



Planning Statement

Pursuant to Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015

In support of an application for a determination as to whether the Prior Approval will be required for the

Change of use of a building and land within its curtilage from an agricultural use to a use falling within Class C3 (as 2 dwelling-houses)

and

Building operations reasonably necessary to convert the building

at

Woodgate Lane, Borden, Sittingbourne, Kent ME9 7QB

November 2023

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77 Commercial Road | Paddock Wood | Kent TN12 6DS

IN ASSOCIATION WITH

**Lambert
& Foster**



1. Context

- 1.1. This Statement is written in accordance with the requirements of Paragraph Q.2 (1) of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, to support an application under the provisions of Class Q of this Order for a determination as to whether Prior Approval will be required for the conversion of an agricultural building into two residential dwellings at Woodgate Lane, Borden, Sittingbourne.
- 1.2. In accordance with Paragraph W (a) of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, this supporting planning statement provides a written description of the proposed development. The application is also accompanied by a plan indicating the site and showing the proposed development, and the developer's contact address and email address are;

Gary Mickelborough, Bloomfields, 77 Commercial Road, Paddock Wood, Kent TN12 6DS;

and gary.mickelborough@bloomfieldsltd.co.uk.
- 1.3. The application building is of portal-frame construction with blockwork walls that are clad with vertical timber boarding and fibre cement sheeting. There is an existing concrete slab adjacent to the building with concrete sheep-sheering clamps up to 2 metres in height.
- 1.4. The building is located to the east side of Woodgate Lane, which is a metalled private road linking Maidstone Road to the north, and Oad Street to the south. The building can be accessed via an existing gate and area of hardstanding to the southeast of the building.

2. Proposal

- 2.1. The proposed development is for the change of use of an existing agricultural building and land within its curtilage, as indicated on the accompanying site plan, into two residential dwelling-houses. The proposal also includes building operations reasonably necessary to convert the building.

The application has been submitted as a variation to the previously approved application under reference 21/504972/PNQCLA. The application has been submitted on the basis that it is now intended to convert the building into two, rather than the previously-approved three dwellings, on viability grounds.

- 2.2. The previously application was approved following constructive correspondence with the Council's Planning Officer during the course of an earlier withdrawn application, and the subsequent modifications to the application building, in order that the building operations reasonably necessary to convert the building were considered to be reasonably necessary. The building works include the retention of all existing sheet cladding, which is only proposed to be replaced with doors and windows where necessary.

- 2.3. As with the previously-approved application, the extent of the residential curtilage for the proposed dwelling-houses has been carefully considered to ensure that it includes only land immediately beside and around the agricultural buildings and is no larger than the land occupied by the buildings, in accordance with the definition of 'curtilage' laid out at Paragraph X of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

3. Permitted Development

- 3.1. Class Q permits a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouse). Paragraph X of this Part of the Order clarifies that an 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business.
- 3.2. It is submitted that the proposed change of use of this building into residential dwellings would fulfil the specific criteria laid out at Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as follows;
- a) This says "***development is not permitted by Class Q if (a) the site was not used solely for an agricultural use as part of an established agricultural unit***
- (i) ***on 20th March 2013, or***
- (ii) ***in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or***
- (iii) ***in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins***";
- 3.3 The Agent for this application is satisfied that the land has clearly been used for the purposes which fall within the definition of 'agriculture', as defined at Section 336 of the Town and Country Planning Act (1990) (as amended) and can be considered to form an established agricultural unit. This Agent has verified the historic use of the land via discussions with the tenant farmer and the land owner.
- 3.4. The land and building have been used by a tenant farmer for many years by the Vant farming family based at Stalisfield. The land has been used for the grazing of sheep, which have been reared at the site during the winter months. The building has been used as a place at which sheep have been tagged and sheered during inclement weather conditions.
- 3.5. The land has also been used for the production of hay during the summer months. It is understood that tractors and bailers have accessed the land via the existing gate to the south of the building for this purpose.

3.6 The building has clearly been used for purposes ancillary to the use of this holding by sheep farming and hay production. It is understood from discussions with the tenant farmer that the site has been used by the Vant family since well before the current owner acquired the site in 2012. This was acknowledged by the council in its approval of the previous application for converting this building (under reference 21/504972/PNQCLA). It is therefore reasonable to conclude that the site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, and so this building can clearly be considered to constitute an agricultural building for the purposes of Part 3 of this Order.

b) This says development is not permitted by Class Q if "*in the case of—*

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

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;";

3.7. The proposal is for two 'larger' dwellings; the cumulative floor area would not exceed 465 square metres and the cumulative number of separate larger dwellinghouses developed under Class Q would not exceed 3.

c) This says development is not permitted by Class Q if "*in the case of—*

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

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

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

3.8. In this case the application building does not constitute 'smaller dwellinghouses' as defined at Paragraph Q.3 as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018. The proposal is for two larger dwellings and so the cumulative number of separate smaller dwellinghouses developed under Class Q would not exceed 5.

d) This says development is not permitted by Class Q if "*the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—*

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

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

3.9. In this case the application building (i) does constitute 'larger dwellinghouses' as defined at Paragraph Q.3 as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018, but would not have a floor area greater than 465 square metres.

e) This says development is not permitted by Class Q if "*the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained*";

3.10. The application is being made in support of the land owners and the applicant has confirmed that there are not any tenants in occupation.

f) This says development is not permitted by Class Q if "*less than 1 year before the date development begins*

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under Class Q,

unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use”;

3.11. The applicant has confirmed that an agricultural tenancy over the site has not been terminated less than one year before the date the development begins. A letter has been provided by the agricultural tenant confirming that he is supportive of the application.

g) This says development is not permitted by Class Q if “*development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit*

(i) since 20th March 2013; or

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

3.12. There has not been any development carried out under Class A (a) or Class B (a) of Part 6 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) since 20th March 2013.

h) This says development is not permitted by Class Q if “*the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point”;*

3.13. As laid out within the plans submitted, the building operations reasonably necessary to convert the building are similar to those shown in the previously approved application for the conversion of this building and would not incorporate any operational development that would extend beyond the external dimensions of the existing building. Following constructive discussions with the Council’s Planning Officer during the course of the previous prior approval application at this building, all of the existing cladding materials are now being shown to be fully retained. Works have been carried out with planning permission for the provision of cladding materials, which ensure that external materials would be replaced only where it is necessary to provide window and door openings.

i) This says development is not permitted under Class Q if “*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)";***

- 3.14. As shown within the plans submitted, building operations required in connection with the proposed use would only incorporate the insertion and replacement of doors and windows, and the existing cladding of the external walls would remain in situ where possible.
- 3.15. The National Planning Policy Guidance says (under 'Are any building works allowed when changing to residential use?') that the permitted development right under Class Q "*recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted*".
- 3.16. In this case, it is clear that the building is of sound construction. The existing external structure is capable of providing the support required for the conversion of the building. This was established via the previously-approved application for converting this building where it was accepted that, following the implementation of the materials to the exterior of the building, as per planning permission 21/501785, the conversion of the building can be carried out in a manner which ensures the retention of all existing materials. As part of that previous application, Officers comments from delegated reports related to similar proposals had been noted. For example, it was noted that following the carrying out of the cladding of a building at Rides House Farm, under reference 20/501903, that "*Due to the addition of the cladding to the structures under application 19/503515/FULL, they are now enclosed on all sides, and the proposed elevations show that the existing external materials will remain and windows and doors will be added to the structures...This application differs from the previous refusal on the site (ref. 19/500979/PNQCLA) due to the additional cladding, and the retention of the external materials will result in the buildings being capable of conversion in my view*".
- 3.17. It is relevant to note that the current application now shows that first floor accommodation would also be provided. Following topographic surveys of the building and by making use of the roof void, there is considered to be sufficient headroom to allow for two storeys of accommodation at this building. As shown by

the submitted Section drawing, the new floor is to be provided via a mezzanine floor located at the end bays only. Practically, this ensures that the existing metal roof trusses do not interfere with circulation, being located within internal wall partitions. This first floor level can be supported by the new internal walls to be provided thereby ensuring that no additional loading is imposed upon the existing structure. The updated National Planning Policy Guidance is clear in the final paragraph that 'internal structural works' can be carried out under Class Q. This includes mezzanines, floor slabs, internal walls etc. Some of the key omissions from the previous guidance are the removal of the existing building being "structurally strong enough" and "not the intention of the permitted development right to include the construction of new structural elements for the building". This guidance helps to clarify that structural integrity is no longer a significant issue in these cases given that internal structural works don't constitute development.

3.18 The installation of water, electricity, drainage and gas services would be permitted on the basis that they are utilities which are reasonably necessary for the building to function as a dwelling-house.

j) This says development is not permitted under Class Q if "**the site is on article 2(3) land**";

3.18. Article 2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 says "*The land referred to elsewhere in this Order as article 2(3) land is the land described in Part 1 of Schedule 1 to this Order*".

3.19. Part 1 of Schedule 1 to this Order includes "*Land within—*

(a) an area designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (designation of conservation areas);

(b) an area of outstanding natural beauty;

(c) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981 (enhancement and protection of the natural beauty and amenity of the countryside)(a);

(d) the Broads;

(e) a National Park; and

(f) a World Heritage Site".

3.20. It is clear that the application site has not been designated for any of these purposes.

k) This says development is not permitted under Class Q if “***the site is, or forms part of—***

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area”;

3.21. The site is not, and does not form part of, any of these designated areas.

l) This says development is not permitted under Class Q if “***the site is, or contains, a scheduled monument”;***

3.22. The site does not contain any scheduled monument.

m) This says development is not permitted under Class Q if “***the building is a listed building”***

3.20 The building is not a Listed Building.

3.21 In light of the above, in accordance with Paragraph Q.1, it is submitted that the proposal would constitute permitted development. Therefore, subject to the condition that before beginning the development, in accordance with Paragraph Q.2 (1) the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to;

- Transport and highways impacts of the development;
- Noise impacts of the development;
- Contamination risks on the site;
- Flooding risks 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 of the Schedule to the Use Classes Order;
- The design or external appearance of the building, and
- The provision of adequate natural light in all habitable rooms of the dwellinghouses.

4. Prior approval for the residential use of building

- 4.1. The provisions of Paragraph W of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 apply in relation to this application as to whether prior approval would be required.
- 4.2. Paragraph W (10) (b) says that the Local Planning Authority must, when determining an application, have regard to the National Planning Policy Framework 'so far as relevant to the subject matter of the prior approval, as if the application were a planning application'.
- 4.3. To this end it is relevant to note the Ministerial Statement on Local Planning by Nick Boles published in advance of the changes to legislation which permit the proposed change of use, which in itself is considered to carry a degree of weight as a material consideration. It was said that "*we expect local planning authorities to take a positive and proactive approach to sustainable development, balancing the protection of the landscape with the social and economic wellbeing of the area...other protected areas are living communities whose young people and families need access to housing if their communities are to grow and prosper*".
- 4.4. Paragraph 186 of the National Planning Policy Framework says "*Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development*". Paragraph 187 says "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*".
- 4.5. That being said, it is submitted that prior approval is only required in relation to the above criteria, and the proposal should be considered acceptable in relation to each of these issues as follows;

5. Transport and highways impacts of the development

Number of vehicle movements

- 5.1. As was submitted as part of the previously-approved application for the conversion of this building, comments from KCC Highways Officers with respect to similar proposals in the area have been noted. For example, with respect to a proposal for the conversion of a nearby agricultural building into two houses served by an access with visibility splays that would not meet current guidelines (under reference 20/501838/PNQCLA), the Council was advised;

“It is widely accepted that per square metre, an agricultural building would typically generate more vehicle movements than the equivalent residential floorspace, which is partly why the change of use was made easier under planning legislation with the introduction of the Prior Notification process for this type of development. It is not relevant how the current user of the building operates, and what level of activity they may have at present, it’s the worst-case potential of the building being used for agricultural or other permitted operations that matter.

For example, buildings could be used to store numerous items of farm machinery or plant that may be needed on a daily basis and will attract many vehicle movements throughout the day. There are probably many other legitimate operations typically associated with an agricultural building that would also generate a lot of activity, and with larger vehicles than expected with residential use”.

- 5.2. On this basis, the proposed use as two dwelling-houses is not considered to amount to any material increase in traffic numbers. The proposal could not reasonably be said to give rise to any significantly greater number of movements than the current use of the building for agricultural purposes.
- 5.3. It is therefore considered that the proposed use as three relatively modest dwellings should not be prevented or refused on highways grounds. This is because the NPPF is clear that this should only be the case *“if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”* (our emphasis).

- 5.4. At worst, the impact on the number of vehicle movements can be considered negligible in planning terms, as there are no material indications to indicate that any change to vehicle numbers will be discernible. In this context, it would be neither positive or pragmatic to consider that prior approval may be required, in the context of an existing access already serving residential properties. Indeed, it is noted from the council's report for the previously-approved application for the conversion of this building that officers considered that *"This proposal [for three dwellings in that case] relies on use of an existing agricultural access with an expectation that the building would in itself generate a number of vehicle movements if in active use, rather than proposing a new opening; and Kent Highways have made it clear that this is a non-protocol matter on which they do not offer advice. I am therefore of the opinion that prior approval is not required in this regard"*.

Nature of vehicle movements

- 5.5. As was submitted as part of the previously-approved application, the proposal would again continue to make use of that existing access but the vehicles using it would be domestic in nature and so less likely to cause noise and disturbance issues than agricultural vehicles, and the trips being required to access the building would be reduced.
- 5.6. Furthermore, it is submitted that the proposed residential use of the building would give rise to less vehicle movements than the previously-approved scheme for three dwellings, or an alternative proposal for a commercial use, which could be carried out as a permitted development by virtue of Class R of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The development would not generate any material increase or a material change in the character of traffic in the vicinity of the site.
- 5.7. Any proposal under the provisions of Class R of this legislation would also be subject to assessment as to whether prior approval was required with respect to the transport and highways impacts of the development. However, the proposed residential use of the building would generate movements of domestic vehicles rather than commercial vehicles. These tend to be much smaller in scale, less noisy and less likely to cause disturbance issues with neighbouring properties. Domestic vehicles are also far better equipped to navigate junctions, being smaller and quicker.

Access

- 5.8. Paragraph 32 of the National Planning Policy Framework advises that decisions

- should take account of whether a safe and suitable access to the site can be achieved for all people. The proposal would make use of an existing access which is considered to benefit from adequate visibility splays.
- 5.9. As such, the proposal would not give rise to any adverse transport impacts or the safety and convenience of the nearby highway, which is in accordance with Section 4 of the NPPF; Promoting Sustainable Transport.
- 5.10. It is respectfully submitted that prior approval should not therefore be required from the Local Planning Authority in relation to the transport and highways impacts of the development, in accordance with Paragraph Q.2 (1) (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

6. Noise impacts of the development

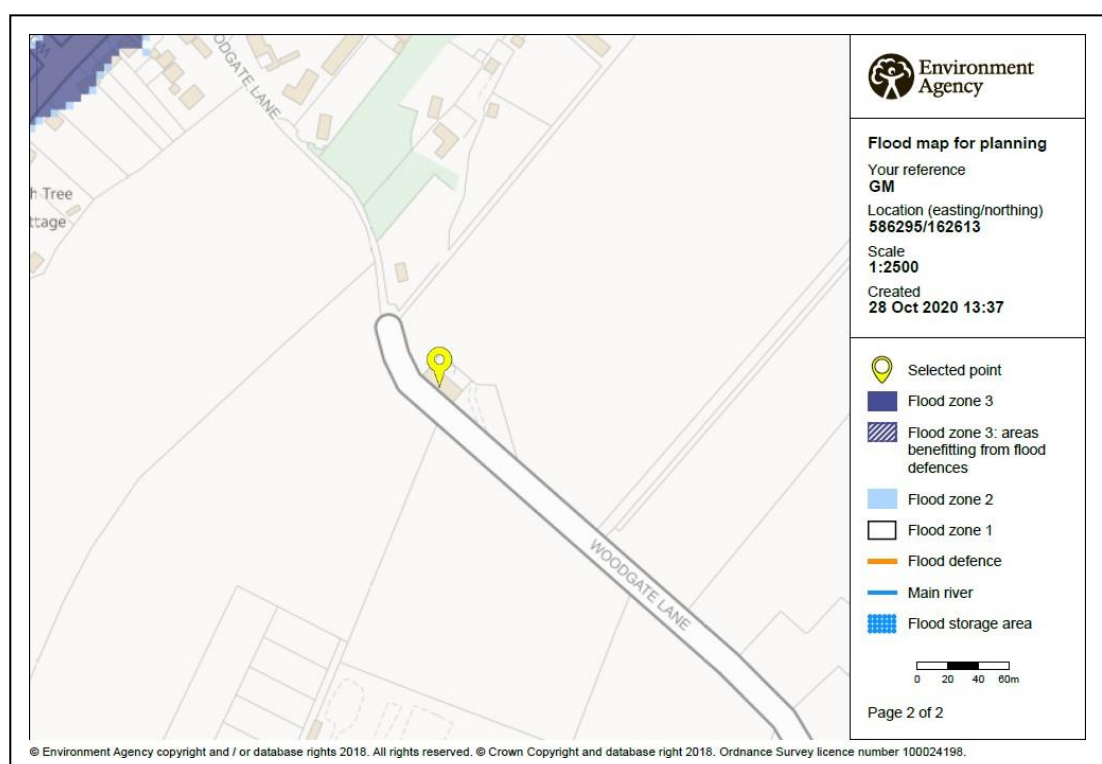
- 6.1. It has previously been acknowledged that this legislation is concerned with the noise impacts of the development rather than impact of noise upon future occupants. The point being that, in interpreting the literal wording of this part of the Order, it should only be necessary to consider whether the proposed development (i.e. the conversion of the existing agricultural building to a residential dwelling) would create any noise impacts. It has previously been agreed that the literal reading of this Part of the Order actually precludes consideration of the potential noise impacts created by any existing land use.
- 6.2. That being said, in this case the current access runs immediately adjacent to the existing houses situated along this highway, such that the passage of commercial and/or agricultural vehicles would clearly have a discernible impact upon occupants of those properties. The use of this access by domestic vehicles instead would be bound to improve or lessen the likelihood of noise impacts at those properties.
- 6.3. Whilst Paragraph W (13) of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) clarifies that “*the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval*”, it is not considered that the imposition of any conditions relating to noise attenuation would be necessary in this instance.
- 6.4. This being said, it is noted from the council’s report for the previously-approved application for the conversion of this building that officers considered that “Residential use of the buildings would not in my view give rise to such substantial noise or disturbance as to indicate a reason to refuse the Council’s Prior Approval. Nor would the dwellings be built in a noisy area. A certain amount of noise is to be expected during conversion works, but this would be short-lived and is a factor of development in general. The residential use of the building would likely lead to less noise than associated with an agricultural use”. On this basis, prior approval should not therefore be required from the Local Planning Authority in relation to the noise impacts of the development, in accordance with Paragraph Q.2 (1) (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7. Contamination risks on the site

- 7.1. The Government's website clarifies that 'contaminated land' is used in general terms to describe land polluted by heavy metals, oils and tars, chemical substances, gases, asbestos or radioactive substances. It also clarifies that the legal definition of contaminated land includes substances that could cause significant harm to people or protected species, and/or significant pollution of surface waters or groundwater.
- 7.2. Paragraph 003 of the 'land affected by contamination' section of the National Planning Policy Guidance identifies that Part 2A of the Environmental Protection Act 1990 provides a risk based approach to the identification and remediation of land where contamination poses an unacceptable risk to human health or the environment. Paragraph 004 says contamination is more likely to arise in former industrial areas but cannot be ruled out in other locations including in the countryside.
- 7.3. However, whilst sheep have been sheared at the building and the adjacent concrete clamps, in this instance there is not known to have been any inappropriate spreading of materials such as sludges or any contamination being moved from its original source. The area is not known to be affected by the natural or background occurrence of potentially hazardous substances, such as radon, methane or elevated concentrations of metallic elements. It is therefore submitted that there would not be any unacceptable risks from pollution and the development would be appropriate to its location, in accordance with Paragraph 120 of the National Planning Policy Framework.
- 7.4. It is respectfully submitted that, as with the previously-approved application for the conversion of this building, prior approval should not be required from the Local Planning Authority in relation to the contamination risks of the development, in accordance with Paragraph Q.2 (1) (c) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

8. Flooding risks on the site

- 8.1. Paragraph 100 of the NPPF advises that inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at high risk.
- 8.2. The site is not located within any designated Flood Zone and does not have critical drainage problems that have been notified to the Local Planning Authority by the Environment Agency.



- 8.3. As such, it is submitted that the development would be carried out within an area which has a lower probability of flooding, and so it would not be necessary for the Local Planning Authority to consult the Environment Agency, in accordance with Paragraph W (6) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 8.4. It is also therefore not necessary for this application to be accompanied by a site-specific Flood Risk Assessment, in accordance with Paragraph W (2) (e) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 8.5. In turn, it is respectfully submitted that, as with the previously-approved application for the conversion of this building, prior approval should not therefore be required from the Local Planning Authority in relation to the flood risks on the site, in accordance with Paragraph Q.2 (1) (d) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

9. Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling-house

- 9.1. It is relevant to note the National Planning Policy Guidance in relation to this matter, which says “*a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval*”.
- 9.2. This Agent has previously dealt with an allowed appeal that had initially been refused by Swale Borough Council on this ground (under reference 16/502242/PNQCLA). The reason for refusal read;
- ‘The location of the building out of sight of any public road, would require potential occupants to travel along the existing rough farm tracks to reach the property, isolating them from any local community and creating an inaccessible and impractical dwelling for ordinary occupation, therefore not conforming to the requirement under Class Q that the location of the building would not be impractical or undesirable. Accordingly, the proposal does not accord with the required provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, and Prior Approval is therefore required and refused’.*
- 9.3. However, the Inspector determined (under appeal reference APP/V2255/W/16/3161427) that “*the location or siting of the building would not make the proposed change of use impractical or undesirable and that the appeal should be allowed and prior approval granted*”.
- 9.4. Swale Borough Council has since approved an application which effectively sought the renewal of that earlier granting of prior approval (under reference 18/503293/PNQCLA). That building was sited in a more rural location, being further away from the nearest dwelling that the current application building.

- 9.5. Indeed, the matter of the “location or siting” of a building in relation to Part 3 Class Q of the GPDO is considered in detail within the determination of East Hertfordshire District Council v Secretary of State for Communities and Local Government, and Tepper [2017] EWHC 465 (Admin) (9 March 2017). The most appropriate Paragraphs of this determination are considered to be as follows;
- 9.6. Paragraph 34 of this decision says “*the outcome which the legislation has in mind is clear and...is intended to lead to the development of residential uses in locations which would not ordinarily be contemplated by the undiluted application of, for instance, policies in the Framework relating to location*” (our emphasis).
- 9.7. Paragraph 35 says “*I would not accede...that the term “undesirable” is...a word requiring an elaborate legal definition. It is a term which calls for a planning judgment from the decision-maker framed by the particular context in which it arises, namely that this is an application for prior approval of a form of permitted development created for the purpose of increasing the supply of housing, and not an application for planning permission. In my view it is perfectly reasonable to expect that this planning judgment will be reached against the backdrop of the purpose for creating this class in the first place*” (our emphasis).
- 9.8. Paragraph 37 says “*In my judgment [it is] correct to accept that the planning judgment to be exercised is not one in which accessibility is ruled out or rendered completely irrelevant by the context of the prior approval of this class of development. However, that assessment of location, as distinct perhaps from other aspects of the desirability of location such as the impact of odour or dust from adjacent developments, has to be examined through the prism of the purpose of the legislation. To apply in the planning judgment, for instance, the policies of the Framework with the same rigour in respect of accessibility of residential development to the Class Q prior approval process as would be applied to an application for planning permission for residential use would have the potential to frustrate the purpose of the introduction of the class, namely to increase the supply of housing through the conversion of agricultural buildings which by definition will very frequently be in the open countryside. Thus...whilst accessibility is not an irrelevant consideration when considering Class Q2(1)(e), the bar in relation to the test of unacceptable inaccessibility will necessarily be set significantly higher than it would in the context of an application for planning permission*” (our emphasis).

- 9.9. Paragraph 39 says “*I have concluded, but not without some hesitation, that the PPG in paragraphs 108 and 109 reflect this approach. It has to be observed that those paragraphs do not capture, either crisply or comprehensively, the approach to the planning judgment of whether the location of the agricultural building is desirable...What the paragraphs do, however, is helpfully set out that there is no specific requirement within the paragraph Q2(1) in relation to accessibility of location, and also that the fact that an agricultural building is in a location where planning permission would not normally be granted for accessibility reasons will not amount to a sufficient reason for refusing prior approval. Both of those observations are apposite and reflect the approach to requiring a far stronger objection on accessibility grounds than would be required to resist a planning application for the reasons which have already been set out above” (our emphasis).*
- 9.10. This being said, the building is sufficient in size to be equipped with all of the necessities required for occupation as a single dwelling-house. An adequate external amenity area could also be provided. It would therefore be possible to ensure a high-quality design and a good standard of amenity for future occupants, in accordance with point 4 of the core land-use planning principles laid out at paragraph 17 of the National Planning Policy Framework.
- 9.11. With regards to noise, the National Planning Policy Framework says at paragraph 123, that decisions should “*avoid noise from giving rise to significant adverse impacts*”. It is submitted that noise issues are not so significant here that they could not be overcome by the imposition of a suitably-worded condition. Paragraph 123 of the National Planning Policy Framework also says decisions should “*recognise that development will often create some noise*”.
- 9.12. The National Planning Policy Guidance indicates that “*the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals*”. It is clear that the nature of the surrounding uses which this prior approval matter is intended to safeguard against are not present at this site. It is strongly submitted that the nature of the uses surrounding the application building are not such that they should be considered sufficient to give rise to any undesirable impact in accordance with National Planning Policy Guidance.

