



**REPORT of
CHIEF EXECUTIVE**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
2 OCTOBER 2017**

Application Number	FUL/MAL/17/00862
Location	Barn Great Downs Farm Station Road Tollesbury
Proposal	Part-Retrospective - Change of use and conversion of a building into a self-contained two-bedroom dwellinghouse (Use Class C3)
Applicant	Mr D Lai
Agent	Mr Paul Lonergan - Paul Lonergan Architects
Target Decision Date	18 October 2017
Case Officer	Spyros Mouratidis, TEL: 01621 875841
Parish	TOLLESBURY EAST
Reason for Referral to the Committee / Council	Parish Trigger Departure from the Local Development Plan

1. RECOMMENDATION


APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

Barn at Great Downs Farm, Station Road, Tollesbury
FUL/MAL/17/00862



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	NW Committee 2.10.17
	Date:	21/09/2017
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 Planning permission is sought for the conversion of an existing two storey building into a two bedroom dwellinghouse. The conversion works have already begun; hence the application is partially retrospective in nature. The building had planning permission to be used for general storage, storage of farm machinery and workshop albeit is not clear whether that permission was ever implemented.
- 3.1.2 Comparing the existing building with the plans approved in 2007, it appears that the building is 0.6m higher, 0.3m wider and 0.3m deeper measuring 9.5m wide by 6.5m deep by 6.7m high to the ridge of the dual-pitched roof. Furthermore, the number and arrangement of openings has been altered. Additional alterations are proposed as part of this application, namely the insertion of a window on the front elevation, the replacement of three windows to the side elevations with doors, and the erection of a structure to the north of the building which will be used as a balcony at the first floor level and as car port for one car at the ground floor level. The structure would be 3.9m wide by 6m deep and would measure 2.9m high to the first floor level and 4m high to the balustrade. A designated curtilage is proposed to the north of the building which would be defined by a proposed hedge.
- 3.1.3 The application site is located adjacent but outside of the defined settlement boundary for Tollesbury, to the east of Station Road, in a semi-rural location with open countryside surrounding from the east, north and west and residential properties to the south. The building which is the subject of this application is located approximately 80m east of Station Road. Access to the application site from Station Road is taken via a private unmade road which also leads to adjacent site, part of the same property. Within the same property but outside of the application site, approximately 60m to the east, there is the dwellinghouse known as Great Downs Farm. An application is currently being considered by the Council for the demolition of the existing dwelling and the erection of a replacement two-storey, four-bedroom dwelling, located approximately 12 m to the east of the existing. The residential development to the south is mainly in the form of two storey houses.

3.2 Conclusion

- 3.2.1 The application site is located adjacent but outside of the development boundary as defined in the Local Development Plan (LDP). Although the principle of a dwellinghouse outside of the development boundary would be contrary to the main thrust of local policy, on the basis of the presumption in favour of sustainable development of local and national policy and a recent appeal decision at an appeal site adjoining the application site, it is not considered that a refusal for this reason alone could be sustained on appeal.
- 3.2.2 The proposed conversion is considered to be acceptable in terms of its impact upon the character and appearance of the area and its effect to the amenity of neighbouring occupiers. Furthermore, the scheme would provide adequate parking and private amenity space for the needs of its residents. With the above comments in mind, given that the proposal relates to the conversion of an existing building, rather than the erection of a new one, and considering the location of the application site which

adjoins the settlement boundary for Tollesbury, the development is considered sustainable. Therefore, the proposal would be in accordance with the stipulations of policies S1, D1, D2, H2, H4, T1 and T2 of the approved Local Development Plan and guidance contained within 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:

- 14 - Presumption in favour of sustainable development
- 17 - Core Planning Principles
- 47-55 - Delivering a wide choice of high quality homes
- 56-68 - Requiring Good Design
- 186-187 - Decision-taking
- 196-198 - Determining applications

4.2 Maldon District Local Development Plan approved by the Secretary of State:

- S1 - Sustainable Development
- S2 - Strategic Growth
- S8 - Settlement boundaries and the Countryside
- D1 - Design Quality and Built Environment
- D2 - Climate Change & Environmental Impact of New Development
- H2 - Housing Mix
- H4 - Effective Use of Land
- T1 - Sustainable Transport
- T2 - Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Esses Design Guide
- Car Parking Standards

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The proposal is for the conversion of an existing building into a two-bedroom dwellinghouse. The application site is located adjacent but outside of the development boundary as defined within the approved Local Development Plan, and hence within the countryside for policy purposes. The Council aims to direct future growth within the defined settlement boundaries. Policy S8 of the approved LDP states that the countryside will be protected for its landscape, natural resources and

ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for development proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.

