

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	22nd July 2021
Planning Development Manager authorisation:	SCE	23.07.2021
Admin checks / despatch completed	CC	23.07.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	23/07/2021

Application: 21/00841/COUNOT **Town / Parish:** Frating Parish Council

Applicant: Mr Irwin

Address: Morehams Hall Clacton Road Frating

Development: Change of use of agricultural buildings to 5 no. residential dwellings and associated alterations

1. Town / Parish Council

Mrs Michelle Salazar
06.07.2021

Frating Parish Council strongly object to this application and the type of proposed development. This is also outside of the village settlement.

2. Consultation Responses

ECC Highways Dept
24.6.2021

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:-

The applicant has failed to demonstrate adequate visibility splays from the existing access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

The proposal would intensify the use of an existing access onto A133 Clacton Road (strategic route) which has deficiencies in geometric layout and where visibility, from the site access and forward visibility along A133 Clacton Road, is not in accordance with current safety standards.

ECC Highways Dept
09.07.2021

The additional information provided has been fully considered by the Highway Authority together with a site visit. The site is situated on a stretch of Clacton Road that is subject to a de-restricted speed limit. The current established private vehicular access serving the hall is on an unmade surface approximately 5.2 metres wide on an inside of a bend. The width of Clacton Road at this point is in excess of 8 metres with some centre hatching.

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

Environmental Protection

Environmental Protection have no objections to the proposal; subject to compliance with conditions.

Building Control and
Access Officer

Fire access should be provided in accordance with B5.

Tree & Landscape Officer

No important trees or other significant vegetation will be adversely affected by the development proposal.

The site is not in a prominent location so there is little public benefit to be gained by soft landscaping associated with the development proposal however there is a permissive path from which the application site is visible.

Taking views from this path into account it would be desirable to secure details of soft landscaping that will soften, screen and enhance the development.

3. Planning History

21/00841/COUNOT	Change of use of agricultural buildings to 5 no. residential dwellings and associated alterations	Current
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4. Relevant Legislation

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. **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;

In the case of a smaller dwellinghouse, within an established agricultural unit the cumulative number of separate smaller dwellinghouses developed under Class Q does not exceed 5. **The proposal complies.**

(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 additional information provided was reconsidered by the Highway Authority together with a site visit. The site is situated on a stretch of Clacton Road that is subject to a de-restricted speed limit. The current established private vehicular access serving the hall is on an unmade surface approximately 5.2 metres wide on an inside of a bend. The width of Clacton Road at this point is in excess of 8 metres with some centre hatching. The Highway Authority raises no objection to the proposed development.

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 design will see a conversion from the existing structure. However, the proposed changes involved are all minor works, with replacement and re-use of some materials and additional doors and windows. These 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 Dwellings

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".

Revised amended Drawing 6808/1102, revision B received 16th July 2021 indicates that, as a result of the partial demolition of existing structures, every 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 (e) and (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 in the same application 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

- (a) Paragraph 1.2 of the Planning Statement which accompanies the application provides a written description of the proposed development and includes any building or other operations.
- (b) A plan indicating the site and showing the proposed development was received on 13th May 2021.
 - (ba) Question 6 on the application form which accompanies the application specifies that there will be a net increase of 5 new dwellings;
 - (bb) it also specifies that 2 smaller dwellinghouses are proposed, and that 3 larger dwellinghouse is proposed and that no previous development has taken place under Class Q within the established agricultural unit.
 - (bc) In relation to development proposed under Class Q, drawing /1102, revision B 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 is given in response to Question 1 on the application form.
- (d) The developer's email address has not been given in response to question 11 on the application form.
- (e) Sub-paragraph (6) does not require the Environment Agency(a) to be consulted. The fee required was paid on 7th May 2021.

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, except for conditions in paragraph M.2(1)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g) 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 20.05.2021. 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 10th June 2021. 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

The local planning authority gave notice on 3rd June 2021 of the proposed development 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 described the proposed development, provided the address of the proposed development and specified the date by which representations are to be received by the local planning authority. 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 February 2019, 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.

Objections have been received by the Parish Council and an interested party; these are summarised as:-

strongly object to this application and the type of proposed development.
also outside of the village settlement.
insidious creep of development outside the village
dwelling would be accessed down a long farm track
whether this development spells the end to farming the fields
potential to open the floodgates
Inadequate visibility splays
Living conditions of future occupiers (noise and disturbance from farm vehicles)
Limited access to natural daylight

In response to the comments made; Prior Approval application are determined against the criterion laid out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and not against any planning policies which may be relevant to the particulars of the site. Potential reasons for refusal pertaining to visibility splays and natural daylight were overcome through the submission of revised amended plans, received 16th July 2021.

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 February

2019, 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).

Space Standards:-

In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standard. On 30 September 2020 Housing Secretary Robert Jenrick announced that new homes delivered through permitted development rights would have to meet the Nationally Described Space Standard.

	No. of Bedrooms	No. of Bed Spaces	Storeys	Min Requirement	Actual Floorspace	Compliance
Unit 1	3	6	1	95sqm	166sqm	yes
Unit 2	3	6	1	95sqm	166sqm	yes
Unit 3	2	4	1	70sqm	133sqm	yes
Unit 4	2	4	1	70sqm	102sqm	yes
Unit 5	2	4	1	70sqm	95sqm	yes

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 recommending that the prior approval for the development is required and subsequently refused. 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

Prior approval not required.

7. Conditions

- 1 The development must not begin before the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required.
- 2 The development must be carried out where prior approval is not required in accordance with the details provided in the application.

8. Informatives

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