

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	05/06/18
Planning Development Manager authorisation:	AN	7/6/18
Admin checks / despatch completed	AN	7/6/18

**Application:** 18/00608/COUNOT **Town / Parish:** Tendring Parish Council

**Applicant:** Mr & Mrs C Curtis

**Address:** Hill Farm Crown Lane Tendring

**Development:** Conversion of an agricultural building (The Tyler building) to a residential dwelling house.

### 1. Town / Parish Council

Not applicable.

### 2. Consultation Responses

Not applicable.

### 3. Planning History

02/00319/CMTR	Removal of minerals and surplus soils associated with the construction of an extension to the agricultural reservoir	Withdrawn	27.02.2002
93/00291/FUL	Retention of mobile home (renewal of TEN/924/90)	Approved	31.03.1993
97/00030/FUL	(Hill Farm, Tendring) Removal of minerals as result of construction of an agricultural reservoir (ESS/01/97/TEN)	Approved	25.03.1997
97/01539/FUL	(Land and building adjacent to Hill Farm, Crown Lane, Tendring) Change of use of livery stables and land to be incorporated into the domestic curtilage of Hill Farm	Approved	14.01.1998
05/00168/CMTR	The continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir at Hill Farm, Tendring, Essex permitted under reference ESS/05/02/TEN without complying with conditions 2 (extend completion date to 31 December 2007) and 3 (amendment of plans to include an interim reservoir)	Determination	16.03.2005
05/00235/CMTR	The continuation of the removal of	Determination	17.03.2005

	minerals and surplus soils associated with the construction of an agricultural reservoir at Hill Farm, permitted under ESS/06/02/TEN without complying with Conditions 2 (amendment of plans to include an interim reservoir) and 9 (extend completion date to 31 December 2007)	on	
07/01215/CMTR	Continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir under reference ESS/66/04/TEN, without complying with condition 9 (completion date 31 December 2007) to allow the extension of the completion date to 30 September 2008 for reprofiling and restoration of the reservoir. (ESS/35/07/TEN)	Determination	15.08.2007
07/01216/CMTR	Continuation of the removal of minerals and surplus soils associated with the construction of an agricultural reservoir permitted under reference ESS/65/04/TEN, without complying with Condition 2 (completion date 31 December 2007) to allow the extension of the completion date to 30 September 2008 for reprofiling and restoration of the reservoir. (ESS/34/07/TEN)	Determination	15.08.2007
90/00167/FUL	Conversion of barn to form living accommodation with livery stables.	Refused	03.04.1990
17/01559/COUNO T	Conversion of a former pig farrowing building into a two bed dwelling.	Determination	30.10.2017

#### 4. Relevant Policies / Government Guidance

Not applicable.

#### Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In

general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

## 5. Officer Appraisal (including Site Description and Proposal)

### Proposal

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 (amended by SI 2018 No. 343). The applicant is seeking the Council's determination as to whether its "prior approval" is required for the conversion of a former agricultural building into a four bed dwelling (Class C3) on land at Hill Farm, Crown Lane, Tendring under the new relaxed permitted development allowances as set out in Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018.

### Assessment

The proposal must be assessed under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendments) (England) Order 2018 (as amended) which states:

#### **Q.1 states that development is not permitted by Class Q if—**

- (a) the site was not used solely for an agricultural use as part of an established agricultural unit—
- (i) on 20th March 2013, or
  - (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 site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

***The applicants have owned and occupied the site since 1994. Prior to their ownership the building subject to this notification was originally used for the storage of agricultural items, including a tractor. In 1997 a planning application was submitted proposing the change of use of the various buildings within land owned by the applicants to form part of their domestic curtilage (reference 97/01539/FUL). This application was submitted in order to remove the commercial valuation of the 'stables', as the use was not now being operated by the new owners. Although this application was approved in January 1998, no change of use actually took place.***

***Immediately following the approval, the owners applied to the Ministry of Agriculture Fisheries & Food (now DEFRA) for the registration of the land as an agricultural holding. The agricultural holding number was issued on 8th July 1998 and still remains applicable to the site. The land holding to which this applies extends to 5 hectares and remains in the ownership of the current applicants. This land does not include the residential curtilage immediately surrounding the farmhouse. Between August 1998 and 2004, the applicants reared pigs within the building. Following widespread disease within the pig rearing industry throughout the Tendring District at that time, the decision was taken to cease pig production. Since that time the building has remained vacant. Its last use was for agricultural purposes, and this was the authorised use on 20th March 2013 (the appointed day). There has been no alternative use of the building since this time.***

- (b) in the case of—
- (i) a larger dwellinghouse, within an established agricultural unit—
  - (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
  - (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

***The building has a floor area of approximately 140m<sup>2</sup> with a mezzanine to be added amounting to approximately 230m<sup>2</sup> (buildings to the side and rear which are to be demolished in part leaving one side wall and the shed building to serve as a boundary wall***

*for the proposed dwelling and residential storage). This is classed as a "larger dwellinghouse" under (aa).*

*The adjacent building on the site is subject of a previously approved Schedule 2, Part 3, Class Q conversion of under 17/01559/COUNOT. This conversion relates to a floor area of 80m<sup>2</sup> with a canopy area of approximately 25m<sup>2</sup> also constituting a "large dwelling" with an overall floor area of 105m<sup>2</sup>.*

*The total number of dwellings developed under Class Q is 2. The cumulative floor space amounts to 335m<sup>2</sup> remaining below the 465m<sup>2</sup> threshold. Therefore this criterion is met.*

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

***Both buildings developed under Class Q constitute larger dwellings and this criteria is not applicable.***

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

***The total number of dwellings developed under Class Q is 2. The cumulative floor space amounts to 335m<sup>2</sup> remaining below the 465m<sup>2</sup> threshold. Therefore this criterion is met.***

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

***It is not occupied under an agricultural tenancy. Therefore this criterion is met.***

(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;

***No such agricultural tenancy has been terminated. Therefore this criterion is met.***

(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—

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

***No such development has been carried out. Therefore this criterion is met.***

(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;";

***The development would not extend from the existing building at any given point and therefore this criterion is met.***

- (i) the development under Class Q(b) 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(i)(i);

***The proposed conversion does not include any extensions and will therefore not result in any additional development (only internal floor area created by the mezzanine). It will include the provision of a new internal skin beneath the existing eaves of the structure and a new front wall suspended from the existing concrete frame. This arrangement is in accordance with the provisions of Part Q of the GPDO. It is not considered that the form of the building will require any degree of structural building work to effect its conversion. The scheme will include a suspended mezzanine floor. The total gross floorspace to be provided for residential purposes will be 230m<sup>2</sup> and therefore does not exceed the permitted threshold. Therefore this criterion is met.***

- (j) the site is on article 2(3) land;

***The site is not on article 2(3) land. Therefore this criterion is met.***

- (k) the site is, or forms part of;
- (i) a site of special scientific interest;
  - (ii) a safety hazard area;
  - (iii) a military explosives storage area;

***The site is not, or does not form part of any of these interests or such areas. Therefore this criterion is met.***

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

***The site does not include a scheduled monument. Therefore this criterion is met.***

- (m) the building is a listed building.

***The building is not listed. Therefore this criterion is met.***

In addition to the above requirements, condition Q.2.(1) requires the Local Planning Authority to consider if the following issues would require prior approval (accompanied by officer comments in italics):

- (a) transport and highways impacts of the development,

***The plans show an existing access to the lane and the site itself together with a large area for parking/turning purposes. There are no other material transport or highways impacts. Therefore, this criterion is met.***

- (b) noise impacts of the development,

***The proposal would not result in any material noise impacts. Therefore, this criterion is met.***

- (c) contamination risks on the site,

***The site is not located near to any land designated as contaminated land. Therefore, this criterion is met.***

- (d) flooding risks on the site,

***The building is not within designated Flood Risk Zone. Therefore, this criterion is met.***

(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 the Schedule to the Use Classes Order, and

**Paragraph 109 of the National Planning Practice Guidance states:**

***"When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.***

***There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.***

***When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant."***

***On this basis, the Local Planning Authority does not consider that the location or siting of the building would make it impractical or undesirable for the proposed change of use.***

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

***The external alterations are minimal. It is considered that due to the proposal being well set back, not visible from the street scene, and using materials that assist in retaining the historic appearance of the building, the Local Planning Authority does not consider that the proposed development will have any harmful impact on the design or external appearance of the building.***

#### Representations

No letters of representation have been received.

#### Conclusion

Having regard to the above it is considered that the change of use of the agricultural building to C3 (dwellinghouse) does not require Prior Approval, as it would meet the requirements set out in Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018.

#### **6. Recommendation**

Determination prior approval not required.

#### **7. Reasons for Approval**

- 1 Having regard to the above it is considered that the change of use of the agricultural building to C3 (dwellinghouse) does not require Prior Approval, as it would meet the requirements set out in Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018.

#### **8. Informatives**

Not applicable.