

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AP	04/04/2024
Team Leader authorisation / sign off:	ML	10/04/2024
Assistant Planner final checks and despatch:	ER	11/04/2024

Application: 24/00401/AGRIC **Town / Parish:** Little Bentley Parish Council

Applicant: Mr W King - W L King and Son

Address: Old Oaks Farm Tendring Road Little Bentley

Development: Prior Approval Application under Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an agricultural open sided building.

1. Town / Parish Council

Lawford Parish Council Notification only

2. Consultation Responses

n/a

3. Planning History

00/01315/FUL	New farm entrance onto Tendring Road, Lt. Bentley	Approved	15.11.2000
09/00341/FUL	Erection of farm managers dwelling including farm office and detached cart-lodge, as amended by location plan received on 18th June 2009.		08.07.2009
09/01273/NMA	Reduction from 3 no. chimney stacks approved under p.p. 09/00341/FUL to 2 no. chimney stacks.	Approved	30.12.2009
10/00106/NMA	Changes to the windows on the N.E. elevation. 1) Removal of bay window, replace with shorten sash to allow kitchen units to fit under window. 2) Reduce size of windows either side of chimney. 3) Replace door and small sash on single storey part, with two slightly larger sashes. 4) Increase size of first floor sash.	Approved	05.03.2010
13/00226/AGRIC	Agricultural Dutch Barn.	Determination	26.03.2013
15/01889/AGRIC	Clear span portal frame Dutch barn.	Determination	11.01.2016
17/02185/AGRIC	Erection of agricultural barn.	Determination	17.01.2018

20/01289/TELLIC	Installation of fixed line broadband electronic communications apparatus, relating to installing 2 x 10m wooden pole (8.2m above ground).	Determination	15.10.2020
20/01316/AGRIC	Erection of a steel portal frame building.	Determination	20.10.2020
23/01774/AGRIC	Prior Approval Application under Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposal to all weather surface to existing agricultural grass tracks.	Determination	22.12.2023
23/01775/AGRIC	Prior Approval Application under Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for construction of agricultural straw and feed storage building.	Determination	22.12.2023
24/00401/AGRIC	Prior Approval Application under Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an agricultural open sided building.	Current	

4. 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 Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

6. Relevant Policies / Government Guidance

n/a

7. Officer Appraisal

Description of 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.

This application seeks prior notification for the erection of an agricultural building for the storage of agricultural farm machinery which will measure 22 metres x 7 metres with a height of 6 metres.

Appraisal

Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 allows works 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 proposal may be considered as permitted development. However, 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 states in Condition A.2 (2) of Part 6, Class A.

The proposed works are not permitted development if the criteria set out in Part 6 (Class A) cannot be met (see below).

Development is not permitted by Class A if:

(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;

The agricultural holding extends to 120 hectares, and the development would not be carried out on a separate parcel of land which is less than 1 hectare. This criterion is met.

(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;

The site has not benefitted from development under Class Q or S of Part 3 (change of use) of the Schedule therefore the proposal complies.

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

The proposal would not consist of, or include, the erection, extension or alteration of a dwelling.

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

The building is designed for agricultural use, and therefore this criterion is met.

(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. Application number 23/01775/AGRIC approved on 22nd December 2023 a building to store straw and feed with an area of 648 square metres.

The building proposed under this application will measure 154 square metres consequently any building erected or extended by virtue of Class A would not exceed 1000 square metres, calculated as described in paragraph D.1(2)(a) of this Part.

No other building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit has been provided within the preceding 2 years.

Criterion (e) above is therefore met.

(f) the height of any structure or works within 3km of the perimeter of an aerodrome would exceed 3 metres;

The building is not within 3 kilometres of the perimeter of an aerodrome. This criterion is therefore met.

(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 building will measure 6 metres in height, and therefore this criterion is met.

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

The development is not sited within 25 metres of a metalled part of a trunk road or classified road.

(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;

The proposed building will not be used for the accommodation of livestock or for the storage of slurry or sewage sludge and is not within 400 metres of the curtilage of a protected building, therefore this criteria is met.

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

The land is not part of a National Park or any other form of Article 2(4) land. The proposal is not connected to fish farming.

(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 proposed building is not to be used for storing fuel for or waste from a biomass boiler or an anaerobic digestion system.

Conditions

A.2—(1) 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;

The building will be used for the drying and long term storage of cereal crops and not for the uses above. Condition A.2 (1) (a) is met.

(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;

Not applicable – the development does not involve either of these types of development.

(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.

This condition shall be adhered to throughout development.

(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;

The proposed building is to be located on the southern side of the existing farm yard, south west of an existing agricultural building. The new building will form part of the farm yard which is set back from Tendring Road and Manningtree Road. Existing mature trees and hedging line the boundary of Manningtree Road thereby screening the farmyard from view. The low level of the farm buildings on the site ensure that it will only be possible to view the farm buildings above the mature hedging on Tendring Road and Officers do not consider that the harm to the area's existing character would be so harmful that it would justify recommending a reason for refusal. Furthermore, the proposed building would be of a typical agricultural design, comprising green steel box profile cladding on gable ends, open sided and natural grey colour cement roof.

These materials and the design proposed are considered to relate acceptably to the rural area and no objections are raised.

Conclusion

Prior approval is not required by the Local Planning Authority for the siting or design of the above development as it is permitted by Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015.

8. Recommendation

Prior approval not required

9. 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.

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.

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.

10. Informatives

n/a

Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

11. Notification of Decision

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