

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		MP	13/08/24
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	14/08/2024
Assistant Planner final checks and despatch:		ER	14/08/2024

Application: 24/01003/COUNOT **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Mr Polkinghorne

Address: Whitehall Farm Whitehall Lane Thorpe Le Soken

Development: Prior Approval Application under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of an agricultural building into two dwellings.

1. Town / Parish Council

Thorpe-le-Soken Parish Council No comments received.

2. Consultation Responses

ECC Highways Dept
22.07.2024

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, given previous highway conditions that were imposed for 21/00242/COUNOT and 22/01018/COUNOT are adhered to.

Informative:

i. 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

ii. 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.

Environmental Protection
12.08.2024

With reference to the above application, please see below for comments from the EP Team:

Construction Method Statement: We are satisfied with the submitted

CMS and have no adverse comments to make in relation to this.

Contaminated Land: Our contaminated land database shows no indication of contamination, due to the historic agricultural use of the site, an observation strategy is recommended during any groundwork. Any contamination seen at the time of groundworks should be recorded, remediated and a closure report with photographic evidence sent to Environmental Protection.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the

land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

Asbestos: If there is any asbestos present in the current building or site then adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

REASON: to protect the health of workers and nearby existing residents

*INFORMATIVE Foul Drainage: The application confirms the proposal will be utilising a Sewerage Treatment Plant as a method of foul water disposal, we would request the standard informative be added to any subsequent approval - we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

3. **Planning History**

21/00242/COUNO T	Application for prior approval for the conversion of two agricultural buildings into 2no. self-contained dwellings.	Prior Approval granted	07.04.2021
22/01018/COUNO T	Proposed amendments to design of Barn 1 as approved under prior approval 21/00242/COUNOT.	Prior Approval granted	08.08.2022

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.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19th December 2023, sets out in

Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

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

Site Description

The application site is Whitehall Farm, which is located to the eastern side of Whitehall Lane, within the parish of Thorpe-le-Soken. The site includes a variety of agricultural related buildings, with the building subject of this application being located on the north-eastern section of the site.

Description of Proposal

This application seeks consent for the conversion of part of one agricultural building into two residential units, each to be served by three bedrooms, with the remainder of the building (approximately half of the size) to be demolished.

Assessment

Class Q - agricultural buildings to dwellinghouses

Q. Development consisting of -

(a) a change of use of—

- (i) a building that is part of an established agricultural unit and any land within that building's curtilage, or
- (ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage,

to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.

Q.1 Development is not permitted by Class Q if -

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit -

(i) on 24th July 2023, or

(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,

The site and building were part of the established agricultural unit on 24th July 2023. The proposal complies.

(b) in the case of a site that was (but is no longer) part of an established agricultural unit -

(i) the site was part of an established agricultural unit on 24th July 2023, or

(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or

(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,

The site and building were part of the established agricultural unit on 24th July 2023. The proposal complies.

(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

In this case the proposal is for the conversion of one agricultural building into two dwellings, each of which will have a floorspace of 150sqm. This criterion is therefore met.

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in—

(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or

(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,

In this case the proposal is for the conversion of one agricultural building to two dwellings which measure a combined 300sqm of floorspace. Officers also note that under references 21/00242/COUNOT and 22/01018/COUNOT prior approval was also granted for the conversion of the agricultural building to the west into two dwellings, which had a combined floorspace of 426sqm. The cumulative number of separate dwellinghouses does not exceed 10 and the

cumulative floorspace does not exceed 1,000sqm. The proposal therefore adheres with this criterion.

(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 one year before the date development begins an agricultural tenancy over the site has not been terminated and the termination was for the purpose of carrying out development under Class Q. 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 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 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, other than—

(i) extension of the building allowed by paragraph Q.1(i);

(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),

The proposed alterations to the building do not include works beyond the external dimensions of the existing building at any point, and therefore this criterion is met.

(i) the development under Class Q(b) would result in an extension that—

(i) has more than one storey,

(ii) is sited anywhere other than to the rear of the existing building,

(iii) extends beyond the rear wall of the existing building by more than 4 metres,

(iv) has eaves the height of which exceed the height of the eaves of the existing building,

(v) is higher than whichever is the lower of—

(aa) the highest part of the roof of the existing building, or

(bb) a height of 4 metres above the ground,

(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or

(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—

(aa) the hard surface was not provided on the land on or before 24th July 2023, or

(bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,

The proposal does not include an extension and therefore this criterion is not relevant.

(j) the development under Class Q(c) 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(j)(i),

The development under Class Q(b) will see alterations to the existing building, including the removal of two bays of the existing building as well as a lean-to extension, which combined equate to approximately half of the existing building. Beyond that a new external wall is proposed to the eastern elevation, a first floor is to be created, as well as the installation of solar panels, doors and windows. In addition, there are proposed materials of fibre slate roof tiles, natural stoned render and black stained feather edged weatherboarding. The combination of all of these works is considered to go beyond what would be reasonably necessary for such a conversion, and therefore the proposal fails to comply with this criterion.

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

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

(l) 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.

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

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

(n) the building is a listed building;

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

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015⁶⁴ as read with the notes dated 19th May 2016 which apply to it, or

Depending on the number of occupants, the nationally prescribed space standards state a single storey three bedroom property should have minimum measurements between 74sqm and 95sqm. On this occasion the dwellings are both 150sqm and therefore comply.

(p) the building does not have suitable existing access to a public highway.

There is an existing made access that connects to the public highway (Whitehall Lane) to the west, and is already in use for existing residential properties. This criterion is met.

Conditions

Q.2 - (1) Where the development proposed is development under Class Q(a) together with development under Class Q(c), 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 Schedule 1 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.

Transport and Highways Impacts of the Development:

The proposal would connect to an existing private access via Whitehall Lane to the west. Essex Highways Authority have been consulted on the application and have raised no objections, whilst Officers also note that provision is provided for two parking spaces per dwelling, thereby adhering to the Essex Parking Standards. There is also sufficient space for adequate vehicular turning. Taking the above into consideration no objections are raised.

Noise Impacts of the Development:

The proposal would not result in any material noise impacts. The proposal complies.

Contamination Risks on the Site:

The Council's Environmental Protection team have been consulted and due to the historic agricultural use of the site, they raise no objections subject to a watching brief condition being included.

Flooding Risks on the Site:

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

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."

The agricultural building subject of this application is located to the east of a former agricultural building that has since been converted into residential use. The proposal is considered to comply with this criterion.

The Design or External Appearance of the Building:

The design will see the conversion of part of the existing agricultural building, with the remainder to be demolished. Additional changes include the erection of an external wall to the eastern elevation, creation of a first floor, insertion of doors/windows, and also the installation of solar panels as well as a set of materials (natural stoned render, black weatherboarding and slate roof tiles) that combined provide for a more urban appearance that is not in-keeping with the rural character of the area. Such works are considered to be significant and go beyond the scope of what would be expected to convert such a building, and the Local Planning Authority consider that these works instead represent new dwellings that are not in-keeping with the surrounding built form and overall rural character of the area.

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 Numbers PA-10-A, PA-11-A and PA-12-B show that each habitable room will have adequate natural light.

Biodiversity and Protected Species:

Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value. TDLP Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

On this occasion, while Officers do not consider there is likely to be significant harm to protected species, there is an opportunity to provide a scheme of biodiversity enhancements, and as such an informative recommending the applicant is strongly encouraged to improve the biodiversity of the site through appropriate additional planting and wildlife friendly features is included. In addition, Officers note that the building is of solid construction and has been utilised recently, and therefore it is unlikely that protected species would be habiting the space within.

8. Recommendation

Prior Approval required - deemed application refused.

9. Reason for Refusal

- 1 The development under Class Q(b) will see significant alterations to the building, with the removal of two bays of the existing building as well as a lean-to extension, which combined equate to approximately half of the existing building. Beyond that a new external wall is proposed to the eastern elevation, a first floor is to be created, as well as the installation of solar panels, doors and windows. In addition, there are proposed materials of fibre slate roof tiles, natural stoned render and black stained feather edged weatherboarding. The combination of all of the above go beyond the scope of the requirements.

The proposal is therefore contrary to item Q.1. (j) (i) and (ii), and Q.2 (1) (f) of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q.

10. Informatives

N/A

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
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