

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	16.08.2021
Planning Development Manager authorisation:	JJ	17/08/2021
Admin checks / despatch completed	ER	18/08/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	18.08.2021

Application: 21/00743/COUNOT **Town / Parish:** Tendring Parish Council

Applicant: Mr and Mrs Parker

Address: Tyler Barn Hill Farm Crown Lane

Development: Application for prior approval for the conversion of an agricultural building into a dwelling.

1. Town / Parish Council

Tendring Parish Council Made the following comments:

The Parish Council are aware of the previous history of applications on this site, including a couple of approvals and also the rejection of one previous application as it, in total with another, exceeded the limit allowed under Class Q. The Planning Statement says that the previous Class Q applications have now either time expired or have been converted into full applications and so are no longer taken into account for Class Q. Confirmation on this would be appreciated.

Officer Comment: Application ref: 17/01559/COUNOT refers to the pig farrowing building on the other side the access way from the buildings which are the subject of this application. This application for Prior Approval expired on 29.10.2020. (3 years from the decision date). This building has now been demolished and planning permission has been granted for a new dwelling application ref 19/00236/FUL granted on 13th August 2019. Therefore the floor space allowance is no longer required to be taken into account in the floor space calculation for this Prior Approval.

This application incorporates three separate but adjoining structures in its scope - the main "Tyler" barn, a separate block-built barn/shed and a red brick shed. A previous (approved) application referred to in the planning statement was just for the Tyler barn, and the other two buildings were going to be demolished (save for one red brick wall that would become a boundary wall for the garden). In this latest application that red brick building and the other block one are included in the scope for conversion.

Officer Comment: Application ref: 18/00608/COUNOT refers to the part of the Tyler Barn mentioned above and was only partly converted due to the floor space allowances (below 465sqm). With the demolition of the pig farrow building the full floor space allowance can be used for this barn and the adjacent buildings. These buildings in total have a floor space of some 443sqm which is below the total floor space allowance of 465sqm.

On a recent Class Q application (21/00236/COUNOT) the Parish Council successfully argued that the amount of work involved in making that structure habitable under current building regulations and standards was way more than the minimum building work that is allowed for a valid Class Q application (i.e. it was a rebuild rather than a conversion). It is noted that the planning statement for this new one only includes one photo of the Tyler barn but, based on that, this structure would appear to meet the criteria for requiring minimum building work. There is no supporting photographic evidence for the other two structures. A previous application did contain a photo of the red brick building and, based on that, it appears not to be in a condition that could be converted rather than substantially rebuilt. PC did not comment on the third structure as I have not seen any photos of that.

Will the Planning Team be making a site visit to establish whether the other two buildings are in a condition that would allow them to be included in Class Q. Between them, they make up well over

two thirds of the overall floor area (the main barn is mentioned as just 140 sqm) and so their contribution to the scheme is very important, not just a side issue. Previous applications on this site have been approved for the Tyler barn but this is a much larger scale application and so the PC want to be sure TDC are applying the full conditions to the application as a whole, including the other two buildings that were not part of the last approval. The Parish Council would not like to see a precedent set whereby significant parts of an application site do not seem to meet the legal requirements but still get approved particularly now the new Local Plan and housing limits have been approved (Part 1) and Part 2 likely to be approved this year, which significantly restrict standard planning applications outside the agreed development areas.

Officer Comment: The case officer has visited the site and is of the opinion that the buildings that make up this application are all able to be converted as per the limitations of Class Q, building works would mainly be internal insulation, external cladding and the insertion of windows and doors. All applications for Prior Approval for agricultural buildings are fully evaluated against the relevant criteria under Class Q and would not be approved unless the whole scheme satisfies said criteria.

2. Consultation Responses

ECC Highways Dept 26.07.2021	The proposal is similar to previous applications 17/01559/COUNOT and 19/00476/FUL. The previous applications refer to the widening of the established vehicular access junction with Crown Lane. The proposal allows adequate room and provision for off-street parking and turning, for the proposed dwelling therefore the proposal is acceptable subject to mitigation and conditions regarding the following, building materials storage and all vehicle movements to be provided clear of the highway, visibility splays, provision of car parking, private drive width, cycle parking provision, access to public right of way maintained.
Environmental Protection 08.07.2021	No objection subject to conditions regarding contaminated land, times of vehicle movements, no burning on site,

3. Planning History

93/00291/FUL	Retention of mobile home (renewal of TEN/924/90)	Approved	31.03.1993
97/00030/FUL	(Hill Farm, Tendring) Removal of minerals as result of construction of an agricultural reservoir (ESS/01/97/TEN)	Approved	25.03.1997
97/01539/FUL	(Land and building adjacent to Hill Farm, Crown Lane, Tendring) Change of use of livery stables and land to be incorporated into the domestic curtilage of Hill Farm	Approved	14.01.1998
05/00168/CMTR	The continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir at Hill Farm, Tendring, Essex permitted under reference ESS/05/02/TEN without complying with conditions 2 (extend completion date to 31 December 2007) and 3 (amendment of plans to include an	Determination	16.03.2005

