

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>		<b>INITIALS</b>	<b>DATE</b>
Planning Officer recommendation:		ER	01/08/2024
EIA Development – Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	02/08/2024
Assistant Planner final checks and despatch:		ER	02/08/2024

**Application:** 24/01086/AGRIC **Town / Parish:** Wix Parish Council

**Applicant:** Mr W King – Wix Farms Ltd

**Address:** Pond Hall Farm Bradfield Road Wix

**Development:** Application to determine if prior approval is required under Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for agricultural straw storage building.

### **1. Town / Parish Council**

No comments received

### **2. Consultation Responses**

Not required

### **3. Planning History**

03/02341/CMTR	Erection of new building to replace existing workshop, for storage, sorting and recovery using a trommel and transfer of category 1 skip waste; provision of administrative offices, vehicle manoeuvring and parking area; retention of concrete walled bunkers, re-fuelling and steam cleaning bay and diesel tank	Determination	23.02.2004
23/00172/AGRIC	Prior Approval Application under Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed agricultural machinery storage building.	Determination	13.02.2023
24/01086/AGRIC	Application to determine if prior approval is required under Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for agricultural straw storage 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>

There are no neighbourhood plans in place for this location.

## 6. **Relevant Policies / Government Guidance**

Not applicable

## 7. **Officer Appraisal (including Site Description and Proposal)**

### **Site Description**

The application site comprises of a farm and associated buildings at Pond Hall Farm located to the north of Bradfield Road, Wix.

### **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 a straw store building.

The building will measure 24m by 18m and have a ridge height of 8.3m. The side and gable elevations of the building will be clad in juniper green 1mm skin steel box profile sheeting to the eaves with 3m high natural coloured prestressed concrete panelling from ground level. The roof of the building will be fibre cement sheeting in natural grey.

### **Appraisal**

Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development)

### **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 would exceed 1,000 square metres; or

(ii) any building erected or extended or altered by virtue of Class A, would exceed 1,500 square metres, calculated as described in paragraph D.1(2)(a) of this Part;

Paragraph D.1 (2) (a) For the purposes of Classes A, B and C—

*(a)an area “calculated as described in paragraph D.1(2)(a)” comprises the ground area which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit which are being provided or have been provided within the preceding 2 years and any part of which would be within 90 metres of the proposed development;*

*(b)a reference to 400 metres in paragraphs A.1(i) and (k), A.2(1)(a), B.1(d) and B.5(1) of this Part is a reference to distance measured along the ground.*

**The proposed floor area of the new building is 432m<sup>2</sup>.**

**A previous prior notification was received under planning reference 23/00172/AGRIC for a proposed agricultural machinery store building with floor area of 438.8m<sup>2</sup>.**

**The total floor area therefore equates to 870.8m<sup>2</sup>.**

**The proposal does not involve any works or structure for accommodating livestock, or any plant machinery arising from engineering operations and does not exceed 1500 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:

**Bradfield Road is a Class III Road – (Classified unnumbered) The proposal will be at least 100 from the road. 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;

**Pond Hall to the south is a residential property within 400m of the location of the new building. The proposal will not be used for the accommodation of livestock or for the storage of slurry or sewage.**

**The proposal therefore 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 or

**The proposal is located within 400m of Pond Hall. The proposed building is not for the use of storing fuel for or waste from a biomass boiler or an anaerobic digestion system. The proposal therefore complies.**

(l) the erection or extension of a building would be carried out on land or a building that is, or is within the curtilage of, a scheduled monument”.

**The building is not located within the curtilage of a scheduled monument.**

### **Conditions**

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.**

### **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 building is located to the north of Pond Hall Farm comprising of a number of large agricultural buildings which are set back from the main highway.

The site itself comprises of a mixture of other agricultural buildings which vary in terms of design and scale.

The new building will be of a scale appropriate to the existing holding and its surroundings with materials to complement the existing barns.

The building will measure 24m by 18m and have a ridge height of 8.3m. The side and gable elevations of the building will be clad in juniper green 1mm skin steel box profile sheeting to the eaves with 3m high natural coloured prestressed concrete panelling from ground level. The roof of the building will be fibre cement sheeting in natural grey.

The new building is of a typical agricultural design, using similar materials to other buildings at the site 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, 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 existing rural character of the area. 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 development is compliant with the 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 prior approval is therefore granted for the siting, design or external appearance of the development as proposed.

## **Ecology and Biodiversity**

### **General duty on all authorities**

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore, the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

### **Biodiversity net gain**

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for agricultural prior approval. This proposal is not therefore applicable for Biodiversity Net Gain.

### **Protected Species**

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

## Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

## 8. Recommendation

Prior approval not required.

## 9. 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.

## 10. Informatives

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

## 11. 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
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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