



**WILKINSON**  
PLANNING

## Planning Statement

SITE

Brindlewood, Dakings Lane, Felsham, Suffolk, IP30  
0QW

PROPOSAL FOR

Conversion of barn to 1 no. dwelling following the  
grant of prior approval under reference  
DC/21/06252 for 2 no. dwellings.

PROPOSAL BY

Mr S Dunn

January 2023



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## 1.0 Introduction

- 1.1 This statement is prepared on behalf of Mr S Dunn in respect of an application for; Conversion of barn to 1 no. dwelling following the grant of prior approval under reference DC/21/06252 for 2 no. dwellings at Brindlewood, Dakings Lane, Felsham, IP30 0QW.
- 1.2 It will consider the local and national planning policy position and provide an overview of the relevant material considerations relating to the proposed development.
- 1.3 The extract below shows the location of the site relative to its surroundings and other nearby development:

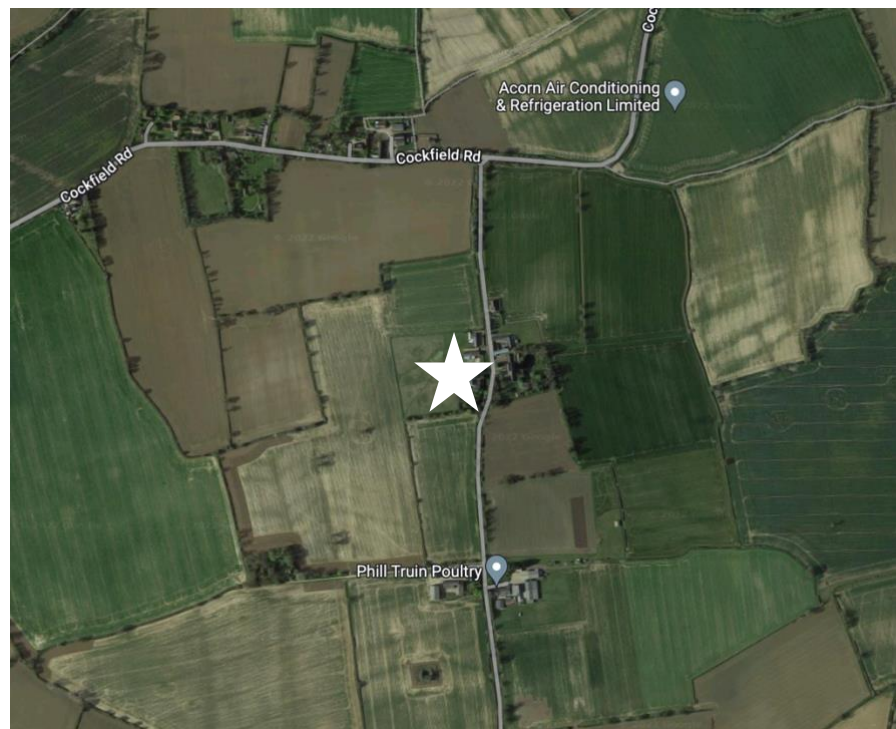


Figure 1.3.1 Aerial View

## 2.0 Site and Surrounding Area

- 2.1 The application site extends 0.28Ha and comprises of a redundant unlisted redbrick agricultural building amongst a cluster of existing dwellings and agricultural outbuildings (including Brindlewood, Moat House, The Grange and Grange Farm) to the west of Dakings Lane. The site is accessed from the same access point serving Brindlewood. The site falls

within the countryside outside of Felsham (Secondary Village). To the north, west and south is Grade 2 agricultural land.

2.2 The site does not fall within any Conservation Area and the nearest listed buildings are located directly east (The Grange and an associated barn) both of which are Grade II listed. The site is not within any designated landscape area (for example Special Landscape Area or Area of Outstanding Natural Beauty). There are no trees on site or nearby which are protected by Tree Preservation Orders. There are no nearby Public Rights of Way. The site is at a very low risk of fluvial and pluvial flooding.

### 3.0 Proposal

3.1 The proposal seeks; Conversion of barn to 1 no. dwelling following the grant of prior approval under reference DC/21/06252 for 2 no. dwellings.

