

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	15 <sup>th</sup> Jan 2021
Planning Development Manager authorisation:	SCE	15.01.2021
Admin checks / despatch completed	CC	18.01.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	18.01.2021

**Application:** 20/01725/COUNOT                      **Town / Parish:** Thorpe Le Soken Parish Council

**Applicant:** Mr Hull

**Address:** Barkers Hall Whitehall Lane Thorpe Le Soken

**Development:** Conversion of two agricultural buildings into three dwellings.

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

No comments received.

### **2. Consultation Responses**

ECC Highways Dept                      The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that Whitehall Lane is subject to a 7.5 tonne environmental weight restriction. The proposed development will utilise an established vehicular access for the host dwelling. When compared with the former agricultural use, the level of activity will be on a par or possibly reduced. It appears that the host and proposed dwellings will retain adequate off-street parking and turning, therefore:

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

### **3. Planning History**

93/00002/AGRIC	Steel framed Barn	Determination	10.05.1993
20/01725/COUNOT	Conversion of two agricultural buildings into three dwellings.	Current	

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

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

### **5. Officer Appraisal**

Class Q - agricultural buildings to dwellinghouses

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;

The site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. **The proposal complies.**

- (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;

In the case of a larger dwellinghouse, within an established agricultural unit the cumulative number of separate larger dwellinghouses developed under Class Q does not exceed 3 nor does the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceed 465 square metres. **The proposal complies.**

- (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;

Not applicable.

- (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 development under Class Q (together with any previous development under Class Q) within an established agricultural unit would not result in either or both a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space 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 proposal complies.**

- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

The site is not occupied under an agricultural tenancy. **The proposal complies.**

- (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;

Less than 1 year before the date development begins an agricultural tenancy over the site has not been terminated. **The proposal complies.**

- (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 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 since 20th March 2013 or 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. **The proposal complies.**

- (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.

The development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. **The proposal complies.**

- (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 development under Class Q(b) would not consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to

function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i). **The proposal complies.**

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

The site is not on article 2(3) land. **The proposal complies.**

- (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;

The site is not nor forms part of a site of special scientific interest, a safety hazard area or a military explosives storage area. **The proposal complies.**

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

The site is not nor contains, a scheduled monument. **The proposal complies.**

- (m) the building is a listed building.

The building is not a listed building. **The proposal complies.**

## **Conditions**

Q.2 - (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to -

- (a) transport and highways impacts of the development
- (b) noise impacts of the development
- (c) contamination risks on the site
- (d) flooding risks on the site
- (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.
- (f) the design or external appearance of the building and
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

### Transport and Highways Impacts of the Development

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that Whitehall Lane is subject to a 7.5 tonne environmental weight restriction. The proposed development will utilise an established vehicular access for the host dwelling. When compared with the former agricultural use, the level of activity will be on a par or possibly reduced. It appears that the host and proposed dwellings will retain adequate off-street parking and turning. Furthermore, Essex County Council Highway Authority raise no objection to the development subject to conditions.

### Noise Impacts of the Development

The proposal would not result in any material noise impacts. The proposal complies.

### Contamination Risks on the Site

The site is not located near to any land designated as contaminated land. The proposal complies.

## Flooding Risks on the Site

The site is located outside of an area of recognised flood risk. The proposal complies.

## Whether the Location or Siting of the Building is Impractical or Undesirable for the Building to Change

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. The proposal complies.

## The Design or External Appearance of the Building

The proposed conversion does not include any extensions and will therefore not result in any additional development. Building 1 will include the provision of a new internal skin beneath the existing eaves of the structure. Each gable end will incorporate large glazed doors. The remainder will be clad with horizontal boarding over the insulated panels suspended from the existing steel frame. Building 2 will not result in any additional development. It will also include the provision of a new internal skin to the outer brick walls. The roof will be repaired with similar tiles. A rooflight is proposed, although this will be of a conservation type to ensure that it is flush with the roof plane. These changes would all be expected from such a proposal. 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.

## The Provision of Adequate Natural Light in all Habitable Rooms of the Dwellinghouses

Habitable Rooms are defined as "any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms". Drawing HBH-01, revision A and HBH-02, revision B, both received 30<sup>th</sup> November 2020 indicate that each habitable room will have adequate natural light.

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class Q(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1) (a) to (g) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The development proposed is not development under Class Q(a) only. **The proposal complies.**

(3) 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.

### **Interpretation of Class Q**

Q.3. For the purposes of Class Q -

'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;

'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.

