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## Item No: 7.4

**Application:** 180152

**Applicant:** Mrs Janet Fowler

**Agent:** Mr Robert Pomery

**Proposal:** Erection of single dwelling.

**Location:** Friars Farm, Daisy Green, Eight Ash Green, Colchester

**Ward:** Lexden & Braiswick

**Officer:** Benjy Firth

**Recommendation:** Approval

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee by an elected member on the following basis:

*“The request for the application to be called in is based on the presumption of no development in the countryside in CBC’s planning policy.”*

## **2.0 Synopsis**

- 2.1 The key issue is whether or not a replacement dwelling can be constructed in lieu of a previously approved barn conversion. If this is considered acceptable then the design and layout of the new dwelling are the only considerations.
- 2.2 It is explained that the barn at Friars Farm already benefits from a consent for conversion to residential use under Class Q of the General Permitted Development Order and that the principle of a house has, therefore, been accepted.
- 2.3 It is further explained that your Officers have negotiated with the applicant to achieve a satisfactory design and layout.
- 2.4 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site sits on the south side Daisy Green Road and comprises of an area of agricultural land containing an agricultural barn. The site sits beyond any settlement boundary and as such is classed as being in the open countryside.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks the demolition of the existing barn and the construction of a single dwelling.

## **5.0 Land Use Allocation**

- 5.1 The site is agricultural land beyond the defined settlement boundary and has no other relevant allocation.

## **6.0 Relevant Planning History**

- 6.1 Prior approval application 150456 approved the change of use of barn to residential under Class Q of the permitted development regulations.

- 6.2 Planning application 160588 sought full planning permission for the change of Use of barn to residential use and construction of basement. This application included substantial excavation under and around the barn and was refused by the Council. This decision was upheld by the Planning Inspectorate at appeal as the substantial excavations required would harm the character and appearance of the area. It should be noted that the Inspector also stated there is “no reason to doubt that the approval would be implemented should this appeal fail. I am satisfied in this regard that that consent is a material consideration”.
- 6.3 Planning application 171060 sought full planning permission for the change of use of barn to residential use and construction of basement. This application included less substantial excavations that are primarily limited to under the barn. This application is yet to be determined and discussions during the application have led to the submission of the application the subject of this report.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester’s Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
UR2 - Built Design and Character  
ENV1 - Environment  
ENV2 - Rural Communities

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity  
DP8 Agricultural Development and Diversification  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards

- 7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide  
EPOA Vehicle Parking Standards  
Eight Ash Green Village Design Statement

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

## **9.0 Parish Council Response**

- 9.1 The Parish Council made the following comments:

*The Parish Council has noted the previous application history for this site. This application is for a completely new dwelling on the site and consider that the thoughtful, sympathetic style of the proposed dwelling is very commendable.*

*However, the proposal is to build this new house closer to the road and in front of the existing barn. Therefore if planning permission were to be granted, the Permitted Development rights could still be exercised to convert the existing barn to a dwelling, leading to two residences on this site in the countryside. A precedent could then be set for further development in this area as this proposal only covers a small area of a much larger field.*

*The application is for a proposed new build, outside the village settlement boundary, and contrary to The Parish Councils Approved Village Design Policy DG2. Whereas the existing barn is located towards the rear of the site, the house proposed in this planning application is much closer to the road. It would be very dominant in the street scene because of its height and bulk, particularly with large attached cart lodge. It would be very noticeable from Daisy Green Rd and Turkey Cock Lane, and will have a detrimental impact on the open countryside.*

*For this reason the Parish Council would object to this application.*

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 The Highway Authority confirmed that the proposal is acceptable subject to their recommended conditions.

- 10.3 Two members of the public commented supporting the application based on the improvements to the appearance of the site that the proposal would achieve.
- 10.4 One member of the public made a general observation that the proposal falls within the countryside, is visible from highways surrounding the site and the proposed dwelling shows an increase in height and foot print compared to the existing barn.
- 10.5 One member of the public objected to the proposal on the grounds that the site sits outside the village envelope, any approval would set a precedent that may prompt residential development on the surrounding agricultural land and the impact of the development on the surrounding highway network.

#### **11.0 Parking Provision**

- 11.1 The proposal provides adequate parking provision to the front of the property to comply with policy.

#### **12.0 Open Space Provisions**

- 12.1 n/a

#### **13.0 Air Quality**

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

#### **14.0 Planning Obligations**

- 14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

#### **15.0 Report**

- 15.1 Class Q of the General Permitted Development Order 2015 (as amended) allows for the conversion of agricultural buildings in to dwellinghouses without the need for Planning permission. All an owner needs to do is apply for “Prior Approval” and the Local Planning Authority can only consider issues of highways, contamination and flooding.
- 15.2 The owner of Friars Barn exercised this right in 2015, the Council was not permitted to consider matters such as sustainability and Prior Approval was duly granted. The fact that there is a “live” Approval on the site and that this conversion could now take place is a very serious material consideration which cannot be ignored.

