

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	17 th March 2020
Planning Development Manager authorisation:	AN	17/03/2020
Admin checks / despatch completed	CC	19/03/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	<i>LM</i>	19/03/2020

Application: 19/01874/AGRIC **Town / Parish:** Elmstead Market Parish Council

Applicant: John Whiting Ltd

Address: Land West of Bottles Hall Clacton Road Elmstead

Development: Erection of an agricultural storage barn.

1. Town / Parish Council

No comments received

2. Consultation Responses

No comments received

3. Planning History

00/00052/FUL	Proposed first floor extension and replacement of flat roof with pitch roof	Approved	05.05.2000
00/00085/FUL	Sale of commercial vehicles - Area G	Refused	07.04.2000
00/01145/FUL	Erection of boundary wall	Refused	31.08.2000
00/01146/FUL	Change of use of land and buildings to provide commercial vehicle sales area, customer car parking, vehicle parts store and compound for vehicles	Refused	31.08.2000
01/01098/FUL	Demolition of vehicle storage building and erection of new vehicle storage building (unit E)	Approved	20.08.2001
02/00493/FUL	Siting of mobile vehicle crusher	Approved	05.12.2002
96/00612/FUL	(Part Bottles Hall, Elmstead Market) Change of use from warehousing (B8) to light industrial (B1) warehousing (B8)	Approved	16.07.1996

97/00452/FUL	Change of use to use Unit F as partly for retail lorry spares and Area G for lorry parking, repair and salvage, together with a Change of Use for Unit A from office to a dwelling for the use by the owner's son	Approved	03.06.1997
97/00453/FUL	(Unit B2 and Area J, Bottles Hall, Clacton Road, Elmstead) Change of use of storage to storage with first floor over. New shopfront and part use of Area 'J' outside display	Approved	03.06.1997
97/00802/FUL	(Bottles Hall Industrial Site, Clacton Road, Elmstead Market) Variation to Condition 3 imposed upon planning permission TEN/97/0452 relating to hours of operation	Refused	28.08.1997
98/00470/FUL	To erect new perimeter fencing to Area J, with hedge planting facing Clacton Road	Approved	21.07.1998
99/01288/FUL	Conversion of top floors to 2 no. flats	Refused	11.11.1999
99/01721/FUL	Change of use from car parking and outside display to parking of 20-25 commercial vehicles incidental to the use of remainder of the site (Area J)	Refused	02.02.2000
03/00252/FUL	Variation of Condition 06 - Application No. TEN/97/00452 to allow dismantling of vehicles within Area H.	Approved	18.12.2003
03/02438/FUL	Permanent siting of vehicle crushing machine	Approved	19.02.2004
05/01035/FUL	Relocation of vehicle crushing machine	Approved	05.08.2005
06/00306/FUL	Erection of vehicle waste product bay (retrospective)	Withdrawn	14.01.2008
06/00541/FUL	Continued use of land for storage and parking. Extension to established vehicle salvage and repair yard.	Approved	22.05.2006
06/00814/FUL	Single & two storey extension to side incorporating, garaging, bedroom accommodation and	Withdrawn	29.06.2006

swimming pool.

06/01283/FUL	Two storey side extension and separate pool enclosure (Re-Submission of 06/00814/FUL)	Approved	29.09.2006
06/01441/FUL	Retention of sleeper wall	Refused	21.12.2006
08/01319/FUL	Change of use of land from agriculture to create a landscape buffer alongside established vehicle breaking yard.	Approved	06.11.2008
09/00268/LUEX	Application for a Lawful Development Certificate for an existing building operation; Retention of security fence.	Refused	18.05.2009
10/00913/FUL	Proposed agricultural building to house herd of suckler cows.	Refused	06.10.2010
10/01469/FUL	Proposed agricultural building to house herd of suckler cows (resubmission of application 10/00913/FUL).	Refused	15.02.2011
11/00578/FUL	Change of use of agricultural land to form extension of established vehicle salvage yard for the storage and parking of salvaged commercial vehicles and vehicles acquired for breakage and export (Use Class B8) (Retention of Use).	Approved	21.09.2011
11/00888/FUL	Erection of hay barn.	Approved	27.09.2011
12/00276/FUL	Proposed agricultural building to house suckler calves.	Approved	08.05.2012
14/00118/AGRIC	Lean-to building constructed against the west elevation of an existing cow shed (no interconnecting link).	Determination	19.02.2014
14/00452/FUL	Widening and re-surfacing of established agricultural access and formation of new access track incorporating field gates.	Approved	05.09.2014
14/01020/FUL	Erection of a new agricultural building for the storage of straw bales, feed-quality potatoes, grains and feed mixing equipment.	Approved	02.10.2014
15/00492/FUL	Change of use of land to site mobile home for use and occupation of stockman.	Approved	03.06.2015

17/01311/FUL	Extension to barn for agricultural storage.	Approved	29.09.2017
19/01874/AGRIC	Erection of an agricultural storage barn.	Current	

4. Relevant Policies / Government Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5. Officer Appraisal (including Site Description and Proposal)

Application Site

The site comprises a cattle-rearing farm north of Clacton Road just outside of the Elstead development boundary. The site has been expanded considerably over the last ten years in the form of additional buildings. The current proposal is for a new storage building sited near the western boundary of the site.

Class A - agricultural development on units of 5 hectares or more

Permitted development

A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of -

- (a) works for the erection, extension or alteration of a building; or
- (b) any excavation or engineering operations,

which are reasonably necessary for the purposes of agriculture within that unit.

Development not permitted

A.1 Development is not permitted by Class A if -

- (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 development would not be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area. **The proposal complies.**

- (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;

The proposal consists 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). No 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. **The proposal complies.**

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

The proposal would not consist of, or include, the erection, extension or alteration of a dwelling. **The proposal complies.**

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

The proposal would not involve the provision of a building, structure or works not designed for agricultural purposes. **The proposal complies.**

- (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, calculated as described in paragraph D.1(2)(a) of this Part;

There are a number of existing agricultural buildings within 90 metres of the proposed development, however these buildings were constructed over two years ago (the most recent being 17/01311/FUL granted permission in August 2017) and therefore should not be counted in the calculation prescribed under paragraph D.1(2)(a) of Part 6 of the GPDO.

The ground area which would be covered by any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations or any building erected or extended or altered by virtue of Class A, would not exceed 1,000 square metres. **The proposal complies.**

- (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;

Not applicable

- (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 height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome is 8. **The proposal complies.**

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

No part of the development would be within 25 metres of a metalled part of a trunk road or classified road. **The proposal complies.**

- (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 proposal does not 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. **The proposal complies.**

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

The proposal would not involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming. **The proposal complies.**

- (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.

No building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit is or would be within 400 metres of the curtilage of a protected building. **The proposal complies.**

Conditions

A.2—(1) Development is permitted by Class A subject to the following conditions -

- (a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part or for the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine;
- (b) where the development involves -
 - (i) the extraction of any mineral from the land (including removal from any disused railway embankment); or
 - (ii) the removal of any mineral from a mineral-working deposit,the mineral is not moved off the unit;
- (c) waste materials are not brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the provision of a hard surface and any materials so brought are incorporated forthwith into the building or works in question.

(2) Subject to sub-paragraph (3), development consisting of -

- (a) the erection, extension or alteration of a building;
- (b) the formation or alteration of a private way;
- (c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares); or
- (d) the placing or assembly of a tank in any waters,

is permitted by Class A subject to the following conditions -

- (i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;

Siting

The building is sited close to the western boundary of the farm where there is substantial bank/bund separating the site from a recent housing site (Winterbourne Gardens).

In an error, the application-type was changed from a Prior Notification to a Full application. As part of this change, occupiers of adjacent properties were consulted – this is not a requirement for a Prior Notification.

The building is 6 metres in height to the eaves and 8 metres to the ridge, matching the dimensions of the nearest existing agricultural barn, and would be sited approximately 20 metres away from the back gardens of dwellings on this estate. Whilst it is acknowledged that the properties closest to this boundary will have a different outlook, the 20m separation, in conjunction with the 6m eaves and roof that slopes away from the boundary are sufficient to conclude that the proposal would not be materially harmful in regards to its.

The addition of the proposed barn is not considered to have a detrimental visual impact on the landscape, due to its close similarity and proximity to existing agricultural buildings and position close to the development boundary of Elmstead.

Design/external appearance

The proposed building is to be open sided, constructed on steel piers and profile fibre cement roofing panels to match the adjoining buildings. The gables would be constructed using Yorkshire timber boarding.

- (ii) the application must be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;
- (iii) the development must not begin before the occurrence of one of the following
 - (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the applicant's application of their determination that such prior approval is required, the giving of such approval; or
 - (cc) the expiry of 28 days following the date on which the application under subparagraph (2)(ii) was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
- (iv) where the local planning authority give the applicant notice that such prior approval is required, the applicant must
 - (aa) display a site notice by site display on or near the land on which the proposed development is to be carried out, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the local planning authority gave the notice to the applicant; and
 - (bb) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in subparagraph (iv)(aa) has elapsed, the applicant is treated as having complied with the requirements of that sub-paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;
- (v) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application; and
- (vi) the development must be carried out -

- (aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;
 - (bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (d)(ii).
- (3) The conditions in sub-paragraph (2) do not apply to the extension or alteration of a building if the building is not on article 2(4) land except in the case of a significant extension or a significant alteration.
 - (4) Development consisting of the significant extension or the significant alteration of a building may only be carried out once by virtue of Class A(a).
 - (5) Where development consists of works for the erection, significant extension or significant alteration of a building and
 - (a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and
 - (b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased,

then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

- (6) Where an appeal has been made, under the Act, in relation to an application for development described in sub-paragraph (5)(b), within the period described in that paragraph, that period is extended until the appeal is finally determined or withdrawn.
- (7) Where development is permitted by Class A(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

6. Recommendation

Determination prior approval not required

7. Conditions / Reasons for Refusal

- 1 The development must not begin before the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required.
- 2 The development must, except to the extent that the local planning authority otherwise agree in writing, be carried out, where prior approval is not required, in accordance with the details submitted with the application.
- 3 The development must be carried out, where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given.
- 4 Where development consists of works for the erection, significant extension or significant alteration of a building and the use of the building or extension for the purposes of

agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

- 5 Where development is permitted by Class A(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

8. Informatives

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO