



**REPORT of
CHIEF EXECUTIVE**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
22 May 2017

Application Number	FUL/MAL/17/00281
Location	Land West Of High House Green Lane Burnham-On-Crouch Essex
Proposal	Erection of a detached stable building to be used for residential in association with the equestrian use of the site.
Applicant	Mr. C. Baker
Agent	Raymond Stemp Associates Ltd.
Target Decision Date	24.05.2017
Case Officer	Spyros Mouratidis, TEL: 01621 875841
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In

1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see overleaf.

Land West Of High House, Green Lane, Burnham-on-Crouch
FUL/MAL/17/00281



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee 17/00281/FUL
	Date:	11/05/2017
<p>www.maldon.gov.uk</p>	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site forms a parcel of land measuring 0.8 Ha within an open paddock with mature vegetation at the southern boundary and post and rail fencing around the site. The application site, at the time of the site visit, was occupied by training equipment for horses and a trailer used for the collection of manure. To the east of the site, within land under the same ownership, is a small timber stable building located at the southern end of the land. To the north, east and west of the site are open fields and to the south is Green Lane, beyond which is another agricultural field.
- 3.1.2 Planning permission is sought for the erection of a single-storey, four-bedroom, detached dwelling. The “U”-shaped building would measure 19.3m wide by 19.5m deep and would have a height of 5.8m to the ridge. The dwelling is proposed to be located to the east of the existing access, closer to the southern boundary of the site. Four parking spaces are proposed to the front of the building and a courtyard is proposed to be formed with its open side looking to the north.
- 3.1.3 It has to be noted that an outline application for a development of similar nature has been previously submitted under reference 15/00972/OUT. The previous application was refused and subsequently dismissed at appeal as the proposal was considered to result in an unsustainable form of development being *located outside of a defined settlement boundary, remote from community facilities and not adjacent to, or closely related to an existing town, village or public transport infrastructure, which would result in the residents being reliant on the private vehicle for day to day living*, and was also considered to have an unacceptable impact upon the character and appearance of the area by *the introduction of a dwelling and associated residential paraphernalia which would urbanise the area to the detriment of its character and appearance*. As such the proposal was previously found to be, *contrary to policies S1, S2 and CC6 of the Maldon District Replacement Local Plan and policies S1 and S8 of the submitted Maldon District Local Development Plan as well as guidance set out in the National Planning Policy Framework, notably paragraphs 17 and 109*.

3.2 Conclusion

- 3.2.1 The proposed development would be located outside of a defined settlement development boundary, remote from community facilities. This would result in the residents being reliant on the private vehicle for day to day living and would result in the introduction of a dwelling and associated residential paraphernalia which would have an urbanising effect upon the rural locality to the detriment of its character and appearance. Therefore, the proposal is considered to result in an unsustainable form of development which would be contrary to policies S2, H1, BE1 and CC6 of the Maldon District Replacement Local Plan and policies S1, S8, H4 and D1 of the submitted Maldon District Local Development Plan as well as guidance set out in the National Planning Policy Framework.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2012 including paragraphs:

- 7-8 Roles of sustainable development
- 14 Presumption in favour of sustainable development
- 17 Core planning principles
- 29-41 Promoting sustainable transport
- 47-55 Delivering a wide choice of high quality homes
- 56-68 Requiring good design
- 109-125 Conserving and enhancing the natural environment
- 196-197 Determining applications
- 216 Weight of emerging plans

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S1 Development Boundaries and New Development
- S2 Development Outside Development Boundaries
- CON5 Pollution Prevention
- CC6 Landscape Protection
- H1 Location of new development
- T1 Sustainable Transport and Location of New Development
- T2 Transport Infrastructure in New Developments
- T8 Vehicle Parking Standards

4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Car Parking Standards
- Essex Design Guide

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), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990) and paragraph 196 of the NPPF].
- 5.1.2 Policies S1 and S2 of the adopted RLP provide the strategic position for the development of the District through defined development boundaries for villages/urban areas and seek to protect areas outside of defined development boundaries from new development in the interests of protecting the countryside and coastal landscapes of the District and to ensure that the best use is made of existing public services and infrastructure. Furthermore, policy H1 of the RLP states that new housing will not be allowed outside development boundaries unless it complies with the other policies in the Local Plan. This principle is brought forward within Policies S1 and S8 of the submitted LDP. The previously mentioned policies are considered compliant with the NPPF.
- 5.1.3 The proposal is for a new dwelling outside of the settlement boundary as defined by the adopted RLP and the submitted LDP and is therefore considered contrary to policy in principle. Furthermore, paragraph 55 of the NPPF states that Local Planning Authorities should avoid isolated homes in the countryside unless there are certain exceptional circumstances. In this instance, there are no exceptional circumstances (see following sections of report for further analysis) and as such planning permission should not be granted unless other material planning considerations indicate otherwise.
- 5.1.4 Moreover, it has to be noted that planning permission was refused on the site for one new dwelling on the 7th December 2015 and was subsequently dismissed at appeal on 6th July 2016. The principle of the development was found previously to be unacceptable. The principle of the proposal remains the same.

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 sought 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. In order to comply with saved policy BE1 of the RLP, the proposal must be compatible with, or improve the surrounding location through its scale, height and choice of external materials. Similarly, the basis of policy D1 of the submitted LDP ensures that development will not have a

detrimental impact on its surrounding area and local context and will actively seek opportunities for enhancement in the built environment.

- 5.2.3 The application site lies outside of any defined development boundary. According to saved policy S2 of the RLP and emerging policies S1 and S8 of the submitted LDP the countryside will be protected for its landscape, natural resources and ecological value. Saved policy CC6 of the RLP seek to ensure that the District's landscape will be protected, conserved and enhanced and development proposals will not be permitted unless their location, siting, design, materials and landscaping achieve the above objective.
- 5.2.4 Green Lane is characterised by sporadic residential development, interspersed with agricultural land, along the northern side of the road. The application site contributes towards an important gap in built form between No.38 Green Lane and High House, ensuring that the rural character and appearance of the locality is maintained. It is evident therefore that the formation of a new dwelling in this locality and resultant loss of this important space, will cause significant harm to the countryside and its intrinsic characteristics as a result of intensification of built form in the street scene.
- 5.2.5 The design of the proposed dwelling has taken reference from traditional stable buildings. However, the proposed development would be significantly larger in scale. The proposed dwelling is in the form of a 'U' shape. The proposed external materials of the building are timber cladding over manure bricks. Within the access and design statement it is explained that the reasoning behind this design was to result in an agricultural style building that would assimilate into the rural character of the area, and of the existing built form on the site.
- 5.2.6 The scale and bulk of the proposed development would be reflective of a residential dwelling, which would be unacceptable on the site, as explained in the Council's previous reason for refusal and subsequently by the Inspector in the Appeal decision. Whilst it is noted that the applicant has attempted to reduce the impact of the development on the rural area by referring a traditional stable building this is considered to be of limited success. The size, proportions and height of the building are incommensurate with a stable building and would be much more obvious and prominent within the site and the wider area.
- 5.2.7 In addition, residential paraphernalia such as washing lines, garden furniture and domestic plants would further erode the rural character and appearance of the area exacerbating the harm highlighted on the previous paragraph. Hence, the appearance of the dwelling as a disproportionately large stable block would not overcome the previously identified harm upon the character and appearance of the area deriving from the residential development of the site.
- 5.2.8 Within the access and design statement, paragraph 55 of the NPPF is mentioned. This paragraph states that: *'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *reflect the highest standards in architecture;*
 - *significantly enhance its immediate setting; and*
 - *be sensitive to the defining characteristics of the local area.’*

5.2.9 In short, this paragraph states that isolated homes in the countryside will be avoided unless the proposed development is of an exceptional quality or innovative design. The applicant contends that the design of the development is so exceptional as to merit the grant of planning permission. However, the erection of a building with the appearance of a large stable block within a paddock is not considered to be innovative or exceptional in any way. Furthermore, looking at the details of the proposal, the only distinctive feature one can identify on the scheme is the provision of hooks to tie up horses and areas where horses can be ‘parked’. This is not considered to meet the requirement of an innovative form of development.

5.2.10 Moreover, it has to be considered that the impact of a residential development on the site has been found unacceptable as it is explained in the Inspector’s decision. In determining the appeal, the Inspector noted that *‘The western and southern (front) boundaries of the appeal site are marked by hedge planting. However, the other boundaries are open and, apart from a small stable and post and rail fencing close to the existing access, the site is free of built development. It, therefore, has an open countryside character which contributes to the wider agricultural landscape. In this setting, regardless of its siting, a new dwelling and associated domestic paraphernalia and garden enclosures would have an intrusive and urbanising effect. The development would be visible from Green Lane through the proposed access and, particularly during the winter when hedge planting is not in leaf, through the front boundary hedge. The dwelling would not form part of a group of established development, but would close down the locally distinctive gap which currently separates High House and Avoca’*. Whilst this appeal was based on an outline application, without any indicative elevation plans, the submission of a full application is not considered to overcome the identified harm.

5.2.11 Other permissions granted in the locality have been mentioned in the submissions of the previous application as well as in the submitted documents of the currently considered application. Although every planning application must be determined on its own planning merits, relevant planning decisions, either by the Council or at appeal stage, are material considerations. However, in determining the appeal scheme, the Inspector did make reference to these other developments stating that *‘The appellant has drawn my attention to recent planning permissions for residential development along Green Lane, including sites at Borchardts, east of High House, adjacent Brickfields Cottage and Corner Cottage. In each case the sites are more*

closely related to existing built development than the appeal site. Moreover, whilst I recognise that the character of Green Lane is likely to evolve as a result of those developments, the area will still be characterised by sporadic built development separated by significant gaps providing visual links to the surrounding countryside’. As such, it is considered that there are no new material considerations since determining the previous scheme on the site which would weigh in favour of the proposal.

- 5.2.12 Bearing in mind the above analysis, it is considered that the proposed development would result in a dwelling outside of the defined settlement boundaries, in a predominantly rural in nature area where it would urbanise the rural landscape to the detriment of the character of the area and would cause irreparable harm to the intrinsic character and appearance of the countryside contrary to policies S2, CC6 and BE1 of the Local Plan, policies S8 and D1 of the Maldon District Submission Local Development Plan, and national policies contained in the NPPF.

5.3 Impact on Residential Amenity

- 5.3.1 Policy BE1 of the RLP protect neighbouring occupiers from unacceptable development which results in a loss of amenity in relation to overlooking, overpowering or undue reduction of light to the main windows of their property. Similarly, the basis of policy D1 of the submission LDP seeks to ensure that development will protect the amenity of its surrounding area.
- 5.3.2 The nearest neighbouring property is located approximately 30m west of the site. To the east of the site, the nearest neighbouring property is located at distance of approximately 100m. Given these ample distances it is considered that a dwelling within the site is unlikely to give rise to issues of overlooking, loss of privacy or oppressiveness in relation to the amenity of neighbouring occupiers, in accordance with the stipulations of local and national policies.
- 5.3.3 Concerns have been raised for the resultant noise from the construction of the dwelling and the resultant noise and smell from the equestrian use of the site. The impact during the period of the construction of any approved development is not a material planning consideration. Other legislation is more appropriate to deal with this matter. With regard to the impact from the equestrian use, this currently undertaken on site irrespective of this permission and as such no further impact would result from this proposal in order to warrant its refusal on this basis.

5.4 Access, Parking, Highway Safety and Sustainable Travel Patterns

- 5.4.1 Policy T8 of the RLP seeks to ensure that appropriate off-street parking is provided in conjunction with a change of use. Likewise, policies T1, T2 and D1 of the submission LDP seek to ensure that safe and secure vehicle parking is provided in accordance with the Council’s adopted parking standards. The Parking Standards are expressed as maximum standards taking into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.4.2 The application proposes a four bedroom dwelling. The parking provision requirement for a dwelling of this size is a maximum of three spaces. The proposal

proposes four parking spaces with ample turning space. The existing access to the land will be utilised for the proposed use. Given the pre-existence of the site access, from a highway and transportation perspective the impact of the proposal has been considered acceptable to the Highway Authority subject to conditions.

- 5.4.3 In terms of sustainable transport patterns when determining the appeal for the previously refused scheme, the Inspector stated that having regard to the rural nature of the area, and the approach to the sustainability of the location taken by other decision makers, it is considered that the proposal would result in reasonably sustainable travel patterns and accord with local and national policies, including paragraphs 29 and 35 of the NPPF.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Adopted policy BE1 requires amenity space and landscaping provision for new developments. The Essex Design Guide SPD provides the guidance for minimum private amenity space levels. The requirement for dwellings of three bedrooms or more is a minimum of 100sq m.

- 5.5.2 The proposed amenity space is in excess of the standard contained within the Essex Design Guide. The landscaping arrangements have not been shown on any of the plans. As such a condition shall be imposed to that effect in case of a positive determination of the application.

5.6 Housing Land Supply and Need

- 5.6.1 Paragraph 47-49 of the NPPF state that Local Planning Authorities should be able to demonstrate a robust and up-to-date Five-Year Housing Land Supply (FYHLS) in order to meet housing needs locally defined. In August 2016, the Council published the latest Planning Policy Advice Note (PPAN dated August 2016) regarding the Council's current status on the FYHLS.

- 5.6.2 The Council's position is that decision makers should give weight to relevant policies in emerging plans, in this instance of the Maldon District Local Development Plan (2014-2029), according to the stage of preparation, the extent of unresolved objections to relevant policies, and the degree of consistency with the Framework. The more advanced the stage of preparation, the greater the weight can be given; the less significant the unresolved objections, the greater the weight that may be given; and the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given in accordance with Paragraph 216 of The National Planning Policy Framework.

- 5.6.3 The Council considers that the current status of the Maldon District Local Development Plan (2014-2029) is at its advanced stage and therefore considerably weight can be given to policies S1, S2, S3, S4, S5, S6, S7, S8, H1, H2, H3, I1 and I2 contained within this emerging plan. Further, the Secretary of State informed the Council on 6 March 2016 that he has carefully considered the Planning Inspector's analysis and conclusions and disagreed with his interim findings set out in his letter of 8 May 2015. The Council finished its Examination in Public of the housing policies of the emerging LDP and it is waiting for the Planning Inspectorate's decision.

- 5.6.4 In light of this letter from the Secretary of State, the Council considers that this is material consideration it should therefore be given significant weight when determining all planning applications, particularly with regard to the Council's current position on the Five Year Housing Land Supply, the latest evidence to be used for the Full Objectively Assessed Need for Housing, and the weight to be afforded to the status of the Local Development Plan. In support of the Council's FYHLS, in a recent Appeal Hearing at Oval Park, Hatfield Road, Langford (reference: Paragraph 18 - APP/X1545/W/15/3053104) dated 29 July 2016, the Planning Inspector concluded that the Council does have a five year supply of housing land based on the evidence that was submitted before him. Moreover, another recent appeal decision at Nipsells Chase, Mayland (APP/X1545/W/16/3153141) confirmed the Council's position in terms of the FYHLS.
- 5.6.5 Irrespective of the above, the Council has to consider the proposal on its merits and in the context of the presumption in favour of sustainable development other than just being outside the development boundary as required by paragraph 49 of the NPPF. Therefore, the Council's adopted strategic and housing policies are considered up-to-date and as such the application would have to be determined on this basis, unless other material planning considerations indicate otherwise.
- 5.6.6 The proposal would provide one new dwelling which the submission states would have four bedrooms. Emerging Policy H2 of LDP contains a policy and preamble (paragraph 5.2.2) which, read alongside the evidence base from the Strategic Housing Market Assessment (SHMA), shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units. The Council, therefore, encourages, in the emerging policy H2 the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's SHMA, published in September 2014, identifies the same need requirements for 60% of new housing to be for one or two bedroom units and 40% for three bedroom plus units.
- 5.6.7 The NPPF in paragraph 50 sets out that housing should be provided to meet an identified need. The proposed dwelling would not assist in meeting the housing shortfall need as set out in the SHMA and emerging Policy H2. The provision of a dwelling that does not meet an identified need is considered to be of significance when determining this application.
- 5.6.8 Given that the site lies within an area where rural planning policies of restraint apply, policy S2 of the RLP and policies S1 and S2 of LDP is a key consideration. The Council should only be granting approval for development outside of development boundaries where there would be no demonstrable harm to the coast and countryside.

5.7 Sustainability

- 5.7.1 Paragraphs 7 and 8 of the NPPF require the three roles of sustainability to be considered together. The construction of the development would bring minor, short term, economic benefits. The provision of the new dwelling would make a positive, though modest, contribution to the social dimension of sustainability. In accordance with paragraph 47, therefore, it merits a measure of weight in support of the proposal, irrespective of the housing land supply position. Having regard to the scale of the proposal and the limited availability of local facilities and services, future occupiers

could be expected to make a very modest contribution to vitality of rural community. As such, the proposal derives little support from Framework paragraph 55.

5.7.2 With regard to the environmental role, it is considered that the proposal would be detrimental to the character and appearance of the area, contrary to RLP policies S2, CC6 and BE1, LDP policies S8 and D1, as well as NPPF paragraphs 17 and 109. Although it has been considered by the Inspector that the site location is reasonably sustainable in the local context, that does not amount to a strong point in favour of the proposal.

5.7.3 Overall therefore, it is considered that the proposal's harmful effects on the environment significantly and demonstrably outweigh its benefits when assessed against the local policies and the NPPF as whole. Consequently, the proposal would not amount to sustainable development and so it would not be supported by the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF.

5.8 Other Material Considerations

5.8.1 In the event of a positive determination of the application, appropriately worded conditions shall be considered for the surface and foul water drainage of the scheme in line with policies CON5 of the RLP and D2 of the LDP.

5.8.2 The applicant has requested his personal circumstances to be considered for this application. It has been stated that this proposal is not for a house but for a home which will provide the necessary facilities to a person who loves horses and goes through family problems. Unfortunately, these circumstances are not considered to outweigh the harm identified previously.

6. ANY RELEVANT SITE HISTORY

- **15/00972/OUT** – Two storey four bedroom dwelling. – REFUSED [07.12.2015] – APPEAL DISMISSED [06.07.2016]

Reason for Refusal

The building is located outside of a defined settlement boundary, remote from community facilities and is not located adjacent to, or is closely related to an existing town, village or public transport infrastructure, which would result in the residents being reliant on the private vehicle for day to day living and would result in the introduction of a dwelling and associated residential paraphernalia which would urbanise the area to the detriment of its character and appearance, contrary to policies S1, S2 and CC6 of the Maldon District Replacement Local Plan and policies S1 and S8 of the submitted Maldon District Local Development Plan as well as guidance set out in the National Planning Policy Framework, notably paragraphs 17 and 109.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch	Grant planning permission	Please see section 5 of the report

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection subject to conditions regarding unbound material on the access of the site	Comment noted

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection	Comment noted

7.4 Representations received from Interested Parties (*summarised*)

7.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

- Mr & Mrs Gough, Finnbars Cottage, 40 Green Lane, Burnham-on-Crouch
- Mrs Jennie Smith, 38 Green Lane, Burnham-on-Crouch

Objection Comment	Officer Response
Noise from the building activity	See paragraph 5.3.3 of the report
Noise and smell from equestrian use	See paragraph 5.3.3 of the report
The proposed dwelling will further spoil Green Lane	See section 5 of the report
The site is part of the unspoilt countryside and shall remain as such	See section 5 of the report

7.4.2 Letters were received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

- Richard Swanborough, 3 Springfield Road, Burnham-on-Crouch
- Karen Mardle, 10 Rmblers Way, Burnham-on-Crouch
- Miss J Gibbs, Oak Lodge, Green Lane, Burnham-on-Crouch
- Mr J Booth, Oak Lodge, Green Lane, Burnham-on-Crouch

Supporting Comment	Officer Response
The owner is a local businessman and resident, a decent and honourable person	Not a material planning consideration
The stable-like dwelling is appropriate in this locality, the design is unique, it will not be overdevelopment	Please see section 5 of the report
This development is not just for profit	Not a material planning consideration
The proposed dwelling will sustain the equestrian use	Not a material planning consideration
The highway agency has not objected to the proposal	Please see section 5 of the report
Other applications have been approved	Please see section 5 of the report

8. REASON FOR REFUSAL

- 1 The proposed development would be located outside of a defined settlement development boundary where policies of restraint apply. The proposal would result in the introduction of a dwelling and associated residential paraphernalia which would have an urbanising effect upon the rural locality to the detriment of its character and appearance. Therefore, the proposal is considered to result in an unsustainable form of development which would be contrary to policies S2, H1, BE1 and CC6 of the Maldon District Replacement Local Plan and policies S1, S8, H4 and D1 of the submitted Maldon District Local Development Plan as well as guidance set out in the National Planning Policy Framework.