

# **Land adjacent The Willows, Little Clacton Road Great Holland**

**Demolition of former livestock building and  
replacement with a two bed bungalow (in lieu of Prior  
Approval for conversion of building in to a dwelling  
subject of application 21/00460/COUNOT)**

**Peter Le Grys**

**December 2023**

**Stanfords**

## **1.0 Introduction**

- 1.1 This Planning Statement has been prepared on behalf of Mr Stevens and is submitted in support of a planning application for the erection of a dwelling in lieu of the prior approval issued for conversion of an agricultural building into a dwelling on land adjacent The Willows, Little Clacton Road, Great Holland. This application is a variation to the scheme refused by the Planning Committee against the advice of the Council's planning officers and subsequent application wherein the Council erroneously took account of inaccurate information which is the subject of a dispute elsewhere.
- 1.2 This statement should be treated as forming part of the application and includes details on the site and its surroundings, the intended scheme and how it relates to adopted planning policies, while explaining the rationale behind the development to assist the Local Planning Authority in making its decision.

## **2.0 Context of Site**

- 2.1 The land formed part of an extensive pig rearing farm known as Seven Acres Farm, which was operated by the applicant until he retired, since when it has become redundant. The dwelling at The Willows has until recently been occupied by Mr Stevens Senior. This is the subject of an agricultural occupancy condition reflecting the past use of the site. Alongside the dwelling, an access leads to the one remaining building that formed part of the farm. Other remains including foundations and walls of numerous pig sties and farm storage buildings lie to the north and east of the existing structure. At one time the farm had up to 100 sows.
- 2.2 The building subject of this application dates from the early 1950's and comprises a substantial steel frame building which is braced and strengthened and formerly used as the principal farrowing unit. It also has a concrete block wall up to 0.8m in height, although the window frames no longer contain glass. The roof is covered with profile sheeting. The building is structurally sound and is currently vacant. Following the retirement of Mr Stevens Snr, there is no longer any use for the building. Throughout the

past 70 years the building has only been used for the rearing of livestock. There has been no other use of the building at any time other than for agricultural purposes.

### **3.0 Relevant Planning History**

3.1 In March 2021, a formal notification was submitted pursuant to Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the conversion of an agricultural building on the site into a dwelling (reference 21/00460/COUNOT). Confirmation was received in April 2021 that prior approval was not required.

3.2 In September 2022, the Council's Planning Committee refused an application for the same development contrary to the officer's recommendation (reference 22/01052/FUL). This was followed with a further refusal dated 24<sup>th</sup> July 2023 under reference 22/01937/FUL, which was based on incorrect and false information, and which is subject of proceedings elsewhere.

### **4.0 Policy Context**

#### National Guidance

4.1 The National Planning Policy Framework advises that in determining planning applications for residential development, local planning authorities should take into account the Development Plan Policies and all other material considerations. Local planning authorities should follow the approach of the 'Presumption in Favour of Sustainable Development' and that development which is sustainable can be approved without delay. It emphasises the need to plan positively for appropriate new development; so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than a barrier.

Adopted Local Plan Policies (2022)

- 4.2 Policy SPL2 of the Adopted Local Plan defines Great Holland as a named small village where development is considered appropriate within the development boundaries.
- 4.3 The Council stipulate high design standards within Policy SPL3. This Policy seeks to ensure that development will be compatible to the surrounding uses. It should be of a scale appropriate to its setting and protect the privacy daylight and amenity of surrounding occupiers. The proposal should not result in the loss of important buildings of architectural interest or other landscape or ecological value. In addition, the development should not have a materially damaging impact on road traffic safety or cause pollution or a nuisance to nearby residents.

**5.0 Proposed Development**

- 5.1 The application site is located outside the defined settlement development boundary for Great Holland as shown on the adopted Proposals Map. The Council has however accepted that the conversion of a farm building into a two bed dwelling can be undertaken without further prior approval. This situation is subject to the conversion of the existing building which has a gross floor area of 136m<sup>2</sup> and a height of 3.1m. The Council did not express any concern on the grounds for consideration of the notification application, namely access, flooding, design, noise or contamination. This scheme can be referred to as the 'fall back' scheme. This permission remains extant and work has been commenced as previously advised.
- 5.2 Since the original decision, the applicant undertook preparatory work on the commencement of the development while researching the costs involved in the conversion of the building and in particular, ensuring the quality of the build meets their high expectations while achieving the highest code of sustainable construction and energy efficiency possible. The advice received has now shown that the conversion of the existing building can provide for a good level of construction and finish, but will not necessarily meet the standards they were hoping to achieve. In this respect, the

applicant considers that a purpose designed structure will be of a similar cost to the conversion but will enable far improved sustainable energy levels and higher specification.

