

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	08/01/2019
Planning Development Manager authorisation:	AN	8/1/19
Admin checks / despatch completed	AP	9/1/19

*AK*

**Application:** 18/01917/COUNOT                      **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr and Mrs Hutley

**Address:** Birch Hoe Farm Pork Lane Great Holland

**Development:** Change of use of agricultural building to single dwelling.

### **1. Town / Parish Council**

Frinton and Walton Town Council      Noted.

### **2. Consultation Responses**

ECC Highways Dept                      The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is located adjacent to an existing vehicular access within the boundary of the farm which appears to have adequate parking available for the proposed dwelling, therefore:

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

1. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

4. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the

interest of highway safety and amenity in accordance with Policy DM8.

5. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

6. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

**Informative 1:**

Although the alignment of the existing vehicular access is not changing it would be appropriate to cut back/ reduce the height of the vegetation in front of the proposed dwelling To provide adequate inter-visibility looking south between vehicles using the existing access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

**Informative 2:**

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 ' Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester.  
CO4 9YQ.

### **3. Planning History**

00/00594/FUL	Removal of Condition No. 2 of TEN/435/87	Approved	31.05.2000
95/00884/FUL	Rear extension to house	Approved	17.08.1995
13/30050/PREAPP	Screening Opinion Request -		24.10.2013

Proposed solar PV project.

14/01201/FUL	Temporary change of use for 10 months as a caravan site for 10 pitches.	Approved	27.10.2014
17/01880/OUT	Outline planning application with all matters reserved for one dwelling.	Refused	26.01.2018

#### **4. Relevant Policies / Government Guidance**

Not applicable.

#### **5. Officer Appraisal (including Site Description and Proposal)**

##### 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, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.

The proposed change of use would result in the creation of a single dwelling. The building to be converted measures 5.75 metres in width and 18.820 metres in length. The 108 square metre, single storey building will accommodate 2 bedrooms, a bathroom, an open plan kitchen diner and a lounge.

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 formerly a Milking Parlour that has become redundant for this purpose and remains in use for the purposes of storage in connection with the existing agricultural holding. 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 cumulative floor space of the building changing use totals 108 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 cumulative floor space of this proposal is 108 square metres, whilst 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 submitted plans, drawings and photographs show that the building, 15.82 x 5.75 x 2.7 ground to eaves height is soundly constructed being made of Fletton 225 (1 Brick) thick perimeter walls with windows and doors in position. The roof is an asbestos cement roof covering on a timber trussed structure at 1800 centres with sheeting rails and stormwater drainage already in place. There have been some free-standing internal partitions that have been built since the days as a milking parlour but these are not load bearing. The only alterations to the external structure is the cutting in of 2 windows to the East elevation for a bedroom and a bathroom. There is also the re-opening up of the old door at the south end (still with the sliding door track in position internally as evidence). The roof covering is to be removed and replaced with modern Eternit or equal corrugated Fibre Cement boarding to remove the asbestos hazard that is currently in the roof covering. Being a former Milking Parlour, the essential utilities of water and electricity are already in the building and so add to the ease of conversion. Thus, the proposed works is in accordance with paragraph 105 of the Planning Practice Guidance in that minimal building works are proposed to achieve the end goal. All the proposed work is to be achieved within the footprint of the existing building.*

(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 schedule 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 application site is via the existing vehicular access to the site, which in itself is prior to the level crossing and so reducing the speed of any traffic passing or visiting the site. There is considered to be sufficient space around the proposed dwelling to accommodate the in excess of the two parking spaces required.*

*Furthermore, Essex County Council Highway Authority raise no objection to the development.*

(b) noise impacts of the development,

- *The building to be converted is within the confines of Birch Hoe Farm and the only other affected parties are the owners of the Farm (2 generations of Hutleys) which is a standalone building, Thus there is no significant impact arising from the site.*

(c) contamination risks on the site,

- *The site is not located near to any land designated as contaminated land. Therefore, this criterion is met.*

(d) flooding risks on the site,

- *The site is located outside of an 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 proposed building is of a sound construction and was formerly a Milking Parlour that has become redundant for this purpose. The building fits in well with the local scenery and vernacular. The site is bordered by existing trees and hedgerows, which camouflage the existing building from the existing roadway. The alterations are minimal as set out above and the proposal is not considered impractical or undesirable*

#### Representations

Frinton and Walton noted the application at their meeting.

#### 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**

Determination prior approval not required

#### **7. Reasons for Approval**

- 1 The proposal constitutes permitted development as defined in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 and may therefore be carried out providing that it is wholly in accordance with the legislation.

#### **8. Informatives**

Not applicable.