

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	JR	06.06.2023
Planning Manager / Team Leader authorisation:	JJ	06/06/2023
Planning Technician final checks and despatch:	CC	06.06.2023

Application: 23/00698/AGRIC **Town / Parish:** Elmstead Market Parish Council

Applicant: Mr Charles Gooch - C and C Gooch

Address: Land to The North of Blossomwood Farm Colchester Road

Development: Prior Approval Application under Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of a grain store designed for the storage and conditioning of grain.

1. Town / Parish Council

Elmstead Market Parish Council No comments received

2. Consultation Responses

None required

3. Planning History

00/00414/AGRIC	Steel portal framed extension to existing building and concrete pad in front of extension for loading of grain	Determination	13.04.2000
10/00739/FUL	Single storey addition to rear following demolition of existing structure.	Approved	03.09.2010
11/00222/AGRIC	Replacement grain drier and new silo, intake pit and grain store.	Determination	22.03.2011

4. Relevant Policies / Government Guidance

Class A of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018; Statutory Instrument No. 343 which came into force on 6th April 2018

Relevant Policies with regard to siting, design and external appearance

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

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

Site Description

The application for prior approval relates to an area of agricultural land which forms part of an agricultural unit, Blossomwood Farm, of some 526h. The site is located to the north of Colchester Road (A133) in Elmstead. There are residential properties fronting Colchester Road, which are adjacent to the farm access, but are shown on the submitted site plan to be outside of the applicants ownership. Other residential dwellings are some distance away to the east and west fronting Colchester Road. There is existing vehicle access from Colchester Road. The proposed building is for the storage of grain produced by the farm.

The site is considered to be well screened from views along both Colchester Road and the roads to the east and north, by mature trees and boundary hedging.

Colchester Road is characterised by very sporadic residential development with large areas of agricultural land either side of the highway. To the west is Colchester and to the east is the settlement of Elmstead.

Proposal

This is a 'prior notification' under Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The applicant is seeking the Council's determination as to whether 'prior approval' is required for the erection of an agricultural building.

The proposal is for the construction of an agricultural grain storage building, measuring 30m x 20m, with an eaves height of 6.5m and a ridge height of 9.2m. The area of the building would be approximately 600 square metres. The building is to be constructed with grey concrete grain walling to a height of 3.6m and brown plastisol coated metal sheeting above, with steel doors and profile fibre cement sheeting in natural grey to the roof.

The building has a 2 large roller shutter doors and a central pedestrian access door to the eastern elevation.

The supporting information states that this building is required for the storage of grain and will provide storage capacity for grain grown on the farm that meets the stringent requirements for grain destined for human consumption. The building would have grain walling to enable grain to be stored at a height of 3.6 metres along with ventilation systems for the drying, conditioning and cooling of grain as well as louvres and fans for the extraction of warm air.

Therefore the building is considered to be an agricultural building and needs to be assessed under the following criteria:

Appraisal

Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018; Statutory Instrument No. 343 and which came into force on 6th April 2018 allows for the erection, extension or alteration of a building or any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within an agricultural unit of 5 hectares or more providing that a number of criteria are met, which are related to the location, size and use of the building.

The key change of the 2018 amendment to the Order is that it increased the ground area which would be covered by, in this case, any building erected by virtue of Class A from 465 square metres to 1000 square metres. As the area of the agricultural holding is in excess of 5 hectares (some 526 hectares) the proposed building falls to be considered under Class A.

In order to comply with the permitted development criteria of Class A, details must be submitted to the Local Planning Authority for a determination as to whether the proposal would comply with the criteria set out in Class A and whether the prior approval of the authority will be required to the siting, design and external appearance of the building, as stated in Condition A.2 (2) of Part 6, Class A.

The proposed agricultural building is not permitted development if the criteria set out in Part 6 (Class A) cannot be met. This criterion is set out and addressed below:

(a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area. A separate parcel of land is defined as being separated by land in different ownership, or for example by a public highway.

The development is not located within a separate parcel of land which is less than 1 hectare in area. The proposal complies

(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A (a) begins:

Class Q of Part 3 of the GPDO is concerned with agricultural buildings changing to dwellinghouses. Class S of Part 3 of the GPDO is concerned with agricultural buildings changing to a school or nursery. No development under Class Q or Class S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins therefore the proposal complies.

(c) it would consist of, or include, the erection, extension or alteration of a dwelling:

The proposal does not involve the erection, extension or alteration of a dwelling. Therefore the proposal complies.

(d) it would involve the provision of a building, structure or works not designed for agricultural purposes:

The proposal does not involve the provision of a building, structure or works not designed for agricultural purposes as outlined previously. Therefore the proposal complies.

(e) the ground area which would be covered by—

(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

- (ii) any building erected or extended or altered by virtue of Class A, would exceed 1,000 square metres, calculated as described in paragraph D.1(2)(a) of this Part;

The proposal does not involve any works or structure for accommodating livestock or any plant machinery arising from engineering operations and does not exceed 1000 square metres. Therefore the proposal complies.

(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres:

The agricultural building is not within 3 kilometres of the perimeter of an aerodrome. Therefore the proposal complies.

(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres:

The agricultural building is not within 3 kilometres of the perimeter of an aerodrome and does not exceed 12 metres in height. Therefore the proposal complies.

