

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		AP	9/10/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	10/10/2024
Assistant Planner final checks and despatch:		Er	10/10/2024

Application: 24/01192/COUNOT **Town / Parish:** Great Oakley Parish Council

Applicant: Mr Peter Thompson - George Thompson Ltd

Address: Brook Farm Stones Green Road Great Oakley

Development: 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 an agricultural building into a Class B2 (general industrial) flexible commercial use.

1. Town / Parish Council

Great Oakley Parish Council No comments received

2. Consultation Responses

ECC Highways Dept
11.09.2024

The information that was submitted in association with the application has been fully considered by the Highway Authority. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image.

From a highways and transportation perspective the impact of the proposal is acceptable to Highway Authority, subject to the following requirement;

1. The public's rights and ease of passage over public footpath no 24 (Great Oakley) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Informative:

i. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no.24 (Great Oakley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant temporarily closing the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

ii. 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

Environmental Protection
26.09.2024

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

Noise

It is not possible to assess the potential noise impact from the site as the end use is flexible and currently unknown. Therefore, we are unable to comment if a noise assessment is required or not.

Environmental Protection have no further comments to make.

3. Planning History

99/01808/AGRIC	General purpose agricultural building	Determination	16.12.1999
05/01779/FUL	Erection of steel framed extension for general agricultural use	Approved	05.12.2005
95/00003/AGRIC	General Agricultural Building	Determination	23.02.1995
92/00010/AGRIC		Determination	16.10.1992
13/00116/FUL	Installation and operation of a ground mounted solar PV system with a capacity of up to 50kw.	Approved	22.03.2013
21/02012/COUNO T	Application for Prior Approval for the conversion of part of an agricultural building into a Class E use under Class R of the GDPO.	Refused	19.01.2022
22/00122/COUNO T	Application for prior approval for the conversion of part of an agricultural building into a Class B8 use under Class R of the GDPO.	Prior approval not required	08.03.2022

23/00938/COUNO T	Prior Approval Application under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed conversion of part of an agricultural building into a Class B8 (storage and distribution) use under Class R of the GPDO.	Prior approval not required	16.08.2023
23/01338/FUL	Proposed use of seasonal workers accommodation as holiday units in the summer months (April to September inclusive).	Approved	04.04.2024
24/01130/ROC	Application under Section 73 of the Town and Country Planning Act for Removal of Conditions 3 (Agricultural Occupation of the dwelling) of application (16/00397/FUL) as the property is no longer part of the farming business.	Refused	25.09.2024
24/01192/COUNO T	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 an agricultural building into a Class B2 (general industrial) flexible commercial use.	Current	

4. **Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. **Neighbourhood Plans**

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

6. **Relevant Policies / Government Guidance**

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
Town and Country Planning (Use Classes) Order 1987 (as amended).

7. Officer Appraisal

Site Description

The application site relates to part of an existing building which is sited to the rear of Brook Farm, Stones Green Road. There are a number of agricultural buildings on site which are currently operational and used for agricultural purposes. The supporting statement confirms that the buildings were used for agricultural purposes prior to 3rd July 2012 and this has remained continuous until the present day. The residential dwelling, Brook Farmhouse is located to the south of the application building. Brook Farmhouse is a Grade II Listed Building within its own defined residential curtilage and is a separate site from the application site. The farm building subject of this application is a modern building and is not considered to be curtilage listed. There is an existing vehicular access route from the main highway, through the wider farm complex to the application building.

Proposal

This application is submitted under Class R, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to determine whether prior approval is required for the change of use of part of an agricultural building to a use falling within Use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The building is considered to be an agricultural building for the purposes of Class R.

Assessment

Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out permitted development the criteria under which development is not permitted as follows (officer assessment shown in bold text):

Class R – agricultural buildings to a flexible commercial use

Permitted development

Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use—

(a) falling within one of the following provisions of the Use Classes Order—

- (i) Class B2 (general industrial) of Schedule 1;
- (ii) Class B8 (storage or distribution) of Schedule 1;
- (iii) Class C1 (hotels) of Schedule 1;
- (iv) Class E (commercial, business or service) of Schedule 2; or
- (v) Class F.2(c) (outdoor sport or recreation) of Schedule 2; or

(b) for the provision of agricultural training.

The application is for the change of use of a building to Use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Development not permitted

Development is not permitted by Class R if—

(a) the building was not used solely for an agricultural use as part of an established agricultural unit

- (i) on 3rd July 2012;
- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or

(iii) in the case of a building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins;

The applicant has stated in their supporting statement that the buildings were used for agricultural purposes on 3rd July 2012, and this has remained continuous until the present day, at the time of writing this report there was no information or evidence to contradict or put into question this statement and therefore the proposal complies.

(b)the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 1,000 square metres;

The floor space of the building subject of this prior approval is 379.75sqm. Two other agricultural buildings under the same holding have also changed use under Class R. Application reference 22/00122/COUNOT determined that prior approval was not required for the building with a floor space of 340sqm and application 23/00938/COUNOT determined that prior approval was not required for the building with a floor space of 160sqm. Cumulatively, the buildings have a floor space of 879.75sqm and therefore does not exceed 1000sqm. No other buildings have changed use under Class R, therefore the proposal complies.

(c)the site is, or forms part of, a military explosives storage area;

The site is not and does not form any part of a military explosives storage area, therefore the proposal complies.

(d)the site is, or forms part of, a safety hazard area; or

The site is not and does not form any part of a safety hazard area, therefore the proposal complies.

(e)the building is a listed building or a scheduled monument.

The building is not a listed building or scheduled monument, therefore the proposal complies.

Conditions

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

(a) a site which has changed use under Class R may, subject to paragraph R.3, subsequently change use to another use falling within one of the use classes comprising the flexible use;

(b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class R the site is to be treated as having a sui generis use;

(c) after a site has changed use under Class R, the planning permissions granted by Class E of Part 7 of this Schedule apply to the building, subject to the following modifications—

(i)“curtilage” has the meaning given in paragraph X (interpretation) of this Part;

(ii)any reference to “office building” is to be read as a reference to the building which has changed use under Class R.

(d)where the site is to be used for general industrial purposes within Class B2, it must only be used for the processing of—

(i)raw goods, excluding livestock, which are produced on the site and are to be sold on the site, or

(ii)raw goods mentioned in paragraph (i) together with goods ancillary to the processing of those raw goods

Paragraph R.3 states that:

(1) Before changing the use of the site under Class R, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer must—

(a) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—

- (i) the date the site will begin to be used for any of the flexible uses;
- (ii) the nature of the use or uses; and
- (iii) a plan indicating the site and which buildings have changed use;

(b) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (i) transport and highways impacts of the development;
- (ii) noise impacts of the development;
- (iii) contamination risks on the site; and
- (iv) flooding risks on the site,

(i) Transport and Highways Impacts of the Development

The site utilises an existing access from Stones Green Road, which is a dedicated access for the wider farm. There is hardstanding adjacent to the building, which provides space for parking and deliveries. It is not considered that the use of the building for B2 Use would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site and the proposal is acceptable to the Highway Authority.

(ii) Noise Impacts of the Development

The Council's Environmental Protection team have confirmed that it is not possible to assess the potential noise impact from the site as the end use is flexible and currently unknown, however it is considered that this B2 use within the wider farm site would not result in any undue noise impacts on the two neighbouring residential dwellings which are sited some distance away from the building.

(iii) Contamination Risks on the Site

Given the current use of the site as an operational farm, it is not considered that the change of use to a B2 use would give rise to any contamination risks within the site.

(iv) Flooding Risks on the Site

The site is located within Flood Zone 1, which has a low risk of flooding.

Furthermore the application is considered to adhere to the provisions of paragraph W (prior approval) in relation to the details submitted.

(2) Subject to sub-paragraph (3), development under Class R of the type described in paragraph R.3(1)(b) must begin within a period of 3 years starting with the prior approval date.

(3) Where, in relation to a particular development under Class R of the type described in paragraph R.3(1)(b), planning permission is granted on an application in respect of associated operational development before the end of the period referred to in sub-paragraph (2), then development under Class R must begin within the period of 3 years starting with the date that planning permission is granted.

(4) For the purposes of sub-paragraph (3), “associated operational development” means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R.

Interpretation of Class R

R.4 For the purposes of Class R, “flexible use” means use of any building or land for a use falling within the list of uses set out in Class R and change of use (in accordance with Class R) between any use in that list.

8. Recommendation

Determination prior approval not required

9. Conditions

1 COMPLIANCE: TIME LIMIT

CONDITION: Subject to sub-paragraph 3), development under Class R of the type described in paragraph R.3 1) (b) must begin within a period of 3 years starting with the prior approval date.

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

10. Informatives

Highways Informative

The public's rights and ease of passage over public footpath no 24 (Great Oakley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no.24 (Great Oakley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant temporarily closing the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

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

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
Has there been a declaration of interest made on this application?	YES	NO
No Declarations Of Interest Made		