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**Item No:** 7.5

**Application:** 173115

**Applicant:** W Bradshaw & Son

**Agent:** Mrs Natalie Winspear

**Proposal:** Conversion of agricultural barn to swimming pool and changing facilities with associated parking and ancillary works

**Location:** Fletchers Farmhouse, Rams Farm Road, Fordham, Colchester, CO6 3NT

**Ward:** Rural North

**Officer:** Benjy Firth

**Recommendation:** Refusal

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

- 1.1 This application has been called into Planning Committee by Councilor Chillingworth on the following basis:

*The proposal is a farm diversification of an agricultural building, and is seen by the LEADER EU-funded competitive rural scheme as worthy of support and has provisional approval. Unfortunately the scheme is proposed in a building erected fairly recently under PD regulations and may be turned down for that reason. I understand there are circumstances when the Planning Committee could overcome that objection. I ask for the application to be considered by committee as the proposed swimming pool would be of community benefit in this rural area.*

## **2.0 Synopsis**

- 2.1 The key issues for consideration are whether this application provides the evidence base required to justify that the proposed development should be considered acceptable in principle.
- 2.2 Beyond this, it should be considered whether it is evidenced that the development within this application is being proposed in an acceptable manner and preferably in the most appropriate manner for the site.
- 2.3 It is concluded that the development is not acceptable in principle, given that the building was granted Prior Approval so recently; it is also concluded that the proposal is not acceptable in terms of Development Management considerations.
- 2.4 The application is subsequently recommended for refusal.

## **3.0 Site Description and Context**

- 3.1 The application site forms part of a wider agricultural holding of 67 hectares, located to the south east of Fordham within the countryside. It is understood from previous applications that the agricultural enterprise based within the holding is responsible for the farming of a substantial area of land beyond the holding and also accommodates a substantial equestrian enterprise. The site as outlined within this application contains an access track and an open sided barn, with a footprint in excess of 400m<sup>2</sup>, located to the rear of the equestrian yard.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks permission for the conversion of part of the existing open sided barn to a swimming pool and changing facilities with associated parking and ancillary works.

## **5.0 Land Use Allocation**

- 5.1 The site sits beyond any settlement boundary and is considered agricultural land.

## **6.0 Relevant Planning History**

- 6.1 The building subject of this application was granted prior approval under application 131158 and built under permitted development rights on the basis that it was required for the purposes of agriculture.

## **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  
SD3 - Community Facilities  
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  
DP4 Community Facilities  
DP8 Agricultural Development and Diversification  
DP10 Tourism, Leisure and Culture  
DP17 Accessibility and Access  
DP19 Parking Standards

## **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.

- 8.2 Following amendments to the application the Highways Authority made the following comments:

“From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

The development shall not be occupied until such time as the vehicular passing places and parking and turning areas have been provided in accord with the details shown in Drawing Numbered 868-02-02B. 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 and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority’s Development Management Policies February 2011.”

- 8.3 The Environment Agency refrained from commenting on the application.
- 8.4 The Council’s Listed Building Officer stated that with acceptable materials they would support approval of the application.
- 8.5 The Council’s Environmental Protection Team requested a condition regarding site boundary noise levels be attached to any approval.

## **9.0 Parish Council Response**

- 9.1 No comments have been received from the Parish Council.

## **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 Council received comments from one member of the local community supporting the application and the benefits it would bring to the local community.

### **11.0 Parking Provision**

11.1 The proposal includes 11 parking spaces, including one disabled space and one minibus space. This complies with the adopted EPOA Parking Standards SPD.

### **12.0 Open Space Provisions**

12.1 Not Applicable.

### **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**

#### The description of the proposal:

15.1 The proposal is described as the conversion of an agricultural barn, however this is contested on two fronts:

15.2 Firstly, on the basis that the barn subject of this application is open-sided on all sides. As a result, the works required to facilitate this development would, in your Officers’ opinion, be so extensive as to comprise of the rebuilding of the building.

