

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AL	19/09/2024
EIA Development - Notify Planning Casework Unit of Decision:	N/A	N/A
Team Leader authorisation / sign off:	JJJ	19/09/2024
Assistant Planner final checks and despatch:	ER	20/09/24

Application: 24/01126/COUNOT **Town / Parish:** Little Clacton Parish Council

Applicant: Mr and Mrs Leiper

Address: Woodlands Farm 217 Harwich Road Little Clacton

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

1. Town / Parish Council

Little Clacton Parish Council No comments required.

2. Consultation Responses

ECC Highways Dept
18.09.2024

The information that was submitted in association with the application has been considered by the Highway Authority. It is noted that the application is similar to an earlier planning application: 21/01483/COUNOT that was previously acceptable to the Highway Authority. The proposed site is accessed from and along a private drive that serves the existing agricultural buildings and host dwelling from an established vehicular access, no new or altered means of access is proposed. It is noted that the buildings remain in low key agricultural use, and there has been no other use of the buildings or land other than for agricultural purposes. When compared with the recent agricultural use, the level of activity will be on a par or possibly reduced. It appears that the proposed dwellings will retain adequate off-street parking and turning, taking these factors into consideration:

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 curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

2. There should be no obstruction above ground level within a 2.0 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

3. The proposed dwellings shall not be occupied until such time as a domestic car parking for two vehicles for the two and three bed dwellings and one vehicle for the one bed dwellings have been provided in accordance with the Parking Standards for each dwelling, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

4. Prior to the occupation of any of the proposed dwellings, the existing private drive shall be modified to a width of 5.5 metres for at least the first 6 metres from the gated entrance.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests 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 and National Planning Policy Framework 2023.

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) On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

iii) 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.

iv) Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the [Essex Climate Action Commission](#) proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net

zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the [Essex Developers' Group Climate Charter \[2022\]](#) and to view the advice contained in the [Essex Design Guide](#). Climate Action [Advice guides](#) for residents, businesses and schools are also available.

Environmental Protection
07.08.2024

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

Contaminated Land: The submitted Planning Statement dated July 2024, makes reference within section 3.6 that acceptance of no contaminated land on site was accepted in 2021; I have been unable to find the relevant documentation to verify this statement within any of the recent planning submissions relating to this site. We are therefore requesting the submission of the relevant document that confirms the above statement, to alleviate any potential concerns in relation to the site. However, should the applicant or their agent be unable to evidence this statement, the EP team have the following comments to make -

Given the site is located within less than 250m of several pieces of historic, registered contaminated land (ten 659, ten 660 and ten 661 - unknown infills), and have consideration for the historical agricultural use of the site, the surrounding agricultural land and the scale of the proposed development, the EP Team are requesting a minimum of a Phase One Contaminated Land Survey be performed, to ensure the land is suitable for the proposed end use - The following works shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - Human health,
 - Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Groundwaters and surface waters,
 - Ecological systems

- Archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

REASON - To ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Construction Activities: In order to minimise potential nuisance caused by construction, Environmental Protection recommend that the following below is conditioned.

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential dwellings

*INFORMATIVE Foul Drainage: The application advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; 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.

In addition to the above we are aware of another pending application on the above site of where the proposal is to seek a change of use of some of the existing units on site. (24/01010/COUNOT). Given the scope for the type of activities included within the proposed use class, the EP team would also suggest the following be considered, should the above application be approved -

Internal Noise: Due to the potential change in use of other units located on the development site, the EP Team would recommend, should this application be approved, that compliance with relevant internal noise levels, such as those outlined in BS8233:2014 -

Guidance on sound insulation and noise reduction for buildings - be implemented to ensure the proposal can meet relevant criteria in respect of internal noise levels.

REASON: to protect the amenity of future residents

3. Planning History

21/01483/COUNOT	Proposed conversion of agricultural buildings into four dwellings.	Determination	13.10.2021
22/00821/FUL	Proposed demolition of six barns and replacement with five bungalows (in lieu of deemed Prior Approval for conversion of barns into four dwellings subject of application 21/01483/COUNOT).	Refused	04.11.2022
23/00686/FUL	Proposed demolition of two storey barn and replacement with one bungalow (part in lieu of deemed Prior Approval for conversion of barns into four dwellings subject of application 21/01483/COUNOT).	Refused	09.11.2023
24/01002/NOTIF	Prior Approval Application under Part 3, Class R of the town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of an agricultural building into a Class E (flexible commercial) use.	Closed	11.07.2024
24/01010/COUNOT	Prior Approval Application under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of a portal frame agricultural building into a Class E (flexible commercial) use under Class R of the GPDO (as amended 2024)	Determination	02.09.2024

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>.

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

6. Relevant Policies / Government Guidance

- Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

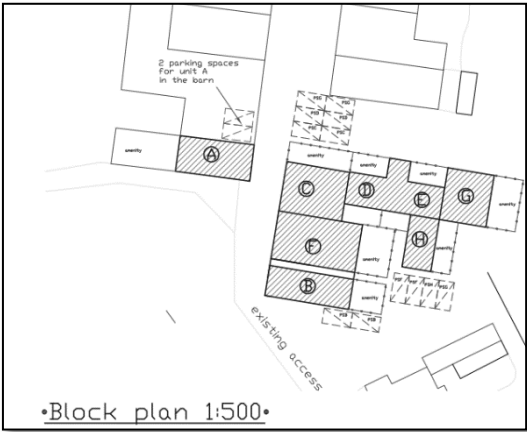
7. Officer Appraisal (including Site Description and Proposal)

Site Description & Context

The site is situated on the northern side of Harwich Road close to the junction with Tan Lane, within the Parish of Little Clacton.

As set out within the accompanying statement, a large farmhouse (217 Harwich Road) stands at the front of the site which is owned and occupied by the applicant. Immediately to the rear of the farmhouse stand three large groups of farm buildings which relate to extensive farmland surrounding the farmhouse. The supporting statement explains that the buildings remain in low key agricultural use, primarily for storage of small items of equipment. The more prominent buildings were until recently used for the storage of grain. The farm buildings are an assortment of structures, although consist primarily of large portal frame buildings dating from the 1940-60's, which are constructed with substantial steel frames and clad part in brickwork with the remainder in corrugated metal sheeting. Building A is located at the front of the group. This is a two-storey structure constructed in

brick and used as stores. Building D & E form an Essex barn which has been substantially altered over time. Buildings G & H are more modern additions to the Essex barn while Buildings B, C and F are single storey structures dating from the 1940's. All of the buildings are in a sound condition, wind and weathertight. Access to the barn complex is via a consolidated driveway which also serves the farmhouse.



The site lies outside of the Little Clacton Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond. The site lies within Flood Zone 1 representing the lowest risk of flooding.

Description of Development

The proposed development seeks the conversion of the buildings, as identified on the Block Plan extract above, from agricultural use to C3 residential use within the criteria of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The schedule of accommodation proposed (as set out within the accompanying plans and statement) can be summarised as follows:

Building	No. of Storeys	Floor Area	Bedrooms
Barn A	Two	150 sqm	3
Barn B	Single	95 sqm	2
Barn C	Single	120 sqm	3
Barn D	Two	121 sqm	2
Barn E	Two	145 sqm	2
Barn F	Single	150 sqm	3
Barn G	Single	92 sqm	1
Barn H	Single	57 sqm	1
TOTAL	-	930sqm	17

Assessment (consolidated version Sept 2024)

**Class Q
buildings on agricultural units and former agricultural buildings to dwellinghouses**

Permitted development

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.