- 5.1.2 Furthermore, policy S2 of the approved LDP identifies the Council's housing need and supply up to year 2029 and states that any other residential development other than those identified with policy S2, namely strategic allocations and garden suburbs, would need justification in order to be supported. The Council's five Year Housing Land Supply report (August 2016) demonstrates that there is a deliverable housing supply equivalent to 6.04 years. This means that there is a sufficient supply of housing land in the District, and that there is no shortage of land with planning permission for housing within the local area of this application site. However, it has to be noted that the application is for the provision of one two-bedroom dwelling and according to the Council's Strategic Housing Market Assessment (SHMA) is a type of residential unit that the Council needs most within its housing mix.
- 5.1.3 Having the previous paragraphs in mind, it is considered that the principle of the proposal appears to be contrary to local policies S2 and S8 of the approved LDP. Though one of the core principles of the NPPF encourages the reuse of existing resources, including the conversion of existing buildings. Paragraph 55 states that whilst "*Local planning authorities should avoid new isolated homes in the countryside*" they can be supported "*where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting*". Considering the appeal decision¹ at the adjoining site to the west, it is not considered that the location is isolated. The sustainability credentials of the development along with other material planning considerations will be discussed in the following sections of the report.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 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 Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people"

"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".

¹ Appeal reference: APP/X1545/W/17/3170054

- 5.2.3 This principle has been reflected to 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:
- a. Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - b. Height, size, scale, form, massing and proportion;
 - c. Landscape setting, townscape setting and skylines;
 - d. Layout, orientation, and density;
 - e. Historic environment particularly in relation to designated and non-designated heritage assets;
 - f. Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - g. Energy and resource efficiency.
- 5.2.4 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.5 The building proposed to be converted into a dwellinghouse appears to have been on site in its current form since around 2009. Thus, the building is already part of the existing landscape. Its approved use included general storage and storage of agricultural machinery. Although the proposed change of use would introduce some alterations to the appearance of the building in terms of its openings and the addition of the balcony / car port structure, it is not considered that those would be detrimental upon the character and appearance of the area. In more detail, the proposed structure is considered to be an unobtrusive and appropriate addition to the application site. Moreover, the residential paraphernalia that would be introduced to the site, if this application is approved, is not considered to cause any demonstrable harm upon the rural locality. It has to be noted that planting of a hedge is proposed which would assist in limiting the sprawl of the residential use outside of the application site.
- 5.2.6 Overall, the proposal would not be detrimental upon the character and appearance of the site and the wider area. Therefore, the proposed development is in line with local and national policies in this respect.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. Policy D2 seeks all development to minimise its impact on the environment by incorporating

measures to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

- 5.3.2 The building subject of this application is located 13m to the north of the existing first floor residential unit on the property. The proposed external alterations would not affect the established relationship between the existing residential unit and the building in terms of overlooking, overshadowing and over dominance.
- 5.3.3 With regard to the dwellinghouse to the east within the same property, the distance between the existing buildings is approximately 55m, and even greater from the proposed dwellinghouse. Thus, overshadowing or overpowering of the neighbouring residential unit is not a concern. Moreover, any overlooking between the buildings would be mitigated by the separation distances and therefore would not be detrimental to the amenity of the current or future occupiers.
- 5.3.4 The nearest neighbouring property outside of the property is No.5 Mallard Close which is at least 53m away from building on site. Considering that distance it is unlikely that the conversion of the building would have any impact upon the amenity of the neighbouring occupiers. Therefore, issues regarding overlooking, overshadowing or overdominance of neighbouring properties are unlikely to arise.

5.4 Access, Parking and Highway Safety

- 5.4.1 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 and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes. The Council's adopted 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 existing access arrangements would not be altered as a result of this proposal. The proposed dwelling would provide two bedrooms which would need the provision of a maximum of one parking space. The application site benefits from a long driveway with turning area and one designated parking space is proposed to the north of the building. These arrangements are considered sufficient to accommodate the parking provision requirements for the development in accordance with policies T1, T2 and D1 of the approved LDP and national policies.

5.5 Private Amenity Space and Landscaping

- 5.5.1 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 Essex Design Guide Supplementary Planning Document (SPD) advises a suitable garden size for each type of dwellinghouse, namely 50sq.m. of private amenity space for dwellings with one or two bedrooms.
- 5.5.2 The proposal includes the definition of the residential curtilage for the development with the planting of a hedge. This would create a private amenity space of in excess

of 200m² which would be in excess of the required standard contained within the Essex Design Guide.

- 5.5.3 The landscaping arrangements include the planting of a hedge to define the residential curtilage, paving of the area underneath the balcony/carport structure and retention of the gravel at the driveway. Those arrangements are considered acceptable.

5.6 Sustainable development

- 5.6.1 Although the principle of a dwellinghouse outside of the development boundary would be contrary to certain local policies, the main thrust of the planning system since the introduction of the National Planning Policy Framework is the presumption in favour of sustainable development. The presumption in favour of sustainable development contained in the NPPF has been reflected to local policy S1 of the approved LDP which states that when considering development proposals the Council will take a positive approach and will apply a number of key principles in policy and decision making, including: deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations; and promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations.
- 5.6.2 A recent appeal decision² considered the sustainability of the location. The Inspector determined an appeal for a proposal for five dwellinghouses at an appeal site adjoining the application site to the west. The Inspector, considered at paragraph 9 of the appeal decision that the appeal site was read strongly as an integral part of the surrounding countryside, rather than having any close connection with the residential site, of which the application site is a part. The Inspector later in his decision goes on to comment about sustainability; the harm to the character and appearance of the area outweighed the benefits.
- 5.6.3 Some of the benefits from the appeal site are comparable with this application including good connections to existing services and facilities, social and economic benefits through contributing to the supply of housing in the area, biodiversity enhancements and additional landscaping which would amount to environmental benefits. Moreover, it has to be noted that the proposal would result in a two-bedroom dwelling contributing to the required housing mix for the needs of the district. In this instance, bearing in mind that the building is already on site for a number of years, it is not considered that the impact upon the character and appearance of the area is detrimental and therefore, the remaining benefits applicable to this scheme render the proposal sustainable development in terms of the NPPF.
- 5.6.4 Furthermore, referring to the appeal site, while the Inspector concurred that the Council can demonstrate a five-year-housing-land-supply, this alone was not a reason to dismiss the appeal. On the basis of the recent appeal decision at the site adjoining the application site, it is not considered a refusal of the application only by reason of the location of the application site outside the development boundary could be sustained on appeal. Given that application site is on a previously developed land and

² Appeal reference: APP/X1545/W/17/3170054

the building was already on site, its conversion to a dwellinghouse in a location adjacent to the development boundary is considered sustainable.

5.7 Other considerations

- 5.7.1 Ecology - The location of the application site and the previous use of the building favour the possibility of presence of bats and other fauna on site. A condition requiring the building to be surveyed for these purposes would meet the national guidance tests.
- 5.7.2 Drainage - Given that the building is already on site, any flooding risk is not going to increase on site or elsewhere as a result of the proposal. Although a condition has been proposed for the submission of details of Sustainable Urban Drainage Schemes (SUDS) for the development, it is not considered that this condition would meet the national guidance tests. As stated within the application form, it is proposed to connect the property to the main sewer system which is acceptable.
- 5.7.3 Land Contamination - The Council's Environmental Health team has raised concerns about the previous use of the building and the risk of land contamination. An appropriately worded condition for this matter would meet the tests contained within the national guidance on conditions and shall be imposed to the permission at the event of a positive determination of the application.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/07/01176** – Retention of replacement barns for storage, farm machinery and workshop. APPROVED 21.12.2007.
- **LDE/MAL/13/00196** - Claim for a Lawful Certificate for existing converted barn 1 which has been in continual use as flat at upper floor only. APPROVED 19.04.2013.
- **17/00598/COUPA** - Notification for prior approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development. REFUSED 13.07.2017.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tollesbury Parish Council	Object - The building had not been used for agricultural purposes on 31 March 2015 and this does not meet the criteria for this application.	This application is a full planning application seeking permission from the Local Planning Authority. The criterion mentioned by the Parish Council refers to permitted development rights granted by the government.

7.2 **Statutory Consultees and Other Organisations** (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
<p>Planning Policy</p>	<p>There is a sufficient supply of housing land in the District. Development outside settlement boundaries will only be considered in exceptional circumstances for uses identified in Policy S8; none of which are evidenced by this application.</p> <p>The redevelopment of the agricultural building could be taken to make effective use of land, one of several principles identified as contributing to sustainable development in Policy S1.</p> <p>A view would need to be taken to determine whether the contribution to the effective use of land and any other material considerations associated with this application would outweigh the other policy considerations.</p>	<p>Please see sections 5.1 and 5.6 of the report.</p>
<p>Environmental Health</p>	<p>No formal comment until the Redevelopment of Agricultural Buildings checklist has been completed and submitted so it can be assessed whether any further information is required with the planning application or if any conditions are required in relation to land contamination.</p> <p>The area or catchment has also been subject to regular flooding in recent years so</p>	<p>Please see section 5.7 of the report.</p>

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	details of SUDS are required in order to prevent adding to this burden and risking flooding to the property and any other.	

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Highway Authority	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:

- Allen, David and Maureen - 5 Shamrock Close Tollesbury Essex CM9 8SZ
- Dr. Paul Kiff - 5 Mallard Close Tollesbury Essex CM9 8RR

Objection Comment	Officer Response
Residents used to hear and occasionally see Barn Owls, monk jacks, foxes and the different types of birds. The more the area is disturbed the less the residents are likely to see the wildlife.	Please see section 5.7 of the report.
The location is on the fringes of the Nature Reserve so the extra activity could change the whole character of the area.	Please see section 5.2 of the report.
The property is already used for residential purposes.	Please see site photographs and section 3.1 of the report.
The residential use of this barn has been expressly refused on at least two previous occasions and the previous serious planning objections remain.	This is not the case. Please see section 6 of the report.
There is already a main house on site.	The application has to be determined on its own merits. The fact that there is another house on site is not a material consideration on its own. The relationship between the existing and proposed dwelling is a consideration and has been considered.
The access to Downs Farm is at the bottom of Station Road, which leads down a lane to the sea wall and is in constant use of walkers and dog walkers,	An additional two-bedroom dwellinghouse in close proximity to a range of facilities and services offered in the village of Tollesbury is unlikely to

Objection Comment	Officer Response
so this could become an access problem.	create additional traffic to a detrimental degree.
There is already a serious problem with cars and traffic in Station Road, cars are parked halfway on the pavements.	There is adequate parking provision on site. See section 5.4 of the report.

8. **PROPOSED CONDITIONS**

Conditions:

- 1 The development shall be carried out in accordance with the following approved plans and documents: 1706/2/001 R-B, 1706/2/002, 1706/2/003 R-A, 1706/2/100 R-C, 1706/2/210 R-C.
REASON: For the avoidance of doubt as to the extent of this permission.
- 2 The external surfaces of the dwellinghouse hereby permitted shall be constructed of the materials specified on drawing 1706/2/100 R-C and match those already used on the building.
REASON: To protect the character and appearance of the area in line with policies S1, S8 and D1 of the approved Maldon District Local Development Plan and national policy and guidance contained in the National Planning Policy Framework.
- 3 The building shall not be occupied as a dwellinghouse unless a scheme for the proposed hedgerow shown on approved plan 1706/2/003 R-A including the size and nursery stock of the proposed specimens and a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority.

The hedgerow shall be planted within the first available planting season (October to March inclusive) following the approval of the scheme, in accordance with the approved details and retained in perpetuity.

If within five years of the planting of the hedge any plant is removed, uprooted, destroyed or dies another plant of the same species and size shall be planted in the first available planting season, unless the local planning authority gives written consent to any variation.

REASON: To protect the character and appearance of the area in line with policies S1, S8 and D1 of the approved Maldon District Local Development Plan and national policy and guidance contained in the National Planning Policy Framework.

- 4 The building shall not be occupied as a dwellinghouse until such time as the vehicle parking area indicated on the approved plans underneath the balcony/car port structure, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area(s) shall be retained in this form at all times. The vehicle parking area(s) shall not be used for any purpose other than the parking of vehicles that are related to the use of the approved development.
REASON: To ensure there is the necessary car parking provision on site in line with policies D1, T1 and T2 of the approved Maldon District Local Development Plan and national policy and guidance contained in the National Planning Policy Framework.

- 5 Prior to the first occupation of the building as a dwellinghouse, an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites – Code of Practice and the Environment Agency’s Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), together with, if any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development, shall have been submitted in writing to the local planning authority for approval.

Where identified as being necessary in the approved assessment/report, the site shall be remediated in accordance with the approved measures and timescale and a verification report demonstrating the effectiveness of the remediation carried out shall be submitted in writing to the Local Planning Authority for approval within 14 days of the report being completed.

REASON: To ensure there is no land contamination harmful to human health in accordance with policy D2 of the approved Maldon District Local Development Plan and national policy and guidance contained in the National Planning Policy Framework.

- 6 The building shall not be occupied as a dwellinghouse unless a comprehensive ecological survey of the site, undertaken to ascertain if any protected species are present, along with details of the provision and implementation of ecological mitigation to protect any protected species if found to be present has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the first occupation of the building as a dwellinghouse.

REASON: To ensure the of the natural environment in accordance with policy D2 of the approved Maldon District Local Development Plan and national policy and guidance contained in the National Planning Policy Framework.