5.3 Within the determination of the previous application the Council made reference to the suggestion that the building had partially collapsed. As such, without the benefit of any structural knowledge or expert opinion to the contrary, the Council claimed that there was 'no likelihood or real prospect' of the conversion scheme being implemented. Such judgement was based on no factual or engineering consideration of the site circumstances. We also believe that the Council's Planning Committee were misled with entirely erroneous information being provided to officers, while certain members of the Committee made inappropriate and questionable remarks based which was not based on any reliable expert opinion. As mentioned above, these concerns and the Council's behaviour are now being pursued elsewhere.

5.4 In terms of facts, it is the case that part of the building had partially collapsed due to unseasonal and extreme weather conditions during the initial construction work to implement the extant Prior Approval. However, post the Council's decision, the building was returned to its former condition with relatively little effort and cost, demonstrating that the Council's assumptions to be wholly incorrect and unjustified. Conversion work has continued with minor bracing to the steel frame together with the re-instatement of windows and doors. None of the original steel framework has been replaced. To ensure the building remains stable, the original cladding to the walls and roof has been re-installed as per the original circumstances. Thus, the condition of the building is now better than when the Council originally inspected the building in April 2021. The following photographs demonstrate the building when it was assessed as being entirely suitable for conversion pursuant to Class Q of the GPDO, and compared to its condition today.



April 2021





December 2023





- 5.5 It cannot now be said that the building is in a poor or structurally unsound condition when compared to the Council's acceptance in 2021 that a conversion was possible. The legal fall back is therefore very real and genuine. The Council has provided no evidence to date that this situation is not true. Moreover, the legal circumstances raised by others and incorrectly accepted by the Council have been demonstrated elsewhere to be entirely incorrect and misleading.
- 5.6 The current application is for the replacement of the building subject of the Prior Approval in the same location upon the site. The new dwelling would be a 2 bedroom bungalow having a gross floor area of 142.6<sup>2</sup>. This proposal will be nominally larger than the approved scheme, with an additional 6m<sup>2</sup> floor area. The existing structure has a relatively low pitch roof, hence the limited ridge height of 3.1m. This scheme has reduced the ridge height from the initial height of 6.3m to 4.7m. The external appearance of the replacement building will reflect the existing structure, having a simple profile when viewed from the road, clad in horizontal black weatherboarding with a slate roof.



- 5.7 In terms of access, the scheme follows the same arrangement as shown upon the approved scheme although now provided with a consolidated surface. This access is taken from the existing entrance onto Little Clacton Road which is provided with a bound surface treatment. The visibility splays as shown on the approved scheme will again be available. At the original site visit by the Planning Committee, and to which we had not received an invite, members were apparently confused with the position of the access into the site and the effect upon an existing Willow tree. Notably, the Council's Tree Officer had made no reference to any harm being caused to this tree. Unfortunately this error compromised the application, particularly as from the debate during the Planning Committee meeting members clearly understood that the pedestrian access would be used by vehicles. The errors of the committee were not corrected by the officer at the meeting; this is also the subject of correspondence elsewhere. However, to ensure that members were entirely clear with the nature and position of the access, the layout plan was amended to ensure that there could be no doubt whatsoever. The Willow tree is as before, not affected. Unfortunately, due to erroneous evidence provided by others, the Council refused to enter on to the site to recognise this situation or the true condition of the building. It was suggested by some members that they were able to see the site and condition of the building from other land; however, this was not physically possible. The applicant was clearly prejudiced by the behaviour of officers and members when accepting evidence elsewhere. We also believe that there has been a breach of the Data Protection legislation, which will be raised with the Data Commissioner's Office.
- 5.8 The relevance of the aforementioned 'fall back' position is considered to be a material planning consideration. This situation was first highlighted in a scheme that was subject of an appeal decision in 2017, concerning a site in Layer-de-la-Haye within Colchester Borough. In that instance the Inspector accepted that the fall-back position is a material planning consideration and fully justified support being given to the replacement of three poultry sheds with three dwellings having a maximum gross floor area of 450m<sup>2</sup>. This appeal decision which was secured by ourselves, followed Counsel's opinion which has previously been provided to the Council. Tendring District Council has accepted this position within a number of other cases. It is also necessary for the Council to have regard to the judgement issued by the Court of Appeal in *Mansell v Tonbridge and Malling BC 2017* which follows a similar approach. A further High Court decision was

issued in 2022 concerning *Formby Parish Council v Sefton Borough Council*, where it was accepted that even with substantial additions, the fall-back position remained a material consideration.

