

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	04/10/2019
Planning Development Manager authorisation:	TF	04/10/2019
Admin checks / despatch completed	SB	07/10/2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:		

Application: 19/00603/FUL **Town / Parish:** Great Oakley Parish Council

Applicant: Mr & Mrs Cooper

Address: Land at Bramble Farm Colchester Road Great Oakley

Development: Replacement of an agricultural barn with a one bed dwelling (in lieu of Prior Approval for a dwelling subject of application 18/01560/COUNOT).

1. Town / Parish Council

Great Oakley Parish Council No comments received.

2. Consultation Responses

ECC Highways Dept No comments received.

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/COUNOT Conversion of agricultural barn in to a residential dwelling. Determination 06.11.2018

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space
COM6 Provision of Recreational Open Space for New Residential Development
EN1 Landscape Character
EN6 Biodiversity
EN6A Protected Species
EN11A Protection of International Sites European Sites and RAMSAR Sites
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development
Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL3 Sustainable Design
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
CP1 Sustainable Transport and Accessibility
HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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)

Description of Proposal

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.

At the entrance into the site is a hard surfaced area. 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.

This application relates to a building approximately 41m² in size and the adjacent land being approximately 0.2 hectares in size overall.

The site lies outside of the settlement development boundary for the area as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Description of Proposal

The application seeks full planning permission for the erection of a 1 bed detached dwelling replacing (and re-siting) the barn subject of the prior approval for a dwelling under application 18/01560/COUNOT.

In this instance, the proposed replacement measures 60m² and 4 metres in height being in increase in size to building with the benefit of a prior approval for the change of use to a dwelling. The proposal also intends to re-site the building 3.5 metres to the north sited with a south-easterly orientation.

Assessment

The main considerations in this instance are;

- Planning and Appeal History;
- Principle of Development;
- Residential Amenities;
- Access and Parking;
- Trees and Landscaping;
- Financial Contributions - RAMS;
- Financial Contributions - Open /Play Space; and,
- Representations.

Planning and Appeal History

- Site Specific History

This application relates the building approximately 41m² in footprint and 3.2 metres in height. The building is subject of a prior approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion into a residential dwelling approved under planning reference number 18/01560/COUNOT determined on 6th November 2018.

- Appeal History

A copy of the appeal decision in relation to appeal references APP/A1530/W/16/3144635 and APP/A1530/W/16/3144643 for Chesnut Farm, Abberton Road, Layer De La Haye has been submitted with the application in support of the proposal.

These appeals deal with the replacement of buildings where the fall-back position relates to a Prior Notification Application under Part Q of the Town & Country Planning (General Permitted development) (England) Order 2015 (formerly Class MB).

The Inspector accepted that the fall-back position is a material planning consideration and concluded that the proposal would have a very similar effect to the prior approval scheme in relation to its sustainability of location and access to local services and facilities (the occupants would be reliant on private car); would not increase the number of dwellings over the prior approval scheme and would not result in an increase in new isolated homes in the countryside. The Inspector supported the replacement of three poultry sheds with three dwellings with the same floor area subject to conditions (in order to protect the character and appearance of the rural character of the area).

A number of further appeal decisions dealing with the same matter have been referred to under which the main issue has consistently been 'the effect of the proposal on the character and appearance of the area.'

As stated above, the proposal seeks to not only re-site the replacement building but also increase its size and height. Therefore, also of particular relevance is Appeal Reference APP/F2415/W/18/3194060 for 'demolition of residential dwelling (existing barn with Class Q Permitted Development Rights) and the erection of a new two storey residential dwelling in its place, including double garage.'

Under this appeal the Inspector states that, 'though similar in footprint, the proposed house would be significantly larger in scale than the existing and therefore also larger than the dwelling which could result from its conversion which already has consent'. The Inspector goes on to conclude that '...in terms of its size, it would not appear incongruous in its context...', '...some vegetative screening on the front boundary would assist in reducing the prominence of the development when seen from the road', and 'Overall, it would not appear urbanising in its context and would correspond well to the character of the area'.

Principle of Development

Having regard to the above, the application can be assessed as follows.

As stated above, the site lies outside of the Tendring Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007)

Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (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 report, 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.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

- Assessment of Sustainable Development

While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise. In this instance, the fall-back position and the afore-mentioned appeal decisions constitute material considerations holding significant weight in the assessment of the application.

Paragraph 8 of the National Planning Policy Framework (2019) sets out the criteria of achieving sustainable development as meeting an economic objective, a social objective and an environmental objective. These are assessed below and also take into account the fall-back position.

- economic;
- social, and,
- environmental roles.

- Economic

It is considered that the proposal would contribute economically to the area, for example by providing employment during the construction of the property and from future occupants utilising local services, and so meets the economic arm of sustainable development.

The development also incorporates a demolition stage which has the potential to generate more employment than the fall-back position.

- Social

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should

be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Although located outside of the development boundary, the proposal will generate the same number of private car journeys in comparison with the fall-back position of the prior approval. The development would be no less sustainable than the permitted scheme.

- Environmental

The environmental role is about contributing to protecting and enhancing the natural and built environment.

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The proximity of the site to open fields and agricultural land and the distance to the other residential properties in the locality, gives it a strongly rural character.

The Council accepted that the conversion of the barn into a dwelling can be undertaken without further prior approval. The Council did not raise any concern on the three grounds for consideration of the notification application, namely access, flooding or contamination.

The current application is for the replacement of the building in very close proximity to the existing building subject of the prior notification approval being 3.5 metres to the north. The proposed replacement dwelling comprises a 19sqm increase in footprint and a 0.8m increase in height.

With the exception of the repositioning of the building and marginal increase in size, the overall appearance of the scheme will be virtually equal to the 'fall back' scheme. The approved plans condition will ensure that the floor space and overall height of the building are controlled and are therefore comparable to the building it will replace.

Furthermore, the building is set well back from the highway with boundary vegetation almost fully screening the site. Having regard to the afore-mentioned appeals and national and local plan policies, in terms of its size, the proposal will not appear incongruous in its context and will not result in a harmful impact on the character and appearance of the area.

Residential Amenities

Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

Additionally, Saved Policy HG9 sets out the minimum standards for private amenity space.

The site and proposed dwelling are sited a good distance from the few nearby neighbouring properties. The development will not result in any material harm to residential amenities.

The dwelling would be served by a garden area in excess of policy standards.

Conditions removing permitted development rights are considered necessary in this instance due to the potential impact and harm from extensions and outbuildings to the character and appearance of the area, and given the fact that the proposal represents effectively an alternative permission the already approved Prior Notification application which does not benefit from permitted development rights due to the countryside location.

Access and Parking

The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Furthermore, Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, the adopted Essex County Council Parking Standards 2009 set out the requirements for residential development.

The development will be served by an existing access and parking area therefore raising no concerns or issues in relation to highway safety.

Trees and Landscaping

There are no trees or there significant vegetation on the application site. Although the application site lies adjacent to a Public Right of Way there is an established hedgerow along the shared boundary and the small-scale development will not result in any adverse impact on both the character and appearance of the area.

A condition removing permitted development rights for fencing and enclosures is considered necessary in this instance due to the potential impact to the character and appearance of the area.

Financial Contributions – RAMS

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 4100 metres from Hamford Water Ramsar, SPA and SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been provided to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Financial Contribution - Open / Play Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.

There is currently a deficit of -0.76 hectares of equipped play in Great Oakley. However, there is adequate provision in terms of formal open space.

There is one play area in Great Oakley, located off Orchard Close located a distance from the development.

Due to the size and location of the development it is not thought that there will be an impact on the current deficit of play provision in Great Oakley. Therefore no contribution is being requested on this occasion.

Representations

No comments have been received from Great Oakley Parish Council.

Nor have any individual letters of representation have been received.

Conclusion

The underlying purpose of Class Q is to convert agricultural buildings and increase rural housing without building on the countryside. Total demolition and replacement of buildings falls outside of Class Q. Officers recognise that the approval of this permission could be considered at odds with the purpose and aims of Class Q and also be considered contrary to the principles of sustainable development set out within national and local plan policies. However, the approval of this application will not set a harmful precedent due to the special circumstances under which the application is being assessed. Any future applications for residential development would be considered on its merits at the time of the application.

In considering the overall planning balance, there would be economic benefits arising from the proposal, in particular the additional employment created during the demolition and construction phases, as well as social benefits in respect of the contribution towards the supply of new housing and support for rural communities. The proposal would also meet the requirements of the environmental role, as it would contribute to protecting the natural environment and mitigating and enhancing the ecology credentials of the site, in comparison with the fall-back position of the prior approval scheme. The increase in size is not significant and does not amount to any landscape or visual harm that would amount to any environmental harm that warrants refusal of planning permission. There are no adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Consequently, the proposal would amount to sustainable development and the application is recommended for approval, subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in strict accordance with the following approved plans: Block Plan 1:500, Floor Plan 1:50, Elevation 1:100 and drawing entitled 'Bramble Farm Mr & Mrs Cooper' (detailing construction).

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Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to the occupation of the dwelling hereby approved, the existing agricultural barn subject of prior approval 18/01560/COUNOT shall be demolished in its entirety and all resultant debris cleared from the site.

Reason - In the interests of visual amenity, landscape impact and housing settlement policies.

- 4 Notwithstanding the provisions of Classes A, B, C, D and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the dwelling hereby permitted shall not be extended or ancillary buildings or structures erected within the curtilage without the prior written approval of the Local Planning Authority following the submission of a planning application.

Reason - In order to protect the rural character and appearance of the area.

- 5 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no provision of fences, walls or means of other enclosures erected on the site without the prior written approval of the Local Planning Authority following the submission of a planning application.

Reason - To retain the open character of the locality in the interests of visual amenity.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Building Regulations Informative

Fire brigade access to be provided in accordance with B5.

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