

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	15/04/2020
Planning Development Manager authorisation:	AN	16/4/2020
Admin checks / despatch completed	CC	16/04/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	LN	16/04/2020

**Application:** 20/00270/COUNOT                      **Town / Parish:** Tendring Parish Council

**Applicant:** Mr and Mrs Harrison-Osborne

**Address:** Barns at Brockets Lodge Stones Green Road Tendring

**Development:** Proposed conversion of agricultural buildings into two dwellings.

### **1. Town / Parish Council**

Not applicable.

### **2. Consultation Responses**

ECC Highways Dept  
25.03.2020

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1            The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

2            Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

Informative1: The public's rights and ease of passage over Public Footpath No.1 (Tendring) shall be maintained free and unobstructed at all times.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

### **3. Planning History**

04/01487/OHL	Proposed 11kv overhead line modifications	Determination	30.12.2004
17/00814/COUNOT	Change of use from agricultural barn to dwelling house.	Determination	10.07.2017

### **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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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)**

### Site Description

The application relates to a pair of existing agricultural barns at Brocketts Lodge, Stones Green Road, Tendring.

The barns are sited on land to the west of Brocketts Hall. Building 1 is the smaller structure and located on the northwest side of the original farmyard. This is a modest relatively modern single storey portal timber frame building. Building 2 is located immediately to the south and comprises a two storey traditional timber frame structure with a first floor element.

The site is not within a Conservation Area. Brocketts Hall is a Grade II Listed dwelling but the barns in subject of this application are not curtilage listed.

### Site History and Context

In 2017 Prior Approval was not required for the conversion of a modern barn into a dwelling (reference 17/00814/COUNOT). At that time the barn together with two other agricultural buildings were within the ownership of the then occupants of Brocketts Hall. The barn was accepted by the Council as having been in agricultural use and located beyond the curtilage of the listed Brocketts Hall. Since that time, the barn has been converted into a fine contemporary dwelling and is now occupied by the applicants and known as Brocketts Lodge. The Hall has since been sold.

The former farmyard has been sub-divided with a range of stable buildings now contained within the curtilage of the neighbouring Hall. The applicants have retained the extensive grazing land to the south and west of their converted barn. Vehicular access remains available as before, with a long-surfaced driveway leading from Stones Green Road serving both the Hall and Brocketts Lodge. This access drive is also a defined Public Right of Way.

### Description of Proposal

The application seeks a change of use of the remaining agricultural buildings into 2 no. 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 as amended by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 Statutory Instrument No. 343.

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended). 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).

- Building 1 is proposed to be converted into a two bedroom dwelling.
- Building 2 is proposed to be converted in to a 3 bed unit.

## Assessment

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out permitted development the criteria under which development is not permitted as follows (amendments shown in **bold** and officer assessment shown in *italics*):

### Q. Development consisting of—

- (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; **or**
- (b) **development referred to in paragraph (a) together with** building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

### Q.1 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;
- *As set out within the supporting statement, both buildings have primarily been used for storage of farm machinery and equipment, with Building 2 having also been used for the storage of feed stuffs for livestock formerly reared on the holding. In recent times following the decline in the extent and operation of the farm, the use of each building has become relatively low key, with farm equipment still kept in Building 1 and miscellaneous farm items still remaining within Building 2. Both buildings are permanent, sound and weathertight. Although the farm use is now limited, there has been no other past use of these buildings other than for agricultural purposes. This was the authorised purpose being undertaken on the 20th March 2013 (the appointed day) and while now largely redundant, the agricultural use remains extant.*

### **(Subsections (b) to (h) all amendments/additional inserts)**

- (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;

Interpretation: "larger dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order

- (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;

Interpretation: "smaller dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order

- (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;
- *It is recognised that a building has previously been converted upon the farm holding. The gross floorspace to be provided for residential purposes when added to the implemented scheme is as follows:-*
  - Original barn - 243m<sup>2</sup>*
  - Building 1 - 85m<sup>2</sup>*
  - Building 2 - 176.5m<sup>2</sup>*

*When the figures for the original conversion are combined with Building 2, they will not exceed the 465m<sup>2</sup> limit for up to three larger units. Building 1 will not exceed the limit of 100m<sup>2</sup> for a smaller unit. The proposals do not therefore exceed the permitted thresholds.*
- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (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;
- *The site is not occupied under an agricultural tenancy.*
- (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;";
- (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);

- *Building 1 is proposed to be converted into a two bedroom dwelling. It has a substantial timber frame. The building has a floor area of approximately 85m<sup>2</sup>. 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 internal skin beneath the existing eaves of the structure and the open western bay will be enclosed with full height glazing across the width of the building. The panels between the framework will include new weatherboarding suspended from the existing frame.*
- *Building 2 is a traditional timber frame building which has been externally rendered with a spar dash finish with a floor area of 176.5m<sup>2</sup>. It is proposed to be converted in to a 3 bed unit. Similar to Building 1, the proposed conversion does not include any extensions and will therefore not result in any additional development. It will also include the provision of a new internal skin beneath the existing eaves of the structure. The building contains a first floor, although this has yet to be proven to be structurally sound to accommodate the proposed bedrooms. It is envisaged that a new structural mezzanine floor may need to be included as part of the conversion. This element of new build as part of a conversion scheme is discussed within the NPPG, which confirms that 'Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q' (Paragraph: 105 Reference ID: 13-105-20180615).*

(j) the site is on article 2(3) land;

(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;

(l) the site is, or contains, a scheduled monument; or

(m) the building is a listed building.

- *The buildings and site are not subject of any of the constraints set out within (j) to (m) above.*

### Q.2 Conditions

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,
- (b) noise impacts of the development,

*Vehicular access would be taken off the existing drive. Two parking spaces are proposed for each unit immediately adjacent to the respective buildings, although in reality the entire farm yard is available for parking purposes.*

*The conversion of these additional buildings into two dwellings will not have any adverse impact on traffic generation, the existing highway network or noise generation. When compared with the past agricultural use, the level of activity will not be noticeable or alter the current activities. The additional use of the driveway is unlikely to cause any conflict or danger to other road users when exiting out on to Stones Green Road having regard to the adequate visibility splays that are currently available.*

*Essex County Council Highway Authority raise no objection to the development subject to conditions and informatives which will be included where necessary.*

- (c) contamination risks on the site,

*There is no known contamination on the site. The buildings have not been used for any activity that would have necessitated the use of any chemicals or storage of fuels, pesticides or similar material. While Building 1 has been used for the storage of a tractor or mechanical equipment, there is no sign of any fuel leakages or oil staining on the floor of the building. There are no fuel storage facilities nearby.*

*The Council's Environmental Protection Team have no adverse comments to make.*

- (d) flooding risks on the site,

*The building is not within a 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 building would make it impractical or undesirable for the proposed change of use.*

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

*The proposed conversion scheme will ensure that the character and integrity of the structures as former farm buildings will be retained within only minimal external alterations. 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.*

## Conclusion

Having regard to the above assessment, it is considered that the change of use of the agricultural buildings to C3 (dwelling houses) 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 (as amended).

## **6. Recommendation**

Determination prior approval not required

## **7. Conditions**

- 1 Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

Reason – In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 2 The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason – To ensure that parking is provided for the development in the interests of highway safety.

## **8. Informatives**

### Highways Informatives

1. The public's rights and ease of passage over Public Footpath No.1 (Tendring) shall be maintained free and unobstructed at all times.

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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