- 5.9 The replacement of this structure as a dwelling will not have any adverse impact on traffic generation, the existing highway network or noise generation. The access is proposed as a surfaced drive. Otherwise it is no different to the Prior Approval which can otherwise be completed. Provision has been made for the parking of two vehicles together with a turning facility, enabling all vehicles being able to leave the site in a forward gear. A private amenity area would be available in excess of the earlier scheme.
- 5.10 Full phase electricity supply and a water supply are available while a Klargester Bio Disc package treatment plant would operate satisfactorily in this location. Such provision would have no impact visually or environmentally upon the environment and is a common solution in relation to rural dwellings. An electric vehicle charging point will be provided to the exterior of the building adjacent to the parking spaces. A CMS is included with the application documents.
- 5.11 Although the proposed dwelling is almost identical in footprint to the approved scheme, it will be nominally greater in height. However, the ridge height of 4.7m will not be unusual for a simple bungalow design while also enabling a contemporary vaulted design to the interior. Having regard to the set back from the road, the impact of this increased height will be limited upon the wider countryside. The external materials will also reflect the character of a rural building. These elements taken together with the commitment to demolish the existing unsightly structure, will make a significant and positive improvement to the appearance of the rural surroundings.
- 5.12 The existing building was not used for any activity that would have necessitated the use of any chemicals or storage of fuels, pesticides or similar material. There is no record of any spillage of fuel. The site is not at risk of flooding.
- 5.13 The development would be no less sustainable in terms of location than the permitted scheme. The building is located within the countryside, but not in a location which could

be described as 'isolated'. The site is located approximately 1 mile from Great Holland village. The village has limited services at present. However, with the re-opening of The Manor PH and the provision of a new community shop alongside, together with regular bus services to Frinton-on-Sea and Clacton-on-Sea, it is not a location which is totally unsuitable for a dwelling. The development will fulfil the Council's aims of achieving a higher quality of design for development within the countryside as advocated by adopted policy SPL3 together with the statements contained within the NPPF. The proposal will result in a bespoke, custom-built yet modest dwelling rather than a standard housing unit, demonstrating a commitment to provide a unique self-build project as advocated by the government within the NPPF.

- 5.14 Finally, as detailed above, the applicant is extremely aggrieved with the approach taken by the Council's Planning Committee and officers regarding the ability for the existing building to be converted. This situation was not assisted by the limited understanding and presentation of the application to the Committee together with the entirely erroneous evidence which the Council accepted without seeking clarification from either myself or the applicant. It has been suggested that the existing building was in such a poor condition that it was unable to be converted. Such opinion was entirely misplaced, factually incorrect and based on assumptions without any structural knowledge. The situation at the site visit and subsequent meeting were further compounded with assumptions made by certain members without any expert knowledge, entirely erroneous or misled by others. As a result of the Council's failure to understand the legal precedents, we have included full copies of both the Court of Appeal and High Court judgements mentioned above. It should be noted that the building is identical if not improved in terms of its structural condition to that as seen by the authority when the Prior Notification was approved. The building has not deteriorated from this position. The structure is sound and while not weathertight, it is constructed with solid block work walls up to 1m above ground level, with a substantial steel framework and enclosed with steel windows and doors. The roof is similarly sound although missing a number of steel sheets. However, the building has remained structurally sound for more than 50 years. It is entirely able to be converted into a dwelling.

## 6.0 Conclusion

- 6.1 No evidence has been put forward by the Council including its members to justify the stance taken within the previous two applications. None of the members or officers have any structural or engineering qualifications and are clearly unable to make the conclusions included within the refusal notice. Moreover, this decision ‘flies in the face’ of the formal recommendation previously made by the Council’s Head of Planning. The existence of the formal approval issued in 2021 is a significant ‘material consideration’ and to which the Council has given very little consideration. In the event that this current application is not supported, the extant permission will be developed without any ability for the Council to control the scheme beyond that shown on the submitted drawing.
- 6.2 It is considered that the proposed application must be judged in the context of the Council’s decision not to oppose the conversion of the existing barn into a self-contained dwelling, which has now been implemented. The proposed scheme will be comparable to the fall-back scheme. It would be constructed to a higher building code while its location will be no less sustainable than the approved scheme. The weight to be given to this material consideration is substantial. The scheme is therefore considered to be in accordance with the presumption in favour of sustainable development contained within the NPPF. Finally, the circumstances surrounding the previous decisions, requires that a full and proper consideration of the facts now be undertaken. The Council now has the opportunity to correct their erroneous position, and to ensure that it is not necessary to continue the pursuit of our concerns elsewhere.