

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	BO'B	04.01.2022
Planning Development Manager authorisation:	JJ	05/01/2022
Admin checks / despatch completed	DB	06.01.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	06.01.2022

Application: 21/01886/FUL **Town / Parish:** Wix Parish Council

Applicant: Mr Adam Brown - A H Brown Farms

Address: Treestacks Farm Oakley Road Wix

Development: Proposed erection of an agricultural building for the storage of straw.

1. Parish Council

Wix Parish Council No response

2. Consultation Responses

Not Applicable

3. Planning History

18/30245/PREAPP	Proposed poultry farm comprising no.2 poultry buildings with associated feed bins, hardstandings, access road and a new highway access to Oakley Road.		29.01.2019
20/00194/FUL	Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road.	Approved	27.10.2020
20/01498/FUL	Erection of an agricultural building to house a straw burning biomass boiler to provide a renewable heating system for the approved poultry farm.	Approved	19.02.2021
20/01551/DISCON	Discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.	Approved	19.02.2021
21/30036/PREAPP	Proposed conversion of the existing barn into a separate dwelling.	Refused	09.09.2021

21/00252/DISCON	Discharge of Conditions 3 (Surface Water Drainage Scheme), 4 (Construction Management Plan), 13 (Biodiversity Enhancements), 17 (Surface water Drainage Scheme) , 18 (Flooding Risk Report) and 19 (Maintenance Plan) of Approved Planning Permission ref: 20/00194/FUL (Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road)	Approved	31.03.2021
21/00539/DISCON	Discharge of conditions 3 (Construction Management Plan), 5 (Landscaping Plan), 10 (Biodiversity Enhancement Plan), 13 (SUDS Maintenance), 15 (Traffic Management Plan and Route Card), 17 (Waste Management Plan), 20 (Monitoring Scheme), 22 (Land Contamination Analysis) of approved planning application 20/01498/FUL.	Approved	11.05.2021
21/00588/FUL	Proposed siting of an agricultural workers mobile home for a period of 3 years	Withdrawn	22.07.2021
21/01208/FUL	Proposed siting of an agricultural workers mobile home for a period of 3 years.	Current	
21/01886/FUL	Proposed erection of an agricultural building for the storage of straw.	Current	

4. **Relevant Policies / Government Guidance**

National:

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN1 Landscape Character

EN6 Biodiversity

EN16 Agricultural and Related Development

TR1A Development Affecting Highways

COM19 Contaminated Land

COM21 Light Pollution

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Section 1 (adopted):

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

SP1 Presumption in Favour of Sustainable Development

Section 2 (emerging):

SPL3 Sustainable Design

PP13 The Rural Economy

PPL3 The Rural Landscape

CP1 Sustainable Transport and Accessibility

Essex Design Guide

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 26th 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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

5. Officer Appraisal

Site Context

The site is set in the Countryside between Wix, to the west, and Great Oakley, to the east. The site is formed from the southern part of an agricultural field and a means of vehicular access across another field. The vehicular access would be on the northern side of the road some 170m northwest of Redhouse Farm.

Access to the A120 from the site would be along Oakley Road to the junction with Harwich Road and then onto the A120.

Planning History

The wider site obtained full planning permission (LPA ref: 20/00194/FUL), for the *'Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road'*. The decision to grant planning permission was taken at Planning Committee in October 2020 and was subject to 20 Planning Conditions, including Suds features, highway related conditions, landscaping, ecology mitigation, external lighting and maintenance records.

Subsequently a further planning application at the site was approved (LPA Ref: 20/01498/FUL) for the *'Erection of an agricultural building to house a straw burning biomass boiler to provide a renewable heating system for the approved poultry farm'*. The decision to grant planning permission was taken at Planning Committee in February 2021 and was subject to 21 Planning Conditions, including Suds features, highway related conditions, landscaping, ecology mitigation and external lighting.

Application LPA Ref: 20/00194/FUL was subject to an EIA which was updated for application LPA Ref: 20/01498/FUL.

Proposal

This application proposes the erection of a building to house the straw that is required to be burned to power the previously agreed biomass boiler. The boiler provides a renewable heat source for the poultry farm. The proposed straw storage building would be located to the west of the boiler building located north of the two substantial poultry sheds approved via application 20/00194/FUL. The two poultry sheds are constructed.

The proposed building would be of a steel frame construction, with the walls clad in olive green profile sheeting to match the approved materials associated with the poultry unit and biomass boiler development. The roof would be of a fibre cement material. The proposed agricultural building would be substantial in scale, measuring 30m x 15m with a ridge height of 9m. It would be open-sided to its eastern elevation, to facilitate access and storage.

The biomass boiler utilises straw produced by the applicant's arable farm as a heating fuel for the poultry unit. During a site visit it was noted that there were substantial amounts of straw stored to the west of the poultry sheds in an uncovered area.

The proposed agricultural storage building will be to the west of the boiler building located in close proximity to northern elevation of the boiler building which is open-sided, to enable straw bales to be placed on a conveyor belt to feed the boiler.

Principle of Development

The development the subject of this application is linked to the wider farming operations, as such the principle of the development of the other land in the applicant's ownership has been established via the approval of the poultry farm and the subsequent biomass boiler applications at the site (20/00194/FUL and 20/01498/FUL).

With the above in mind, it is considered that the proposed development is reasonably necessary for the purpose of the agriculture activity to be carried out on a self-contained holding. As such, the proposal accords with part (a) of saved policy EN16 and is subject to further assessment with regards to part (b). The proposal also accords with emerging policy PP13 part (d) as being essential to support an agricultural scheme, subject other local policy considerations.

The National Planning Policy Framework (NPPF, 2021) states at paragraph 84 (b) that planning decisions should enable the development of agricultural and other land-based rural businesses.

Assessment

Appearance, Layout and Scale

Paragraph 130 of the NPPF states that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.

Saved Policy QL11 of the adopted Tendring District Local Plan (2007) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.

The proposed building shall appear as a typical utilitarian agricultural building. As highlighted in the proposal section, the proposed building would be of a steel frame construction, with the walls clad in olive green profile sheeting to match the approved materials associated with the poultry unit and biomass boiler development. The roof would be of a fibre cement material. The proposed agricultural building would be substantial in scale, measuring 30m x 15m with a ridge height of 9m. It would be open-sided to its eastern elevation.

Although the proposed building would be significant in its scale and higher than the two existing poultry sheds on the site, its location to the north of those buildings, and the site, would mean that a section of the roof of the building would be visible from the main highway. However, the building would not be prominently visible or harmfully obtrusive from more distant viewpoints across open countryside and would be seen in the context of other agricultural buildings in close vicinity to the proposed building, therefore, given that the building would appear as an agricultural building as part of a wider agricultural development, it is considered that the building would not appear incongruous or harmful in its setting.

Landscape and Visual Amenity

The site is set in a location outside of any defined settlement boundary and is therefore designated as being within the countryside. Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should recognise the intrinsic character and beauty of the countryside.

This tenet is reflected in saved policy EN1 and emerging policy PPL3, which state that any planning application will be refused if harm is caused to the overriding character and appearance of the rural landscape.

The application site forms part of the previously approved agricultural developments. Therefore, it has been accepted that the visual appearance of the area will change.

The original application for the development of the site (LPA Ref: 20/00194/FUL) included a Landscape and Visual Impact Assessment (LVIA). That document referred to a degree of harm caused by the changes to both the character and appearance of the area. That original assessment identified views from the south and west from the public realm as being the only sensitive receptors and it is accepted that this assessment remains the case with this application due largely to the topography of the land and the mature boundary vegetation acting as a visual barrier.

The site is set back approximately 200m from Oakley Road and there are no public footpaths in the nearby area with significant views of the host site. The closest public footpath is approximately 300 metres to the west, footpath 18 to Bowl Farm; equally footpath 21 to the south east is approximately 450m away. Outside of the entrance to the site there is no public footpath, and the section of road contains isolated residential dwellings with strong mature hedging in most places. It is noted that there are sapling trees planted to the front of the site adjacent to Oakley Road.

Given that the site is set back from the highway, together with the previous approvals that had significant additional landscaping requirements, there is no objection to this proposal subject to mitigation. It is noted that the proposed development would interfere with the details of a previous landscape plan as required under LPA Ref: 20/01498/FUL and agreed under LPA Ref: 21/00539/DISCON. Therefore, it is considered reasonable and necessary to impose a condition whereby the applicant submits a revised landscape scheme for approval.

Consequently, it is considered that the proposal would not have any significant impact on the visual landscape of the area. The design of the building aids the visual impact in this regard as do the distances of public views and landscape screening.

When taken as part of the wider agricultural site, the proposed building, would be in keeping with the other agricultural buildings on the site, in the area and with the wider rural context.

Therefore, subject to a suitable landscaping plan the proposal is in accordance with Paragraph 174 of the National Planning Policy Framework (2021), saved policy EN1 and emerging policy PPL3.

Highways

Paragraph 112 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policies TR1a and TR7 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging policies CP1 and SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Access to the development is via an access road which was approved under the 'poultry farm' application, 20/00194/FUL. That application had a series of highways conditions associated with the access construction and implementation. These included, a Construction Management Plan; design of the vehicular access and no unbound material for the first 30m; a visibility splay; provision of the vehicular turning facility/loading facility; no discharge of surface water onto the highway; and, provision of a Traffic Management Plan from the site to the A120. It is noted that the Highways Authority did not object or recommend conditions for the previous application at the site 20/01498/FUL (Biomass Boiler).

The application requires the delivery of straw using tractors and trailers, however, this will negate the requirement for gas deliveries to the site for heating fuel and it is apparent that straw is currently being brought to the site and stored in the open. Therefore, given the additional covered storage capacity, the number of expected trips would fall rather than increase, and it is considered that from a highway and transportation perspective the impact of the proposal would be negligible and no additional conditions highways conditions are required.

Subsequently, subject to condition, the proposal is considered acceptable with regards to saved policy TR1A and emerging policies CP1 and SPL3.

Biodiversity

Policies EN6 of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013- 2033 and Beyond Publication Draft requires that development proposals protect and enhance biodiversity or geodiversity and that compensation measures would ensure net gains to mitigate any impacts.

The requirements for the submission of an Environmental Impact Assessment (EIA) are provided within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The EIA regulations require that any development which is listed in Schedule 1 be subject to an EIA.

The original application at the site fell within the definition of Section 17 of Schedule 1 'Installation for the intensive rearing or poultry or pigs' as it exceeded the threshold of 85,000 broilers (the total capacity extended to 100,000 birds). Therefore, an EIA was mandatory under Schedule 1 of the 2017 EIA regulations.

The applicant duly submitted an EIA that provides the following scope of assessment that covered ecological Issues. A Phase 1 Ecology Survey confirmed that the existing habitats of the site are common, widespread and considered to be of low biodiversity value. Any additional impacts of the proposed storage barn over and above that of the previous development of the site are considered to be negligible.

However, saved policy EN6 states that development proposals will not be granted planning permission unless local biodiversity is protected and enhanced; this is supported by the requirements of emerging policy PPL4. Appropriate compensating measures to outweigh the harm caused by the development must be provided.

Natural England and ECC Ecology were consulted on the original application at the site. Natural England made no comments.

ECC Ecology were satisfied that the development would not cause material harm as the proposed ecological mitigation measures identified with the submitted ecological details (Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) would be secured and implemented in full.

Furthermore, as a result of initial findings at the site and no objections from ecology consultees, previous decision LPA Ref: 20/01498/FUL (for the biomass boiler) requested by condition that a Biodiversity Enhancement Strategy for Protected and Priority species be submitted to and approved. Similarly, in this instance, it is considered that this is a reasonable approach to ensure that the development conserves and enhances protected and priority species on the site, in accordance with saved policy EN6 and emerging policy PPL4.

Impact on Residential Amenity

Paragraph 130 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

It is considered that there is sufficient distance retained to the nearest residential properties to ensure any impact upon residential amenity would be minimal. There is a 430m distance to the nearest property to the south-west and 250m to 'Redhouse Farm' to the south-east. Any noise or odours associated with the development and its proposed use for the storage of hay, due to distances involved, would not cause nearby residents unacceptable nuisance.

However, as the building would be used for agricultural storage, and that definition encompasses a variety of more specific uses, to protect local amenity from the possibility of any harmful impacts caused by agricultural uses other than that which is proposed, it is considered reasonable to restrict by condition the use of the building to that of storage for straw to be used in association with the biomass boiler.

In terms of other environmental and amenity protection, in line with the previous approval at the site, a condition regarding for the control of any external lighting is recommended.

As such, subject to conditions, the proposed development is in accordance to Paragraph 130 of the NPPF (2021), policy QL11 of the Tendring District Local Plan (2007) and policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Conclusion

The previous decisions at the site (20/00194/FUL and 20/01498/FUL) created the principle of development of the site for use as a poultry farm and the construction of ancillary buildings. Both applications underwent a considerable amount of scrutiny from members of the public, local councillors and specialist consultants.

This current proposal is for an agricultural building in the countryside related to an existing farm, the development of which is supported by both local and national policy, subject to policy compliance. The building would have a similar character to the other agricultural buildings on the site and would appear in context with the surrounding area. Subject to an enhanced landscaping proposal there would not be a significant impact on the visual setting of the surrounding countryside.

Furthermore, subject to conditions, the proposed building would have negligible impacts on highways or residential amenity and would provide an enhancement to the ecology of the site.

As such the application is recommended for approval, subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved drawings: IP/AHB/01-03

Reason – For the avoidance of doubt and in the interests of proper planning.

3. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

Reason - In the interest of visual amenity and the character of the area.

4. All changes in ground levels in relation to the soft landscaping, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development provides a satisfactory setting, in the interests of the character and appearance of the landscape and the visual amenity of the site.

5. No means of external lighting shall be installed unless the prior written consent of the local planning authority is given in writing to any external lighting. Any external lighting shall be part of a lighting design scheme for biodiversity which shall have been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason - To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy EN6 of the adopted Local Plan.

6. No above ground works shall take place until a Biodiversity Enhancement Strategy for Protected and Priority species is submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- i. Purpose and conservation objectives for the proposed enhancement measures;
- ii. detailed designs to achieve stated objectives;
- iii. locations of proposed enhancement measures by appropriate maps and plans;
- iv. persons responsible for implementing the enhancement measures;
- v. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason -To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

7. The approved building shall be used for the storage of clean straw to fuel the biomass boiler on the site, and for no other purposes, as agricultural storage or otherwise, unless agreed in writing by the Local Planning Authority.

Reason - To protect local amenity from any potential harmful impacts of the use of the building.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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