

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	05/11/2018
Planning Development Manager authorisation:	AN	5/11/18
Admin checks / despatch completed	RW	6/11/18

EXC

Application: 18/01560/COUNOT **Town / Parish:** Great Oakley Parish Council
Applicant: Mr & Mrs Cooper
Address: Land opposite Friths Farm (Bramble Farm) Colchester Road Great Oakley
Development: Conversion of agricultural barn in to a residential dwelling.

1. Town / Parish Council

Gt Oakley Parish Council No comments received

2. Consultation Responses

ECC Highways Dept The Highway Authority does not object to the proposals as submitted.

Environmental Protection I have reviewed the application and have the following comments to make;

There is no indication of contamination from our potential contaminated land database register but due to previous use of the site there might be some contamination. Prior to the commencement of the proposed conversion, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Therefore standard contaminated land condition is to be applied.

In order to minimise potential nuisance to nearby existing residents caused by demolition/construction works, Environmental Protection ask that the following below is conditioned;

' No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

' The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

' No materials produced as a result of the site development or clearance shall be burned on site.

' All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

' Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent

airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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/COUNO T	Conversion of agricultural barn in to a residential dwelling.	Current	

4. Relevant Policies / Government Guidance

n/a

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also 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 national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than

75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

5. Officer Appraisal (including Site Description and Proposal)

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 extent of land associated with the application site extends to approximately 5.6 hectares and in the past was used in conjunction with Frith Farm which is located on the opposite side of Colchester Road. The submitted planning statement confirms that it was purchased by the applicants in 2013. The statement also confirmed that hay is cropped from an area of approximately 2.5 hectares and each year in excess of 1000 bales are cropped from the site. At the entrance into the site is a hard surfaced area comprised of road planings and constructed by the water authority in connection with their operations. The hard surfaced access track was granted planning permission in 2015 along with a parking area and large open fronted agricultural barn that is located to the south. Prior to the hard surfaced access track the site was accessed via a narrow unmade track.

The building that relates to this application is a permanent structure which houses agricultural equipment. The building is fairly small with a footprint of 8.6m x 4.8m (41m²).

Proposal

The application seeks to change the use of an agricultural storage building from agricultural to Class C3 (dwellinghouses) under the new relaxed permitted development allowances as set out in Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 and is being assessed on the basis that the conversion will be utilising the new approved access arrangement mentioned above.

The proposed change of use would result in the creation of a single dwelling. The single storey building would have a floor area of approximately 41m².

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015. The applicant is seeking the Council's determination as to whether its "prior approval" is required for the change of use from agricultural use to C3 (Residential).

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out that development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from use as an agricultural building shall not be permitted development where:

(a) the site was not used solely for an agricultural use as part of an established agricultural unit:

(i) on 20th March 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or

(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

- The building was in use for agricultural purposes as part of an agricultural unit on the 20th March 2013. Aerial photos/planning history support this stance. This criterion is therefore met.

(b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;

- The floor space of the building changing use totals 41m² square metres. Therefore this criterion is met.

(c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;

- This prior notification is the first on the holding submitted under Class Q. Therefore this criterion is met.

(d) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

- It is not occupied under an agricultural tenancy. Therefore this criterion is met.

(e) less than 1 year before the date development begins;

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;

- No such agricultural tenancy has been terminated. Therefore this criterion is met.

(f) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

- No such development has been carried out. Therefore this criterion is met, although there is still an onus on the applicant to comply with criterion (f)(ii).

(g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

- The development would not extend from the existing building at any given point and therefore this criterion is met.

(h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

- The floor space of this proposal is 41 square metres and there has been no previous development under Class Q. Therefore this criterion is met.

(i) the development under Class Q(b) would consist of building operations other than;

(i) the installation or replacement of;

(aa) windows, doors, roofs, or exterior walls, or

(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

- The works required for the conversion of this building are not considered to be excessive as the building is relatively new and in good condition. Changes will involve the inclusion of additional doors and windows and addition of insulation to the walls/roof, that of which would be expected for a proposal of this nature. Therefore the changes proposed are in accord with the items listed above and this criterion is met.

(j) the site is on article 2(3) land;

- The site is not on article 2(3) land. Therefore this criterion is met.

(k) the site is, or forms part of;

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

- The site is not, or does not form part of any of these interests or such areas. Therefore this criterion is met.

(l) the site is, or contains, a scheduled monument; or

- The site does not include a scheduled monument. Therefore this criterion is met.

(m) the building is a listed building.

- The building is not a Listed Building. Therefore this criterion is met.

In addition to the above requirements, condition Q.2.(1) requires the Local Planning Authority to consider as to whether the following issues would require prior approval (accompanied by officer comments in italics):

(a) transport and highways impacts of the development,

- The access to the site in question was granted planning permission in 2015 as was a small parking area to the south of the barn. As a result the site has ample parking provision and is connected to the highway via a made track. ECC-Highways have confirmed no objections to the proposal.

(b) noise impacts of the development,

- The proposal would not result in any material noise impacts. Therefore, this criterion is met.

(c) contamination risks on the site,

- Due to the current use of the building for agricultural storage the Council's Environmental Protection Team have requested the submission of a land contamination survey prior to the commencement of development. This will be included as a condition.

(d) flooding risks on the site,

- The site is located outside of any area of recognised flood risk. Therefore, this criterion is met.

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and

- Paragraph 109 of the National Planning Practice Guidance states:

"When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an

agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant."

On this basis, the Local Planning Authority does not consider that the location or siting of the building would make it impractical or undesirable for the proposed change of use.

(f) the design or external appearance of the building,

The applicants are proposing to retain the timber cladding to the exterior walls of the building and felt to its roof. As such the external appearance of the building would remain largely unchanged.

Representations

Gt Oakley Parish Council has not commented upon the proposals. No further letters of representation have been received.

Conclusion

Having regard to the above it is considered that the change of use of the agricultural building to C3 (dwellinghouse) does not require Prior Approval, as it would meet the requirements set out in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

6. Recommendation

Prior approval not required.

7. Conditions

- 1 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until points 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,

- archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of point 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of point 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with point 3.

Reason - To ensure that risks from land contamination to the future occupiers are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks.

8. Informatives

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p><input checked="" type="radio"/> NO</p>
<p>Are there any third parties to be informed of the decision? If so, please specify:</p>	<p>YES</p>	<p><input checked="" type="radio"/> NO</p>