

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	BO'B	11.01.2022
Planning Development Manager authorisation:	JJ	11/01/2022
Admin checks / despatch completed	ER	12.01.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	12.01.2022

Application: 21/01858/FUL **Town / Parish:** Great Oakley Parish Council

Applicant: Mr and Mrs Cooper

Address: Bramble Farm Colchester Road Great Oakley

Development: Proposed detached building for vehicle and farm machinery and store for apicultural purposes.

1. Parish Council

Great Oakley Parish Council made no response.

2. Consultation Responses

No consultations made

3. Planning History

15/00912/FUL	Proposed open-fronted barn and access track and retention of parking area for agricultural purposes.	Approved	04.08.2015
18/01560/COUNOT	Conversion of agricultural barn in to a residential dwelling.	Determination	06.11.2018
19/00603/FUL	Replacement of an agricultural barn with a one bed dwelling (in lieu of Prior Approval for a dwelling subject of application 18/01560/COUNOT).	Approved	07.10.2019
20/00574/FUL	Replacement of an agricultural barn with dwelling - variation to design of dwelling as approved under planning permission 19/00603/FUL.	Approved	11.08.2020
21/01858/FUL	Proposed detached building for vehicle and farm machinery and store for apicultural purposes.	Current	

4. Relevant Policies / Government Guidance

National:

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN1 Landscape Character

EN16 Agricultural and Related Development

COM23 General Pollution

TR1A Development Affecting Highways

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Section 1 (adopted)

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

Section 2 (emerging)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PP13 The Rural Economy

PPL3 The Rural Landscape

CP1 Sustainable Transport and Accessibility

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more

strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, under certain circumstances the level of weight to be afforded to the policies in the 2007 Plan may be reduced given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

5. Officer Appraisal

Site Description

The application site is located on the northern side of Colchester Road in a rural location within the parish of Great Oakley. The land was once used in conjunction with Frith Farm which is located on the opposite side (south) of Colchester Road.

At the entrance into the site is a hard surfaced area. The hard surfaced access track was granted planning permission in 2015 (for agricultural purposes) under LPA Ref: 15/00912/FUL.

There are a number of buildings on the identified application site, only some of which are shown within the red line boundary on the submitted site plan. One is a substantial open-fronted barn, approved as part of LPA Ref: 15/00912/FUL; however this building is not identified on the submitted plans. There is a stable block, and one other small, pre-fabricated building, the purpose of which is unclear. There is a single storey former agricultural building, once described as being redundant in relation to a previous prior approval application at the site (LPA Ref: 18/01560/COUNOT). This building is due to be demolished or removed (upon occupation of the new dwellinghouse) under a condition of a previous planning application (LPA Ref: 20/00574/FUL) wherein a dwellinghouse to replace the building was approved. These matters are discussed in further detail.

The site lies outside of the settlement development boundary for the area as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 and is therefore within the countryside.

Proposal

The proposed development is for that of a detached building for use, as put forward by the Applicant (in a supporting statement) as (summarised) (the storage of) 'vehicle and farm machinery and store for apicultural purposes'.

Assessment

Main Issues to consider:

Principle of Development
Planning History

Impacts on the Character and Appearance of the Countryside
Use of Land and Impacts on Residential Amenity
Access and Highways/Parking

Principle of Development

The National Planning Policy Framework (NPPF, 2021) states at paragraph 84 (b) that planning decisions should enable the development of agricultural and other land-based rural businesses.

The application site lies within the countryside, outside of any designated settlement boundary. However, the section of land upon which the building is proposed, was granted residential status by way of planning application LPA Ref: 20/00574/FUL wherein permission was granted for a dwellinghouse within a red line boundary that is different from that of the current application.

Therefore, regardless of the submitted red line plan, the permission for the new dwellinghouse has clearly commenced and the status of that part of the application site is that of residential curtilage within the countryside. Whilst the principle of developing agricultural land for the purposes of farming or farm diversification is accepted and supported, the principle of the application to construct an agricultural/commercial building on residential land is not accepted and is subject to policy considerations which will consider the status of the land.

Planning History

As alluded to above, the site has been increasingly and significantly developed over the past decade, by way of various outbuildings, barns and more recently, a new dwellinghouse.

Aerial photographs dated between 1999 and 2009 show the site to be undeveloped agricultural land. It is not until 2009 that aerial images show the existing stable block and the pre-fabricated building on the site, reached by an unmade track. There appears to be no granted planning permission for these structures, however, as ten years has passed since 2009, it is considered that these buildings are exempt from any enforcement action.

By 2013, a further building, described as a barn, was added towards the north of the site. This structure was used to gain a residential dwelling by way of an approved prior approval application 18/01560/COUNOT. However, there appears to be no planning permission associated with the building. It is due to be demolished by way of the requirements of condition 3 of approved planning application 20/00574/FUL, although this requirement (of the building to be demolished) is not annotated / indicated on any of the submitted plans.

It is noted that some of the developments on the site were subject to enforcement scrutiny, but it appears no follow-up action was taken.

In 2015 a substantial open-fronted barn with access from the highway and a parking area was approved, within a red line boundary under which the current application is proposed (LPA Ref: 15/00912/FUL).

In 2018, LPA Ref: 18/01560/COUNOT was approved, the redline boundary showing a substantial curtilage and access to the main highway.

