

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	13/12/19
Planning Development Manager authorisation:	AN	17/12/19
Admin checks / despatch completed	CC	18/12/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SB	18/12/19

Application: 19/01684/COUNOT **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr and Mrs Oxley

Address: Green End Farm Green End Lane Great Holland

Development: Conversion of agricultural buildings into two dwellings.

1. Town / Parish Council

Frinton and Walton Town Council No comment.

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 existing vehicular access is to be utilised and comes out onto Kirby Road close to some existing bus stop facilities. The plot retains adequate room and provision for off street parking and turning, for the proposed dwellings 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. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

3. 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.

4. 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 is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

5. The public's rights and ease of passage over public footpath no. 4 (Frinton and Walton) south of Green End Lane shall always be maintained free and unobstructed.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

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: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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.

3. Planning History

05/01237/FUL	First Floor Extension.	Approved	08.09.2005
07/00903/FUL	Retention of use of four farm buildings for storage and siting of portacabin for ancillary office use.	Approved	01.04.2008
13/60079/HOUEN Q	side single storey pitched roof garden room		08.03.2013
13/00426/FUL	Side single storey pitched roof garden room.	Approved	12.06.2013
13/00427/LBC	Side single storey pitched roof garden room.	Approved	
17/02086/COUNO T	Application for prior approval for the conversion of two agricultural buildings into two residential dwellings.	Determinati on	23.01.2018
19/01183/FUL	Proposed removal of agricultural occupancy condition (condition 2)	Approved	03.10.2019

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 (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

Proposal

The proposal is to change the use of an agricultural building to Class C3 (Dwelling Houses) 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 application relates to the change of use of two existing agricultural buildings into two detached dwellings. The total gross floor space to be provided is 165m² for Building A and 64m² for Building B.

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (Amendment) (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 buildings were used solely for agricultural use, as part of an established unit, on 20th March 2013.

(b) in the case of—

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

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; 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 proposal will result in a total of one 'larger' dwelling with a floor space of 165sqm. However it is important to note that under previous planning permission 17/02086/COUNOT, two additional 'larger' dwellings of 150sqm and 131sqm were granted on this site. Therefore the overall development includes three units of a total 446sqm, and therefore meets the criterion.

(c) in the case of—

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

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

(bb) 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;

The proposal will result in a total of one 'smaller dwelling with a floor space of 64sqm. There are no other 'smaller' dwellings previously approved, and therefore the proposal adheres to this criterion.

(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 four, with three being 'larger' dwellings and one being a 'smaller' dwelling. The cumulative floor space for the larger dwellings amounts to 446sqm, remaining below the 465sqm threshold. The smaller dwelling has a floor space of 64sqm. Therefore this criterion is 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 works required for the conversion of these buildings are not considered to be excessive, and will involve the introduction of a weatherboarded wall, and windows and doors. These are all works that 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 buildings are 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:

(a) transport and highways impacts of the development,

The plans show a large area to the front of each building for parking/turning purposes. There are no other material transport or highways impacts. Therefore, this criterion is met.

(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,

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 building is not within designated Flood Risk Zones 2 & 3. 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 buildings would make it impractical or undesirable for the proposed change of use.

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

The design will naturally see a conversion from the existing structure. However, the proposed changes include the replacement of existing windows and doors, and external cladding of the walls with black weatherboarding. All of these works would be expected with such a proposal. Therefore the Local Planning Authority does not consider that the proposed development will have any significant impact on the design or external appearance of the building.

The design will see a conversion from the existing structures. The proposed changes involved include the installation of weatherboarding, doors and windows. These would all be expected from such a proposal. Therefore the Local Planning Authority does not consider that the proposed development will have any significant impact on the design or external appearance of the building.

Representations

St Osyth Parish Council has not commented.

There have been no other letters of representation 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

Determination prior approval not required

7. Conditions

- 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 (as amended) and may therefore be carried out providing that it is wholly in accordance with the legislation.
- 2 The public's rights and ease of passage over public footpath no. 4 (Frinton and Walton) south of Green End Lane shall always be maintained free and unobstructed.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

8. Informatives

N/A