

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	08/10/2020
Planning Development Manager authorisation:	TF	08/10/2020
Admin checks / despatch completed	CC	08/10/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	08/10/2020

**Application:** 20/01287/AGRIC **Town / Parish:** Mistley Parish Council

**Applicant:** Mr Fairley

**Address:** New Hall Clacton Road Horsley Cross

**Development:** Proposed agricultural reservoir.

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

Not Applicable

### **2. Consultation Responses**

Not Applicable

### **3. Planning History**

05/01835/FUL      New steel framed building for grain storage      Approved      24.01.2006

20/01287/AGRIC      Proposed agricultural reservoir.      Current

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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

### Appraisal

This is a "prior notification" under Part 6 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; the amendment came into force on 6th April 2018.

The applicant is seeking the Council's determination as to whether "prior approval" is required.

The relevant legislation states as follows:

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

(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 is on a parcel of land more than 1 hectare.***

(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;

***Class Q of Part 3 of the GPDO is concerned with agricultural buildings changing to dwellinghouses. Class S of Part 3 is concerned with agricultural buildings to a school or nursery. The planning history set out above shows that the proposal complies.***

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

***The proposal does not involve the erection, extension or alteration of a dwelling.***

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

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

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

***Not applicable; 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;

***No part of the proposal will exceed 3 metres in height, and the application site is not within 3 kilometres of the perimeter of an aerodrome.***

(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;

***No part of the proposal will exceed 12 metres in height and the application site is not within 3 kilometres of an aerodrome.***

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

***The development is not sited within 25 metres of a metalled part of a trunk road or classified road.***

(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 is not for the use of livestock or sewage sludge.***

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

***The land is not part of a National Park or any other form of Article 2(4) land. The proposal is not connected to fish farming. Not applicable/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.

***Not applicable. The proposal complies.***

Further to the criteria noted above the proposal must satisfy conditions. One relevant condition is outlined at Condition A.2 (b) of Part 6 of the General Permitted Development Order which states that where the development involves;

- (i) the extraction of any mineral from the land; or
- (ii) the removal of any mineral from a mineral working deposit

the mineral shall not be moved off the unit.

***The submitted planning statement confirms that the reservoir is designed to be a balanced cut and fill which means that all the materials that are to be excavated are to be used in the construction of the surrounding banks. As such no materials are to be removed from the site and no materials are to be imported.***

***This application is not for mineral extraction, no minerals will be extracted, removed, moved or worked in any way, other than in the construction of the reservoir as detailed in the drawings provided as part of this application.***

**6. Recommendation**

Prior Approval Not Required

**7. Conditions**

Not Applicable

**8. Informatives**

Not Applicable

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO