

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	08/08/2022
Planning Development Manager authorisation:	GN	08/08/22
Admin checks / despatch completed	MR	08.08.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	08.08.2022

Application: 22/01018/COUNOT

Town / Parish: Thorpe Le Soken Parish Council

Applicant: Mr Polkingthorne

Address: Whitehall Farm Whitehall Lane Thorpe Le Soken

Development: Proposed amendments to design of Barn 1 as approved under prior approval 21/00242/COUNOT.

1. Town / Parish Council

Not Applicable

2. Consultation Responses

ECC Highways Dept
12.07.2022

It is noted that no new or altered means of access is proposed in connection with this amendment and the proposed parking provision is unaffected by these changes, considering these factors:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions that were imposed for 21/00242/COUNOT are adhered to.

Informative:

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

2: 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.

It is noted that no new or altered means of access is proposed in connection with this amendment and the proposed parking provision is unaffected by these changes, considering these factors:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions that were imposed for 21/00242/COUNOT are adhered to.

3. Planning History

21/00242/COUNOT	Application for prior approval for the conversion of two agricultural buildings into 2no. self-contained dwellings.	Prior Approval Not Required	07.04.2021
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4. Relevant Policies / Government Guidance

Not Applicable

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

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

Proposal

This application is submitted under Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to determine whether prior approval will be required for the proposed amendments to design of Barn 1 as approved under prior approval 21/00242/COUNOT.

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.

**Amended Barn 1 = ground floor measures approximately 112 square metres and will comprise of kitchen/dining, living, hall, bathroom, bedroom 1 and bedroom 2. Approximately 35 square metres to the first floor comprising of bedroom 3, landing and ensuite.
The proposal complies with (b) (i) (aa) and (bb).**

- (d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following -
- (i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
- (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

The development under Class Q (together with any previous development under Class Q) within an established agricultural unit would not result in either or both a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5. The proposal complies.

- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

The site is not occupied under an agricultural tenancy. The proposal complies.

- (f) less than 1 year before the date development begins -
- (i) an agricultural tenancy over the site has been terminated, and
- (ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;

Less than 1 year before the date development begins an agricultural tenancy over the site has not been terminated. The proposal complies.

- (g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit -
- (i) since 20th March 2013; or
- (ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

No development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit since 20th March 2013 or where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins. The proposal complies.

- (h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.

The development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The proposal complies.

- (i) the development under Class Q(b) would consist of building operations other than -
- (i) the installation or replacement of -
 - (aa) windows, doors, roofs, or exterior walls, or
 - (bb) water, drainage, electricity, gas or other services,to the extent reasonably necessary for the building to function as a dwellinghouse; and
- (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

the development under Class Q(b) would not consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to

function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).

The proposal complies.

(j) the site is on article 2(3) land;

The site is not on article 2(3) land. The proposal complies.

(k) the site is, or forms part of -

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

The site is not nor forms part of a site of special scientific interest, a safety hazard area or a military explosives storage area. The proposal complies.

(l) the site is, or contains, a scheduled monument; or

The site is not nor contains, a scheduled monument. The proposal complies.

(m) the building is a listed building.

The building is not a listed building. The proposal complies.

Conditions

Q.2 - (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –

(a) transport and highways impacts of the development

(b) noise impacts of the development

(c) contamination risks on the site

(d) flooding risks on the site

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

(f) the design or external appearance of the building and

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(a) Transport and Highways Impacts of the Development

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

The site would allow for the provision of parking for future occupants of the proposed dwelling house. A minimum of 2 No. car parking spaces for both dwellings would be provided as demonstrated on the plan. The Highway Authority does not object to the proposals as submitted.

(b) Noise Impacts of the Development

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

(c) Contamination Risks on the Site

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

(d) Flooding Risks on the Site

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

(e) Whether the Location or Siting of the Building is Impractical or Undesirable for the Building to Change

Paragraph 109 of the National Planning Practice Guidance states:

"When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant." On this basis, the Local Planning Authority does not consider that the location or siting of the building would make it impractical or undesirable for the proposed change of use.

The proposal complies.

(f) The Design or External Appearance of the Building

The works involved in the change of use would be limited and are sought to preserve the existing character and appearance of the buildings. The resulting buildings would therefore have an acceptable visual impact on the character and appearance of the surroundings. Therefore the Local Planning Authority does not consider that the proposed development will have any significant impact on the design or external appearance of the building.

The proposal complies.

(g) The Provision of Adequate Natural Light in all Habitable Rooms of the Dwellinghouses

Habitable Rooms are defined as "any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms".

Drawing No. SK-06-A indicates that each habitable room will have adequate natural light. The proposal complies.

Other considerations

One letter of objection has been received raising the following concerns:

- Concerns over the design of Barn 1

The amended design is considered acceptable in terms of design and appearance.

- Concerns in regards to drainage

Drainage is not taken into consideration when assessing prior approval notification applications.

- Concerns in regards to rooflights and overlooking

The rooflights proposed are high level and will therefore be for light purposes only and will not cause any overlooking onto neighbouring amenities.

- Concerns in regards to parking

Essex Highways have been consulted on this application and have no objections. There is also sufficient parking provided on the plans submitted with this application.

6. Recommendation

Prior Approval is Not Required

7. Conditions

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

Reason - In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 2 Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

Reason - In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 3 The development must be carried out (b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1), unless the local planning authority and the developer agree otherwise in writing.

Reason - In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 4 If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed.
Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.
Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

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

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

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

8. **Informatives**

Noise Control

1)The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2)No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

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

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Protection. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

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