

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	14/10/2020
Planning Development Manager authorisation:	TF	14/10/2020
Admin checks / despatch completed	CC	14/10/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	14/10/2020

Application: 20/01005/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mr Murray

Address: Murray Hall Farm Land East of High Birch Road St Osyth

Development: Proposed replacement of former agricultural building with a dwelling (in lieu of Prior Approval 18/00358/COUNOT).

1. Town / Parish Council

St Osyth Parish Council
22.09.2020

Whilst the Parish Council acknowledge that permission for the replacement of a former agricultural building with a dwelling has already been granted, the Council would reaffirm its objections of 28th March 2018. The proposed development, which cannot be considered as being sustainable outside of any settlement development boundary is seen as an intrusion into the countryside. The residential dwelling is not within the footprint of the existing agricultural building.

The Parish Council accept that permission having been granted will not prevent the development as proposed, however, the Council would request that a condition of approval be that there should be no further development on this site, less the District Council set a precedence that will see similar applications for land throughout the Parish.

2. Consultation Responses

Essex County Council
Archaeology
14.09.2020

The above development lies adjacent to recorded cropmark features, the works proposed will have minimal impact on any surviving below ground remains and no archaeological investigation is required. There are no recommendations for the above application,

ECC Highways Dept
09.09.2020

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.

3 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

Informative1: The public's rights and ease of passage over Public Footpath No.1 (St Osyth) 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

Essex County Council
Heritage
23.09.2020

Built Heritage Advice pertaining to an application for: Proposed replacement of former agricultural building with a dwelling (in lieu of Prior Approval 18/00358/COUNOT).

The development site is in proximity to the Grade II listed High Birch Farmhouse (List UID: 1166121).

The development site is at a distance from the heritage asset identified. It is separated by several existing structures and an area of forest.

ECC Heritage have no objections to this application.

3. Planning History

18/00358/COUNOT	Proposed conversion of agricultural building to a residential dwelling house.	Prior Approval Not Required	11.04.2018
92/00818/FUL	A building for agricultural use for tractors and tools	Approved	03.09.1992

Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG6	Dwelling Size and Type
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
EN1	Landscape Character
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards

LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
HP5	Open Space, Sports & Recreation Facilities
CP1	Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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.

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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

4. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to Murray Hall Farm, High Birch Road, Weeley, which is located outside the settlement development boundary of Weeley.

Site History

In March 2018, a formal notification was submitted pursuant to Part Q of the Town & Country Planning (General Permitted development) (England) Order 2015 for the conversion of an agricultural building into a dwelling.

Following consideration of the issues involved, the Council accepted by letter dated 11th April 2018 that Prior Approval was not required (reference 18/00358/COUNOT). This approval was subject to the conversion of the building with a gross floor area of approximately 122 square metres.

Appeal History

There are two appeal decisions reference APP/A1530/W/16/3144635 and APP/A1530/W/16/3144643 for Chesnut Farm, Abberton Road, Layer De La Haye which deal with the replacement of buildings where the fall-back position relates to a Prior Notification Application under Part Q of the Town & Country Planning (General Permitted development) (England) Order 2015 (formerly Class MB).

The Inspector accepted that the fall-back position is a material planning consideration and concluded that the proposal would have a very similar effect to the prior approval scheme in relation to its sustainability of location and access to local services and facilities (the occupants would be reliant on private car); would not increase the number of dwellings over the prior approval scheme and would not result in an increase in new isolated homes in the countryside. The Inspector supported the replacement of three poultry sheds with three dwellings with the same floor area subject to conditions (in order to protect the character and appearance of the rural character of the area).

Proposal

The application seeks planning permission for the proposed replacement of former agricultural building with a dwelling (in lieu of Prior Approval 18/00358/COUNOT).

Principle of Development

Having regard to the above and the approval of 18/00358/COUNOT the principle of a new dwelling to replace existing buildings subject of a Class Q approval is accepted. The principle of new dwellings of an increased height to replace a building subject of a Class Q approval is also accepted.

Impact on Character and Appearance

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The current application is for the replacement of the approved dwelling with a new chalet style house in exactly the same location. The footprint of the proposed dwelling is 105m² with an open porch of 15m². The extent of the building is therefore directly comparable to the existing building. The significant difference is the provision of a steeper pitch roof with a 40° angle having a ridge height of 6.8m. This will ensure that the building has a greater rural vernacular style while also enabling the roof space to be used for additional accommodation. However, in order to ensure the building does not have a domestic form, considerable attention has been given to the external appearance of the building. This will have a utilitarian approach with a simple shell clad in timber and a profile metal sheet roof. All windows will be in grey triple glazed aluminium. The rooms at first floor level will be lit via rooflights. This format will ensure the building retains a simplicity prevalent in an agricultural type structure. The use of the materials are considered acceptable in this rural location.

Having regard to the aforementioned appeals and national and local plan policies, in terms of its size, the proposal will not appear incongruous in its context and will not result in a harmful impact on the character and appearance of the area or landscape.

Residential Amenities

The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, *'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'*. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Due to the rural nature of the application site, the proposed dwelling is not considered to cause any impact upon neighbouring amenities.

Highway Safety and Parking Provision

Essex Highways Authority have been consulted on this application and have stated that they have no objection subject to conditions relating to car parking and turning area, cycle parking and a construction method statement

The plans provided demonstrate that there are 7 bedrooms and therefore the proposal requires 2 or more parking spaces. The plans provided demonstrate that 6 parking spaces are provided. All parking spaces should measure 5.5 metres by 2.9 metres.

Trees and Landscaping

The application site appears to be relatively well screened from the highway and the potential for a significant adverse impact on the character and appearance of the area resulting from the proposed development are commensurately low.

The site can be viewed from the Public Right of Way to the south of the application site and consideration should be given to measures that would mitigate visual harm from this viewpoint. This issue should be addressed in detailed soft landscaping proposed secured by a planning condition attached to any planning permission that may be granted

The site is well treed however if the footprint of the proposed new dwelling is broadly the same as the existing agricultural building the harm to adjacent trees is likely to be minimal.

The additional information provided by the applicant adequately demonstrates that retained trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

Heritage

Paragraph 189 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is reflected by saved policy EN23 of the Tendring District Local Plan (2007) and emerging Policy PPL9 of the Tendring District Council Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Both these policies also confirm that development should be of a scale, design and use that respects the listed building and its setting.

The development site is in proximity to the Grade II listed High Birch Farmhouse (List UID: 1166121). The development site is at a distance from the heritage asset identified. It is separated by several existing structures and an area of forest. The Historic Environment Team have no objections for the proposed development.

Archaeology

The above development lies adjacent to recorded cropmark features, the works proposed will have minimal impact on any surviving below ground remains and no archaeological investigation is required. There are no recommendations for the above application.

Financial Contribution - Open Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. Although there is currently limited provision of play facilities in St Osyth it is unlikely to have an impact on these facilities. Therefore no contribution is being requested on this occasion, however should there be any further development at this site a contribution may become necessary.

Financial Contribution - RAM's

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zol) being approximately 2.7 km away from Colne Estuary RAMSAR, Essex Estuaries and Colne

Estuary SAC and Colne Estuary SPA. New housing development within the ZOI would be likely to increase the number of recreational visitors to the Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

St Osyth Parish Council have commented on this application and have stated whilst the Parish Council acknowledge that permission for the replacement of a former agricultural building with a dwelling has already been granted, the Council would reaffirm its objections of 28th March 2018. The proposed development, which cannot be considered as being sustainable outside of any settlement development boundary is seen as an intrusion into the countryside. The residential dwelling is not within the footprint of the existing agricultural building. The Parish Council accept that permission having been granted will not prevent the development as proposed, however, the Council would request that a condition of approval be that there should be no further development on this site, less the District Council set a precedence that will see similar applications for land throughout the Parish.

One letter of representation has been received raising the following concerns:

-The application is for non mains drainage provision of a package treatment plant. I also note that despite the environmental agency standard advice requiring that a Foul Drainage Assessment form FDA1 be prepared in such cases that one has not been prepared by the applicant/agent. Given the concerns expressed over drainage at the last planning committee meeting on an unrelated application I think it would be apposite for an FDA1 to be submitted.

The underlying purpose of Class Q is to convert agricultural buildings and increase rural housing without building on the countryside. The site is subject of an approval under reference 18/00358/COUNOT. The agricultural use/history cannot be disputed given the approval based upon information accompanying the application. The onus is on the applicant/agent to provide correct information. 2 dwellings can be provided here under that permission. Officers recognise that the approval of this permission could be considered at odds with the purpose and aims of Class Q and also be considered contrary to the principles of sustainable development set out within national and local plan policies. However, the approval of this application will not set a harmful precedent due to the special circumstances under which the application is being assessed due to the fall-back position which could be implemented at any time. Any future applications for residential development would be considered on their merits at the time of the application.

In considering the overall planning balance, there would be economic benefits arising from the proposal, in particular the additional employment created during the demolition and construction phases, as well as social benefits in respect of the contribution towards the supply of new housing and support for rural communities. The proposal would also meet the requirements of the environmental role, as it does not result in any overriding harm to the countryside or landscape when compared to the fall-back position or prior approval scheme. The increase in size is not significant and does not amount to any landscape or visual harm that would amount to any environmental harm that warrants refusal of planning permission. There are no adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Conclusion

Due to the special circumstances under which the application is being assessed and the fall-back position already approved, in the absence of any material harm resulting from the development, the application is recommended for approval, subject to conditions.

5. Recommendation

Approval - Full

6. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Drawing No. 19-009-022 02 - Proposed Block Plan
Drawing No. 19-009-023 02 - Proposed Site Layout
Drawing No. 19-009-024 02 - Proposed Site Sections 1
Drawing No. 19-009-025 02 - Proposed Site Sections 2
Drawing No. 19-009-026 02 - Proposed Floor Plans and Roof Plan
Drawing No. 19-009-027 02 - Proposed Elevations
Tree Protection Measures - Scanned 30 Sept 2020
Tree Protection Plan - Scanned 30 Sept 2020
Email from Agent regarding Tree measures - Scanned 30 Sept 2020

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding the provisions of Classes A, B, C, D and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the dwellings hereby permitted shall not be extended or ancillary buildings or structures erected within the curtilage without the prior written approval of the Local Planning Authority following the submission of a planning application.

Reason - In order to protect the rural character and appearance of the area.

- 4 No above ground level works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be erected prior to the occupation of the development and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting in the interests of visual amenity.

- 5 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 6 Following demolition of the buildings, a detailed foul water strategy shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the works have been carried out in accordance with the foul water strategy as approved.

Reason - To prevent environmental and amenity problems, including any ground water pollution, arising from the system of foul water drainage employed on the site.

- 7 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

- 8 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

7. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways

The public's rights and ease of passage over Public Footpath No.1 (St Osyth) shall be maintained free and unobstructed at all times and there shall be no access for any construction activities from the footpath.

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

Contaminated Land

The land contamination report shows no indication of contamination however an observation strategy is recommended during any groundwork. If any unforeseen contamination is encountered during the development works this should be reported immediately so that appropriate action can be taken.

Private Water Supply

If the applicant is planning to install a private water supply at the proposed development, this must be registered with the Council and relevant details are required to be kept on a Public Register.

Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:
<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. The Environment Agency can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:
<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant will need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.

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