

OFFICERS REPORT

Application No: Y18/1215/FH

Location: Ottinge Court Farm Canterbury Road Ottinge Canterbury Kent CT4 6XH

Proposal Certificate of lawful development (proposed) for the use of a section of an existing agricultural building for the processing of milk.

ASSESSMENT

Performance data:-

Date application valid: 24.09.2018

Applicable 8 week target date: 19.11.2018

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA)? N

If Yes, revised 8/13/16 week target date:

Is the application being determined after 26 weeks without a PPA or a PEA? N

SITE VISIT

Carried out site visit and the site and proposals were assessed from the public highway and the key features noted as set out in the report:

SITE

The application site is a working dairy farm located within the village of Ottinge. The farm comprises a number of large agricultural buildings and a farm shop which sells produce from the farm. The site is outside of any defined settlement boundary and is within the Kent Downs Area of Outstanding Natural Beauty (AONB).

HISTORY

There was a 28 day agricultural notification for the site in 2010 for the erection of a cabin style building for use as a farm shop; the decision of which was no objection with comments.

Prior to this there is a lot of older planning history relating to the use of the site as a working farm and new agricultural buildings.

PROPOSAL

The application seeks the approval of a lawful development certificate for the use of a section of an existing agricultural building for the processing of milk.

CONSULTATION RESPONSES

Not required.

REPRESENTATIONS

None received.

PUBLICITY

Not required.

RELEVANT POLICIES

Not applicable.

APPRAISAL

Paragraph 55 of the Town and Country Planning Act defines development as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

The site as a whole is a working farm and therefore agricultural use, the barn in question is used for storage in connection with this agricultural use. The proposal is to use an area of this barn (in the northern corner) for milk processing. The whole barn measures approximately 30 metres by 18.2 metres; the proposed milk processing area would measure approximately 9 metres by 5.4 metres, covering approximately 8.9% of the floor area of the existing barn.

The proposed milk processing would use milk from the dairy cows raised on the farm, which would be piped from the main dairy into a pasteuriser. This would create a yogurt mix which would then be decanted into vessels which would be matured into nature yogurt in a 'maturing room' - once matured the vessels would be moved to the cold store. The cold yogurt would then be mixed with flavourings / sugar in the processing room, and then put into pots using semi-automatic equipment. Lids, date stamps and labels would then be added and the finished yogurts would then be moved back to the cold store for collection / delivery.

It is considered to be a matter of fact and degree as to whether the use of this area of the agricultural barn for the processing of milk to yogurt would amount to a material change of use from the existing agricultural use either by the creation of a mixed use or a separate planning unit with its own use.

Information provided by the applicant in regards to how the space would be used is as follows:

- The milk would come from the dairy herd raised on site
- The remainder of the barn would remain in used for agricultural purposes
- The milk processing would be run by the same people working on the farm
- The processing area would be divided into a 'dairy', a maturing room, cold store, office area and entrance / changing area

The assessment that needs to be made is whether the proposed use of the northern corner of the barn for these activities would be an agricultural use, whether it would be ancillary to the main agricultural unit or whether it would result in a mixed use / creation of a separate unit.

From carrying out desktop research it is not clear whether milk processing is an agricultural use or falls within a different planning use class. It appears that this depends on a range of factors, including whether milk is brought onto site to be processed. In this instance, the application site is a dairy farm and the milk which would be processed into yogurt would come from the cows raised on site. The milk would then be processed into yogurt for sale in the on-site farm shop, as well as to other local businesses.

All of the proposed activities stated above would relate back to the main agricultural use of the site and would be carried out by existing workers at the farm. No external changes are proposed. It is therefore considered that even if the proposed use would not fall within an agricultural use, the proposed milk processing would be ancillary to the main agricultural use of the site, in terms of scale and activity. As such, the proposal is not considered to amount in a material change of use or a mixed use and therefore would not require planning permission.

If the activity were to change from the information that has been provided then this may result in a material change of use and planning permission may be required. However, from the information that has been submitted, it is considered that the proposed use of part the existing agricultural barn for the processing of milk would either be an agricultural use or, if not, would be ancillary to the main retail use of the unit, which would be retained, and as such, the proposal would not result in a material change of use.

RECOMMENDATION

In light of the above, it is considered that the proposal would not amount to a material change of use and would therefore not constitute development and a certificate can be issued.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Case Officer: B Lennon

Report and draft decision notice completed and passed to senior officer.

Name: B Lennon Position: Senior Planning Officer Date: 19.11.2018

Report and draft decision notice amended (if appropriate)

Name: Position: Date:

Senior Officer

Report not agreed. Details of further work required as follows:

Name: Position: Date:

Report and draft decision notice agreed and file passed to admin to issue decision.

Name: NREQ Position: Date: