

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	26.09.2022
Planning Development Manager authorisation:	JJ	26/09/2022
Admin checks / despatch completed	CC	26.09.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC/AP	26.09.2022

Application: 21/00715/FUL **Town / Parish:** Elmstead Market Parish Council
Applicant: Mr Ely - Ely's Turf Topsoil
Address: Brook Farm Bromley Road Elmstead
Development: Erection of new agricultural store

1. Town / Parish Council

Not commented.

2. Consultation Responses (Summarised)

ECC Highways Dept
25.06.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority together with a site visit. The site is situated on a stretch of Bromley Road that is subject to a de-restricted speed limit. It is noted that the application is similar to a previous application for this site, 12/00311/FUL that was refused. The existing field access proposed to serve the agricultural store has an established hedge to the east of the access that restricts the verge to less than 1 metre. The width of Bromley Road at this point is in excess of 7 metres and appears to generate fast vehicle speeds on both approaches to the site.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority with regard to adequate visibility splays and the intensification of the access. (Officer note: Discussed further in the main body of the report).

Environmental Protection
27.05.2022

Concerns are raised that the movements on the site will have a detrimental impact on the residential dwelling. Limited information has been submitted in relation to the proposed accessibility of the unit, e.g.: vehicular movements, proposed times of use etc. and given its proximity, and the historic planning applications, subsequently refused in relation to the proposed siting, it is unlikely the relocation of the unit is an option.

A noise risk assessment is recommended, in order to evidence how the applicant intends to minimise any potential disturbance as a result of the proposed activities and to understand what equipment will be used, when it will be moved, and how it will be moved – evidencing methods of minimisation of disturbance.

However given the proposed location of the unit, concerns remain that even with operational modifications (e.g.: hours of access etc.), there is potential for disturbance and loss of amenity at the existing residential dwelling.

Building Control Officer
17.05.2021

No comment.

Tree & Landscape Officer
18.05.2021

The application site is currently in agricultural use and appears to be being used for the cultivation of turf.

No trees or other significant vegetation will be affected by the development proposal.

The applicant has submitted details of soft landscaping that will, to a degree, screen the proposed building.

Should planning permission be likely to be granted then a condition should be attached to secure further soft landscaping details relating to the species, specification and quantity of plants used in the scheme

3. Planning History

05/00174/FUL	Barn - to accommodate tractors and storage	Refused	18.03.2005
06/01071/FUL	New barn for storage of equipment.	Refused	04.10.2006
12/00128/AGRIC	Proposed agricultural store.	Not PD	02.03.2012
12/00311/FUL	Proposed agricultural store.	Refused	26.06.2012
12/01372/FUL	Proposed agricultural store.	Refused (Appeal dismissed 18/02/2014)	11.07.2013

4. Relevant Policies / Government Guidance

The following Local and National Planning Policies are most relevant to this planning application:

National Planning Policy Framework July 2021 (the Framework)
National Planning Practice Guidance (PPG)

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development
SP5 Employment
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PP13 The Rural Economy
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network

Supplementary Planning Guidance:

Essex County Council Development Management Policies 2011
Essex County Council Parking Standards Design and Good Practice Guide 2009

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

5. Officer Appraisal

The Site

The application site comprises of a large open field located on the south side of Bromley Road, Elmstead. The site has three existing access points onto Bromley Road and is partly enclosed by hedging. The west of the site is bordered by the residential dwelling Rimington Lodge, with Mill Farm Campsite to the east. The surrounding area is rural in nature and the site is bordered by open land to the north and south.

Background Planning History

A number of applications dating back to 2005, proposing a storage building to serve the applicant's turfing business have historically been refused planning permission, the last of which was dismissed on appeal (in 2014) as set out in the planning history section above.

Application reference 05/00174/FUL proposed a storage building located centrally within the site. The application was refused as harmful to the landscape character, it was not considered to be reasonably necessary in terms of agriculture and would result in the loss of high quality agricultural land.

06/01071/FUL was submitted for an amended design of the storage building in the same location and of a similar size and scale. The application was refused due to harm to the landscape character and the countryside, because it was not considered to be reasonably necessary and due to the loss of high quality agricultural land.

An application was then made to seek the prior approval of the Council for the erection of an agricultural store (12/00128/AGRIC). This was withdrawn because the proposal did not meet one of the conditions of being permitted development (the agricultural unit being less than 5ha).

A subsequent application was submitted, 12/00311/FUL for a building measuring 18m x 9m, 4m to the ridge and 3.3m to the eaves in the same central location. This was refused planning permission as being harmful to the visual amenity of the area and local landscape character. In addition, the same concerns were expressed over whether or not the building was reasonably necessary. Application 12/01372/FUL was subsequently submitted with a slightly smaller building, 12m x 8m, in the same central location and this application was also refused for the same reasons and this application was also dismissed on appeal (APP/P1560/A/13/2204154).

The Inspector for the above mentioned appeal was satisfied that it would be reasonable to provide for some form of building for shelter and storage of materials and equipment, and for the efficient running of the agricultural operation. However, they were not convinced from the evidence provided, that the scale of structure proposed was reasonably necessary for the purposes of agriculture. The inspector also found harm to the open and undeveloped character of the landscape and the appeal was dismissed.

The Proposal

The application seeks planning permission to erect a detached agricultural storage building within the south western corner of the site, utilising the existing access running along the shared boundary with Rimington Lodge. The access track and building is to be bordered by new hedging.

The building would measure approximately 15m x 10m in footprint with an eaves height of some 2.8m and a ridge height of 5m.

The building is stated to be required for the storage of vehicles and machinery used by the applicant in their turf business – Ely's Turf Topsoil. In the submitted design and access statement a list of machinery is included along with the space required to store the item.

- Orbit Air Seeder - 3.2m X 2.0m
- Stone Barrier - 3.2m X 2.4m
- Irrigation Pump - 2.0m X 4.0m
- Irrigator - 2.0m X 4.0m
- Grass Mowers - 3.0m X 4.0m
- Fertiliser Spreader - 2.5m X 2.7m
- Grass Harrows - 3.0m X 2.0m
- Hardi Sprayer - 2.7m X 2.0m
- Ford Tractor - 2.5m X 4.0m
- Turf Harvester - 2.8m X 4.3m
- Workbench - 1.4m X 2.0m
- Fertiliser seed chemicals - 3.0m X 3.0m

Assessment

Principle of Development

The NPPF seeks to support a prosperous rural economy. Paragraph 84 states that planning policies and decisions should enable (amongst others), the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.

Policy PP13 seeks to support growth in the rural economy and therefore certain types of development may be permitted in the countryside, outside of defined settlement development boundaries (SBD) such as buildings that are essential to support agricultural, aquaculture, horticulture and forestry and farm diversification schemes.

The proposed development is for an agricultural building in the countryside, outside of any defined SDB of which there is high level policy support for as outlined above, subject to the building deemed to be essential to support agriculture etc. It is acknowledged that the Inspector in Appeal APP/P1560/A/13/2204154 accepted that there was a need for some form of building on the site, which would be consistent with the need to support rural business, but also needed to consider the objectives behind the then adopted Policy EN16 (now replaced with policies SP7, SPL3, and in the context of the application, PPL3) which sought to minimise the impact upon the landscape.

Therefore, at a high level, the principle of an agricultural building on the site has policy support subject to the building deemed to be essential to support agriculture etc. (covered below).

The other remaining key and most important issues to be considered are:

1. Whether the proposed agricultural store is essential to support agriculture
2. The effect of the proposal on the character and appearance of the landscape.
3. Impact on residential amenity
4. Highways Impacts

Whether the proposed agricultural store is essential to support agriculture.

The 2012 application was considered under Policy EN16 from the now superseded 2007 Local Plan and Policy PP13 is now the relevant adopted policy and maintains its support for growth within the rural economy and seeks to grant permission for buildings which are considered to be essential to support agricultural. This is consistent with principles and guidance within the NPPF, paragraph 84 which seeks to support a prosperous rural economy by enabling the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing

buildings and well-designed new buildings however the NPPF recognises the need to ensure that development is sensitive to its surroundings.

The proposed building is some 30sqm (15m x 10m) larger than the previously refused scheme (12m x 8m + 3m x 5m) under the 2012 application and is also increased in height by 1m. This new proposal is located in a different position within the site, to the back south western corner of the site.

