

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	17/09/2021
Planning Development Manager authorisation:	SCE	17.09.2021
Admin checks / despatch completed	DB	17.09.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	17/09/2021

**Application:** 21/01318/COUNOT                      **Town / Parish:** St Osyth Parish Council

**Applicant:** Mr Robert Clarke - RF Clarke Farms

**Address:** Long Barn Blackwater Farmhouse Lee Wick Lane

**Development:** Change of use from existing agricultural building to a dwellinghouse.

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

St Osyth Parish Council      No objections.  
26.08.2021

### **2. Consultation Responses**

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated July 2009. The Site is accessed via Lee Wick Lane, which leads south from Point Clear Road, and serves several dwellings to the north as well as Blackwater Farm and Lee Wick Farm. It is noted that the proposed dwelling would utilise the existing vehicle access at the site. The access has been used in respect of the agricultural use of the site for a number of years, providing vehicular access to the site for HGVs and farm vehicles. The wider site comprises a mix of agricultural and holiday let uses forming the aforementioned farmyard. Considering these factors:

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

1. 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.

2. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided 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.

3. Prior to occupation of the dwelling 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.

4. 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: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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](mailto:development.management@essexhighways.org) or by post to:

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

### **3. Planning History**

00/00669/FUL	Replacement farmhouse and garage (variation to design as approved under planning permission TEN/96/1536)	Approved	14.06.2000
96/01536/FUL	(Land adjacent The Potato Store, Leewick Lane, St Osyth) Demolish existing bungalow to improve	Approved	28.01.1997

	access to the potato store and erect farmhouse and garage		
10/01451/FUL	Extension to existing farm building for housing micro-distillery business and warehouse operation, including photovoltaic installation for both new build and existing farm buildings, plus construction of new boiler room.	Approved	17.02.2011
15/01760/FUL	Change of use of part of seven acre field to create a "Glamping" site to accommodate up to twelve Glamping "Pod" units of various design and provision of access road and parking area.	Approved	11.04.2016
16/00638/COUNO T	Conversion of long barn to residence with ancillary car parking and garden.	Determinati on	14.06.2016
16/01154/FUL	Change of use of land from agricultural to paddocks and to construct a block timber stable block on the eastern side of the site.	Approved	18.01.2017
17/00049/FUL	Change of use of an area of farm yard to site 12 shipping containers for use as self storage.	Approved	07.06.2017
18/00572/FUL	Variation of Condition 2 of 15/01760/FUL to replace plans numbered GP/1/2016 and GP/2/2016, and all plans and elevations relating to glamping pods. Discharge of conditions 3 (surface treatment), 8 (external lighting) and 9 (landscaping) of 15/01760/FUL.	Approved	15.06.2018

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

Not Applicable

#### **Status of the Local Plan**

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26<sup>th</sup> January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more

strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application site relates to Long Barn, Blackwater Farmhouse, Lee Wick Lane, St Osyth.

### 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 one agricultural building into one dwelling.

### 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 1 large dwelling house with 5 bedrooms, kitchen, lounge, sitting room and bathrooms.*

*The proposed floor area = ground floor = approximately 209 square metres and first floor is approximately 211 square metres. The proposal therefore is 420 square metres which is under the 465 square metre threshold. 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.

- (a) Transport and Highways Impacts of the Development

Essex County Council Highway Authority raise no objection to the development subject to conditions, which will be imposed where necessary. The site can accommodate sufficient parking in line with Essex Parking Standards.

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 building 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.

(g) 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". Drawing No. RC/106/02 B indicates that each habitable room will have adequate natural light.

Nationally described space standards deals with internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the gross internal floor area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of home and, in accordance with paragraph 130 of the NPPF, seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

	Storeys	Bedrooms	Bed Spaces	NDSS Actual Floor space
Unit 1	2	5	8	128

The proposal complies.

Other considerations

St Osyth Parish Council have no objections to this application.

No letters of representation have been received.

**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.

## 8. **Informatives**

Not Applicable

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