	interim reservoir)		
05/00235/CMTR	The continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir at Hill Farm, permitted under ESS/06/02/TEN without complying with Conditions 2 (amendment of plans to include an interim reservoir) and 9 (extend completion date to 31 December 2007)	Determination	17.03.2005
07/01215/CMTR	Continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir under reference ESS/66/04/TEN, without complying with condition 9 (completion date 31 December 2007) to allow the extension of the completion date to 30 September 2008 for reprofiling and restoration of the reservoir. (ESS/35/07/TEN)	Determination	15.08.2007
07/01216/CMTR	Continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir permitted under reference ESS/65/04/TEN, without complying with Condition 2 (completion date 31 December 2007) to allow the extension of the completion date to 30 September 2008 for reprofiling and restoration of the reservoir. (ESS/34/07/TEN)	Determination	15.08.2007
90/00167/FUL	Conversion of barn to form living accommodation with livery stables.	Refused	03.04.1990
17/01559/COUNOT	Conversion of a former pig farrowing building into a two bed dwelling.	Determination	30.10.2017
18/00608/COUNOT	Conversion of an agricultural building (The Tyler building) to a residential dwelling house.	Determination	07.06.2018
19/00236/FUL	Replacement of former pig farrowing building with a three bed dwelling and widening of entrance (in lieu of prior approval for a dwelling subject of application 17/01559/COUNOT).	Approved	13.08.2019
19/00476/COUNOT	Conversion and alterations to the Tyler barn and block built barn to create 1 dwelling.	Determination	10.06.2019
19/01132/COUNOT	Creation of a single residential unit	Determination	30.09.2019

from existing agricultural buildings. Refused

4. Relevant Government Legislation and Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3, Class Q

Technical Housing Standards – Nationally Described Space Standard (2015)

5. Officer Appraisal

Site description and planning history

The site is located on the western side of Crown Lane and is access via an unmade track and comprises of two pitched roof agricultural buildings adjacent to one another. The larger building is undergoing conversion under Prior Approval 19/00476/COUNOT. This application seeks prior approval to convert the other barn and provide a larger dwelling following the demolition of the pig farrowing building (17/01559/COUNOT) and subsequent full planning approval for the erection of a new dwelling (19/00236/FUL) in lieu of the Prior Approval and seeks to overcome the reason for refusal of 19/01132/COUNOT with regards to exceeding the floor space criteria.

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 Hill Farm, 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 and the unit has a floor area of some 443sqm. **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;

The application does not include a smaller dwellinghouse, therefore this criteria is 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;

Due to the demolition of the existing pig farrowing building and the full planning permission obtained for a new dwelling, this building no longer needs to be counted towards the floor space allowance. Therefore the development under Class Q would not result in a larger dwellinghouse having more than 465 square metres of floor space and 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;

An agricultural tenancy over the site has not been terminated within the past year. **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. **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.

No extensions to the existing building are proposed, therefore 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 those outlined above in (aa) and (bb) and only 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 this application.

Transport and Highways Impacts of the Development

The proposed site is accessed from an established vehicular access junction with Crown Lane. The proposal also allows adequate room and provision for off-street parking and turning for the proposed dwelling therefore 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

As the site and surrounding areas historical use for agriculture, Environment Protection has requested a Watching Brief be conditioned and adhered to throughout the demolition and construction phases. Conditions are also recommended for the removal of the Asbestos and Construction Hours. **Subject to these conditions the proposal complies.**

Flooding Risks on the Site

The site is located within Flood Zone 1 which is considered an area of recognised low flood risk. Therefore there are no flooding impacts. **The proposal complies.**

Whether the Location or Siting of the Building is Impractical or Undesirable for the Building to Change from Agricultural use to a use falling within Class C3 (dwellinghouses)

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 external alterations are minimal, involving the insertion of doors and windows and the external materials proposed would retain the rural appearance of the building. 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 PO3 indicates that each habitable room will have adequate natural light. It is also considered that the proposed layout meets the requirements of the Technical Housing Standards – Nationally Described Space Standard (2015) for a 5 bedroom one storey property which requires a gross internal floor space of between 103sqm and 121sqm

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

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 W

The Local Planning Authority has undertaken all relevant consultations in regard to Highways impacts, Flood Risk and Contaminated Land and neighboring properties as outlined in the appraisal section of this report. A Site Notice was posted at the entrance to the site adjacent to the main highway. It is considered that the provisions of paragraph W in relation to natural light,

6. Recommendation

Determination prior approval not required

7. Conditions

- 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, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1).
- 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 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 appropriate parking is provided
4. As per application 19/00476/FUL and prior to the occupation of the proposed dwelling the proposed private drive shall be constructed to a width of 5.0 metres for at least the first 6 metres from the back of Highway Boundary (at its junction with Crown Lane).

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.

5. The public's rights and ease of passage over public footpath no.11 (Tendring_179) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

6. The Local Planning Authority (LPA) must be contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
 2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
 4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
 5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
 8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
 9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
 10. A photographic record will be made of relevant observations.
 11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be:
 - re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or
 - treatment of material on site to meet compliance targets so it can be re-used; or
 - removal from site to a suitably licensed landfill or permitted treatment facility.
 12. A Verification Report will be produced for the work.
7. 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. No vehicle connected with the works hereby approved 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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

REASON: to protect the amenity of nearby residential premises

9. No materials produced as a result of the site development or clearance shall be burned on site.

REASON: to protect the amenity of nearby residential premises

10. **Informatives**

1. 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**

2. 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.
3. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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