- 15.3 Rather than simply converting the barn, the applicant looked at ways of providing more space and this included a possible cellar extensions. Your Officers refused this application in 2016 and the appeal against this refusal was comprehensively dismissed on the grounds of its appearance.
- 15.4 A resubmitted scheme involving a basement is still under discussion, meanwhile the application at hand has evolved and shows that your Officers have negotiated with the applicant in order to achieve a more desirable outcome at the site. The outcome of these negotiations is the application subject of this report.
- 15.5 It is undeniable that a new dwelling beyond the settlement boundary does not comply with adopted policy. However, planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In accordance with the previous appeal decision at the site the prior approval previously granted to convert the existing barn into a dwelling is a material consideration. In light of the above, it is considered that this proposal could be viewed as a replacement dwelling. On this basis the development proposed is considered acceptable in principle.
- 15.6 It is acknowledged that the size and shape of the application site varies between this application and the previous approval. Within this application the site area has been increased from 1155m<sup>2</sup> to 1530m<sup>2</sup> and plot has been shortened and widened. This, combined with the fact that the proposed dwelling sits closer to the sites entrance, ensures that the majority of amenity space is accommodated to the rear of the site. It is considered that the increase in plot size is minimal, whilst the change in plot shape and position of the dwelling will allow the site to have a more traditional residential appearance.
- 15.7 It is also acknowledged that the size of the proposed dwelling subject of this application is larger than the barn conversion previously approved. The existing barn is 7.2 metres in height, whilst the new dwelling's height would be 10 metres. The existing barn has a footprint of 140m<sup>2</sup>, whilst the proposed dwelling has a footprint of 249m<sup>2</sup>. Despite these increases the floor space within the proposed dwelling (385m<sup>2</sup>) is not significantly larger than the barn conversion approved under Class Q or the scheme with the proposed basement (378m<sup>2</sup>). On balance it is considered that the increase in the scale of development at the site is justified by the improvements in the functionality, design and living standards provided by this proposal.
- 15.8 The increased functionality of the site has already been referred to and is primarily facilitated by the repositioning of the building at the site. This will ensure that the majority of residential activity at the site occurs behind the dwelling and will reduce the impact that the residential use of the site has on the rural character of the area.

- 15.9 The design improvements afforded by this proposal are the most significant benefit of this application. The design of the existing barn at the site is not noteworthy and does not lend itself well to residential conversion. The existing materials at the site are also of poor quality. The proposed dwelling has adopted the design approach of a traditional vernacular barn building and utilised high quality materials. The proposed dwelling is well proportioned and utilises traditional architectural features to ensure the integrity of its appearance as a traditional barn conversion. It is considered that the standard of design of the proposed dwelling would make a better contribution to the rural character of the area.
- 15.10 The isolated location of the site and the proposed dwelling ensure that the proposal would not have any significant impact upon neighbouring amenity.
- 15.11 The proposal would have no significant impact in terms of Highway or arboricultural matters and would provide adequate parking provision and private amenity space.
- 15.12 Concerns were raised by the Parish Council that this proposal may lead to two dwellings at the site. This would not be the case and conditions would be applied to any approval insuring this does not occur.
- 15.13 Concerns have also been raised that this development will set a precedent for residential development in the local vicinity. This is not considered to be an issue as any future proposal would be assessed on its individual merits, as this application will be assessed on its merits.

## **16.0 Conclusion**

- 16.1 To summarise, it is considered that the construction of a dwelling at the site is acceptable in principle, based on the fact that the new dwelling can be considered a replacement for the barn conversion previously approved. This notion is given extra weight within this application due to the design improvements incorporated within this proposal and the resulting enhancements to the future appearance of the site.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

### **1. ZAA - Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

## **2. ZAM - \*Development to Accord With Approved Plans\***

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 6316/1105, 6316/1203 and 6316/1004.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

## **3. ZBC - Materials To Be Agreed**

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

## **4. Z00 - \*Demolition**

Construction of the dwelling hereby approved shall not be commenced until such a time as the existing barn at the site has been demolished and all resulting waste materials have been removed from the site.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

## **5. ZFB - \*Full Landscape Proposals TBA\***

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- ☐ PROPOSED FINISHED LEVELS OR CONTOURS;
- ☐ MEANS OF ENCLOSURE;
- ☐ OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- ☐ HARD SURFACING MATERIALS;
- ☐ MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- ☐ PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- ☐ RETAINED HISTORIC LANDSCAPE FEATURES;
- ☐ PLANTING PLANS;
- ☐ WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);



- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

#### **6. Z00 - \*Vehicle Parking\***

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 6316/1105. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

#### **7. ZDC - Removal of PD for All Residential Extensions & Outbuildings**

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

#### **8. \*ZDE - Removal of PD for Open Plan Fences/Walls\***

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected at the site unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

#### **9. ZDO - Removal of PD for Gardens Extended into the Countryside**

Notwithstanding the provisions of Classes E and F of Part 1 and Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no buildings, enclosures, swimming pools, structures, hard surfaces, oil or gas storage containers, fences, walls, gates or other means of enclosure (other than those shown on the approved drawings) shall be erected on the extended garden area hereby permitted unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to avoid the site acquiring a cluttered appearance in this rural area.

## **18.0 Informatives**

18.1 The following informatives are also recommended:

### **1. ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.