

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	08/05/2019
Planning Development Manager authorisation:	SCE	08.05.19
Admin checks / despatch completed	AP	8/5/19

**Application:** 19/00573/AGRIC **Town / Parish:** Great Bentley Parish Council *RAC*

**Applicant:** Mr George Wright - George Wright Farms

**Address:** Brook Farm Thorrington Road Great Bentley

**Development:** Erection of a general purpose steel framed agricultural building with lean to.

### 1. Town / Parish Council

Not applicable.

### 2. Consultation Responses

ECC Highways Dept

**The Highway Authority raises an objection to the above application for the following reason:**

It has been established that the footprint of the proposed building will encroach to and obstruct the public right of way footpath no. 4 (Parish of Great Bentley 165).

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users and safeguard the existing network of Definitive Public Rights of Way where affected by development, ensuring that it remains protected and open for use by the public and having regard to the Department for Environment, Food and Rural Affairs Circular 1/09, or its subsequent replacement.

The proposal is therefore contrary to policy DM11 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

Footpath 4 is a public right of way which is accessed from Thorrington Road and it is the duty of the Highway Authority to ensure passage over the public footpath is maintained free and unobstructed at all times and to ensure the continued safe passage of the public on this definitive right of way.

The Highway Authority may consider a revised application which addresses the issues raised below:

Subject to the proposal conforming to policy DM11 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

### 3. Planning History

01/00050/AGRIC	General purpose agricultural building	Determination	25.01.2001
99/00483/FUL	Erect one 15-metre monopole complete with three cross polar antennas, two dish antennas and one radio equipment housing	Approved	24.05.1999
10/00854/FUL	Proposed single storey extension to existing kitchen.	Approved	25.08.2010
11/00375/FUL	Proposed two storey extension to form living room, two bedrooms and en-suite.	Approved	16.05.2011
12/00780/FUL	Outside storage of motor vehicles for sale by internet and cleaning of vehicles for collection. Occupation by PVS cars. Together with use of long established cabin for office and storage of materials.	Approved	23.10.2012
12/01055/AGRIC	Erection of steel framed Dutch barn for storage of hay/straw/silage.	Determination	18.10.2012
14/00022/FUL	New extension/lean-to to agricultural building for housing of cattle on straw base.	Approved	18.03.2014
17/00416/AGRIC	Erection of a general purpose agricultural building, traditional in construction and open span.	Determination	04.04.2017

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

TR4 Safeguarding and Improving Public Rights of Way

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

PPL3 The Rural Landscape

#### 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.

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

### Site Description

The application site is located on the northern side of Thorrington Road within an established agricultural holding known as Brook Farm. The farm is located to the west of the village of Great Bentley. A public footpath runs directly to the north of the site. The site is located to the north of several other agricultural storage buildings.

### Description of Proposal

This is a 'prior notification' under Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The applicant is seeking the Council's determination as to whether 'prior approval' is required.

The application proposes the erection of an agricultural storage building to be used for the storage of hay, straw, general feed and machinery of traditional construction open space as other buildings on the farm. The building will measure 6.7 metres in height, 20.29 metres in width and 45.72 metres in length.

### Assessment

Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 allows works for the erection, extension or alteration of a building or any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within an agricultural unit of 5 hectares or more providing that a number of criteria are met, which are related to the location, size and use of the building.

As the area of the agricultural holding is in excess of 5 hectares the proposed building falls to be considered under Class A.

The proposal may be permitted development. However, details must be submitted to the local planning authority for a determination as to whether the proposal would comply with the criteria set out in Class A and whether the prior approval of the authority will be required to the siting, design and external appearance of the building, as stated in Condition A.2 (2) of Part 6, Class A.

### General Permitted Development Order

The proposed agricultural building is not permitted development if the criteria set out in Part 6 (Class A) cannot be met. This criterion is set out and addressed below;

(a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;

*The applicant has confirmed in the application form that the parcel of land where the development is to be located is in excess of 1 hectare and is located within the complex of existing farm buildings.*

(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

*Not applicable.*

(c) it would consist of, or include, the erection, extension or alteration of a dwelling;

*The proposal is for the erection of an agricultural storage building and not for the erection, extension or alteration of a dwelling.*

(d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

*The building is designed for agricultural use only.*

(e) the ground area which would be covered by-

- (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or
- (ii) any building erected or extended or altered by virtue of Class A;

would exceed 1,000 square metres. This includes any development within 90 metres which occurred in the preceding two years.

*The proposed building will be 928 square metres.*

*There is one other recent consent at this site (planning reference 17/00416/AGRIC). Whilst this previously approved building is within 90 metres of the siting of the proposed building, application 17/00416/AGRIC was determined on 4th April 2017. The most recent, nearby approval was determined over 2 years since the submission of this current application. Therefore the combined floor areas of 17/00416/AGRIC and this current application are not required. This criterion is met.*

(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

*The building is 6.7 metres in height but is not within 3 metres of the perimeter of an aerodrome.*

(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

*The development is not within 3 kilometres of the perimeter of an aerodrome and is 6.7 metres in height.*

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

*The development is not sited within 25 metres from the nearest classified road.*

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

*The proposed building is not for the accommodation of livestock, storage of slurry or sewage sludge.*

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or

*The proposed building is not to be used in connection with fish farming.*

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system-

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building.

*The proposed building is not to be used for storing fuel for or waste from a biomass boiler or an anaerobic digestion system.*

### Design

The proposed building is to be constructed from profile sheeting in a natural colour with dark roofing being in keeping with the existing adjacent buildings within the farm complex. The scale, appearance and finish of the building are therefore considered to relate acceptably to the rural area and would not appear incongruous in this location.

### Siting

The proposed building is to be located to the eastern end of the site with a number of other agricultural buildings of a similar size and design to the west. Views of the building would be in conjunction with the existing complex with views across the open landscape from the north being against a backdrop of the existing buildings thereby reducing its impact and helping it to assimilate well within its surroundings. Furthermore, there are a number of mature trees screening the site from Thorrington Road. An agricultural building in this location would therefore not be significantly detrimental to the character of the surrounding area.

Nonetheless, the footprint of the proposed building will encroach into and obstruct the public right of way footpath no. 4 (Parish of Great Bentley 165). The National Planning Policy Framework 2019 (NPPF) Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places through the provision of safe and accessible green infrastructure that encourages walking. In addition, Paragraph 102 aims to promote sustainable forms of transport including walking. Saved Policy TR4 of the adopted Tendring District Local Plan 2007 aims to safeguard Public Rights of Way stating where development affects an existing public right of way, planning permission will be refused. Furthermore, Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states that the Council will protect the rural landscape and refuse planning permission for any proposed development that would cause overriding harm to its character or appearance including footpaths.

Approving the siting of the proposed building would obstruct passage of the public on this definitive right of way contrary to national and local plan policy.

### Conclusion

Prior approval is required and is refused by the Local Planning Authority for the siting of the above development permitted by Part 6 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended due to the obstruction to the footpath no. 4 (Parish of Great Bentley 165).

## **6. Recommendation**

Prior approval required - deemed application refused

## **7. Conditions**

- 1 The footprint of the proposed building will encroach into and obstruct the public right of way footpath no. 4 (Parish of Great Bentley 165).

The National Planning Policy Framework 2019 (NPPF) Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places through the provision of safe and accessible green infrastructure that encourages walking. In addition, Paragraph 102 aims to promote sustainable forms of transport including walking. Saved Policy TR4 of the adopted Tendring District Local Plan 2007 aims to safeguard Public Rights of Way stating where development affects an existing public right of way, planning permission will be refused. Furthermore, Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states that the Council will protect the rural landscape and refuse planning permission for any proposed development that would cause overriding harm to its character or appearance including footpaths.

Approving the siting of the proposed building would obstruct passage of the public on this definitive right of way contrary to national and local plan policy.

## **8. Informatives**

Not applicable.