Procedure for applications for prior approval under Part 3

- (1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.
- (2) The application must be accompanied by –
  - (a) a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must include any building or other operations;
  - (b) a plan indicating the site and showing the proposed development;
    - (ba) in relation to development proposed under Classes M, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, "net increase in dwellinghouses" is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);
    - (bb) in relation to development proposed under Class Q of this Part, a statement specifying -
      - (i) the number of smaller dwellinghouses proposed;
      - (ii) the number of larger dwellinghouses proposed;
      - (iii) whether previous development has taken place under Class Q within the established agricultural unit and, if so, the number of smaller and larger dwellinghouses developed under Class Q;
    - (bc) in relation to development proposed under Class M, N, O, PA or Q of this Part, a floor plan indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;
  - (c) the developer's contact address;
  - (d) the developer's email address if the developer is content to receive communications electronically; and
  - (e) where sub-paragraph (6) requires the Environment Agency(a) to be consulted, a site-specific flood risk assessment, together with any fee required to be paid

Paragraphs 2.2 and 2.3 of the Planning Statement which accompanies the application provides a written description of the proposed development and includes any building or other operations. Plans indicating the site and showing the proposed development were received on 30<sup>th</sup> November 2020. In relation to development proposed under Classes M, N, O, and Q of this Part a statement specifying the net increase in dwellinghouses proposed by the development is given in response to question 5 on the application form. In relation to development proposed under Class Q of this Part, a statement specifying the number of larger dwellinghouses proposed whether previous development has taken place under Class

Q within the established agricultural unit is given in response to question 5 on the application form. In relation to development proposed under Class M, N, O or Q of this Part, Drawing HBH-01, revision A and HBH-02, revision B, both received 30<sup>th</sup> November 2020 include a floor plan indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses. The developer's contact address is given in response to Question 4 on the application form. The developer's email address if (the developer is content to receive communications electronically) is given in response to question 9 on the application form. Sub-paragraph (6) does not require the Environment Agency(a) to be consulted. The fee required was paid on 30<sup>th</sup> November 2020. Procedure W.2, paragraphs (a) to (e) have been met.

- (2a) Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

The application relates to prior approval as to adequate natural light; adequate natural light is provided in all the habitable rooms of the dwellinghouses. Procedure W.2A has been met.

- (3) The local planning authority may refuse an application where, in the opinion of the authority –
- (a) the proposed development does not comply with, or
  - (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,

any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

The local planning authority are not refusing the application. Procedure W.3 (a) or (b) are not applicable.

- (4) Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval

The local planning authority are not refusing the application. Procedure W.4 is not applicable.

- (5) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult –
- (a) where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;
  - (b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and
  - (c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

The Highways Authority were consulted on 10<sup>th</sup> December 2020. Procedure W.5 has been met.

- (6) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency(b) where the development is -
- (a) in an area within Flood Zone 2 or Flood Zone 3; or

- (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

The application does not relate to prior approval as to the flooding risks on the site. Procedure W.6 has been met.

- (7) The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given)

The local planning authority notified the consultees referred to in sub-paragraph (5) specifying that they must respond by 31<sup>st</sup> December 2020. Procedure W.7 has been met.

- (8) The local planning authority must give notice of the proposed development –
  - (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which
    - (i) describes the proposed development;
    - (ii) provides the address of the proposed development;
    - (iii) specifies the date by which representations are to be received by the local planning authority; or

- (b) by serving a notice in that form on any adjoining owner or occupier

As a consequence of limiting the number of site notices displayed due to the current National lock-down the authority elected to serve a notice in that form on any adjoining owner or occupier. There are no adjoining properties for some considerable distance. Procedure W.8 has been met.

- (9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include –
  - (a) assessments of impacts or risks;
  - (b) statements setting out how impacts or risks are to be mitigated; or
  - (c) details of proposed building or other operations

The local planning authority did not require the developer to submit such information in order to determine the application. Procedure W.9 has been met.

- (10) The local planning authority must, when determining an application –
  - (a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);
  - (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and
  - (c) in relation to the contamination risks on the site
    - (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and
    - (ii) if they determine that the site will be contaminated land, refuse to give prior approval.

The local planning authority did, when determining an application, take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6)

and any notice given under sub-paragraph (8), had regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and, in relation to the contamination risks on the site, determined whether the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c). Procedure W.10 has been met.

- (11) The development must not begin before the occurrence of one of the following –
- (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
  - (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
  - (c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

Procedure W.11 must be met by the developer.

- (12) The development must be carried out -
- (a) where prior approval is required, in accordance with the details approved by the local planning authority;
  - (b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1), unless the local planning authority and the developer agree otherwise in writing

Procedure W.12 must be met by the developer

- (13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

The local planning authority is granting prior approval subject to conditions reasonably related to the subject matter of the prior approval. Procedure W.13 has been met.

- (14) When computing the number of days in sub-paragraph (8)(a), any day which is a public holiday must be disregarded.

When computing the number of days in sub-paragraph (8)(a), any day which is a public holiday was disregarded. Procedure W.14 has been met.

## **6. Recommendation**

Determination prior approval not required

## **7. Conditions / Reasons for Refusal**

- 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.
- 2 The development must be carried out where prior approval is not required in accordance with the details provided in the application referred to in sub-paragraph (1).

## **8. Informatives**

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