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road:

Colchester Road, (A133) is classed as a trunk road/classified road. However the development is sited more than 25 metres from the highway. Therefore the proposal complies

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building:

Class A Part 6 of the GPDO defines a protected building as:

any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is designed; but does not include—

- (a) a building within the agricultural unit; or
- (b) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture;

The proposed building is within 400m of the curtilage of two residential dwellings, however the proposed building is not for the use of accommodation of livestock or for the storage of slurry or sewage sludge. Therefore the proposal complies.

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming;

The land is not part of a National Park or any other form of Article 2(4) land nor is the proposal connected to fish farming. Therefore the proposal complies

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system

- (i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or
- (ii) is or would be within 400 metres of the curtilage of a protected building.

The proposal is within 400 metres of a protected building, however the proposed building is not for the use of storing fuel for or waste from a biomass boiler or an anaerobic digestion system. Therefore the proposal complies.

Conditions:

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

(a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part or for the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine;

N/A

(b) where the development involves

(i) the extraction of any mineral from the land (including removal from any disused railway embankment); or

(ii) the removal of any mineral from a mineral-working deposit, the mineral is not moved off the unit;

N/A

(c) waste materials are not brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the provision of a hard surface and any materials so brought are incorporated forthwith into the building or works in question.

N/A

(2) Subject to sub-paragraph (3), development consisting of—

(a) the erection, extension or alteration of a building;

(b) the formation or alteration of a private way;

(c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares); or

(d) the placing or assembly of a tank in any waters, is permitted by Class A subject to the following conditions:

(i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;

(ii) the application must be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;

Complied with

Post Determination

(iii) the development must not begin before the occurrence of one of the following:

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the applicant's application of their determination that such prior approval is required, the giving of such approval; or

- (cc) the expiry of 28 days following the date on which the application under sub-paragraph
- (iv) where the Local Planning Authority give the applicant notice that such prior approval is required, the applicant must:
- (aa) display a site notice by site display on or near the land on which the proposed development is to be carried out, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the local planning authority gave the notice to the applicant; and
 - (bb) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in sub-paragraph (iv)(aa) has elapsed, the applicant is treated as having complied with the requirements of that sub-paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;
- (v) the development must, except to the extent that the Local Planning Authority otherwise agree in writing, be carried out:
- (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application; and
- (vi) the development must be carried out:
- (aa) where approval has been given by the Local Planning Authority, within a period of 5 years from the date on which approval was given;
 - (bb) in any other case, within a period of 5 years from the date on which the Local Planning Authority were given the information referred to in paragraph (d)(ii).
- (3) The conditions in sub-paragraph (2) do not apply to the extension or alteration of a building if the building is not on article 2(4) land except in the case of a significant extension or a significant alteration.
- (4) Development consisting of the significant extension or the significant alteration of a building may only be carried out once by virtue of Class A(a).
- (5) Where development consists of works for the erection, significant extension or significant alteration of a building and
- (a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and
 - (b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the Local Planning Authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the Local Planning Authority and the developer.
- (6) Where an appeal has been made, under the Act, in relation to an application for development described in sub-paragraph (5)(b), within the period described in that paragraph, that period is extended until the appeal is finally determined or withdrawn.

(7) Where development is permitted by Class A(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

Assessment of the siting, design and external appearance

Policy PPL3 states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character and appearance.

Siting, Design and External Appearance

The proposed building is to be located to the north of Colchester Road and north of the existing farm buildings. The site is adjacent to large open fields of agricultural land and separated by the existing farm buildings from the residential properties facing Colchester Road. Therefore the proposed agricultural building will be viewed within the context of the surrounding built form and the open views of the surrounding countryside are therefore protected to a degree.

The proposed building is some 600sqm and 9.2m high, which is large, but is not considered to be excessive in this rural location, given the overall hectarage of the farm. The building is of a typical agricultural design, using concrete grain walling and metal sheeting and is considered to integrate well within its surroundings and it is not considered to have a detrimental impact upon the surrounding rural area. The site contains other buildings of a similar agricultural design and scale, and therefore while the building will have some visibility from views along Colchester Road and beyond, but is set well back from any highway and in the context of this rural farming area, the proposal will assimilate well within the existing surroundings and not appear significantly harmful to the areas existing character. Furthermore, the building will largely be seen in the context of the wider agricultural holding from longer range views, and will not instead be seen as an isolated building, which further reduces its impact to the rural landscape.

Conclusion

The proposed agricultural building complies with Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 6 Agricultural and Forestry Permitted Development, of the above mentioned order (as amended), and the Council's prior approval is not required for the siting, design or external appearance of the development as proposed.

6. Recommendation

Prior Approval not required

7. Conditions

The development complies with the provisions of Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) (as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018; Statutory Instrument No. 343. The erection of the building for the purposes of agriculture are acceptable subject to the following conditions:

1. The development must not begin before the receipt by the applicant from the Local Planning Authority of a written notice of their determination that such prior approval is not required.
2. The development must, except to the extent that the Local Planning Authority otherwise agree in writing, be carried out where prior approval is not required, in accordance with the details submitted with the application.
3. The development must be carried out where approval has been given by the Local Planning Authority, within a period of 5 years from the date on which approval was given.

4. Where development consists of works for the erection, significant extension or significant alteration of a building and,
- (a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and
- (b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the Local Planning Authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the Local Planning Authority and the developer.
5. Where development is permitted by Class A(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

8. Informatives

Not applicable

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