Given the long planning history associated with this site, the previous reasons for refusal and the dismissed appeal in 2014, very little appears to have changed with regard to this new application. It is not unreasonable to expect a business to grow over a period of 10 years, however the evidence to support the requirement for the proposed building still remains scant. No information has been submitted with this new application to justify the size of the building, to show the growth of the business over the past 10+ years. No details are provided as to where the machinery and equipment is stored currently, nor details of security or current insurance arrangements and the reason as to why this is now no longer feasible. Given that this has been the case since 2005, when the first application for a building on this site was submitted, this information is considered to be fundamental to the application. Furthermore no details are provided of any incidents of theft/vandalism that has occurred in the interim 10 years+.

This was the case in the 2014 appeal decision, whereby the Inspector noted that the business on the land had been established some 14 years ago (now 22 years) and appeared at the time, to be the main location for the turfing operation. It was also noted that in 2012 the building was required to house a soon to be purchased turf harvester. Whilst this is listed in the equipment above, the submitted Design and Access statement paragraph 4.5 under the Justification heading states that this is still to be purchased, which calls into question whether there is in fact a genuine need for such a piece of equipment considering the business has been operating for some 22 years. Therefore the case put forward by the applicant that this building is needed for the storage of such equipment for protection and security reasons, is unfounded given the time between the previous application and this new one of some 10 years later.

Whilst the Inspector concluded that it was not unreasonable to provide for some form of building on the site to accommodate not only the day to day needs of the business, in terms of shelter and storage of materials and equipment, but to allow for the efficient running of the agricultural operation and thus supporting the rural business, the business has continued to operate for an additional 10 years without such a building on the site. Therefore an alternative conclusion to that formed by the Inspector in 2014 cannot be reached and it remains, in the absence of any evidence to the contrary and the period of time that has elapsed since the 2012 application and appeal dismissal in 2014, the opinion of the officer that the size of the building proposed is way in excess of what would considered to be essential to support agriculture, in terms of the operation of the turfing business. The proposal therefore conflicts with policy PP13 (d).

Landscape Character and Appearance

Amongst other things, Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

The adopted Local Plan, states that as a largely rural area, Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services.

The application site is located within the 7A 'Bromley Heaths' Landscape Character Area. The Bromley Heaths is an elevated plateau that extends from Colchester to Wix in the east and Thorrington in the south. One of its key characteristics is of large scale productive arable fields, divided by low, gappy hedgerows, where hedgerow Oaks stand out against the skyline.

The adopted Local Plan, requires new development proposals within the rural landscape should have regard to the LCA (and any subsequent updates) and protect and re-inforce historic landscape features and important characteristics identified within it.

Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features and that the design and layout of new development maintains or enhances important existing site features of landscape value. These sentiments are also the main thrust of Policy PPL3 which strives to protect the rural landscape.

All previous proposals for a storage building within the application site have been refused planning permission. These refusals were based, in the main over concerns of the effect of the proposal on the landscape and the character and appearance of the area. The proposed building whilst of a similar size and scale of those previously refused, is sited in a different part of the site, the south western corner, which is border by established hedging along the shared boundary with the neighbouring residential property and a number of agricultural buildings and a car sales depot which fronts Clacton Road (A133), which are visible in views across the application site from Bromley Road.

The proposed building has a barn like external appearance, with black timber cladding, a red brick plinth and natural red clay tiles, however this is considered to give the proposed building a very substantial form, particularly given its size and scale and would form an extremely prominent, incongruous and visible addition within this sensitive landscape location.

Whilst the proposed building is considered to be well designed and of a high standard, it is considered to be significantly over and above that which is reasonably required for the purpose proposed, storing plant and machinery and out of character with the wider landscape, therefore resulting in conflict with policies SP7, SPL3 and PPL3

In the appeal decision APP/P1560/A/13/2204154, the Inspector found that the central location of the proposed building would result in the building being the only built form in the open landscape and would be clearly visible when travelling along Bromley Road in both directions and took the view that the siting of a building of the proposed size in such an open setting would adversely affect the open and undeveloped character of the landscape.

It is considered that despite the objections to the design and appearance, along with the size and scale of the proposed building, this location, set well back from Bromley Road and in the far corner of the site, would be a more suitable location for a building as it would relate more appropriately to its setting being seen as part of the surrounding residential buildings and agricultural buildings to the rear and in terms of location only is considered to have overcome some of the Inspector's and officers objections to the more central open location as previously proposed.

Highways and Parking Impacts

Paragraph 111 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

Policy SP7 requires all new development includes parking facilities that are well integrated as part of the overall design. Policy CP1 states that proposals for new development must be sustainable in terms of transport and accessibility and Policy CP2 seeks the refusal of proposals if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. Policy SPL3, requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to a severe traffic impact and also requires adequate vehicle and cycle parking.

The application site is situated on a stretch of Bromley Road that is subject to a de-restricted speed limit. The existing field access which is to be utilised for the proposed development has an established hedge running along the front boundary to the east of the access that restricts the highway verge with to less than a metre. It is considered by the Highway Authority that given the

width of Bromley Road at the access point is in excess of 7 metres, this would appear to generate fast vehicle speeds on both approaches to the site. Therefore the Highways Authority have raised an objection to the proposal as the information submitted with the application fails to demonstrate that adequate visibility splays can be provided from the proposed access to serve the site in accordance with the speed of the road. The minimum visibility splays required are 2.4 metres x 215 metres in both directions, based on the speed limit on this section of Bromley Road. This lack of certainty could result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

The proposed development would also intensify the use of the existing access onto Bromley Road, which is a main distributor and where visibility, from the proposed site access and forward visibility along Bromley Road, is not considered to be in accordance with current safety standards. The main function of this part of the highway is that of carrying traffic freely and safely between centres of population.

Whilst there is an existing access in this location, which to some degree results in conflict and interference to the passage of through vehicles. It is considered that the intensification of said conflict and interference which this proposal would generate could lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety for all users. The proposal is therefore contrary to policy and fails to deliver a safe access to the site.

The Highway Authority recommend that a speed survey is undertaken in accordance with CA 185 Vehicle Speed Measurement (Design Manual for Roads and Bridges), to establish the 85th percentile speed of the road and provide visibility splays in accordance to the results. Speed surveys should be taken at the extent of the achievable visibility splays. Visibility splays must be achieved within the limits of public highway and/or land in the control of the applicant. However due to the fundamental concerns with the proposal as outlined above, this additional information was not requested from the applicant.

It is considered that the site comprises of adequate parking facilities for the applicant and potential visitors to the site, which are considered to be minimal.

Impact on Residential Amenity

The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The application site is located within a fairly rural location, however the access road to the new development runs parallel with the boundary of Rimington Lodge as a residential property.

The access to the site is existing and the land has been used as part of the turfing business for a number of years, therefore it is considered that there is a degree of noise and disturbance experienced by the occupiers of the neighbouring property and is of the nature that is to be expected adjacent to an area of agricultural land.

Whilst the addition of a building and associated access has the potential to lead to an intensification of vehicle movements within the site, the applicant has stated in the design and access statement that equipment is moved at the beginning and end of the day. It is considered that this is likely to be during day time working hours. Due to the fundamental concerns with the application, further information on the proposed vehicle movements has not been requested. Notwithstanding this, it is considered that with mitigation and a suitable condition, in regard to hours of use etc. that the impact of the development could be made acceptable and would not adversely harm the residential amenity of this neighbouring property to an unacceptable degree.

Conclusion

Whilst there is policy support for the proposal at a high level and in regards to supporting the local economy, the proposed building is over scaled and it has not been demonstrated that the building is essential to support agriculture. Moreover the proposal does not harmonise with the character and overall grain of development in the surrounding countryside and would result in material harm. There are also concerns raised in regard to Highway safety, including safe egress and exit from and to the site and the provision of appropriate visibility splays. Very limited weight is given to the economic benefit of the application in terms of assisting an established business to expand because the application has failed to demonstrate that the building is essential to support agriculture, and the location is deemed to be unsuitable for a building of this nature. Therefore the application is recommended for refusal.

6. Recommendation

Refusal – FULL

7. Reasons for Refusal

1. The proposed agricultural building, by reason of its substantial size, scale and excessive footprint would result in an overly dominant and incongruous building within this sensitive landscape area. The application fails to provide a reasonable justification for the provision of a building of this size or that it is essential to support agriculture, in this instance the continued operation of a turfing business and the length of time the business has been operating. The development is therefore contrary to the objectives of the National Planning Policy Framework (2021) and Policy (Section 1) SP7 and Policies (Section 2) SPL3, PPL3 and PP13 of the Tendring District Local Plan.
2. The proposed use of the existing access and track to the new building would intensify the vehicle movements along Bromley Road, which has a de-restricted speed limit. The applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety and is contrary to guidance within the NPPF and Policies CP1, CP2 and SPL3.

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 discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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