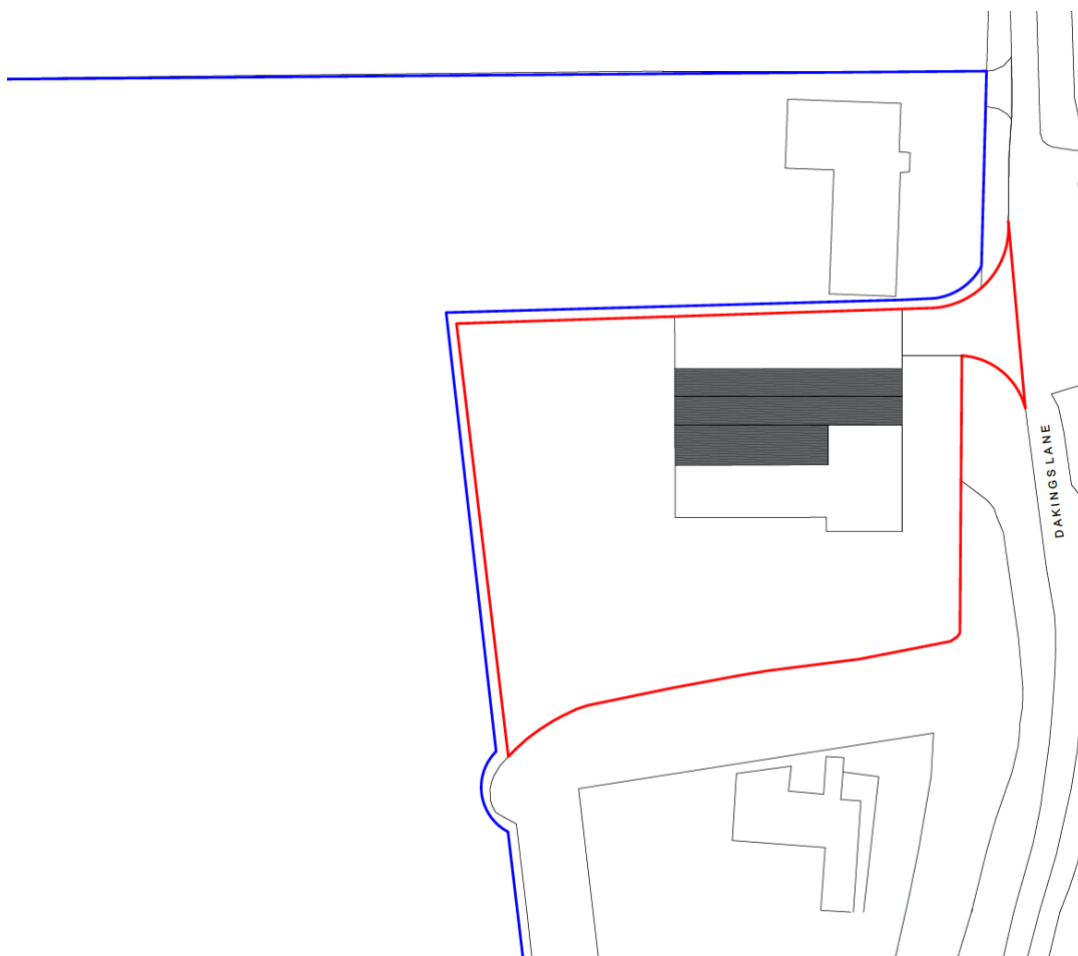


Figure 3.1.1 Site Location Plan

3.2 The application is supported by a suite of plans and documents including:

- Application Forms
- Planning Drawings
- Planning Statement
- Land Contamination Report
- Ecology Report

#### 4.0 Planning Policy

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with 'the Plan' unless material considerations indicate otherwise.

4.2 The National Planning Policy Framework 2021 (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.

4.3 The NPPF is supported by the Planning Practice Guidance (PPG), which assists applicants and decision makers in interpretation the NPPF.

4.4 The site does not fall within an area with either an emerging nor adopted Neighbourhood Plan.

4.5 The Development Plan for Mid Suffolk consists of:

##### Mid Suffolk Core Strategy Focused Review (2012)

- FC1 - Presumption in Favour of Sustainable Development
- FC1.1 - Mid Suffolk Approach to Delivering Sustainable Development

#### Mid Suffolk Core Strategy (2008)

- CS1 - Settlement Hierarchy
- CS2 - Development in the Countryside and Countryside Villages
- CS3 - Reduce Contributions to Climate Change
- CS4 - Adapting to Climate Change
- CS5 - Mid Suffolk's Environment

#### Mid Suffolk Local Plan (1998)

- GP1 - Design and Layout of Development
- H13 - Design and Layout of Housing Development
- H15 - Development to Reflect Local Characteristics
- H16 - Protecting Existing Residential Amenity
- H17 - Keeping Residential Development Away from Pollution
- CL8 - Protecting Wildlife Habitats
- T9 - Parking Standards
- T10 - Highway Considerations in Development

#### Supplementary Planning Documents

- Nationally Described Space Standard (2019)
- Suffolk Guidance for Parking (2019)
- Suffolk Design Guide (2000)

#### National Planning Policy Framework (2021)

- Para 7: Achieving sustainable development
- Para 8: Three dimensions to sustainable development
- Para 10 – 12: The presumption in favour of sustainable development
- Para 38- Positive decision-making
- Para 47 – 50: Determination of planning applications
- Para 105 – 111: Highways impacts
- Para 126: Good design
- Para 130: Achieving well-designed places
- Para 174: Protecting the natural environment
- Para 189 – 193: Conserving and enhancing the historic environment
- Para 194 – 198: Proposals affecting historic assets



- Para 199 – 208: Considering potential impacts

4.6 The proposed development has been primarily assessed having had regard to core policies FC1, FC1.1, CS1, and CS2.

4.7 This statement will consider other material planning policies in turn.

## 5.0 Planning History

5.1 The site itself has been subject to previous planning applications, with the most recent in 2019.

Full Planning Application - Conversion of kennels to form 3 No. holiday lets and workshop.  
Ref. No: DC/17/03055 | Status: Granted

Householder Planning Application - Demolition of porch and alteration to dwelling.  
Ref. No: DC/18/05352 | Status: Granted

Non Material Amendment to DC/18/05352 - Omission of metal roof cladding and addition of black pantiles.

Ref. No: DC/19/00906 | Status: Application Withdrawn

Application to determine if Prior Approval is required for a proposed Change of Use of Agricultural Buildings to Dwellinghouses (C3) and for building operations reasonably necessary for conversion. Town and Country Planning (General Permitted Development)(England) Order 2015 as amended Schedule 2, Part 3, Class Q - Change of use of agricultural building and land within its curtilage to form 2no dwellings.  
Ref. No: DC/21/06252 | Status: Formal Approval IS required - Approved

## 6.0 Material Planning Considerations

6.1 Principle of Development



- 6.2 The principle of converting the existing building into two dwellings was previously established under DC/21/06252. The fact that the site benefits from an extant Class Q approval is material to the acceptability of this application. This proposal seeks an overall reduction in the number of dwellings previously allowed on site to one, by converting the existing barn.
- 6.3 Notwithstanding the extant permission, at a local level, policy CS1 identifies a settlement hierarchy to sequentially direct development, forming part of a strategy to provide for a sustainable level of growth. The site falls within the countryside outside of and south west of Felsham (Secondary Village).
- 6.4 Furthermore, the presumption in favour of sustainable development is set out in policies FC01 and FC01.1 of the development plan and seeks to replicate the terms of the presumption as found within paragraph 11 of the NPPF. It is clear, therefore, that the presumption is set out within the development plan and, as such, the application of the presumption is not simply weighed as a material consideration within the NPPF but is a consideration against which all proposals must be determined. The LPA cannot choose not to apply it because they consider they have a 5 year housing land supply, as that test does not exist in policy. The development plan has primacy, and the LPA would be incorrect in law if they chose not to apply it.
- 6.5 Context can be drawn from a very recent planning appeal issued by the Inspector relating to a site in *Bramford, Suffolk (Reference: APP/W3520/W/22/330147)*. The Inspector is states:

*“7. Both main parties address the question of whether these policies should be considered up-to-date in the context of the presumption in favour of sustainable development included in the Framework2. The Council suggests that Policies CS1, CS2 and H7 are up-to-date to the extent that they are consistent with the Framework in their objective to enhance and maintain villages and rural communities; and to actively manage patterns of growth and focus significant development on locations which are or can be made sustainable. The appellant, however, refers to a number of appeal decisions where these same policies have been found to be out-of-date. This is due to the restrictions they place on development in the countryside outside settlement boundaries not being wholly consistent with the Framework, which only applies such restrictions to isolated homes in the countryside.*”

8. I am mindful of the principle that appeal decisions should be determined on a consistent basis as well as on their own merits. As such, I see no basis to find differently to these earlier appeals with regard to this policy consideration. Moreover, I note that in one of the appeal decisions drawn to my attention, the Council accepted that Policies CS1 and CS2 should attract reduced weight due to their restrictive and less balanced approach to rural housing than that of the Framework; and that the proposal in that case should be considered in the context of the presumption in favour of sustainable development.

**9. Therefore, for these reasons, for the purposes of this appeal these most important policies should be considered to be out-of-date and, therefore, the presumption in favour of sustainable development is engaged.** The presumption requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.”

- 6.6 The most important policies are therefore considered to be out-of-date. As such, in accordance with paragraph 11(d) of the NPPF, the tilted balance (the presumption in favour of sustainable development) is engaged.
- 6.7 This proposal utilises a Class Q ‘fallback’ position, with the interpretation of such position established through the *Mansell V Tonbridge & Malling Borough Council [2017] EWCA Civ 1314* judgement handed down by the Court of Appeal. It was concluded that the fact an agricultural building could reasonably and realistically be converted is a material consideration when considering an application relating to new dwellings, specifically where such development would present betterment over the previous scheme.
- 6.8 One of the key issues brought by the appellant in the *Mansell* case related to the LPA attaching weight to and considering that a theoretical prospect of conversion under permitted development rights was a material consideration, even where no such permission had been secured previously. Whilst the judge ruled that the LPA were nonetheless entitled to make this assessment, this application has previously established that there is realistic and reasonable prospect that the building could be converted.
- 6.9 Therefore, there is nothing before the LPA this time around to suggest that a legitimate ‘fallback’ position does not apply in this instance. The Class Q ‘fallback’ position is a material



consideration in the determination of this application. By exercising the ‘fallback’ position, the proposal offers significant betterment over the previously approved scheme, as discussed later in this statement. Such betterment outweighs the harm arising from the strict conflict with the development plan.

- 6.10 There have also been several compelling conclusions which have been reached by the LPA at delegated level, as expressed through Officer Delegated Reports. Similar applications have been granted recently supporting the case put forward within this application as follows:

Application reference: DC/21/03237

Proposal: Erection of 1 no. dwelling on footprint of barn with Class Q prior notification approval (ref: DC/21/00724) following its removal

Application reference: DC/21/03103

Proposal: Conversion of redundant agricultural barn to form 1 no. dwellinghouse (following Class Q approval ref: DC/20/00691), Erection of detached garage and extend residential curtilage including access (as approved under ref: DC/20/03138)

Application reference: DC/20/05474

Proposal: Erection of 1 no. dwelling (following demolition of grain store with prior approval for conversion under Class Q)

Application reference: DC/20/04750

Proposal: Erection of 1 no. energy efficient sustainable dwelling (as a replacement for approved prior notification Class Q conversion (not commenced) with associated landscaping and sewage treatment plant

- 6.11 Given the ‘out of datedness’ of the development plan, the Case Law handed down by the Courts, and the concessions within Officer Delegated Reports and planning decisions issued by the LPA itself are compelling. There are clear material planning factors which way heavily in favour of the appeal proposal through the flexible approach advocated by the NPPF. For all of these reasons, the applicant considers that the proposal is robustly supported in principle.

- 6.12 At a national level, paragraph 10 of the NPPF states; *“So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development”*.
- 6.13 Paragraph 38 of the NPPF states; *“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”*.
- 6.14 Paragraph 119 of the NPPF states, *“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”*.
- 6.15 The proposal would make effective use of land following the demolition of a redundant agricultural building.
- 6.16 For all of these reasons, the applicant considers that the proposal has demonstrated qualities that accord with development plan and the flexible approach advocated by the NPPF, specifically noting the extant permission under DC/21/06252.
- 6.17 Design and Layout
- 6.18 Policies CS5, GP1, H13 and H15 work inter alia to encourage good design and layout in new residential development that responds to and harmonises with the character of the locality. The LPA will grant permission for proposals which meet the design criteria. Furthermore, the NPPF places a strong emphasis on good design, in particular through chapter 12 ‘Achieving well-designed places’ containing a number of policies which can support the delivery of good design and stating that planning decisions should ensure that developments at paragraph 130; *“are visually attractive as a result of good architecture”*. Consideration must also be afforded to the Nationally Described Space Standard (NDSS).

- 6.19 Noting the stand that the Council has taken on a number of other applications utilising a Class Q 'fallback' position, the footprint of the proposed dwelling would not exceed the footprint of the existing building or dwellings previously approved. It would instead utilise the overall footprint of the two dwellings approved in a single dwelling to a lesser degree.
- 6.20 The proposed building would incorporate a range of environmentally sustainable aspects underpinned by policies CS3 and CS4 and paragraph 8 of the NPPF. Thus, the proposed scheme would offer a more environmentally sustainable dwelling than the two dwellings that could be created via the conversion of the existing building.
- 6.21 Highways
- 6.22 The site would be accessed via the established access which currently serves Brindlewood, existing agricultural buildings and associated land. The vehicular capabilities of the site, surrounding area and highways efficiency are unquestionably sound, as the proposal would utilise an existing highways arrangement which has capacity and sufficient visibility splays. The capacity of the site itself, and the spatial set out of the existing access in enabling agricultural vehicles to access unimpeded, lends good potential to the proposal. The land surrounding the defined red line outline is owned by the applicant and would remain in the applicant's control.
- 6.23 The previous permission DC/21/06252 established a further intensification for residential use of the existing access. This proposal seeks to continue to utilise that previously approved access arrangement but would in effect result in a lesser intensification than the previous permission, noting the reduction in the number of dwellings.
- 6.24 The proposed spatial configuration of the site would accommodate adequate parking provision in accordance with policy T9 and SCC Parking Guidance, alongside sufficient manoeuvring space and designated bin presentation and storage areas.
- 6.25 Policy T10 and paragraph 110 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The courts have held that the principle should not be interpreted to mean anything other than a

severe impact on highway safety to be acceptable (*Mayowa-Emmanuel v Royal Borough of Greenwich [2015] EWHC 4076 (Admin)*), which this proposal does not create.

6.26 The proposal responds well to policies T9 and T10 paragraphs 110 and 111 of the NPPF, and the Parking Standards, all underpinned by Case Law. There is nothing before Officers to suggest the scheme should be refused upon highways grounds.

6.27 Flood and Water

6.28 The site is set within Flood Zone 1 and is therefore at the lowest risk of fluvial flooding. The site is also at a very low risk of pluvial flooding. The proposal would thus accord with policy CS4 and paragraphs 159 and 162 of the NPPF.

6.29 Whilst the application is considered 'minor', on site attenuation and surface water management / disposal is nonetheless provided, ensuring that the sites 'sealed surfaces' are properly managed. The applicant is fully aware of their obligation to comply with Part H (Drainage and Disposal) of the Building Regulations 2010.

6.30 Heritage

6.31 The site sits 43 metres northwest from the nearest Grade II listed buildings (The Grange and associated barn).

6.32 The Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local planning authorities to have special regard to the desirability of preserving listed buildings and their settings (Sections 16 and 66).

6.33 At the local level, policies CS5 and HB1 deal with listed buildings and their settings and provides a number of criteria against which to assess proposals that affect listed buildings.

