

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	01/08/2022
Planning Development Manager authorisation:	AN	01/08/22
Admin checks / despatch completed	SH	01/08/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	01.08.2022

Application: 22/00940/COUNOT **Town / Parish:** Clacton Non Parished

Applicant: Mr Giles, Mrs Reid and A and D Reclaim

Address: A & D Reclaim Sladburys Farm Sladburys Lane

Development: Proposed conversion of an agricultural building into a Class B8 use under Class R of the GPDO.

1. Town / Parish Council

Not Applicable

2. Consultation Responses

ECC Highways Dept
08.07.2022

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 assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019.; It is noted that the building proposed for conversion is a large disused grain store sited adjacent to the existing premises, using the existing established access which is in use on a daily basis by the agricultural activities on the farm. No new or altered means of access is proposed as part of this application. Adequate vehicular turning space is available to ensure all vehicles leave the site in a forward gear. There appears to be ample hardstanding to retain an adequate level of off-street parking on the site to accommodate both the existing and proposed activities. The proposed use is expected to involve the storage of overflow materials associated with the established business. It is noted that there would be only the use of fixed body vehicles at the site, which is identical to the agricultural use. The traffic generation would be no greater than that of the existing agricultural and B8 business use, 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 site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

2. As indicated in the supporting information a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be retained 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.

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: 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.

3. Planning History

22/00940/COUNO T	Proposed conversion of an agricultural building into a Class B8 use under Class R of the GPDO.	Current
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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.

5. Officer Appraisal (including Site Description and Proposal)

This application is submitted under Class R, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to determine

whether prior approval is required for the change of use of part of an agricultural building to a use falling within Use Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The building is considered to be an agricultural building for the purposes of Class R.

Assessment

Schedule 2, Part 3, Class R 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):

Firstly, Class R allows the change of use a building and any land within its curtilage. The definition of 'curtilage' for the purposes of Class R, as stated in Paragraph X of Schedule 2, Part 3, of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is:

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or

(b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser;

The proposed site plan shows a red-line boundary around the application building and a small area of land to the front of the building that is a reasonable size for parking and deliveries associated with the use of the building and is considered to meet the requirements of (a).

Class R - agricultural buildings to a flexible commercial use

Permitted development

Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within one of the following provisions of the Use Classes Order—

- (a) Class B8 (storage or distribution) of Schedule 1;
- (b) Class C1 (hotels) of Schedule 1; or
- (c) Class E (commercial, business or service) of Schedule 2.

The application is for the change of use of a building to Use Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The design and access statement submitted with this application states that building would be used for th storage of stock associated with A & D Reclaim. a use which is considered to fall within the remit of Class B8 of The Town and Country Planning (Use Classes) Order 1987.

Development not permitted

Development is not permitted by Class R if—

- (a) the building was not used solely for an agricultural use as part of an established agricultural unit
 - (i) on 3rd July 2012;
 - (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 building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins;

The applicant has stated in their supporting statement that the buildings were used for agricultural purposes prior to 3rd July 2012 and this has remained continuous until the present day, at the time of writing this report there was no information or evidence to contradict or put into question this statement and therefore the proposal complies.

- (b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 500 square metres;

The floor space of the building is some 290sqm and therefore does not exceed 500sqm. No other buildings have changed use under Class R, therefore the proposal complies.

(c) the site is, or forms part of, a military explosives storage area;

The site is not or forms any part of a military explosives storage area, therefore the proposal complies.

(d) the site is, or forms part of, a safety hazard area; or

The site is not or forms any part of a safety hazard area, therefore the proposal complies.

(e) the building is a listed building or a scheduled monument.

The building is not a listed building or scheduled monument, therefore the proposal complies

Conditions

Development is permitted by Class R subject to the following conditions—

- (a) a site which has changed use under Class R may, subject to paragraph R.3, subsequently change use to another use falling within one of the use classes comprising the flexible use;
- (b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class R the site is to be treated as having a sui generis use;
- (c) after a site has changed use under Class R, the planning permissions granted by Class E of Part 7 of this Schedule apply to the building, subject to the following modifications—
 - (i) "curtilage" has the meaning given in paragraph X (interpretation) of this Part;
 - (ii) any reference to "office building" is to be read as a reference to the building which has changed use under Class R.

Paragraph R.3 states that:

- (1) Before changing the use of the site under Class R, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer must—
 - (a) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—
 - (i) the date the site will begin to be used for any of the flexible uses;
 - (ii) the nature of the use or uses; and
 - (iii) a plan indicating the site and which buildings have changed use;

The cumulative floor space of the building is more than 150sqm, therefore (a) does not apply.

- (b) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—
 - (i) transport and highways impacts of the development;
 - (ii) noise impacts of the development;
 - (iii) contamination risks on the site; and
 - (iv) flooding risks on the site,

(a) Transport and Highways Impacts of the Development

It is noted that the building proposed for conversion is a large disused grain store sited adjacent to the existing premises, using the existing established access which is in use on a daily basis by the

agricultural activities on the farm. No new or altered means of access is proposed as part of this application. Adequate vehicular turning space is available to ensure all vehicles leave the site in a forward gear. There appears to be ample hardstanding to retain an adequate level of off-street parking on the site to accommodate both the existing and proposed activities. The proposed use is expected to involve the storage of overflow materials associated with the established business. It is noted that there would be only the use of fixed body vehicles at the site, which is identical to the agricultural use. The traffic generation would be no greater than that of the existing agricultural and B8 business use. The Highway Authority have no objections to this application.

(b) Noise Impacts of the Development

It is considered that this B8 use within the wider farm site would not result in any undue noise impacts on the two neighbouring residential dwellings which are sited some distance away from the building.

(c) Contamination Risks on the Site

Given the current use of the site as an operational farm, it is not considered that the change of use to a B8 use would give rise to any contamination risks within the site.

(d) Flooding Risks on the Site

The site is located within Flood Zone 1, which has a low risk of flooding.

Furthermore the application is considered to adhere to the provisions of paragraph W (prior approval) in relation to the details submitted.

(2) Subject to sub-paragraph (3), development under Class R of the type described in paragraph R.3 (1) (b) must begin within a period of 3 years starting with the prior approval date.

(3) Where, in relation to a particular development under Class R of the type described in paragraph R.3 (1) (b), planning permission is granted on an application in respect of associated operational development before the end of the period referred to in sub-paragraph (2), then development under Class R must begin within the period of 3 years starting with the date that planning permission is granted.

(4) For the purposes of sub-paragraph (3), "associated operational development" means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R.

Interpretation of Class R

R.4 For the purposes of Class R, "flexible use" means use of any building or land for a use falling within the list of uses set out in Class R and change of use (in accordance with Class R) between any use in that list.

6. Recommendation

Prior Approval Not Required

7. Conditions

1 Development under Class R of the type described in paragraph R.3 (1) (b) must begin within a period of 3 years starting with the prior approval date.

2 Where, in relation to a particular development under Class R of the type described in paragraph R.3 (1) (b), planning permission is granted on an application in respect of associated operational development before the end of 3 years, then development under

Class R must begin within the period of 3 years starting with the date that planning permission is granted.

"associated operational development" means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R.

- 3 The development must be carried out (b)where prior approval is not required, or where subparagraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1),

8. Informatives

Not Applicable