

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	07/04/2021
Planning Development Manager authorisation:	SCE	07/04/2021
Admin checks / despatch completed	ER	07/04/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	07.04.2021

Application: 21/00242/COUNOT **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Mr Polkingthorne

Address: Whitehall Farm Whitehall Lane Thorpe Le Soken

Development: Application for prior approval for the conversion of two agricultural buildings into 2no. self-contained dwellings.

1. Town / Parish Council

Not applicable

2. Consultation Responses

ECC Highways Dept
25.03.2021

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 established vehicular accesses. 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 following mitigation and conditions:

1. There should be no obstruction above ground level within a 2.4m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the

construction period in the interest of highway safety in accordance with policy DM1.

3. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided for each dwelling in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

4. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1

5. Prior to the occupation of any of the proposed dwellings, the proposed private drives shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

6. No unbound material shall be used in the surface treatment of either vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1

7. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: The (rural/remote) location of the site is such that access to key facilities, public transport, employment, and leisure opportunities is limited and for the vast majority of journeys the only practical option would be the car. This should be taken into consideration by the Planning Authority when assessing the overall sustainability and acceptability of the site.

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 or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

3. Planning History

21/00242/COUNO T	Application for prior approval for the conversion of two agricultural buildings into 2no. self-contained dwellings.	Current
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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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

This application relates to two agricultural buildings at Whitehall Farm, Whitehall Lane, Thorpe Le Soken. The site is situated on the eastern side of Whitehall Lane, to the north of White hall farmhouse.

Proposal

This application is submitted under Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to determine whether prior approval will be required for the change of use of two agricultural buildings to two dwellings.

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):

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;

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

The proposed development comprises of 2 x 'larger dwellinghouses'.

Barn 1 = approximately 112 square metres and will comprise of a kitchen, living room, bathroom, two bedrooms and an en-suite.

Barn 2 = approximately 163 square metres to the ground floor and 116 square metres to the first floor = approximately 279 square metres

The total floor area of both buildings equals 391 square metres which is under the 465 metre threshold.

The proposal complies with (b) (i) (aa) and (bb).

- (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.

(a) Transport and Highways Impacts of the Development

There is currently vehicular access to the application site available onto Whitehall Lane with parking available to the front of Barn 1 and to the side of Barn 2, both with sufficient turning area.

The site would allow for the provision of parking for future occupants of the proposed dwelling house. A minimum of 2 No. car parking spaces for both dwellings would be provided as demonstrated on the plan.

Essex County Council Highway Authority have been consulted on this application and have stated that it is noted that Whitehall Lane is subject to a 7.5 tonne environmental weight restriction. The proposed development will utilise established vehicular accesses. 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. The Highway Authority raise no objection to the development subject to conditions, which will be imposed where necessary.

The proposal complies.

(b) Noise Impacts of the Development

The proposal would not result in any material noise impacts and is situated a sufficient distance from any noise sensitive premises in the locality. Therefore, this criterion is met. The proposal complies.

(c) Contamination Risks on the Site

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

(d) Flooding Risks on the Site

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

(e) 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.

(f) The Design or External Appearance of the Building

The works involved in the change of use would be limited and are sought to preserve the existing character and appearance of the buildings. The resulting buildings would therefore have an acceptable visual impact on the character and appearance of the surroundings. 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 proposal complies.

(g) 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 No. PWH-01 and PWH-02 indicates that each habitable room will have adequate natural light.

The proposal complies.

Other considerations

Two letters have been received raising the following concerns:

- Concerns that the neighbouring dwelling was not consulted as part of the application

In response to this concern, once the Council had been notified of this error, the neighbouring dwelling was consulted by sending a neighbour notification letter. The Council also has corrected the error to ensure that the neighbouring dwelling 'White Hall' is not associated with the address of this application.

- Concerns raised in regards to right of way access

In response to the concern raised, this is a civil matter between neighbours and therefore does not form part of this application. This application is to establish whether prior approval is required based on the criteria as set out within the report above only.

- Concerns in regards to privacy

In regards to the high level window serving Barn 1, the Barn is single storey and therefore the window will be used for light purposes only and will not cause any overlooking.

- Concerns in regards to the trees

This application is to establish whether prior approval is required based on the criteria as set out within the report above only.

- Concerns in regards to the description of the site

This application is to establish whether prior approval is required based on the criteria as set out within the report above only. The report has taken into consideration Barn 1 and Barn 2 only.

6. Recommendation

Prior Approval Not Required

7. Conditions

- 1 The development must not begin before the occurrence of the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required.

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 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).

- 3 The development must be carried out (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.

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).

- 4 If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed.
Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.
Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason - To ensure that any risks from land contamination to the future users of the land and neighbouring land are minimised.

- 5 Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, they must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

Reason - to protect the health of site workers and end users

8. Informatives

Noise Control

- 1)The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2)No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Dust Control

- 1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.
- Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Protection. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p>NO</p>

Are there any third parties to be informed of the decision? If so, please specify:	YES	NO
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