

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|------------|
| Planning Officer recommendation: | MP | 17/01/25 |
| EIA Development - Notify Planning Casework Unit of Decision | N/A | |
| Team Leader authorisation / sign off: | ML | 17/01/2025 |
| Assistant Planner final checks and despatch: | BB | 20/01/2025 |

Application: 24/01909/DEMCON **Town / Parish:** Little Bentley Parish Council

Applicant: Mr McDowell

Address: Red House Farm Harwich Road Little Bentley

Development: Prior Approval Application under Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for demolition of farmhouse.

1. Town / Parish Council

Little Bentley Parish Council No comments received.

2. Consultation Responses

Environmental Protection 10.01.2025 With reference to the above application, please see below for comments from the EP Team:

We have reviewed the submitted Planning Statement and associated documentation and would request additional information be submitted prior to the commencement of any, subsequently approved, works -

Demolition Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;

o 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.

o 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 premises

Asbestos: The EP team are requesting the undertaking of a formal asbestos survey of the building / structures in question, the results and proposed removal measures of which are to be submitted to the LPA for approval prior to the commencement of any approved proposal.

Contaminated Land: Given the sites proximity to agricultural land and the historical uses of the land in question, the EP Team are requesting that an observation strategy be implemented during any groundworks. . 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;
 - o treatment of material on site to meet compliance targets so it can be re-used;
 - 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. Should you have any queries concerning this, please do not hesitate to contact me.

3. Planning History

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|-----------------|---|-----------------------------|------------|
| 24/00360/NOTIF | Notification under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of agricultural building to commercial use. | Application closed | 03.04.2024 |
| 24/00786/COUNOT | 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 agricultural building to a flexible commercial use - B8 storage. | Prior approval not required | 16.07.2024 |
| 24/01332/FUL | Planning Application - Replacement building for B2 use - Servicing and repair workshop for landscaping company. | Approved | 24.10.2024 |
| 24/01920/DISCON | Discharge of conditions application for 24/01332/FUL - Condition 3 (Renewable Energy Plan), 5 (CMS) and 6 (Biodiversity Enhancement Strategy). | 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>

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

6. Relevant Policies / Government Guidance

N/A

7. Officer Appraisal

Description of Proposal

The application seeks confirmation as to whether prior approval is required for the demolition of the farmhouse building located to the south-western section of the site. The supporting submission confirms that the dwelling has structural integrity issues, health and safety concerns, and the cost of remedial works would far exceed the value of the building.

Assessment

This prior notification application falls to be considered under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 11, Class B - demolition of buildings.

Schedule 2, Part 11, Class B states that any building operation consisting of the demolition of a building is permitted development. Paragraph B.1 states that development is not permitted by Class B if:

(a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;

The supporting submission confirms that the building has health and safety issues, but there is no evidence before Officers to suggest that the building has been rendered unsafe or otherwise uninhabitable due to the action/inaction of any persons with an interest in the land.

(b) the demolition is "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area);

The demolition is not considered to be 'relevant demolition' on the basis that the site is not an unlisted building located within a conservation area.

(c) the building is used, or was last used, for a purpose falling within—

(i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or

(ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order;

The building is not used/was not last used as a drinking establishment, and this criterion is therefore met.

(d) the building is used, or was last used, for the purpose of—

(i) a concert hall;

(ii) a venue for live music performance; or

(iii) a theatre; or

The building is not used/was not last used as a concert hall, a venue for live music performance, or a theatre. This criterion is therefore met.

(e) the demolition relates to a statue, memorial or monument ("a commemorative structure") in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—

(i) that is a listed building;

(ii) that is a scheduled monument;

- (iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;
- (iv) within the grounds of a museum or art gallery; or
- (v) within the curtilage of a dwellinghouse

The demolition does not relate to a statue, memorial or monument, and this criterion is therefore met.

Conditions

B.2 Development is permitted by Class B subject to the following conditions—

(a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;

Not applicable as the demolition is not required urgently in the interests of health and safety.

(b) where the demolition does not fall within paragraph (a) and is not excluded demolition:

(i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site;

(ii) an application described in paragraph (b)(i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;

The submitted Planning Statement and associated plans detail the proposed demolition, and the submission is also accompanied by a copy of the site notice dated 20th December 2024. The correct fee has been paid. This criterion is therefore met.

(iii) (deleted)

(iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;

The submission is accompanied by a copy of a site notice that is dated 20th December 2024, and therefore a site notice has been in place for at least 21 days since the application was submitted on 23rd December 2024. This criterion is therefore met.

(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

Noted.

(vi) (deleted)

(vii) the development must not begin before the occurrence of one of the following—

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

Noted.

(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application;

Noted.

(ix) the development must be carried out—

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii); and

Noted.

(x) (deleted)

Conclusion

The application satisfactorily complies with the requirements of Schedule 2, Part 11, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

8. Recommendation

Prior Approval not required.

9. Reasons

Having assessed the proposal against the relevant parts of the legislation and any associated guidance, I am writing to confirm that formal approval of the proposed development is not required.

Consequently, you are free to carry out the development exactly in accordance with the details you have provided. This work must be carried out within a period of five years from the date of this letter, or it will be necessary to repeat this procedure.

10. Informatives

The following information is intended as guidance for applicants/ developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Hours of demolition activities should be generally restricted to between the following:

7am to 7pm (Monday to Friday)

8am to 1pm (Saturday)

No Sunday or Bank Holiday working

These hours may be altered and further restricted at the discretion of Tendring District Council's Environmental Services in sensitive areas and neighbourhoods or for particularly noisy operations.

Any works outside the permitted hours are to be by prior approval of the Tendring District Council's Environmental Services.

Note: Approval will not be granted other than in exceptional circumstances and will be conditional on the contractor informing local residents in advance of the proposed activity.

Dust pollution should be minimised during the works and the watering/sheeting of the area should be undertaken where necessary to minimise dust transference into neighbouring premises. Whenever possible dust suppressed tools should be used.

If during demolition works evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until the remediation has then been completed.

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 |

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|--------------------|---|---------|
| 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

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| Are there any letters to be sent to applicant / agent with the decision? If so please specify: | | NO |
| Are there any third parties to be informed of the decision? If so, please specify: | | NO |
| Has there been a declaration of interest made on this application? | | NO |