

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	30/09/19
Planning Development Manager authorisation:	TF	30/9/19
Admin checks / despatch completed	SB	30/09/2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	30/9/19

Application: 19/01132/COUNOT **Town / Parish:** Tendring Parish Council

Applicant: Mr & Mrs Parker

Address: Tyler Barn Hill Farm Crown Lane

Development: Creation of a single residential unit from existing agricultural buildings.

1. Town / Parish Council

Tendring Parish Council
have not commented.

2. Consultation Responses

Not Applicable

3. Planning History

93/00291/FUL	Retention of mobile home (renewal of TEN/924/90)	Approved	31.03.1993
97/00030/FUL	(Hill Farm, Tendring) Removal of minerals as result of construction of an agricultural reservoir (ESS/01/97/TEN)	Approved	25.03.1997
97/01539/FUL	(Land and building adjacent to Hill Farm, Crown Lane, Tendring) Change of use of livery stables and land to be incorporated into the domestic curtilage of Hill Farm	Approved	14.01.1998
05/00168/CMTR	The continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir at Hill Farm, Tendring, Essex permitted under reference ESS/05/02/TEN without complying with conditions 2 (extend completion date to 31 December 2007) and 3 (amendment of plans to include an interim reservoir)	Approved by another authority.	16.03.2005

05/00235/CMTR	The continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir at Hill Farm, permitted under ESS/06/02/TEN without complying with Conditions 2 (amendment of plans to include an interim reservoir) and 9 (extend completion date to 31 December 2007)	Approved by another authority.	17.03.2005
07/01215/CMTR	Continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir under reference ESS/66/04/TEN, without complying with condition 9 (completion date 31 December 2007) to allow the extension of the completion date to 30 September 2008 for reprofiling and restoration of the reservoir. (ESS/35/07/TEN)	Approved by another authority.	15.08.2007
07/01216/CMTR	Continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir permitted under reference ESS/65/04/TEN, without complying with Condition 2 (completion date 31 December 2007) to allow the extension of the completion date to 30 September 2008 for reprofiling and restoration of the reservoir. (ESS/34/07/TEN)	Approved by another authority.	15.08.2007
90/00167/FUL	Conversion of barn to form living accommodation with livery stables.	Refused	03.04.1990
17/01559/COUNO T	Conversion of a former pig farrowing building into a two bed dwelling.	Prior approval not required	30.10.2017
18/00608/COUNO T	Conversion of an agricultural building (The Tyler building) to a residential dwelling house.	Prior approval not required	07.06.2018
19/00236/FUL	Replacement of former pig farrowing building with a three bed dwelling and widening of entrance (in lieu of prior approval for a dwelling subject of application 17/01559/COUNOT).	Approved	13.08.2019
19/00476/COUNO T	Conversion and alterations to the Tyler barn and block built barn to create 1 dwelling.	Prior approval not required	10.06.2019

4. Relevant Policies / Government Guidance

Not Applicable

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Proposal

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (England)(Amendment) Order 2018 (amended by SI 2018 No.343). The applicant is seeking the Councils determination as to whether "prior approval" is required for the conversion of a former agricultural building into a five bed dwelling (Class C) on land at Tyler Barn, Hill Farm, Crown Lane, Tendring 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) (Amendment) Order 2018.

Assessment

The proposal must be assessed under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendments) (England) Order 2018 (as amended) which states:

Q.1 state that development is not permitted by Class Q if –

- (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 used for storing hay as part of an agricultural unit on 20th March 2013. This criterion is therefore met.

- (b) in the case of—
 - (i) a larger dwellinghouse, within an established agricultural unit—
 - (aa) the cumulative number of separate larger dwelling houses developed under Class Q exceeds 3; or
 - (ba) the floor space of any dwelling house developed under Class Q having a use falling within Class C3 (dwelling houses) of the schedule to the use classes order exceeds 465 square metres; or
 - (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

The building has a floor area of approximately 443 square metres and therefore is classed as a "larger dwelling house".

The adjacent building on the site subject of a previously approved Schedule 2, Part 3, Class Q conversion of under 17/01559/COUNOT. This conversion relates to a floor area of 80m² with a canopy area of approximately 25m² also constituting a "large dwelling" with an overall floor are of 105m².

The application site itself, 'Tyler Barn', was subject of a previously approved Schedule 2, Part 3, Class Q conversion of under 18/00608/COUNOT. This conversion relates to a floor area of 140m² with a mezzanine to be added amounting to approximately 230m² and constitutes a "larger dwelling house". However, this application is an alternative option to this application and therefore cannot be implemented.

The total number of dwellings developed under Class Q is 2. The cumulative floor space amounts to 548m² which exceeds the 465m² requirement and therefore the criterion is not met.

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(a) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(b) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

Both buildings developed under Class Q constitute larger dwellings and this criteria is not applicable.

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

The total number of dwellings developed under Class Q is 2. The cumulative floor space amounts to 548m² and exceeds 465 m². Therefore the criteria is not met.

(e) 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.

(f) 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.

(g) 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 (g)(ii).

(h) 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.

(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 proposed conversion does not include any extensions and will therefore not result in any additional development. It will include the provision of a new wall to serve the proposed lounge/diner which will infill the existing opening. The proposal will involve the removal and replacement of roof materials and the insertion of windows and doors 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 schedule monument. Therefore this criterion is met.

(m) the building is a listed building.

The building is not listed. 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 plans show an existing access to the lane and the site itself together with a large area for parking/turning purposes. There are no other material transport or highways impacts. Therefore, this criterion is met. Essex County Highways have been consulted on this application and do not raise any objections subject to conditions. As the site is accessed using the existing access from Harwich Road for agricultural purposes, condition 1 to 3 does not apply. Condition 4 and 5 which refer to cycle parking and storage areas do not relate to the considerations as part of the prior notification.

(c) noise impacts of the development,

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

(d) contamination risks on the site,

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

(e) flooding risks on the site,

The building is not within designated Flood Risk Zones 2 & 3. Therefore, this criterion is met.

(f) 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."

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

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

The external alterations are minimal. It is considered that due to the proposal being well set back, not visible from the street scene, and using materials that assist in retaining the appearance of the building, the Local Planning Authority does not consider that the proposed development will have any harmful impact on the design or external appearance of the building.

Representations

No 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 require Prior Approval, as it would go beyond the permitted development limitations as set out under Section Q.1 (b) (i) (bb) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2018.

6. Recommendation

Prior approval required - deemed application refused

7. Conditions / Reasons for Refusal

- 1 The building has a floor area of approximately 443 square metres and therefore is classed as a "larger dwelling house".

The adjacent building on the site subject of a previously approved Schedule 2, Part 3, Class Q conversion of under 17/01559/COUNOT. This conversion relates to a floor area of 80m² with a canopy area of approximately 25m² also constituting a "large dwelling" with an overall floor area of 105m².

The total number of dwellings developed under Class Q is 2. The cumulative floor space amounts to 548m2 which exceeds the 465m2 requirement.

The proposal fails to comply with The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q.1 (b) (i) (bb)

8. Informatives

Not Applicable

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO