



**REPORT of
CHIEF EXECUTIVE**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
09 October 2017

Application Number	FUL/MAL/17/00821
Location	Asheldham Grange Barn Rushes Lane Asheldham
Proposal	Removal of condition 4 on approved planning permission FUL/MAL/13/00203 (Demolition and removal of existing timber frame barn, which is the subject to two extant planning permission for change of use to residential use, and replacement with new Essex barn to be used as a dwelling)
Applicant	Mr N Kelly
Agent	Mr Mark Jackson - Mark Jackson Planning
Target Decision Date	18.09.2017
Case Officer	Hannah Bowles
Parish	Asheldham
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.

Asheldham Grange Barn, Rushes Lane, Asheldham
FUL/MAL/17/00821



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee 17/00821/FUL
	Date:	26/09/2017
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

The application site is located on the western side of Rushes Lane which is a private road accessed off Southminster Road to the south and Tillingham Road to the north. The application site is located in a rural setting with one immediately adjacent neighbouring dwelling. There is a public footpath which runs alongside the vehicular access to the site and the southern site boundary. Asheldham does not have a settlement boundary. Planning permission was granted in 2013 for the demolition of the existing Essex style barn and replacement with a new barn for residential use. The construction of the replacement barn is almost complete, although it has not been occupied yet. A condition (below) was imposed to insure the removal of the existing barn on site, which is currently being used for storage. The barn subject of this application is located adjacent to the eastern boundary of the site.

- 3.1.1 Planning permission is sought for the removal of condition 4 on approved planning permission FUL/MAL/13/00203 (Demolition and removal of existing timber frame barn, which is the subject to two extant planning permissions for change of use to residential use and replacement with new Essex barn to be used as a dwelling.) Condition 4 states:

'Within 3 months following the first occupation or connection to utility services, whichever is the sooner, of the dwelling hereby approved the existing barn on the site shall be demolished and the resulting material removed from the site.'

REASON

'The development has only been approved on the basis that the dwelling house hereby approved is a replacement for the permission that already exists on the site, and to prevent the accumulation of built development on the application site in accordance with policies S2, CC6 and CC22 of the adopted Maldon District Replacement Local Plan.'

- 3.1.2 The applicant wishes to retain the barn to use for ancillary storage in connection to the new dwelling on site. Further to this, it has been observed and substantiated that the barn is occupied by protected species namely barn owls, barn swallows and bats.

3.2 Conclusion

- 3.2.1 The proposed removal of Condition 4 would result in the retention of a barn comparable in scale and appearance to the dwelling on site. Given its scale, appearance and siting in the rural countryside, the accumulation of built form on the site is considered to harm the open and natural surroundings country to policy D1 of the LDP. The presence of protected species on site is acknowledged. However, mitigation measures can be put in place to minimise the impact. Therefore, the ecology issues are not considered to outweigh the harm caused by the barn or justify the retention of the building contrary to other objectives of the development plan.

4. MAIN RELEVANT POLICIES

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

4.1 Maldon District Local Development Plan (LDP) approved by the Secretary of State:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

4.2 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Developments undertaken in association with the residential use of a site can be supported in principle and it is therefore considered that an ancillary storage building at the site can be supported in principle. However, it is noted that the principle of erecting the dwelling at the site under the terms of application 13/00203/FUL was only approved on the basis that the existing building, which had been granted planning permission to be used as a dwelling, was to be demolished.

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 The barn subject of the application is located on the eastern boundary of the site and dates from the mid nineteenth century, although the only original part of the barn left is the roof structure, as a result of this it is of limited significance as an historic building. It is comparable in size and appearance to the dwelling on site, given that the dwelling was largely based on the replacement of the subject barn.

5.2.3 As stated in the reason for condition 4, the dwellinghouse was only approved on the basis that it was a replacement for the existing barn in order to prevent the

accumulation of built development on the application site, given its sensitive location in the open countryside.

- 5.2.4 The ancillary/incidental barn is of a comparable scale and appearance to the dwelling on site, therefore, it is not considered to appear as a subservient building to the dwelling. It would have a disjointed relationship with the dwelling on site and although stated within the application documents that a building of this size is required on the site for storage of vehicles, equipment and normal household items, it should be noted that permitted development rights for the erection of incidental buildings have been removed in order to ensure the preservation of the open and rural countryside. Therefore, it is unlikely planning permission would be granted for an outbuilding of this scale. Given the sensitive location of the site and the accumulation of built form it is considered to harm the open and natural surroundings when considered cumulatively in addition to the other development that has been approved at the site.

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.
- 5.3.2 There is one residential dwelling with the vicinity of the site; Asheldham Grange which is located to the east of the application site, in excess of 40m from the subject barn.
- 5.3.3 Given the length of time the barn has been present on the site, it is not considered to be an unneighbourly form of development. Furthermore, the barn is located in excess of 20m from the residential barn on site. Therefore, it is not considered to adversely impact the living conditions of the future occupiers.

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.
- 5.4.2 The proposed retention of the subject barn would not impact the parking provision on site.

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 amenity space. In addition, the adopted Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sq.m.of private amenity space for dwellings with three or more bedrooms.
- 5.5.2 The proposed retention of the subject barn would not impact the current amenity space, which is in excess of the recommended 100sqm.

5.6 Ecology

- 5.6.1 Policy N2 of the LDP seeks to ensure the protection of wildlife and species that are protected by law.
- 5.6.2 An ecology survey has been submitted which states that the barn has a high potential to support roosting bats, owls and barn swallows. Evidence has also been submitted showing bats and owls within the barn.
- 5.6.3 The Coast and Countryside Officer has been consulted and confirmed that if ecology was the only matter for consideration it would be favourable to keep the barn. However, they have also confirmed that there are mitigation measures that can be put in place to minimise the impact on the protected species. The harm caused by the barn is not considered to be outweighed by ecology issues especially given that there are mitigation measures that can be put into place.
- 5.6.4 It was stated within the Officers report for the original application (ref: 13/00203/FUL) that there were no signs or evidence of protected species at the time of the site visit, there was also no survey or information supplied by the applicant in relation to protected species. Therefore, no conditions in relation to mitigation measures were implemented as part of the planning permission. Notwithstanding this, it should be noted that the birds and bats are protected under The Wildlife and Countryside Act (as amended) 1981. It is illegal to harm a protected animal deliberately or damage or destroy their breeding or resting place, to carry out the works a mitigation licence from Natural England would be required to ensure the correct measures were undertaken prior to the demolition of the barn, including mitigation.
- 5.6.5 Therefore, whilst it is acknowledged that there appears to be protected species on site, there are mitigation measures that can be utilised to address this matter. Therefore, the justification for the demolition of the barn is considered to outweigh the requirement to protect the species on site.
- 5.6.6 It is considered that the Local Planning Authority should give some consideration to the variation of the condition to allow for a scheme of mitigation to be submitted and agreed prior to the demolition of the barn. However, there is no evidence of the timescale that would be required to provide such mitigation and therefore an open-ended and unclear condition relating to the timescale for the demolition of the existing building would be imprecise and potentially unenforceable to an extent as to be unreasonable. As such it is considered that such a variation of the condition would not be appropriate under the terms of this application.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/11/00423** - Change of use of existing redundant Essex barn from storage purposes to residential use falling within use class C3 (a) – Approved - 28.07.2011.
- **FUL/MAL/11/00903** - Change of use of existing redundant Essex barn and small addition from storage purposes to residential use falling within use Class C3 (a) – Approved - 13.12.2011.

- **FUL/MAL/13/00203** - Demolition and removal of existing timber frame barn, which is the subject to two extant planning permission for change of use to residential use, and replacement with new Essex barn to be used as a dwelling – Approved – 23.05.2013

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Coast and Countryside Officer	It looks from the survey as though there are both bats and barn owls using the barn. This does not mean necessarily that the barn cannot be knocked down but demolition will be subject to timing and the provision of an alternative nest and roost sites.	Addressed within section 5.5 of the Officers report.

8. REASONS FOR REFUSAL

- 1 The removal of Condition 4 would result in the retention of a barn comparable in scale and appearance to the dwelling on site. Given its scale, appearance and siting in the rural countryside, the accumulation of built form on the site is considered to harm the open and natural surroundings contrary to policy D1 of the LDP.

INFORMATIVE

The applicant and owner of the barn is advised that, by law they must ensure that all requirements of The Conservation (Natural Habitats, &c.) Regulations 1994, The Wildlife & Countryside Act 1981 (and any other legislation/recommended practices which refers to wildlife and protected species) are complied with. A survey should be carried out by a competent person to ascertain the presence of protected species and any requirements arising from the survey should be fulfilled, before any demolition works are carried out. For advice and information contact Natural England:

http: www.naturalengland.org.uk

Tel: 0300 060 3900

Email: enquiries@naturalengland.org.uk