

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	20/08/2020
Planning Development Manager authorisation:	AN	20/08/2020
Admin checks / despatch completed	CC	21.08.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	21.08.2020

**Application:** 20/00838/COUNOT                      **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr Woods

**Address:** Yaffle Land adjacent Whinstones Crown Lane North

**Development** Conversion of an agricultural building into a dwelling.

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

Not applicable.

### **2. Consultation Responses**

ECC Highways Dept  
18.08.2020

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

1            No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary. Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

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 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.

Informative1: The public's rights and ease of passage over Public Footpath No. 19 (Ardleigh) shall be maintained free and unobstructed at all times and there shall be no access for any construction activities from the footpath.

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

Environmental Protection 29.07.2020 I have reviewed the application and recommend the following comments:

An asbestos survey should be carried out prior to demolition and removal of any asbestos containing material should be carried out by a qualified contractor.

If any unforeseen land contaminated is encountered during the development works this should be reported immediately so that appropriate action can be taken.

### **3. Planning History**

17/01489/FUL	Proposed dwelling, relocation of existing access, new landscape planting, part re-grading of existing lake edges, associated access drive and other works, provision of 2no. solar arrays.	Refused	06.12.2017
19/01176/FUL	Proposed dwelling, part re-grading of existing lake edges, 2no. solar arrays, associated works including new landscape planting and area of hardstanding.	Refused	24.10.2019

### **4. Relevant Policies / Government Guidance**

Not applicable.

#### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden

Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Context

The application relates to a large plot in a rural area to the south-west of the village of Ardleigh and to the north east of Colchester. The site is situated on the northern side of Crown Lane North well screened by mature hedges and trees. The site itself is formed of a grass meadow area and orchards within its southern and western areas and an area utilised for crop growing with the long-established barn in its northern corner which is the subject of this application.

The building is well screened from the immediate neighbours with established hedges and trees and lies adjacent to a sunken lake formed from a gravel pit excavated in the 1940s. Immediately to the west of the site is a large detached house (Trefoil) with substantial grounds backed to the west by an open field. To the east is a large house called Whinstones set within large grounds overlooking a lake, also a former gravel pit.

The site is located outside of any settlement development boundary in both the saved and emerging local plans.

### Proposal

The application seeks the conversion of the existing agricultural building into a 2 bedroom dwelling.

### 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 (officer assessment shown in bold text):

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, the applicant's family has farmed in this part of Ardleigh since the 1920's. They acquired the site in 1965. It is understood that prior to the Second World War the land was used as orchards and for the production of strawberries. At this time there was a barn on the land in the same position as the existing building, which was used as a dairy. Following acquisition, the family grubbed out the orchard and used the land for cropping of hay. At this time the present barn was erected and used for drying and storing of hay. Subsequently in 1980 the field was replanted with apple trees as part of the Henry Woods Fruit Farm Ltd and the building used for storing machinery and farm equipment. Following the dissolution of the Henry Woods Fruit Farm Ltd in 2003, part of the orchard was removed. The building has continued to be used for storage of agricultural items and equipment a relatively low key activity since the removal of part of the orchard in 2003. Nevertheless, the agricultural use of the building has subsisted since at least 1968. There has been no other use of the building at any time other than for agricultural purposes. This was the authorised use being undertaken on the 20th March 2013 (the appointed day) and this remains unaltered today.***

***This criterion is met.***

*(Subsections (b) to (h) all amendments/additional inserts of the 2018 SI 343)*

- (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;

***The building has a floor area of approximately 220m<sup>2</sup>. The proposed conversion does not include any extensions and will therefore not result in any additional development. This current proposal comprises the creation of a two bedroom dwelling with a total floor area of 220m<sup>2</sup> thus falling under category (b) 'larger dwellinghouse' with no other buildings within the site subject of a Class Q conversion.***

***The proposal does 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);

***The barn is in a sound condition, wind and weather tight. It is proposed to convert the building into a two bed dwelling, with the southern open section used as an enclosed car parking area for two vehicles. The main section of the building would be converted into an open plan living and kitchen space. The building will look out to the east, with a number of large glazed openings. The rear elevation, which is positioned close to the western boundary with its hedgerow and a number of trees, will be limited to a series of high-level windows. This elevation will be largely obscured from the open countryside when viewed from the west. The vehicular access will remain with provision for the two parking spaces within the building and a parking /turning area in front.***

***The proposed conversion does not include any extensions and will therefore not result in any additional development. This arrangement will however ensure that the character and integrity of the structure as a former farm building will be retained. It is not considered that the form of the development will require any degree of rebuilding which goes beyond what is reasonably necessary for its conversion into residential use.***

***This criterion is met.***

- (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;

***Paragraph 108 of the National Planning Policy Framework 2019 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.***

***Sufficient space is available on site to provide a development that could achieve turning and parking to serve the new dwelling in line with the requirements the Essex County Council Parking Standards 2009. Vehicular access to the dwelling would be taken off the existing access and would not result in any significant impact or harm to highway safety from traffic generation.***

***The transport and highways impacts of the development are considered acceptable.***

(b) noise impacts of the development,

**The proposal would not result in any material noise impacts and is situated a considerable distance from any noise sensitive premises in the locality. 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 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."*

**Notwithstanding the planning and appeal history on the site, having regard to the above guidance, 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 structure as a former farm building will be retained with 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).

## **8. Informatives**

### Environmental Protection Informatives

An asbestos survey should be carried out prior to demolition, and removal of any asbestos containing material should be carried out by a qualified contractor.

If any unforeseen land contaminated is encountered during the development works this should be reported immediately so that appropriate action can be taken.