



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
05 FEBRUARY 2018**

Application Number	FUL/MAL/17/01230
Location	Rosemead, D'Arcy Road, Tolleshunt Knights
Proposal	Demolition of stable block and erection of detached bungalow with associated parking
Applicant	Mr. & Mrs. D Dwyer
Agent	Mr. Peter Le Grys - Stanfords
Target Decision Date	19 January 2019
Case Officer	Hilary Baldwin Tel: 01621 875730
Parish	TOLLESHUNT KNIGHTS
Reason for Referral to the Committee / Council	Member Call In Departure from the Local Plan

1. RECOMMENDATION

REFUSE subject to the reasons as detailed within Section 8 of this report.

2. SITE MAP

Please see overleaf.

Rosemead D'Arcy Road Tolleshunt Knights

FUL/MAL/17/01230



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Maldon District Council 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: NW Committee 17/01230/FUL

Date: 23/01/2018

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The site adjoins a group of agricultural style buildings which are set well back from the west side of D'Arcy Road. Generally loose knit linear development extends along the east side of the road in the vicinity of the site. However, development on the west side of the road is much more sporadic with isolated groups of buildings separated by significant areas of open land which is agricultural in character. The site lies directly adjacent to the existing agricultural buildings and would utilise the same highway access from D'Arcy Road with new site boundaries to the east, south and west.
- 3.1.2 The proposal seeks planning permission for the demolition of one agricultural building and the change of use of the land to that of residential use and the erection of a detached dwelling with parking forecourt and private rear amenity space. The property would have a rectangular shaped footprint with overall measurements of 19.4m wide, 8.5m deep and an overall ridge height of 5.8m. External materials would comprise timber clad elevations and concrete roof tiles. In terms of fenestration the northern (front) elevation would comprise windows set in the style of equine stables with more traditional residential style windows within the other elevations with two sets of French style windows within the rear (southern) elevation.
- 3.1.3 Vehicle access would be shared with the existing access to the agricultural buildings and would lead to both the proposed dwelling and the existing buildings.
- 3.1.4 The site is outside of the settlement boundary of Tolleshunt Knights.

3.2 Conclusion

- 3.2.1 The land has been subject to four previous applications for residential development in similar locations, with two being dismissed at appeal. Whilst it is acknowledged that the current proposal has located the dwelling on the site of an existing agricultural outbuilding, the resultant harm to the landscape character and lack of compliance with the three dimensions of sustainability, which need to be considered conjointly, would result in conflict with the development plan policies as well as with the Framework and contrary to the criterion of approved policies S1, S8, D1 and H4 of the approved LDP and the provision and guidance as 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, 49 and 59

4.2 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 Built Environment
- D3 Conservation and Heritage Assets
- 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)
- Essex Design Guide
- Car Parking Standards
- Maldon District Design Guide (2017)

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) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).
- 5.1.2 The site is located within the rural area outside the development boundary Tolleshunt Knights and approved policies S1 and S8 of the Local Development Plan (LDP) provide the strategic position for the future growth and direction of travel of the built environment for the Maldon District. The approved plan and specifically the strategic policies seek to deliver residential growth whilst contributing to protecting and enhancing the District's natural, built and historic environment.
- 5.1.3 The NPPF is also clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three key dimensions that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental roles. This requirement is carried through to local policies via policy S1 of the approved LDP which emphasises the need for sustainable development.
- 5.1.4 Furthermore, the Maldon District, outside of the defined settlement boundaries is predominantly rural in nature and the provision of a detached dwelling on the site would urbanize it to the detriment of the character of the area. This is discussed further in a subsequent section of this report.
- 5.1.5 It is also noted that since previous applications for residential development on this land, the Local Planning Authority (LPA) is in receipt of the Secretary of State's determination and approval of the District's Local Development. The Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified need.

- 5.1.6 It is noted that the previous appeals deemed the site sustainable in terms of travel and distance to community support services and facilities.

5.2 Relevant Planning History

- 5.2.1 The site has been subject to previous applications for development of the site for a residential dwelling. The previous application, FUL/MAL/17/00777 was refused by the Council for the following reasons:

The proposed development, as a result of its design, siting, and location on an open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as contained within the National Planning Policy Framework.

- 5.2.2 The current application, which represents the same development, in the same location, together with the same Planning Statement has been submitted by the applicant. However a covering letter with the submission states that the applicant considers that there are “significant inaccuracies” within the Council’s consideration of the application site and that secondly, the failure to provide adequate and appropriate consideration of the earlier appeal decision issued in December 2016. The covering letter continues by stating that rather than lodge an appeal against the decision, the “opportunity” is provided for the Council to reconsider its position.
- 5.2.3 Therefore, the assessment for this current application will follow a similar process as for all applications, including the preceding application, which addresses local, and national policy criterion and all relevant material considerations. It will then be followed by a separate section addressing the concerns of the agent and the Council’s response to the legitimacy of those concerns.

5.3 Housing Need

- 5.3.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two bedroom units to create better housing offer and address the increasing need for smaller properties due to demographic and household formation change. The Council will therefore support, by way of approved policy H2 a greater proportion of smaller units to meet the identified needs and demands for such housing.
- 5.3.2 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 50. The proposals contribution, to the District’s identified housing need, which is a single storey property but which includes three bedrooms, is therefore so limited that its benefits can only be categorized as very minimal in this instance.

5.4 Design and Impact on the Character of the Area

- 5.4.1 The NPPF is unequivocal in stating the importance of high quality and inclusive design both for individual buildings and within public spaces. Design should establish a strong sense of place to create attractive places to live.
- 5.4.2 Approved policy D1 also states that development must respect and enhance the character and local context and make a positive contribution in terms of:
- Architectural style, including materials, design features and innovative design
 - Scale, height, massing and proportion
 - Landscape setting
 - Historic environment particularly in relation to designated assets and:
 - The natural environment
- 5.4.3 Paragraph 55 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” and that “Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as, amongst others; 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”.
- 5.4.4 Similar support for high quality design and the appropriate layout scale and detailing of the development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.4.5 Due to the Secretary of States determination of the LDP and its policies on 21st July 2017, full consideration must now be given to those policies contained therein.
- 5.4.6 The proposal would result in a detached three bed dwelling directly adjacent to, and on the site of, one existing agricultural building.
- 5.4.7 Whilst it is acknowledged that the proposal differs from the previously dismissed appeal, the current submission would result in a domestic structure in this location with domestic curtilage and inherent domestic paraphernalia. Therefore it is considered to be similar in nature.
- 5.4.8 A previous submission (FUL/MAL/15/01300) proposed a dwelling adjacent to the existing buildings with the domestic curtilage extending south and east of the site and whilst it is recognised that the current submission would replace an existing agricultural building, that structure is seen as part of the holding in this location and which currently backs onto the open field. The provision of a similar structure, whilst it terms of scale and bulk would be analogous to the former building on the site, the provision of domestic style openings and a private amenity space, which would significantly protrude into the adjacent field, would result in domestication and visual intrusion of this part of the rural District.

5.4.9 For the previous appeal, the Inspector considered that the proposed bungalow, whilst smaller than the previous appeal to that, still did not agree with the appellant in that case on the grounds that in terms of impact of encroaching into the surrounding open landscape it could not be made acceptable and that the dwelling would not assimilate well in the predominantly open surrounding. Albeit the current proposed dwelling would be on the siting of an existing agricultural building, the projection of private amenity space into the rural landscape would result in the erosion of landscape character. The recently adopted Maldon District Design Guide (2017), impresses the requirement for quality private outdoor amenity space for dwellings. This space should function as a private sitting out area, play area and be somewhere to hang out laundry. Although soft boundary treatments could be required by a planning condition, the protrusion of a wholly domestic parcel of land into the current open field would still be evident.