15.3 This judgement is in accordance with case law established in the case of *Hibbitt v Secretary of State for Communities and Local Government [2016] EWHC 2853*. In light of this judgement the proposal should more accurately be described as the construction of a new building, or at least the rebuilding of a building.

15.4 Additionally, the barn subject of this application was constructed under permitted development rights granted by Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order (as amended). This allowed for the construction of the barn on the basis that it was reasonably necessary for the purpose of agriculture. This legislation goes on to state, under paragraph A.2. (5) -

*Where development consists of works for the erection, significant extension or significant alteration of a building and —*

*(a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and*

*(b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition*

- 15.5 On this basis, if the building is no longer reasonably necessary for the purposes of agriculture then, unless otherwise agreed by the Local Planning Authority, the building should be removed from the land. As a result, if the building is no longer required for agriculture then the Council could seek the removal of the building. As such, any approval of this application would justify the retention of the building and would therefore be tantamount to approving a new building. In light of the above, the proposal should again more accurately be described as the construction of a new building or at least the retention of a building that should otherwise be removed.
- 15.6 It should be noted that the applicant's agent contends that, should this application fail, then the building will be put to an agricultural use once more. However, the application does state within the design and access statement that the "existing barn is redundant for agricultural use" as it was previously used for the storage of small bales of hay but the farm now produces larger bales that are wrapped and stored outside.
- 15.7 Whether the barn is required for the purpose of agriculture or not, it is held that the proposal could not be considered as the conversion of an existing barn. Instead for the purposes of determining this application it would be more appropriately considered as comprising of the construction of a new building.

Principle of development:

- 15.8 The proposed swimming pool building would provide a community facility and policy SD3 (Community Facilities) states that facilities for local communities should be provided based on an analysis of need. It is considered that the proposed facility could potentially make a positive contribution to the community. However, no analysis of need has been provided within this application and as a result the provision of this facility has not been justified in this regard. The same adopted policy requires that community facilities be located in centres or other accessible locations. In this instance, the site is located in an isolated position detached from the defined settlement by a country lane and a farm track. On this basis, the application site is not considered accessible or particularly sustainable and the application is thus contrary to policy SD3.

- 15.9 Policy ENV2 (Rural Communities) requires leisure schemes outside village boundaries, such as the one proposed within this application, to be of appropriate scale, help local employment needs and harmonise with the surrounding natural environment. No assessment of the impacts of the proposal in terms of traffic generation have been provided and as such the scale of the development cannot be justified as appropriate. In this instance, it is considered that the scale has the potential to be quite substantial, based on the size of the facilities and the fact it is expected to generate five full time jobs. Additionally, were the proposal to be approved and the facility to be used to the full capacity as outlined within this application it could generate in excess of 200 visitors to the site per day. On this basis, the impacts of the proposal should be assessed appropriately, particularly those that may cause detriment to the character of the site and the surrounding natural environment. In light of the above, the application fails to comply with adopted policy ENV2.
- 15.10 Policy DP8 (Agricultural Development and Diversification) does not support the creation of separate enterprises unrelated to the existing agricultural use and states development should be secondary to the main agricultural use. Uses similar to that proposed have provided a successful means of farm diversification on other sites locally. However, in this instance, the application proposes a third use at the site, in addition to the agricultural and equine uses and is silent on how the new use would relate to the existing uses. Policy DP8 also requires proposals such as this to be accompanied by a satisfactory diversification plan which describes how it will assist in retaining the viability of the farm. This application is again silent in this regard and as such lacks the appropriate assessment and justification for the proposed development, contrary to policy DP8.
- 15.11 Policy DP10 (Tourism, Leisure and Culture) states that proposals for leisure in rural areas should comprise of the conversion of suitable existing rural buildings. Having previously established that the development subject of this application is considered to include a new building, the proposal is contrary to this requirement. Additionally, the proposed development is isolated from other structures at the site and as such is contrary to policy DP8 which states farm diversification developments should be well related to existing buildings.
- 15.12 In conclusion, the proposed development is not acceptable in principle. There is no assessment, appraisal or justification for the proposal evident within this application. As a result, the application is rendered contrary to numerous adopted policies, as outlined above.

Design:

- 15.13 The site layout and the design of the proposal within this application have been dictated by the structure currently existing at the site. Having established that the proposal requires a new building it is evident that the opportunity to adopt a high standard of design has not been embraced. No appraisal of the site has been provided as justification for the proposed layout of the development and

the proposed building demonstrates a lack of consideration to the achievement of a high standard of design.

- 15.14 In conclusion, the design of the proposal is contrary to policy UR2 (Built Design and Character) which states design should be informed by context appraisals and requires developments to enhance the character, quality or function of an area. Likewise high quality design is required by policy SD1 (Sustainable Development Locations) and DP1 (Design and Amenity). These policies also require proposals to sustain, respect, conserve and enhance the character of the surrounding countryside, in conjunction with policy ENV1 (Environment). The design of the proposal is therefore contrary to numerous adopted policies.

## **16.0 Conclusion**

- 16.1 To summarise, although the proposed development could potentially provide a valuable community facility there is a lack of justification for its provision or design within this application. It has not been evidenced within this application that the proposed development is acceptable in principle. Additionally, it has not been demonstrated that appropriate consideration has been given to the design of the proposal and the potential impact it may have on the site and surrounding area. As a result, the proposal provides a substandard level of design and fails to provide mitigation measures for the adverse impacts of the proposal. On this basis the application should be refused.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reasons set out below:

The barn the subject of this application is open-sided on all sides; as a result, the works required to facilitate the proposed development would be so extensive as to comprise of the rebuilding of the building. Additionally, the barn the subject of this application was constructed under permitted development rights granted by Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order (as amended). In light of this fact, if the building is no longer reasonably necessary for the purposes of agriculture, then the building should be removed from the land. On this basis, the proposed development is considered to seek permission for a new building and should be assessed in this manner.

No analysis of the need for the proposed community facility has been provided within this application and as a result the provision of this facility has not been justified in this regard, contrary to policy SD3 (Community Facilities). The site is located in an isolated position detached from the defined settlement by a country lane and a farm track. As such, the application site is not considered accessible or sustainable and the application is thus contrary to policy SD1 (Sustainable Development Locations) and SD3.

No assessment of the impacts of the proposal on the site and surrounding area have been provided within the application. As a result, the scale of the development cannot be justified as appropriate and it has not been demonstrated that the proposal will harmonise with the surrounding natural environment, contrary to policy ENV2 (Rural Communities).

The application proposes a third use at the site, in addition to the agricultural and equine uses and is silent on how the new use would relate to the existing uses. The application also fails to provide a satisfactory diversification plan which describes how it will assist in retaining the viability of the farm. On this basis, the application lacks the appropriate assessment and justification for the proposed development, contrary to policy DP8 (Agricultural Development and Diversification).

Policy DP10 (Tourism, Leisure and Culture) states that proposals for leisure in rural areas should comprise of the conversion of suitable existing rural buildings. Having previously established that any building resulting from this application would not be considered existing, the proposal is contrary to this requirement. Additionally, the proposed development is isolated from other structures at the site and as such is contrary to policy DP8 which states farm diversification developments should be well related to existing buildings.

No appraisal of the site has been provided as justification for the proposed layout of the development and the proposed building demonstrates a lack of consideration to the achievement of a high standard of design. On this basis, the proposal is contrary to policy UR2 (Built Design and Character) which states design should be informed by context appraisals and requires developments to enhance the character, quality or function of an area. Similarly, high quality design is required by policy SD1 (Sustainable Development Locations) and DP1 (Design and Amenity). These policies also require proposals to sustain, respect, conserve and enhance the character of the surrounding countryside, in conjunction with policy ENV1 (Environment). The design of the proposal is therefore contrary to policies UR2, ENV1, SD1, and DP1.