- 9.13. As such, there would not be any reason for the building to be considered impractical nor undesirable as a single dwelling-house, in accordance with Paragraph Q.2 (e) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 9.14. It is respectfully submitted that prior approval should not therefore be required from the Local Planning Authority in relation to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling-house, in accordance with Paragraph Q.2 (1) (e) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is noted from the council's report for the previously-approved application for the conversion of this building, that officers considered that "*the location of the building is not subject to issues that would give rise to substandard levels of amenity for occupants of the new dwellings*". It is also noted that the Council noted that it had 'refused a number of planning applications nearby for housing on Woodgate Lane and Maidstone Road. However, this was due to clear Local Plan policy relating to the prevention of unsustainable development rather than an application for prior approval which has very limited criteria in which to consider; and which are often intrinsically at odds with sustainable development policies'. As such the Council's Prior Approval should not be refused in this respect.

10. The design or external appearance of the building

- 10.1. It is relevant to note that amendments carried out to the National Planning Policy Guidance on 15th March 2015 clarify that *“building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted”*.
- 10.2. The National Planning Policy Guidance also goes on to clarify that *“it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right”*.
- 10.3. In terms of structural works, as has been shown within the submitted plans, this building is considered to be capable of being converted in its current form. The proposal aims to retain the character of the existing building as much as possible, as with the previously-approved scheme. The position of openings aims to reflect those within the existing building where this can be achieved.
- 10.1. In terms of the visual impact of the proposed external works, the proposed changes to the fabric of the building have been carefully thought-out to ensure that they would result in only minimal changes which are reasonably necessary to convert the building. Modern materials would be used to ensure an attractive finish, however, the design subtly highlights the agricultural character, for example, by the use of the existing portal frame will retain the barn like structure.
- 10.2. The proposal does not include the insertion of any flues, aerials or similar domestic paraphernalia which might otherwise materially alter the character of the building. It is therefore submitted that the building operations would be appropriate insofar that there would not be any material impact upon the character or appearance of the building, which would remain that of a former agricultural structure.

- 10.3. It is noted that officers considered that the previously-approved scheme for converting this building would not change significantly the appearance of the existing building, *“and certainly not in a way that would be especially harmful to the character or appearance of the site or wider countryside, and Prior Approval should not be refused in this regard”*. Given the similarities between the previously-approved and currently proposed schemes, it is respectfully submitted that prior approval should not therefore be required from the Local Planning Authority in relation to The design or external appearance of the building, in accordance with Paragraph Q.2 (1) (f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

11. The provision of adequate natural light in all habitable rooms of the dwellinghouses

- 11.1. Paragraph W (2A) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that *“where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.”* Where habitable rooms are defined as any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.
- 11.2. The scheme has been designed to satisfy the criteria set out within Daylight Standard BS EN 17037, with regard to daylight provision; assessment of the view out of windows; access to sunlight; and prevention of glare. As such, it is submitted that the proposed conversion would provide adequate natural light in all of the habitable rooms of the dwellinghouses.
- 11.3. Given that the current proposal would result in larger dwellings than those which were previously approved at this building, it is respectfully submitted that, prior approval should not therefore be required from the Local Planning Authority in relation to the provision of adequate natural light in all habitable rooms of the dwellinghouses, in accordance with Paragraph Q.2 (1) (g) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

12. Conclusion

- 12.1. It is submitted that this proposal should be considered to constitute permitted development, in accordance with Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 12.2. It is submitted that prior approval should not be required in relation to the transport and highways impacts of the development, the noise impacts of the development, contamination risks on the site, flooding risks 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 residential use or the design or external appearance of the building. It is therefore submitted that the proposal would be in accordance with Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 12.3. It is therefore respectfully submitted that the prior approval of the Local Planning Authority should not be required with respect to the change of use of a building and land within its curtilage from use as an agricultural building to a use falling within Class C3 of the Schedule to the Use Classes Order, and the building operations reasonably necessary to convert the building.