5.4.10 Whilst it is accepted that the dwelling proposed in this scheme would replace and be similar to that of an existing agricultural building, the siting of a dwelling, its expanse of domestic curtilage and inherent domestication of the site are not considered to have overcome previous reasons for refusal. Furthermore, the previous appeal Inspector opined that:

“nor would the proposed screening of the site constitute exceptional justification of the development. The argument that a dwelling would be out of public view for this reason would not be compelling in principle. Not only would it take a long time for screen planting to have any beneficial effect, but it is an argument that could be repeated all too often in the overall detriment of the character and appearance of the countryside”

5.4.11 In this respect of encroachment and visual impact in the rural area there is considered to be minimal difference between the two schemes and no compelling reason for the LPA to come to a different conclusion in this case.

5.4.12 Whilst it is acknowledged that both previous appeal Inspectors considered that in terms of access to community support facilities and services, the previous proposals were sustainable, the question of sustainability in terms of its definition within the Framework and its core values of protecting the rural countryside, combined with the recently approved policies by the Secretary of State, cannot lead to a different conclusion.

5.4.13 Therefore, given the material harm to the character and appearance of the area, the proposal would significantly harm the site and result in detrimental impact upon the character and appearance of the area contrary to policies S1, S8, D1 and H4 of the LDP, the guidance and provisions as contained within the NPPF and the adopted Maldon District Design Guide.

5.5 Effect on amenity of neighbouring occupiers

5.5.1 Policies D1 and H4 require consideration of the effect of development on neighbouring amenity and safety. Due to the degree of separation from the nearest adjacent properties to the east, it is considered that there would be limited loss of amenity to occupiers of those properties. Ground floor fenestration only is proposed

within the south eastern side elevation. There are no further dwellings within the vicinity of the site which would be impacted upon.

- 5.5.2 The scheme is therefore considered to accord with the criteria of policies D1 and H4 of the submitted LDP. The guidance and provision as contained within the NPPF and the guidance as contained within the Essex Design Guide which is an adopted Supplementary Planning Document.

5.6 Access, Parking and Highway Safety

- 5.6.1 The Maldon District Council Supplementary Planning Document, Vehicle Parking Standards, states that residential dwellings comprising two/three bedrooms or more require a maximum of 2 spaces. Such provision could adequately be accommodated within the site.
- 5.6.2 Essex County Council Highway Authority has been formally consulted on the application in terms of highway safety and there is no objection to the proposal subject to conditions for the parking area to be laid out and retained, driveway surface materials and cycle parking on site. Such conditions are considered appropriate and necessary in this instance and can be appended to any subsequent grant of permission.

5.7 Private Amenity Space and Landscaping

- 5.7.1 The Essex Design Guide requires that two bedroom dwellings have a minimum of 50m² of private garden space rising to 100m² for three bedroom dwellings. Such a provision would be met in this instance. This is supported by Section C07 of the Maldon District Design Guide (2017).
- 5.7.2 Whilst the submission shows an indicative hard and soft landscaping scheme it is not considered to adequately address this element. Conditions for landscaping details could be appended to any grant of permission.
- 5.7.3 In this respect the scheme is considered to accord with policies D1 and H4 of the LDP.

5.8 Other Considerations

- 5.8.1 The Council's Environmental Health Service has been consulted and there is no objection to the scheme subject to conditions for surface and foul water drainage scheme to be submitted prior to commencement and informatives in the event that land contamination is found, refuse and recycling, construction consideration and an asbestos survey. This accords with their response from the previous application which was deemed acceptable for this element of the scheme.
- 5.8.2 Therefore it is considered appropriate that similar conditions and informatives are appended to any grant of permission forthcoming from this recommendation.
- 5.8.3 However, concern was raised by that service in relation to the proximity of the proposed dwelling to the stables and the possibility that either piece of land could be sold separately. This could lead to potential future occupiers complaining of noise, odours and detrimental impact from the adjacent use. No impact assessment has been

submitted to quantify or suggest control. It is recommended that a further condition is appended to require the two land uses to be tied and retained in the same ownership. However such a condition is not deemed to meet the six tests for conditions as referenced in paragraphs 5 to 26 of the Planning Practice Guidance and referred to in paragraphs 203 and 206 of the Framework.

- 5.8.4 As advised in a previous section of this report, an evaluation of the applicant's comments with regard to the assessment of the submission undertaken by the local planning authority in reference to the previous application will be undertaken.
- 5.8.5 The initial point that the applicant contends is that the Decision Notice is "wholly incorrect", as the reason for refusal refers to the site being an open parcel of land. As the applicant is aware, the previous Officer assessment repeatedly references the existing building, its replacement and its relationship to the existing structures. However, the development also includes a private amenity space which protrudes beyond the building line of the existing buildings out into the open agricultural land. As development as defined within planning legislation also includes change of use of land, which in this instance would include the private amenity space and its inherent boundary treatment, it is not considered that this description is incorrect.
- 5.8.6 Secondly, the applicant states that the notated photographs supporting the Officer report compound the inaccuracies. However, the photographs as taken define the site, its proposed amenity space, adjacent buildings, vehicle access from the highway and the wider rural area in which the site is located. These supporting images clearly demonstrate that a full site visit was undertaken at the time of that assessment.
- 5.8.7 However, to ensure that a full and thorough assessment has been undertaken for the proposal subject of this proposal, albeit the same plans and proposals have been submitted to the local planning authority, a full site visit was undertaken again with photographic evidence. This was carried out with the applicants present on the site.
- 5.8.8 It was noted that the agricultural and stable buildings contained limited agricultural equipment and were being utilized for storage and parking of commercial and domestic vehicles, vehicle maintenance and general storage. Photographs to this effect were taken at that time. Furthermore it is noted that the submission states that the buildings are stables and are in equine use. No horses were present at the time of the site visit with very limited evidence that the buildings were being utilized as such. Furthermore, the applicants verbally confirmed in the course of the site visit that the buildings and land were being utilized in connection with a vehicle operator's licence from the premises. Investigation into this has confirmed this position.
- 5.8.9 As these issues have only recently come to light in the course of the investigation of the proposal, it is considered prudent that a condition for the submission of noise assessment and mitigation on potential future occupiers is appended to any grant of permission.
- 5.8.10 Notwithstanding this, it is considered that the proposal as submitted and the comments made in the supporting information do not change the stance made by the local planning authority which has assessed the proposal in accordance with local and national government guidance.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/13/00875** – Erection of four bedroom dwelling with associated cart lodge. Refused 06 December 2013.
- **FUL/MAL/14/00747** – Erection of a detached four bedroom family house with an open cartlodge. Refused 04 November 2014.
Appeal Ref: APP/X1545/W/15/3023012. Dismissed 16 October 2015.
- **FUL/MAL/15/01300** - Erection of detached bungalow with associated parking, landscaping and ancillary works. Refused 11 April 2016
Appeal Ref: APP/X1545/W/16/3155729. Dismissed 01 December 2016.
- **FUL/MAL/17/00777** - Demolition of stable block and erection of detached bungalow with associated parking
Refused 05 October 2017

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tolleshunt Knights Parish Council	Support	The comments of the Parish Council are noted

7.2 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health Service	No Objection subject to relevant conditions.	The comments of the EHO are noted in Section 5.8.

7.3 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection. Subject to conditions for, no unbound driveway material, parking layout to be as shown and cycle storage	The comments of the Highway Authority are Noted

7.4 Representations received from Interested Parties

- 7.4.1 Letters were received supporting the application from the following and the reasons for objection are summarized as set out in the table below

- Mr. & Mrs. H Belcher, 37 D'Arcy Road, Tolleshunt Knights, CO5 0RR

Supporting Comments	Officer Response
0	The comments supporters have been noted and addressed within the report

7.4.2 Letters were received commenting on the application from the following and the reasons for comment are summarized as set out in the table below

- Mr. & Mrs. Thorn, 35 D'Arcy Road, Tolleshunt Knights, CO5 0RR

Supporting Comments	Officer Response
Concern with regard to the business use of the site and trucks leaving the site at antisocial hours. No concern with the development	The comments have been noted and addressed within the report

8. **REASONS FOR REFUSAL**

1. The proposed development, as a result of its design, siting, and location on an open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as contained within the National Planning Policy Framework.