Subsequently, a replacement dwelling was approved (19/00603/FUL), in lieu of the approved application 18/01560/COUNOT. The dwelling was proposed to be placed close to the existing barn and increased in scale. This more recent application was submitted (and approved) within a red line boundary that covered a small section of the land to the north of the land relating to Bramble Farm.

Similarly, a further application was submitted to the Council and approved on the same 'red lined' site as LPA Ref: 19/00603/FUL. The application, (LPA Ref: 20/00574/FUL), further increased the scale of the proposed dwellinghouse and included condition 3 to remove the existing barn, prior to occupation of the dwellinghouse.

Both applications 19/00603/FUL and 20/00574/FUL included a red lined site which separated the residential application site from land that was the subject of previously approved applications on

the site (i.e. 15/00912/FUL and 18/01560/COUNOT). Notwithstanding that both approved applications show no access route from the highway, and are therefore essentially land-locked and possibly unable to be implemented, it is considered that the granted planning permission and construction of a dwellinghouse on the site change the character, appearance and use of the land to residential, rather than agricultural, use.

Therefore, it is important to note the discrepancy between the approved residential use and the location of the proposed building and the submitted red line plan for this current application. The submitted red line plan would bring the residential site into a mixed-use site with other agricultural buildings to the south of the residential site.

Furthermore, the submitted red line plan shows a building to be demolished as part of a previous planning application. The demolition of the building would further demonstrate the residential character of the site and as mentioned above, the submitted plan is not annotated to state that the building is to be demolished.

The barn as approved under planning application LPA Ref: 15/00912/FUL is not shown on any plans.

Whilst it is possible to assess the current application on the basis of the submitted plans, aerial photography and a site visit, there are clearly significant inaccuracies on the submitted plans. i

Impacts on the Character and Appearance of the Countryside.

The site is set in a location outside of any defined settlement boundary and is therefore designated as being within the countryside. Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should recognise the intrinsic character and beauty of the countryside.

This tenet is reflected in saved policy EN1 and emerging policy PPL3, which state that any planning application will be refused if harm is caused to the overriding character and appearance of the rural landscape.

Paragraph 130 of the NPPF states that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.

Saved Policy QL11 of the adopted Tendring District Local Plan (2007) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.

Since 2009, the land has undergone significant development. Land which was, until relatively recently, open agricultural farmland has now taken the shape of a residential site towards its northern boundary and agricultural use, including a number of agricultural buildings (as outlined above) to its south western side, along with a hardstanding and parking area.

The site of the proposed building falls within a previously, and most recently approved residential site (a residential development which has clearly commenced) and would be adjacent to a one and a half storey dwelling house. The proposed building is in itself substantial and of a scale that would be clearly visible across open land from the main highway to the south and from the highway that runs close to the site's western boundary.

It is considered that the scale of the proposed building along with the recently constructed dwellinghouse and the proliferation of nearby associated buildings would create a damaging cumulative effect on the character and appearance of the rural area and a further harmful incursion into the countryside and the surrounding landscape.

Therefore, the proposed development is contrary to the requirements of saved policies QL11 and EN1, emerging policies PPL3 and SPL3 and paragraphs 174 and 130 of the National Planning Policy Framework (2021).

Use of Land and Impacts on Residential Amenity

Paragraph 130 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Policy QL11 of the adopted Tendring District Local Plan (2007) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.

The description of development as put forward by the applicant is for: *Proposed detached building for vehicle and farm machinery and store for apicultural purposes*. The application is for a relatively large building to be used for the above purposes within a residential curtilage. As set out in the sections above, there is a collection of other outbuildings and barns in the immediate vicinity and indeed on the 'red line' site plan as submitted. Notwithstanding that the agent has stated that there would be some parking provision for domestic vehicles within the proposed building, it is also stated that the first floor of the building would be required for business use in conjunction with an apiary operation that produces 100 lbs of honey per year and includes a smoker, hive tools, protective clothing and cleansing equipment. Furthermore, the building is stated to be required for farm vehicle and farm 'equipment'.

The proposed level of use of the building as put forward by the applicant are clearly not for purposes that are related to residential accommodation or ancillary residential uses and not incidental to the enjoyment of the dwellinghouse.

Little information is provided about the bee-keeping business. The intensity of the use of the building in relation to its commercial and storage activities is unknown, however on balance and having regard to the location, it is considered unlikely that the use of the building would result in a harmful impact on the living conditions of the occupiers of the dwellinghouse by way of noise and disturbance and possibly odours.

Therefore, on balance it is considered that the proposed development would not be in clear conflict with saved policy QL11, emerging policy SPL3 and paragraph 130 of the NPPF (2021).

Conclusion

The proposed development is for a building located within a previously approved residential curtilage which contains a dwellinghouse, constructed but yet to be occupied. Notwithstanding the imminent removal of one building on the site, it is considered that the cumulative effect of the proposed building along with other nearby associated buildings would cause harm to the character and appearance of the rural area.

As such the proposal is contrary to saved policies QL11 and EN1, emerging policies PPL3 and SPL3 and paragraphs 174 and 130 of the National Planning Policy Framework (2021).

6. Recommendation

Refusal – Full

7. Reasons for Refusal

1. The proposed development, along with the recently constructed dwellinghouse and the proliferation of nearby associated buildings would create a damaging cumulative effect on the character and appearance of the rural site and a harmful incursion into the countryside and the surrounding landscape, contrary to saved policies QL11 and EN1, emerging policies PPL3 and SPL3 and paragraphs 174 and 130 of the National Planning Policy Framework (2021).

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO