no objection to the application. I have reviewed the noise assessment submitted with the application and am happy with the conclusions it draws. It states that there is low risk of adverse effects from typical use of the internal parts of the garage for cleaning and maintenance of vehicles. It also suggests that there is a low to moderate risk of adverse impacts from use of the pressure washer, although there is justifiable reasoning that the impacts may be slightly overestimated when considered in context, as required by BS4142. The area in which the pressure washer is used appears to be outside of the red line boundary of the application in any case as the application seeks to vary a condition related to the use of the garage. Provided the use is	Covered to in section 5 of this report.

Name of Internal Consultee	Comment	Officer Response
	restricted to the occasional cleaning and maintenance of the applicant's personal vehicles and does not stray into more intense uses such as the same activities for their family motorsports vehicles, there should be no significant adverse impacts from noise. The proposed re-wording of the condition which forms the basis of the application already provides some protection in that sense, as the use as a garage will still have to be incidental to the domestic dwelling.	

7.3 Representations received from Interested Parties

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

Objection Comment	Officer Response
Racing machines and associated equipment are housed in the building leading to noise blight.	Noted – covered in section 5.2 of this report.
Nature of existing use is like a professional workshop akin to an industrial site.	Noted – covered in section 5.2 of this report.
Use is inappropriate to a domestic residence in a quiet country lane.	Noted – covered in section 5.2 of this report.
A full-time mechanic has been employed at the building.	Assertion is noted.
Appears to be an attempt to legitimise past actions that were in breach of a planning permission.	Assertion is noted.
Proposal would lead to a repeat of our inability to enjoy our property in peace and quiet.	Noted – covered in section 5.2 of this report.
Would lead to company sponsored motor-sport activity at a home address	Assertion is noted.

8. PROPOSED CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the plans and documents as shown on the decision notice
REASON: To ensure that the development is carried out in accordance with the details as approved.
2. The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.
REASON: In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
3. The garage hereby approved shall remain incidental to the residential use of the dwelling known as Grove Farm and shall only be used for parking purposes and the cleaning and maintenance of the personal vehicles and equipment of the owner/occupier of Grove Farm and shall not be occupied at any time other than for these purposes.
REASON: To ensure that the development is carried out in accordance with the details as approved

Approved Plans/Documents

Location Plan Rev B,
Existing Site Plan Rev B,
Proposed Site Plan Rev D,
Proposed Elevations 1/2 Rev C,
Proposed Elevations 2/2 Rev C
Proposed Plan Rev C