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Sustainable Communities
Mid Suffolk District Council
Endeavour House
8 Russell Road
Ipswich
IP1 2BX

Date: 18th March 2021

Dear Sirs,

Pear Tree Farm, Chapel Road, Hinderclay, Suffolk, IP22 1HY - Prior Approval Application Under Class Q, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Amended) for the Change of Use of Agricultural Building to Dwellinghouse Together with Building Operations Reasonably Necessary to Convert the Building

This letter is prepared by Locus Planning Ltd ("the Agent") on behalf of Mr David Thorrold ("the Applicant") to support the application for prior approval at Pear Tree Farm, Chapel Road, Hinderclay ("the Site"). The proposal is for the conversion of an existing agricultural building to dwellinghouse under the provisions of Class Q, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Amended).

Site and Surroundings

1. The Site is formed by an existing agricultural building and an area accompanying agricultural land situated at Pear Tree Farm, Chapel Road, Hinderclay. The farm is located on the eastern side of Chapel Road, where the wider agricultural unit extends some 300 acres. Farming operations are primarily arable, although livestock including geese and turkeys are reared within the wider unit.
2. The proposal building lies adjacent to the farmhouse, currently used for storage purposes in connection with farm operations. The building is of a single storey scale and broadly rectangular in shape, consisting of a block and timber construction.
3. The Site is wholly within Flood Zone 1 of the Environment Agency Flood Maps, where there is a very low probability (less than 1 in 1000 annually) of flooding. The Site is not designated as Article 2(3) land as defined by the GPDO nor is the proposal building listed.

Proposal

4. Pursuant to Class Q, Schedule 2, Part 3 of the GPDO; the proposal seeks the change of use of an existing agricultural building to dwellinghouse together with the building operations reasonably necessary to facilitate the conversion.
5. The proposed operations include; the application of a new roof covering, rendering of exterior walls, insertion of fenestration and internal alterations/works. The proposal would provide a one-bedroom dwelling with a total floor area of approximately 73 square metres. An accompanying parcel of agricultural land that is equal in area is proposed to change use, forming the domestic curtilage of the dwellinghouse. The proposal is to be accessed via the existing entrance off Chapel Road.

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Pre-Application Advice

6. The proposal was the subject of pre-application discussions with the local planning authority (LPA) (ref: DC/20/03477). In providing their written pre-application advice (see Appendix A), the LPA found the proposal to be compliant with paragraph Q.1 of the relevant legislation. However, concerns were raised with respect to the proposed dwellings relationship with existing farm operations and the potential conflict between uses. Specifically referred therein, the LPA noted the potential adverse impact of farm traffic on future occupiers of the dwelling.
7. In response to the concerns raised by the LPA, the farm is served by two separate vehicular accesses. The first, from which the proposal is to be served, provides access to the existing farmhouse. The second, located to the north, provides access to the 'farmyard' and the adjacent fields. Whilst there is nothing to prevent farm traffic utilising the southern entrance; the narrow gap and angle of the access, created by the position of the proposal building and farmhouse, renders the use of the southern access impractical and unviable for larger farm vehicles/machinery. It is for this reasons that farm traffic is concentrated to the northern entrance.
8. Further to the above, with respect to the agricultural activities at the farm, as noted, farming is primarily arable with turkeys and geese reared in small numbers. Noting the scale of operations and the fixed machinery in use at the farm, the level of noise and the potential for disturbance is not significant. We therefore maintain that an appropriate amenity outcome for future occupiers can be achieved. However, notwithstanding this, the Applicant has confirmed the proposed dwelling to be occupied in connection with the farm. Should the LPA consider it necessary, the impact of noise and disturbance upon future occupiers could be negated through the imposition of a condition to restrict occupancy. Within the confines of the Class Q legislation, the imposition of an occupancy condition remains an option for the LPA, as evidenced by the enclosed appeal decision (see Appendix B).

Legislation and Policy Context

9. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (Amended), sets out permitted development rights in England.
10. Class Q, Schedule 2, Part 3 of the GPDO permits; subject to a number of conditions and restrictions, the change of use of agricultural buildings and land within their curtilage to a use falling within Class C3 of the Schedule to the Use Classes Order 1987 (dwellinghouses) together with those building operations reasonably necessary to convert the building
11. Included within the conditions under Class Q is the requirement for the developer to apply to the LPA for prior approval, determining whether specified elements of the development are acceptable before works can proceed. The matters that approval must be sought for comprise the following:
 - (a) transport and highways impacts of the development
 - (b) noise impacts of the development
 - (c) contamination risks on the site
 - (d) flooding risks on the site
 - (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 (dwelling houses) of the Schedule to the Use Classes Order 1987
 - (f) the design or external appearance of the building
12. In assessing a notification for prior approval, the LPA must consider the National Planning Policy Framework (NPPF) to the extent that it is relevant to the matter on which prior approval is sought.
13. The NPPF is supported by the Planning Practice Guidance (PPG), a material consideration in the assessment of planning applications, which assists applicants and decision makers to interpret the NPPF and other relevant planning legislation. Paragraphs 104 – 109 of the PPG provides further guidance on the interpretation of the Class Q legislation.

Assessment

Change of Use

14. Paragraph Q.1 of the GPDO sets out those circumstances whereby development is not permitted under Class Q. The effect is to establish a series of criteria that must be met for the site to benefit from permitted development rights. The proposal, as detailed below, satisfies the relevant criteria:

Q.1(a) - 'Agriculture' as defined by Section 336, Paragraph (1) of the Town and Country Planning Act 1990, as amended, includes, inter alia, horticulture, fruit growing, seed growing, the breeding and keeping of livestock and the use of land for grazing. Paragraph X of Schedule 2 of Part 3 of the GPDO sets out, for the purposes of Part 3, that 'agricultural building' means a building (excluding a dwelling house) used for agriculture and which is used for the purposes of a trade or business and 'agricultural use' refers to such uses. The proposal site was used solely for agriculture as part of an established agricultural unit on 20th March 2013.

Q.1(b), Q.1(c) and Q.1(d) - The proposal would provide a single 'smaller dwellinghouse' (73.4 sq.m of floorspace) within the agricultural unit.

Q.1(e) and Q.1(f) – The site is not occupied under an agricultural tenancy.

Q.1(g) - Development under Class A(a) or Class B(a) of Part 6 of the GPDO (agricultural buildings and operations) has not been carried out on the established agricultural unit since 20th March 2013.

Q.1(h) - The development would not extend beyond the external dimensions of the existing building.

Q.1(i) – Discussed in detail below.

Q.1(j) - The site is not on article 2(3) land.

Q.1(k) – The site does not form a site of special scientific interest, a safety hazard area or a military explosives storage area.

Q.1(l) – The site neither is nor contains a scheduled monument.

Q.1(m) – The site is not a listed building.

Operations Reasonably Necessary to Convert the Building

15. Paragraph Q.1(i) confirms that development under Class Q is not be permitted where:

'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)'

16. Seeking to provide further clarity on those building operations permitted under Class Q, Paragraph 105 of the PPG states the following:

'Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It

is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.'

17. The GPDO fails to define what is meant by 'reasonably necessary'. However, the PPG refers to the Hibbitt judgment (*Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin)) whereby the Courts found that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. Whether or not the operations go beyond the scope of conversion is a matter of fact and degree and necessitates a judgement.
18. The application is supported by a structural report. Given the structural condition and completeness of the building, the operations to facilitate conversion would be limited, comprising; the application of a new roof covering, rendering of the exterior walls, insertion of fenestration and internal alterations/works. The 'package' of works proposed clearly falls within what can be deemed 'reasonably necessary' for the building to function as a Class C3 (dwellinghouse), compliant with paragraph Q.1(i).

Prior Approval Matters

19. In accordance with Paragraph Q.2, a determination is required as to whether the prior approval of the LPA is required for the Class Q development. The matters that approval must be sought for comprise the following:
 - Transport and highways impacts of the development
 - Noise impacts of the development
 - Contamination risk on the site
 - Flood risk on the site
 - 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 (dwellinghouse).
 - The design or external appearance of the building

20. The prior approval matters are assessed individually below.

Transport and highways impacts of the development

21. The site is accessed via the existing entrance from Chapel Road. The access is considered to be satisfactory to serve the development, having an acceptable impact on the highway with respect to capacity and safety, with good visibility in both directions. Furthermore, sufficient parking and manoeuvring space can be accommodated within the site to ensure safe and convenient access to the dwelling.

Noise impacts of the development and the location or siting

22. With respect to noise and other forms of disturbance; given the scale/nature of operations and the relationship of the proposal to the existing farmhouse and neighbouring residential properties, the proposed dwelling is considered to be within a location where an appropriate amenity outcome for occupiers can be achieved.
23. Notwithstanding the above however, should the LPA consider it necessary, the impact of noise and disturbance upon future occupiers could be negated through the imposition of a condition to restrict occupancy.

Contamination risk

24. The application is supported by a land contamination questionnaire and environmental search report. The current and historic use indicates that the risk to future occupiers from sources of pollution or contamination would be low.

Flood risk on the site.

25. The site is wholly within Flood Zone 1 of the Environment Agency Flood Maps, where there is a very low probability (less than 1 in 1000 annually) of flooding. Accordingly, occupiers of the development would not be at an unacceptable risk from sources of flooding.

The design or external appearance of the building

26. The proposal is of an appropriate design within the scope of the legislation, enhancing the appearance of the existing building and its contribution to the wider setting.

Conclusion

27. The proposal seeks, under Class Q, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the change of use of an existing agricultural building to dwellinghouse together with the building operations reasonably necessary to facilitate the conversion.

28. As identified, the proposal is considered to meet the requirements of the Class Q legislation and is acceptable when assessed against the prior approval matters. Taking the foregoing into consideration, prior approval is not required and consent should therefore be granted.

Yours faithfully,



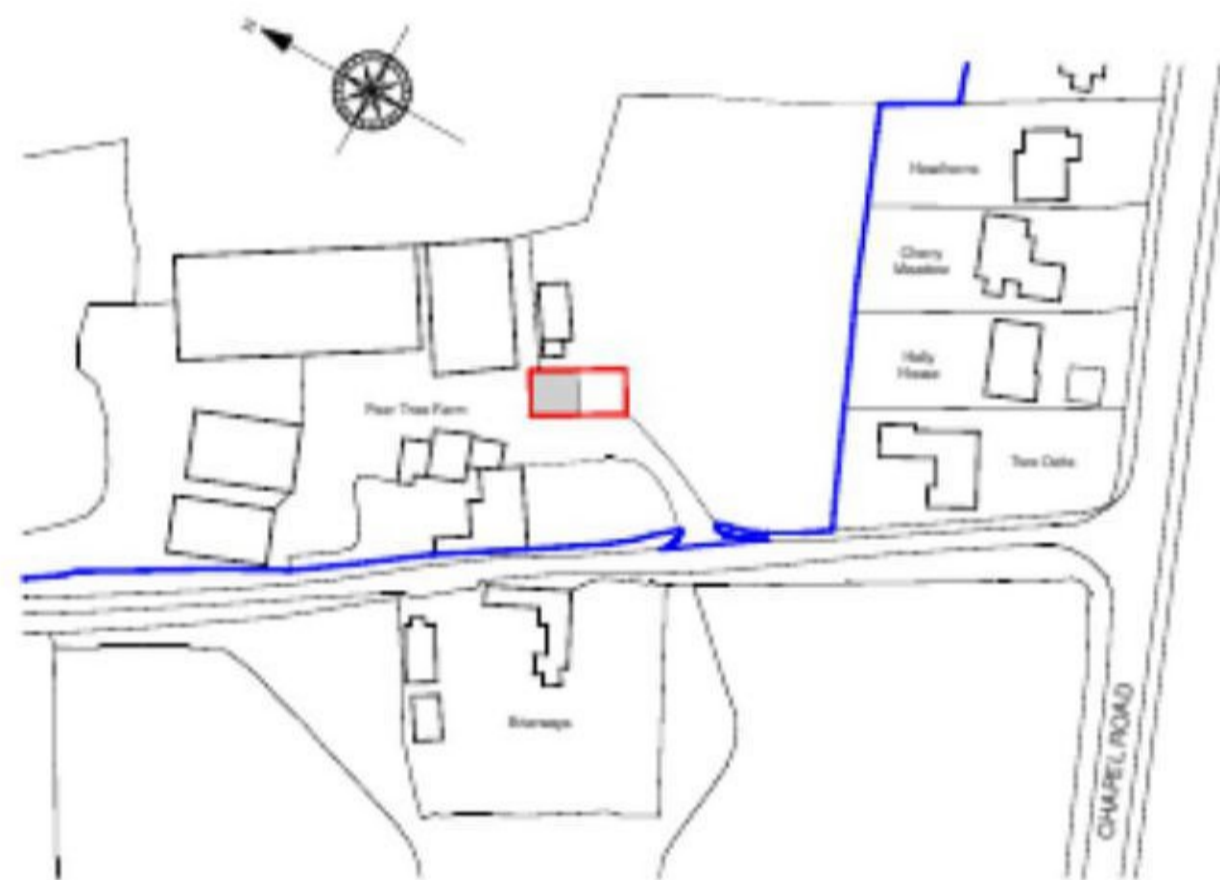
James Platt
Director
Locus Planning Ltd

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APPENDICES

APPENDIX A

PRE-APPLICATION ENQUIRY DC/20/03477



Site Location Plan 1:1250 @ A1
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Pear Tree Farm, Chapel Road, Hinderclay, Diss Suffolk IP22 1HY

Pre-application Enquiry

This advice is provided as part of the Council's pre-application advice service.

The advice provided here represents a professional officer opinion based on the material submitted and is given in good faith. The Council as Local Planning Authority must consider every planning application on its own merits after having regard to all material planning considerations. The advice provided here is not in respect of a planning application, has not been subject to public consultation or appropriate statutory consultations and is not necessarily accompanied by all the required supporting material and on that basis the advice is not binding on the Council as the Local Planning Authority.

This Advice does not pre-determine the outcome of any subsequent planning application based on the submitted material and/or the Advice provided.

In providing this Advice the Council is seeking to proactively and constructively provide support to potential applicants seeking to deliver sustainable development as encouraged by the Government within the National Planning Policy Framework [NPPF] and National Planning Practice Guidance [NPPG]

The Council is permitted to charge for this advice under the provisions of the Local Government Act 2003. The intention is to recover the cost of providing the service and not to deter applicants and their agents from engaging in pre-application discussions.



The Proposal

The proposed development is for:

Written response - Class Q, Schedule 2, Part 3 of the GPDO - Change of Use of Agricultural Building to Dwellinghouse Together with Building Operations Reasonably Necessary to Convert the Building

The supporting material comprises:

Application Form - Received 14/08/2020

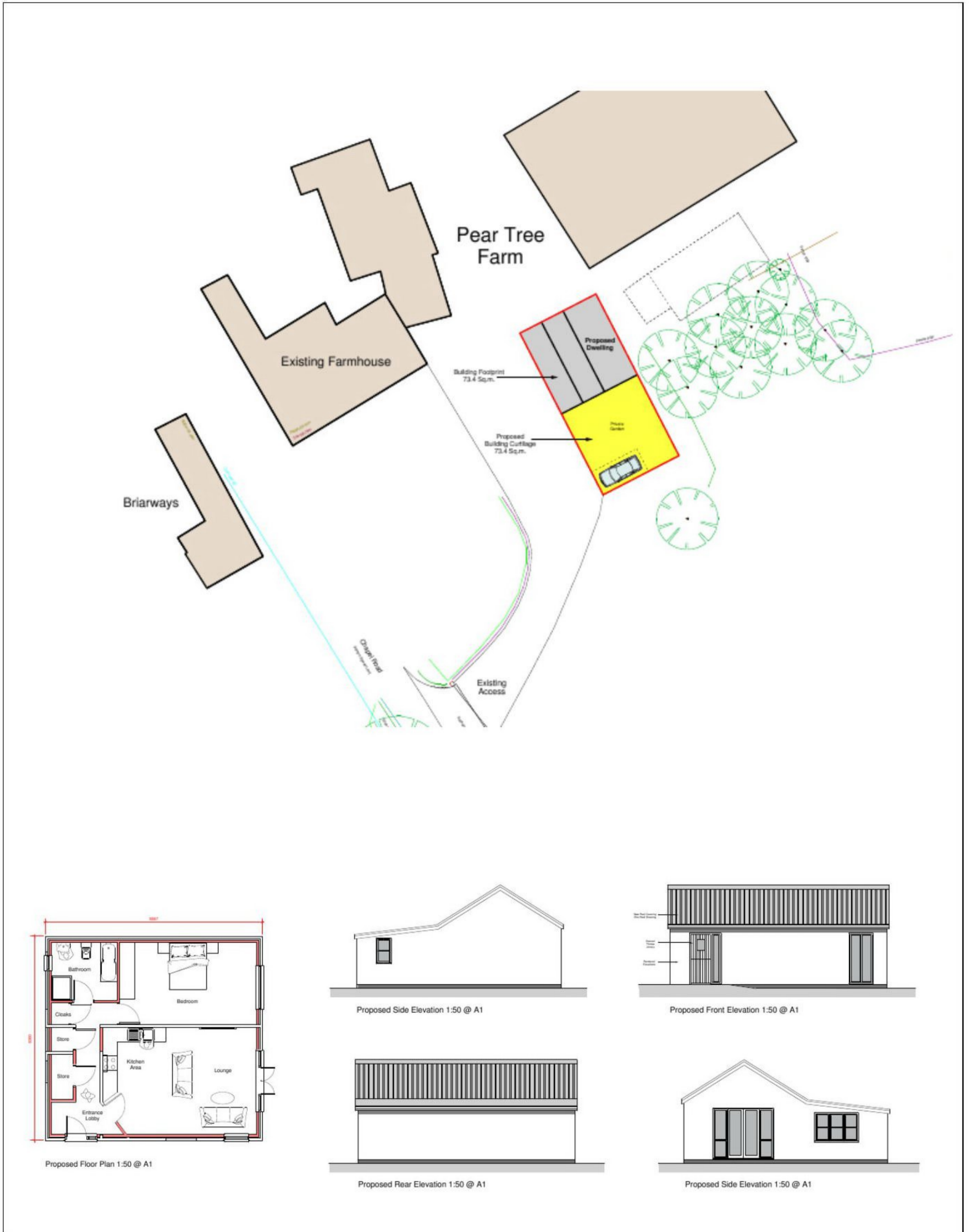
Site Plan TL - 3901-20-10 - Received 14/08/2020

Proposed Plans and Elevations TL - 3901-20-11 - Received 14/08/2020

Photograph - Received 14/08/2020

Supporting Statement – Received 14/08/20

The Proposed Development and Site



Relevant Planning History

REF: DC/18/03801

Full Planning Application - Erection 1.no dwelling and garage and creation of new vehicular access.

DECISION: REF
28.01.2019

Planning Policy

Emerging Local Plan – New Joint Local Plan

The Council is currently in the process of drafting the new Joint Local Plan, however policies are not currently sufficiently advanced as to be given weight at this time. However, as the plan emerges and undergoes the stages of consultation the weight given to these policies will increase and may affect the considerations outlined within this advice. You are advised to review the progression of the Local Plan as it comes forward with regards to any impacts new policies may have on this proposal, details are available on the link below.

<https://www.midsuffolk.gov.uk/planning/planning-policy/new-joint-local-plan/>

National Planning Policy Framework (NPPF)

The NPPF was revised in 2019, and includes, at its heart, a presumption in favour of sustainable development, however this does not affect the statutory status of the development plan (Local Plan) as the starting point for decision making. However, it is still a material consideration in decision making and includes the following relevant requirements:

The Council's Adopted Development Plan is:

- The Mid Suffolk Core Strategy (2008) and Focused Review (2014)
- The Mid Suffolk Local Plan (1998) and Proposals Map

<https://www.midsuffolk.gov.uk/planning/planning-policy/adopted-documents/mid-suffolk-district-council/>

Relevant Policies include:

National Planning Policy Framework (NPPF)

Constraints

The site lies in a Countryside location, outside the settlement boundary. Furthermore Hinderclay is designated as a Countryside Village in the Mid Suffolk Core Strategy 2008 .

Pear Tree Farmhouse and the attached Granary building are both listed Grade 11 buildings. The subject building would be considered as within the setting and possibly within the curtilage of these buildings. However due to the buildings age it is not likely to be considered as Curtilage Listed.

The Briarways , on the opposite side of the road is also Grade 11 listed.

Photographs



Principle of Development

Class Q sets out that the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:-

- (a) Transport and highways impacts of the development
- (b) Noise impacts of the development
- (c) Contamination risks on the site
- (d) Flooding risks on the site
- (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
- (f) The design or external appearance of the building.

This also provides that paragraph W of this Part shall apply in relation to any such application. On this basis part W also provides:-

- The local planning authority may refuse an application where the development does not comply with any conditions, limitations or restrictions in Part W
- The local planning authority may refuse an application where the development does not provide sufficient information to establish whether the development complies with any conditions, limitations or restrictions specified in Part W
- The local planning authority shall take account of representations received from consultation
- The local planning authority shall have regard to the NPPF so far as relevant to the subject matter of prior approval and as if the application were a planning application.

The submitted information indicates that the building is used for agricultural storage purposes, and the building meets the required floorspace threshold and other criteria.

The design and external appearance seems to be satisfactory.

The main concerns to be advised relate to b) noise impacts and 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 dwellinghouse.

The proposed dwelling would be in the countryside where the presumption is against residential development. However, 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 sufficient reason for refusing prior approval.

In this instance the site is served by an access track which also serves the existing farmhouse and the farmyard. Photographs submitted show large agricultural buildings nearby and machinery parked immediately adjacent to the subject building. The farmyard appears to be still in active agricultural use. The proposed dwelling is located immediately adjacent to the track and there is the potential for an adverse impact on the residential amenity and quality of life of occupiers resulting the movement of agricultural traffic along this track, and the activities in the adjacent farmyard. These are circumstances where the impact cannot be mitigated against.

In light of this potential impact it is considered that the proposal would be undesirable due to the close relationship of the proposed dwelling with the adjacent access track, which is used by agricultural traffic, and to the proximity of the working farmyard, and potential associated noise and amenity impacts.

The proposal is likely to fail to be acceptable in terms of noise impact and the desirability of this location for a dwelling.

Highways, Access and Parking

The Highway Authority have not been consulted as part of this enquiry, but the scheme appears to be satisfactory in terms of highway impacts, access and parking provision.

Conclusions/ Planning Balance

The Prior Approval process identifies specific criteria to be taken into account in assessing the proposal.

Based on these criteria the occupiers of the proposed dwelling are considered likely to experience adverse impact due to the close relationship of the proposed dwelling with the adjacent access track, which is used by agricultural traffic, and to the proximity of the working farmyard, and potential associated noise and amenity impacts.

The proposal is likely to fail to be acceptable in terms of noise impact and the undesirability of this location for a dwelling.

Expected Supporting Material in the Event of a Planning Application

Our Joint Local Validation Checklist sets out the details required for each application and this is available at <https://www.babergh.gov.uk/planning/development-management/apply-for-planning-permission/national-and-local-validation-requirements/> However on the basis of the information provided I would particularly draw your attention to the need to provide :

Land contamination questionnaire and report
Structural appraisal
Noise impact/assessment of surrounding agricultural use.

This is not an exhaustive list of all documents and information which need to support your application, as mentioned above please consult the Joint Local Validation Checklist.

- For all types of development you can submit electronically via the Planning Portal https://www.planningportal.co.uk/info/200232/planning_applications (please note that applying via this site may incur a submission charge)
- For all types of development you can download the relevant application form from the Planning Portal and send to us by email or post https://www.planningportal.co.uk/info/200126/applications/61/paper_forms

Contributions

Community Infrastructure Levy

Applications for development are subject to Community Infrastructure Levy (CIL).

All new build development over 100sqm (internal), including residential extensions and annexes and all new dwellings regardless of size must pay CIL.

CIL is payable on Permitted Development as well as Planning Permission development

CIL is payable when the development is commenced and you must notify of commencement using the appropriate forms

Failure to submit a Form 6 Commencement Notice and give a minimum of 1 days notice of commencement will result in the loss of exemptions, relief and/or the right to pay CIL by instalments.

As part of any application you will need to submit the appropriate CIL form. Further information is available on our website:

<https://www.midsuffolk.gov.uk/planning/community-infrastructure-levy-and-section-106/community-infrastructure-levy-cil/>

The CIL forms are also available online:

https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5

The phasing of community infrastructure levy (CIL) payments may be very important to your cash flow and viability of a development, especially for major developments and any development with Self Build Housing aspirations. If it is intended at any time that your development will be phased then you will need to ensure such phasing is expressly detailed in the planning application prior to determination. You should ensure phasing is clear within the description of development, any conditions imposed and any planning obligations. You will need to also ensure the planning case officer is fully aware of the intention to phase the development and include a phasing plan that shows the relevant phases of the development as well as a clear linear sequence of such phases that would align with the phasing of CIL payments you would find acceptable.

Building Control

Pre-application advice is also available from our Building Control Team. Find information online: <https://www.midsuffolk.gov.uk/building-control/> or contact the Building Control Manager, Paul Hughes, on 01449 724502. We can offer specialist support, local knowledge and a quality service with expert independent and impartial advice.

Charges include access to the surveyor appointed for any query that may arise before or during construction as well as a tailored inspection regime including inspections which only need to be booked by 10am on the day the inspection is required.

We can also provide carbon emission / fabric energy efficiency calculations at pre-application stage to support planning applications and the necessary Part L calculations and Energy Performance Certificates for Building Regulations compliance and our partners at LABC Warranty can offer a very competitive warranty for all new dwellings which we would be happy to provide further details for / liaise with on your behalf.

NOTES

Please note that any advice provided by the Council's Officers is informal opinion only and is made without prejudice to any formal determination which may be given in the event of an application being submitted. In particular, it will not constitute a formal response or decision of the Council with regard to any future planning applications, which will be subject to wider consultation and publicity. Although the Case Officer may indicate the likely outcome of a subsequent planning application, no guarantees can or will be given about the decision.

This advice is based on the information provided, background details and constraints at the current time. These circumstances can change and this may affect the advice you have received. You may wish to seek confirmation that the circumstances have not changed if you are considering submitting an application and any substantial amount of time has passed since the date of this advice.

Sian Bunbury

Senior Planning Officer

Tel: 07775 625962

Email: sian.bunbury@baberghmidsuffolk.gov.uk

2nd September 2020

Any questions please contact us



APPENDIX B



Appeal Decision

Site visit made on 1 February 2016

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2016

Appeal Ref: APP/R3325/W/15/3132944

**Breach Hill Farm, Beech Lane, Stoke Trister, Wincanton, Somerset
BA9 9PQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mrs Lynn Cockerill against the decision of South Somerset District Council.
 - The application Ref 15/02961/PAMB, dated 1 June 2015, was refused by notice dated 5 August 2015.
 - Prior approval is sought for the proposed conversion of part of agricultural building to a dwelling.
-

Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the proposed conversion of part of agricultural building to a dwelling at Breach Hill Farm, Beech Lane, Stoke Trister, Wincanton, Somerset BA9 9PQ in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph W(2) of the GPDO and subject to the following condition:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.

Background

2. The Council's decision notice makes it clear that it was concerned that the proposal was not permitted development because it considered that the building was not solely used for agricultural purposes on 20 March 2013; that the location and siting of the building was impractical and undesirable given the building's impact on the character and appearance of the area; and that the proximity of a livestock building would be harmful to the living conditions of the intended future occupiers of the dwellinghouse.
-

Main Issues

3. In light of the above, the main issues in this case are whether or not the proposal constitutes permitted development, and if it does, then whether or not it would require prior approval in respect of Paragraph Q.2.

Reasons

Whether the proposal constitutes permitted development

4. Class Q permits development consisting of (a) a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order¹; and (b) building operations reasonably necessary to convert the building. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1, and to conditions in Paragraph Q.2 setting out the circumstances when an application to the local planning authority for the determination as to whether the prior approval of the authority will be required.
5. Paragraph Q.1(a)(i) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 (the required date). The GPDO provides interpretation at Paragraph X that an agricultural building is a building used for agriculture and which is so used for the purposes of a trade or business. Whilst concerns have been raised by a local resident as to the viability of the business, I have not been provided with substantive evidence to support this assertion. Furthermore, this matter has not been raised by the Council as an issue and I have no reason to doubt that an agricultural trade or business is being operated from the site.
6. The Council consider that because part of the agricultural building has facilities for day to day to day living including an oven, sink, fridge, toilet, storage cupboards and a hot water cupboard, the site was not used solely for agricultural purposes on the required date. The appellant submits that the oven is a solid fuel Rayburn with a back boiler; the sink only has a cold tap and the waste water is piped into a bucket; the fridge and storage cupboards are for medicines and equipment; and the toilet is a chemical toilet. The appellant uses the facilities within the barn overnight during the lambing season only, and lives off site the remainder of the time. It is asserted that the building was in agricultural use on the required date.
7. The accommodation within the building covers a relatively small area and from my observations is at best basic, providing a small area to sit down, keep warm and make a hot drink. Whilst there was a mattress against the wall, there was no separate space for this or a bed to be placed. In the absence of substantive evidence to demonstrate otherwise, I am not convinced that the accommodation provided in this part of the building is used for anything other than for ancillary purposes to the agricultural use of the building. A material change of use of this part of the building has not occurred.
8. From my observations and the evidence before me, I find that the building is in agricultural use, and given that the evidence suggests that circumstances have not changed since the building was constructed in 2006, I have no reason to

¹ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended

doubt that this was not the case on the required date of 20 March 2013. The Council has not raised an issue with the proposal not complying with the other circumstances set out in Paragraph Q.1 (b) – (m) of the GPDO, and as such I conclude that the proposal would constitute permitted development under Class Q of the GPDO.

Whether or not prior approval would be required

9. The Planning Practice Guidance (PPG) advises the starting premise for Class Q is that the permitted development right grants permission, subject to the prior approval requirements. The provisions of the GPDO require that where a development is proposed under Class Q (a) and Q (b), the developer must apply to the local planning authority for a determination as to whether prior approval is required in relation to several matters (Paragraph Q.2 (1) (a) to (f)).
10. The Council makes reference to Paragraph Q.2 (b) and (e) within its decision notice. Paragraph Q.2 (b) relates to the noise impacts of the development. It appears from the submitted evidence that the Council is concerned about noise from the adjacent agricultural use of the building and the effect this would have on living conditions, as opposed to the noise impacts of the proposed development. This is not covered by Paragraph Q.2 (b). In the absence of substantive evidence to demonstrate otherwise, I am satisfied that the noise impacts from the development would be minimal and acceptable.
11. However, Paragraph Q.2 (e) covers matters such as living conditions, in that it makes reference to whether the location and siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. There is no definition of 'impractical' or 'undesirable' within the GPDO. However the PPG states that the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would 'not be sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'.
12. In terms of living conditions, the appellant has indicated that she would occupy the new dwelling with her partner and would continue to be involved in the breeding and rearing of sheep and cattle. The dwelling would therefore be occupied by a farm worker. The appellant has also indicated that the relationship of the dwelling to the adjoining farm building would be acceptable to her; an internal wall would separate the living accommodation from the remainder of the building which would be used for agricultural purposes. This wall could be insulated to prevent noise from the adjacent building travelling into the new dwelling.
13. Whilst I note the Council's concern regarding living conditions for general occupation, the appellant has indicated that she would have no objection to the imposition of a planning condition restricting the occupancy of the dwelling. The Council has indicated that it considers such a condition would be a suitable mechanism to address its concerns.
14. Paragraph W (13) of the GPDO allows for prior approval to be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. In this instance, I consider that a condition restricting the occupancy of the dwelling to an agricultural worker is reasonable and necessary given the relationship the new dwellinghouse would have to an agricultural building which could house livestock. An unrestricted residential use in this part

of the building would not be acceptable because of the effect the adjacent agricultural use would be likely to have on living conditions.

15. The Council's second reason for refusal relates to its concern that the proposal would introduce a residential use into a relatively undeveloped landscape and the design of the dwelling would erode the rural character of the area. As such it considers that the location and siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse.
16. The PPG states that because an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling, this is not a sufficient reason for refusing prior approval. Furthermore, the PPG makes it clear that when considering location and siting, a local planning authority should not be applying tests from the National Planning Policy Framework (the Framework) except to the extent that they are relevant to the subject matter of the prior approval. The desirability of the location or siting of the building should therefore be judged on amenity grounds against the immediate surroundings.
17. In this respect the building is in the same location as the Council previously considered acceptable. Furthermore, the proposed alterations are limited in scale, and externally relate to the replacement of a door on the front and side elevation of the building with glazing. No further external alterations are proposed. Although there are no dwellings within the vicinity of the appeal site, the building would retain its agricultural form and appearance. The building is part of the character and appearance of the landscape and the limited alterations would not result in the building being more intrusive or harmful.
18. In light of the above, I conclude that the location and siting of the development proposed would not make it impractical or undesirable for the change of use sought. Furthermore, subject to the imposition of a planning condition restricting the occupancy of the dwellinghouse, acceptable living conditions of the intended future occupiers of the building would be provided.

Conclusion

19. For the above reasons, and having regard to all other matters raised, the appeal is allowed and approval granted. The appellant should note that the GPDO states at Paragraph Q.2(3) that development under Class Q is permitted subject to the condition that it is completed within a period of 3 years starting with the prior approval date. Paragraph W(12) requires the development to be carried out in accordance with the approved details. It is not necessary for me to repeat these conditions. A condition restricting the occupation of the dwelling is however necessary for the reasons explained above.

R C Kirby

INSPECTOR