6.34 At a national level, there are specific NPPF policies relating to designated heritage assets that should be considered in this case. Paragraph 197 is particularly relevant to the determination of this proposal:

*“In determining applications, local planning authorities should take account of:*

*a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*

*b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*

*c) the desirability of new development making a positive contribution to local character and distinctiveness”.*

- 6.35 Paragraph 199 of the NPPF states; *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.”* It continues to identify that; *“This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.* The more important the asset, the greater the weight should be.
- 6.36 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.37 These legislative and policy provisions thereby identify a need to assess the significance of the heritage asset in a proportionate manner, identify the impact of the proposed development on that significance, balance any harm arising against the public benefits and ensure that the special character of the building is preserved and, where possible, enhanced.
- 6.38 The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or may be neutral.
- 6.39 Noting the overall rural character of the locality, it is acknowledged that the site may be considered to contribute to the setting associated with The Grange and associated barn. The overall massing of the building would not introduce additional built form into the area or impinge further to the detriment of the setting. The visual impacts are primarily isolated to the confines of the site and the immediate viewpoints along Dakings Lane and remains

separated from the designated heritage assets by Dakings Lane. The proposal would retain an overall agricultural appearance, reflective of the existing building on site.

6.40 The principles of developing the site do not appear to give rise to harm to the significance of any heritage asset. Sensitive development can be accommodated here in a manner that would not engage paragraph 202 of the NPPF, and which would comply with policies CS5 and HB1.

#### 6.41 Landscape

6.42 Policy CS5 and paragraph 174 of the NPPF seek to protect and enhance the landscape both within the confines of the site and in the wider sense within the locality. The site is not constrained by any landscape designation.

6.43 The subdivision of the site has already been approved as part of permission DC/21/06252. The proposal could however utilise existing hedgerows and trees, whilst introducing further landscaping as part of establishing the residential curtilage. The proposal would adopt a form and design that is no more intrusive into the wider landscape than the existing building, therefore there would be no undue landscape harm.

#### 6.44 Ecology and Biodiversity

6.45 Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010) provides that all "*competent authorities*" (public bodies) to "*have regard to the Habitats Directive in the exercise of its functions*".

6.46 Guidance on the conservation of protected species is given in ODPM Circular 06/2005. At Paragraph 99 the Circular advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. However, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place before the permission is granted.



- 6.47 Based on the nature of the existing site, surroundings and building, there are no signs of protected species (barn owl, bats and Great Crested newts) that would warrant the requirement for an ecology report. This position was accepted under the previous permission DC/21/06252. The scheme therefore accords with the aims of paragraph 174 of the NPPF which seeks to conserve and enhance biodiversity and the natural environment.
- 6.48 The site presents no ecological concern. The applicant acknowledges their duty to adhere to the Habitat Regulations 2017.
- 6.49 Residential Amenity
- 6.50 Policies H16 and H17 seek to ensure that development will protect the amenity of neighbouring properties taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. Paragraph 130 of the NPPF also holds regard to the protection and preservation of residential amenity, which the scheme wholly delivers.
- 6.51 The nature of the proposed end use is entirely suited the area and has been accepted under the previous permission DC/21/06252. Residential dwellings are located close by, and the introduction of one residential unit would continue to harmonise with the area. There are no intense arable or livestock uses close enough to the site so as to diminish the domestic enjoyment experienced by future owner / occupiers of the proposed end use, such that the development would be exposed to unacceptable noise potentials.
- 6.52 The proposed plans demonstrate that the proposed dwelling could be accommodated on site in a manner that respects nearby amenity by way of achievable separation distances and layout.
- 6.53 Land Contamination
- 6.54 There are no known land contamination issues, with an extremely low contamination potential. The site is not considered to present risk to future occupants through land contamination. This is further demonstrated through the previously approved application DC/21/06252.

## 7.0 Planning Balance

- 7.1 The proposal seeks planning permission for; Conversion of barn to 1 no. dwelling following the grant of prior approval under reference DC/21/06252 for 2 no. dwellings.
- 7.2 The proposal utilises and engages with a Class Q ‘fallback’ position as set out within the *Mansell V Tonbridge & Malling Borough Council [2017] EWCA Civ 1314* judgement.
- 7.3 Building upon the extant Class Q permission (DC/21/06252) for two dwellings on site, the principle of development for one dwelling in lieu of the demolition of the existing building is supported. The proposal is a wholly deliverable prospect, making effective use of land, without undue harms. The scheme is robustly supported at a local and national level offering a sustainable scheme which is heavily aligned to local and national planning policies.
- 7.4 In light of this and taking account of all the considerations set out above, it is hoped that the LPA will support this sustainable development by granting planning permission in the terms requested.