Development not permitted (officer comment / assessment in bold)

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

The accompanying planning statement explains that the buildings subject of this application were in agricultural use on 20th March 2013 and that, other than low level agricultural storage use, no subsequent other use has taken place. The Local Planning Authority has no evidence or reasons to dispute this.

- 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,

Not applicable.

- 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,

Not applicable.

- 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

Not applicable.

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

Not applicable.

- 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,

The development complies with this criterion:

Building	No. of Storeys	Floor Area	Bedrooms
Barn A	Two	150 sqm	3
Barn B	Single	95 sqm	2
Barn C	Single	120 sqm	3
Barn D	Two	121 sqm	2
Barn E	Two	145 sqm	2
Barn F	Single	150 sqm	3
Barn G	Single	92 sqm	1
Barn H	Single	57 sqm	1
TOTAL	-	930sqm	17

- 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

8 no. units are proposed. The proposal complies with this criterion.

- 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,

As set out in the accommodation table above, the total floor area amounts to 930 square metres. The proposal complies 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,

Not applicable.

- 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,

Not applicable.

- 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,

Not applicable. There is no evidence of planning history that would indicate works falling within the above Classes.

- 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 conversion works are not caught by these criteria.

- 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 conversion works are not caught by these criteria.

- 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 conversion works comply with these criteria.

- k) the site is on article 2(3) land,

Not applicable.

- l) the site is, or forms part of—
 - i. a site of special scientific interest;

Not applicable.

- ii. a safety hazard area;

Not applicable.

- iii. a military explosives storage area,

Not applicable.

- m) the site is, or contains, a scheduled monument,

Not applicable.

- n) the building is a listed building,

Not applicable.

- 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 2015 as read with the notes dated 19th May 2016 which apply to it, or

Minimum gross internal floor areas and storage (sq.m)

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) ²			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	

Schedule of Accommodation

Building	No. of Storeys	Floor Area	Bedrooms
Barn A	Two	150 sqm	3
Barn B	Single	95 sqm	2
Barn C	Single	120 sqm	3
Barn D	Two	121 sqm	2
Barn E		145 sqm	2
Barn F	Single	150 sqm	3
Barn G	Single	92 sqm	1
Barn H		57 sqm	1
TOTAL	-	930sqm	17

Having regard to the space standards and proposed accommodation, the development complies.

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

The site benefits from an access to the public highway.

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,

It is noted that the proposal will utilise an existing, established access with an in-and-out driveway style arrangement, with good visibility in both directions and ample areas of hardstanding for manoeuvrability.

Having regard to the planning history for the site, including a previous approval for four dwellings, and traffic movements associated with the lawful agricultural use there is no objection to the proposed use in terms of access and highway safety impacts.

Adequate vehicular turning space is available to ensure all vehicles leave the site in forward gear. In addition, sufficient parking is provided to serve the proposed residential units.

Essex County Council Highway Authority raise no objection subject to conditions. Notwithstanding the conditions imposed upon the previous prior approval reference 21/01483/COUNOT, the conditions will be imposed where necessary, as follows:

- 1. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials shall be provided.**

Officers are content that there is sufficient space within the site for construction related storage and vehicles. This will be added as an informative only.

- 2. There should be no obstruction above ground level within a 2.0 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage and retained free of any obstruction at all times.**

This suggested condition is considered to fail the test of necessity, reasonableness and enforceability because the site frontage is not clearly defined and the site access at its junction is wide and arranged with an in-and-out driveway style arrangement, affording good visibility in both directions. It is also unreasonable to expect a 2.0m wide parallel band visibly splay ...'along the entire site frontage' if it is meant to mean the frontage area to the front of the main farmhouse and elsewhere – this is a considerable distance and would appear to be an excessive requirement. It is up to the landowner to maintain the hedges bordering the footpath along the B1414 to the northeast and south west of the site access.

- 3. The proposed dwellings shall not be occupied until such time as a domestic car parking for two vehicles for the two and three bed dwellings and one vehicle for the one bed dwellings have been provided in accordance with the Parking Standards for each dwelling.**

To impose this condition seems excessive because the plans demonstrate what is considered to be adequate car parking provision for the proposed conversion of the buildings to residential. The development must be carried out in accordance with the approved plans, as required by the prior approval legislation.

- 4. Prior to the occupation of any of the proposed dwellings, the existing private drive shall be modified to a width of 5.5 metres for at least the first 6 metres from the gated entrance.**

This condition is considered to be necessary and reasonable because the proposal will result in an intensification in the use of the access given the fact that 8 dwellings will be forthcoming should this conversion scheme be implemented, and the widening of the access to 5.5m for 6 metres back from the gated entrance would appear to be achievable, and will ensure vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

(b) noise impacts of the development,

The proposed dwellings will be located closest to the existing farmhouse, grouping the residential uses together toward the front portion of the site.

The proposal will not result in any harmful noise impacts.

The planning history for other buildings on the site include references 24/01002/NOTIF & 24/01010/COUNOT both for change of use to Flexible Commercial Uses under Class R. These are to the rear portion of the site. Any future occupants of the dwellings should be made aware of the planning history and potential for commercial uses coming forward in the surrounding buildings as part of the searches related to the purchase of the dwelling(s).

Nevertheless, with regard to noise levels, the GPDO is concerned with the noise caused by the proposed development upon other units, not the other way around. Any noise related to demolition or construction will be limited and does not raise concern due to the distance to neighbouring dwellings (closest property is occupied by the applicant).

(c) contamination risks on the site,

Consultation with the Council's Environmental Protection Team (EP) has been undertaken.

EP are requesting a minimum of a Phase One Contaminated Land Survey be performed, given the site is located within less than 250m of several pieces of historic, registered contaminated land (ten 659, ten 660 and ten 661 - unknown infills), having regard to the historical agricultural use of the site and buildings, the surrounding agricultural land and having regard to the scale of the proposed development.

This is consistent with the comments and requirements received at the time of Prior Notification application reference 21/01483/COUNOT for the proposal of 4 dwellings on the site.

An email was received from the applicant's agent on 15th August 2024 highlighting that this issue and need for a report, had been challenged at the time of the earlier COUNOT application. The email claims that it was resolved that the Council had no evidence of contamination. The correspondence also refers to an appeal decision that dealt with the same issue. However, no details of the appeal have been given and officers cannot comment on its relevance in the assessment of this current case.

Nevertheless, the Council's complaint response at the time of 21/01483/COUNOT confirmed:

"In the event of the application being granted matters relating to contamination may be addressed by way of condition. We consider that the comments made by the Environmental Protection Officer are reasonable, justified and robust. These are publicly available. Any condition imposed on an approval will have to pass the NPPF legal tests for conditions."

Application 21/01483/COUNOT was approved subject to the following condition:

"Prior to the commencement of development a Phase One risk assessment, in the form of a desktop study/site walkover report to be submitted, for approval from the LPA. This will include a review of previous investigations; previous uses; potential sources of contamination; and potential pathways and receptors. If necessary, this shall be followed up by a 'phase two' risk assessment that shall incorporate a detailed intrusive investigation referring to the phase one study. Individual risk assessments shall be submitted to Environmental Protection Team for approval on completion.

Reason: To protect the health of site workers, nearby residential dwellings and end users."

As explained above, the agent has not provided the precise details of the appeal decision referred to in the previous complaint. However, based on the limited information provided, officers believe the case to be application reference 21/02014/FUL (appeal ref: APP/P1560/W/22/3291996). The application sought planning permission for the erection of seven dwellings on a site with different characteristics (i.e. 'not previously developed land') at Land off Connaught Road, Weeley Heath. If this is the correct case, in this instance the LPA suggested a Phase One Risk Assessment condition on the advice of the Environmental Protection Team. The Planning Inspectorate concluded that such a condition would be 'unduly onerous' due to the lack of evidence (extract from the appeal decision included below):

48. The site is not previously developed land and the Council's Officer Report states that there is no site-specific history. As such, there is no clear evidence of any historic use likely to have resulted in ground contamination and a condition requiring investigations to be undertaken prior to the commencement of development would be unduly onerous.

The site subject of 21/02014/FUL formed part of an open field and secured full planning permission. This current application concerns a prior approval for existing buildings, and is not, therefore, directly comparable.

To ensure consistency with the site-specific planning history in relation to the previous residential development (reference 21/01483/COUNOT for 4 dwellings), whilst ensuring reasonableness, a condition will be imposed requiring the applicant to undertake construction or demolition subject to a 'Watching Brief'. In the event of any contamination being found, the LPA and EP can ensure appropriate mitigation is secured. However, if nothing is found, no further work or reports relating to contamination will be required.

For the reasons given above officers consider this to be a reasonable and necessary approach in this instance.

(d) flooding risks on the site,

The site is located within Flood Zone 1. There are no flooding risks associated with the site or development.

(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,

The site is not in an impractical or undesirable location to change buildings from agricultural use to C3 residential use. Whilst the site is located outside the settlement development boundary for the area, the site is served by footpaths, nearby bus stops and the centre of Little Clacton, although not entirely practical due to distance and lack of street lighting, is walkable.

(f) the design or external appearance of the building, and

The minor alterations to the external appearance of the buildings are considered acceptable in design terms and will improve and enhance the overall appearance of the collection of the buildings.

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

All habitable rooms of the proposed dwellinghouses would be provided with adequate natural light.

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class Q(a) only, 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 the items referred to in sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The applicant has submitted the necessary information to assess whether the prior approval of the Local Authority is required in regard to the items referred to in sub-paragraphs (1)(a) to (e) and (g).

(3) Where the development proposed includes development under Class Q(b), the developer must also apply, as part of the application under sub-paragraph (1) or (2) (as the case may be), for a determination as to whether the prior approval of the authority will be required as to the impact of the proposed extension on the amenity of any adjoining premises.

Not applicable.

(4) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b) or (c), if any, must be completed within a period of 3 years starting with the prior approval date.

This matter can be applied by condition.

8. Recommendation

It is therefore considered that the terms of Class Q are met, and the development will not conflict with any of the provisions as set out within the Order.

9. Conditions

1. COMPLIANCE: COMMENCEMENT

CONDITION: The development must not begin before the occurrence of the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required.

REASON: In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. COMPLIANCE: TIME LIMIT

CONDITION: Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b) or (c), if any, must be completed within a period of 3 years starting with the prior approval date.

REASON: In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

3. COMPLIANCE: APPROVED PLANS & DOCUMENTS

CONDITION: The development must be carried out (b) where prior approval is not required, in accordance with the details provided in the application referred to in sub-paragraph (1), unless the local planning authority and the developer agree otherwise in writing.

REASON: In order to comply Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

4. REPORTING OF UNEXPECTED CONTAMINATION

CONDITION: Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

If necessary, the 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.
12. After consultation with the Local Planning Authority, materials should either be: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or removal from site to a suitably licensed landfill or permitted treatment facility.
13. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority before development can proceed.

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.

5. COMPLIANCE: WIDTH OF ACCESS PRIOR TO OCCUPATION

CONDITION: Prior to the occupation of any of the proposed dwellings, the existing private drive shall be modified to a width of 5.5 metres for at least the first 6 metres from the gated entrance and retained in this approved form.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

10. Informatives

Environmental Protection Informatives

Mitigation During Construction

In order to minimise potential nuisance caused by construction, Environmental Protection recommend that the following is adhered to throughout construction:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

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 - to protect the health of residents and nearby residential premises.

Foul Drainage

The application advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; 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.

Highways Informatives

1. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway, to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.
2. 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

3. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
4. 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.

5. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

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

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO