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**SITING OF A NEW
DWELLING AND
ASSOCIATED
WORKS
(FALLBACK)**

PREPARED FOR

Mr J Willcocks
Upham Farm
Farringdon
Exeter
EX5 2HZ

15th March 2024

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1. INTRODUCTION

- 1.1 Mr J Willcocks (the Applicant) has instructed Acorus Rural Property Services Ltd (Acorus) to assist with obtaining planning permission for a new build dwelling on land at Upham Farm, Farringdon, Exeter, EX5 2HZ.
- 1.2 An existing agricultural building on the holding currently benefits from prior approval for the change of use and conversion to 1.No dwellinghouse under the General Permitted Development Order 2015 (GPDO) Class Q. The proposed design and external appearance was granted prior approval on the 27th November 2023 under application reference 23/2176/PDQ.
- 1.3 Whilst it was the intention of the Applicant to continue the Permitted Development, the Applicant would prefer to explore the possibility of pursuing full planning permission for a new dwelling at the site. This would provide the Applicant with more scope for fully establishing all aspects of the external appearance, address additional landscaping and biodiversity enhancements, in addition to providing a low-carbon and sustainable design by way of the incorporation of modern building materials, systems and renewable energy.
- 1.4 In exploring a full application on the basis of the 'fallback' provision, a more holistic approach to development can be taken. The proposed dwellinghouse in this instance goes beyond the remit of Class Q and therefore allows enhancements to be proposed that otherwise would not be accepted under the requirements of Class Q Permitted Development.
- 1.5 This report has been prepared to assess the site and the potential for a new build dwelling to be developed at the site.
- 1.6 The enclosed submitted planning drawings and supplementary documents should be reviewed in conjunction with this report.

2. PLANNING HISTORY

2.1 The following planning history is deemed relevant to this proposal:

Planning Reference:	23/2176/PDQ
Location:	Barn at Upham Farm, Farringdon, Exeter, EX5 2HZ.
Proposal:	Prior approval for the proposed change of use of an agricultural building to a dwelling and for building operations reasonably necessary for the conversion
Decision:	Approved (27 th November 2023)

3. THE PROPOSAL

3.1 This application seeks to obtain full planning permission for the siting of 1.no residential dwelling on land at Upham Farm, Farringdon, Exeter, EX5 2HZ.

3.2 As already mentioned, there is a recently approved Class Q scheme for the site (application Ref: 23/2176/PDQ), however, the Applicant wishes to explore the potential to provide 'betterment' by way of a re-designed scheme that goes beyond the scope provided by Class Q Permitted Development.

3.3 The proposal is to demolish the existing barn benefiting from Class Q prior approval for 1.no dwelling (ref: 23/2176/PDQ) and to build a new single dwelling with an improved layout and siting.

3.4 The proposed new dwelling is located predominantly on the footprint of the existing building benefiting from Class Q (ref: 23/2176/PDQ), however, the proposal allows for additional amenity and garden space to form an improved setting. The proposal also includes the siting of 1.no workshop/store located north of the dwelling, which shall be used to service the garden and grounds in addition to further storage space.

3.5 The existing private gravel drive will be retained and has been incorporated into the final dwelling design. It is however noted that part of the existing hardstanding shall be removed and returned to grass/amenity, which shall enable additional planting, whilst also bringing ecological and habitat enhancements to the site.

- 3.6 The ability to develop a new dwelling as opposed to converting the existing steel framed agricultural building shall enable the ability to minimise energy consumption, maximise energy efficiency and deliver on-site carbon and renewable energy systems.
- 3.7 The proposals enable the provision of a highly insulated and airtight property with a fabric first approach to meet and vastly exceed the requirements of the Building Regulations, in particular Part L. The property shall utilise air source heating, underfloor heating, photovoltaic (PV) panels with battery storage and Mechanical Ventilation with Heat Recovery (MVHR) systems, in addition to the provision of an electric vehicle charging point. The development aims to achieve regulated carbon emissions levels of at least 20 per cent less than that required to comply with Building Regulations Part L.
- 3.8 It is deemed that the new dwelling will provide an opportunity for betterment in terms of the final dwelling design, appearance, siting within the landscape and ability to meet the needs and requirements of the intended future occupiers, with a particular emphasis on a scheme that supports low carbon energy sustainable design. The design takes the form of the original farm building but provides an enhancement with the use of materials, including Zinc, to create a modern and attractive dwelling. The shape and form mimics the conversion of a steel frame farm building whilst providing architectural enhancements.
- 3.9 The proposed siting for the new dwelling and associated garage/workshop/store is detailed on the submitted planning drawings.

4. PLANNING POLICY BACKGROUND

- 4.1 Within both National and Local Planning Policy, there is a general core principle and focus on sustainable development.
- 4.2 As the Local Planning Authority (LPA) are aware, following the 2013 Budget Statement, the Government consulted on and introduced new Permitted Development Rights for various situations. This included rights to assist the change of use and the associated physical works from existing buildings used for agricultural purposes to residential use (C3) under Class Q.
- 4.3 The Government clearly believed that the change of use of agricultural buildings to dwellings is in line with the NPPF and therefore the development allowed is sustainable.

4.4 The Class Q approval (the ‘fallback provision’) is a material consideration in this instance, and the principle of a dwelling on the holding should be deemed acceptable as the principal of residential development has already been established.

4.5 The proposed design seeks to improve the design and sustainability of the existing building and make best use of the site and surroundings. The proposals for the site intend to reflect good quality construction and material quality.

5. FALLBACK PRINCIPLE

5.1 It is suggested that there are clear benefits in considering development of the site under a full planning application. The Applicant wishes to provide an improved design and consider the wider landscaping and other relevant factors affecting the development. Given the fact that the scope of Class Q is limited, these wider considerations would not be possible under permitted development.

5.2 Whilst it is accepted that without specific policy support, special circumstance, or other relevant material factors, dwellings in the open countryside would most likely be deemed as inappropriate development. However, in this instance the special circumstance and material consideration is the fact that a Class Q approval is in place and could/will be implemented. This application seeks to provide a better, more suitable scheme than that already approved under permitted development.

5.3 In consideration of the potential to look at a full application to replace an existing permission of prior approval with new build development, the Applicant would note the case of the Mansell v Tonbridge and Malling BC. It is noted that in the Mansell v Tonbridge and Malling BC case, the proposal allowed the development of 3No. detached properties that were larger in size and in alternative positions on the site than would have been created if the fall-back provision of the (potential) barn conversion had taken place. The case also allowed for a fourth dwelling which was a replacement for an existing bungalow.

- 5.4 As mentioned above, the Mansell case related to an appeal made by an objector to a planning application that sought permission for the demolition of an existing apple store and bungalow and the construction of four detached dwellings on a site in Kent. The planning application was approved by the local authority on the recommendation of the planning officer, who considered that there was a realistic fallback position that the landowner could seek to develop the site by converting the 600sq.m. apple store into three dwellings occupying up to 450sq.m. and replacing the bungalow with a modern dwelling in accordance with the Council's local plan. The officer considered that the outcome of a scheme under Class Q would be a contrived development whereas the submitted planning application offered a "more comprehensive and coherent redevelopment of the site". As such, the officer recommended approval even though the site was outside any village development boundary and deemed as being in "open countryside".
- 5.5 When the Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314 went to the Court of Appeal, the arguments were based on a number of issues. The second challenge by the appellant concerned whether there was a 'real prospect' of development under the Class Q GPDO rights on the lack of contemporaneous evidence that the landowner had contemplated such development.
- 5.6 In the case Lindblom LJ confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were:
- the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely; a possibility will suffice;
 - there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary, in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.
- 5.7 He then concluded that the clear desire of the landowner to develop, and maximise the value of, the site was sufficient to demonstrate there was a real prospect to the Class Q GPDO fallback position in this case. Therefore, the council made no error in law in giving material weight to such fallback position.

5.8 It was confirmed that the fallback position can be a material planning consideration provided it is a clear possibility. In this case the fact that Class Q approvals have been sought and obtained, proves that the fallback position is a material consideration.

5.9 References to other planning authorities and in particular legal cases such as the Mansel case are relevant, as they are examples of how the fallback position is relevant to such an application as this.

5.10 Appeal reference: APP/D3830/W/16/3156030) is noted, whereby the Inspector considered a similar proposal which sought to replace a permitted Class Q proposal with a new dwelling under full planning). The Inspector stated:

“of critical importance to this appeal is that prior approval was granted by the Council for the change of use of an agricultural building to a dwelling at Great Wapses Farm on 22 December 2015 (the ‘2015 permission’). I understand that the 2015 permission remains extant and there is no evidence before me to indicate that it is unlikely to come forward were this appeal to be dismissed.

As set out in the application form to which this appeal relates the proposal before me is for a differently designed dwelling in place of that permitted via the 2015 permission rather than for an additional dwelling. Consequently the appeal proposal, if allowed, would result in no net addition of dwellings in this location”.

5.11 Acorus also understands that this approach (consideration of a full planning application following prior approval, or where PD rights are not permitted) is considered by a number of LPAs across the country, such as Wealden District Council and Cornwall Council.

5.12 Wealden District Council has adapted their planning guidance with regard to conversions, stating that they will *“take a flexible & proactive interpretation on those cases where planning applications are required”*.

5.13 The guidance goes on to say *“this will apply to both ‘change of use’ and ‘rebuilding’ of unsightly, substantial agricultural buildings where Class Q permitted development rights for new dwellings would otherwise apply (or are excluded purely on the basis of Article 2(3) (AONB, etc.) only)”*.

5.14 Cornwall Council also take a positive view of the potential benefits of a full planning application, stating in their guidance (Class Q Prior Notification Guidance Note - amended/updated 25 October 2018) that:

“Prior Notification v Planning Application:

It is acknowledged that, in certain cases, an application for planning permission may result in a better scheme in terms of building design and amenity provision than Class Q criteria would allow”.

5.15 As a result of the aforementioned Court case, appeal, and guidance notes such as those produced by Wealden District Council and Cornwall Council, it is suggested that LPAs could consider the merits and ‘Planning gain’ of proposals seeking improvement through a full application, particularly where an improved scheme could be approved on a conversion site that would otherwise yield a poorer design outcome.

6. DESIGN

6.1 Prior approval was given for the change of use of an agricultural building to 1.no dwellinghouse under planning reference 23/2176/PDQ. The proposal, originally designed under permitted development is constrained to the original footprint of the building and is limited to existing materials and structure. This subject application seeks to develop a more sustainable and appropriate dwellinghouse that better meets the needs of the future occupier.

6.2 The proposed development seeks to reflect that of a modern rural dwelling to maintain this appearance and setting in the countryside. The proposal adopts a fabric first approach which supports a low carbon energy sustainable design with on-site renewables. The proposal in principle, is therefore to provide betterment.

6.3 The proposals have been designed to provide better access, amenity space and site-layout in consideration to the barn benefitting from Class Q prior approval (ref: 23/2176/PDQ). The proposal seeks to provide a low carbon, healthy, efficient use of the site, ensuring resilience and adaptability.

6.4 The area of additional amenity space provided around the dwelling shall include a garden area to the south, parking/turning area to the north, and a garage/workshop/store to the north west.

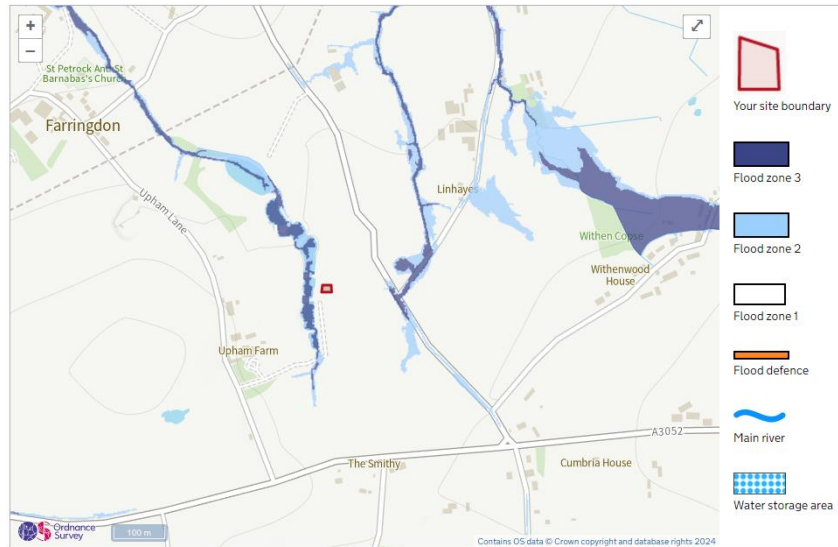
- 6.5 The proposed dwelling will provide a floorspace of approximately 273m² across two floors. The ground floor comprises an open plan kitchen/dining room, utility room, WC, lounge and access to an integral garage. The first floor comprises a master bedroom with en-suite and dressing room, office, snug and two further bedrooms with a family bathroom.
- 6.6 A further garage/workshop/store is located to the north of the proposed dwelling which shall extend to a floorspace of 43.9m².
- 6.7 The design of the dwelling is comparable to that of the approved Class Q (ref: 23/2176/PDQ) in terms of glazed elevations and linear form, however, more sympathetic and energy efficient materials have been incorporated. The footprint of the proposed dwelling is also reduced compared to the existing agricultural building. Scale, siting, layout, density, form, height, massing, detailing, colour and materials, have been informed by and respects the character and distinctiveness of the site.
- 6.8 The following Computer Generated Images (CGI) below have been produced as an illustration of the proposed development (not to scale).





7. FLOODING

- 7.1 As confirmed in the approved Class Q scheme for the site (ref: 23/00824/PNCOU) the site is not situated within an identified flood risk zone and there is no history of flooding issues on the site.
- 7.2 As illustrated below, using the EA Flood Map for Planning, the site lies within Flood Zone 1, with the overall flood risk from rivers or the sea being very low which means that each year this has a chance of flooding of less than 0.1%.



Source – Flood Map for Planning

8. SUSTAINABILITY

8.1 The proposal is for 1.no bespoke new dwelling, which has been designed to exceed the current requirements of the Building Regulations and aims to be energy efficient, with the provision of on-site renewables, whilst also enhancing on-site biodiversity and habitat.

8.2 The proposal has incorporated a number of sustainable systems and technologies, including the following (overleaf):

- The dwelling has been oriented to take advantage of the solar gain;
- Solar photovoltaic (PV) panels have been proposed on the roof, linked to a minimum of 9.6 kw of battery storage;
- Bioclimatic solar shading proposals are incorporated into the design;
- Rainwater harvesting is proposed by way of water-butts;
- Mechanical Ventilation Heat Recovery (MVHR) will be used for extract, ventilation and fresh air circulation;
- Timber framed construction, purchased from sustainable sources with a FSC certification;
- High levels of insulation;
- High level of air tightness, with a target value of less than 3.0 m³/hr.m²;
- Triple glazed thermally efficient glazing in conjunction with thermally broken aluminium frames;
- Electric Vehicle (EV) charging point integrated into the build;

- Designed SAP, EPC, and U values will exceed Building Regulations requirements covered in Part L of the approved documents. This will include the minimum design values:
 - Roof 0.1w/m²k
 - Floors 0.1 w/m²k
 - Walls 0.15 w/m²k
 - Triple glazing 0.8 w/m²k

9. ECOLOGY

- 9.1 Orbis Ecology were commissioned by the Applicant to prepare a Preliminary Ecological Assessment (PEA). We enclose a copy of the report to this application, however, the following conclusions are provided.
- 9.2 The site is located within the Devon Great Crested Newt Consultation Zone, however, the areas of modified grass on site are maintained as short sward and there is no habitat within the site boundary suitable for great crested newts. The lakes to the west are fishing lakes which are stocked with fish and are unlikely to support great crested newts.
- 9.3 There is no suitable habitat for amphibians on site. There are no waterbodies on Site. Amphibians may be present in the planted scrub and tussocky grassland to the south of the Site and may travel across the Site. The lakes to the west are fishing lakes and are unlikely to support amphibians due to stocking with fish.
- 9.4 No evidence of badgers was recorded on the Site.
- 9.5 The Site is of a small size. However, bats may forage and commute along the oak treeline to the west and along the boundary to the east. No evidence of bats such as droppings was found inside the barn.
- 9.6 No evidence of nesting birds was found in the barn. There is no habitat suitable for nesting birds within the Site boundary.
- 9.7 There is no habitat on Site suitable for dormice.
- 9.8 The site does not provide the variety of microhabitats necessary to support an important invertebrate assemblage.

- 9.9 There are no notable plants present on site. No invasive species were noted.
- 9.10 There is no habitat on Site suitable for reptiles. Grass on Site is maintained as a short sward and does not provide suitable habitat for reptiles.
- 9.11 Hedgehogs are unlikely to be present on the Site because of the surrounding arable farmland. The Site has no habitat suitable for hedgehogs to shelter in.
- 9.12 Otters are unlikely to be present on Site but may travel across the Site. The water bodies to the west are fenced with wire stock-proof fencing, which would prevent access for otters into the area of the lakes.
- 9.13 Extensive rabbit warrens were recorded inside the hedgerow to the east (off-site).
- 9.14 A number of mitigation measures and enhancements are provided at Section 5 of the ecological report. It is confirmed that the Applicant accepts these and will implement the mitigation measures as requested. In particular, bat/bird boxes are recommended and have been incorporated into the final dwelling design.
- 9.15 In terms of Biodiversity Net Gain (BNG), it is considered that the application is exempt from delivering BNG as it qualifies as a self-build/custom build development which consists of no more than 9 dwellings, and is carried out on a site which has an area no larger than 0.5 hectares and consists exclusively of dwellings which are self-build or custom housebuilding as defined in section 1 (A1) of the Self-build and Custom Housebuilding Act 2015.
- 9.16 In light of the above, it is confirmed that the application is acceptable in ecological terms.

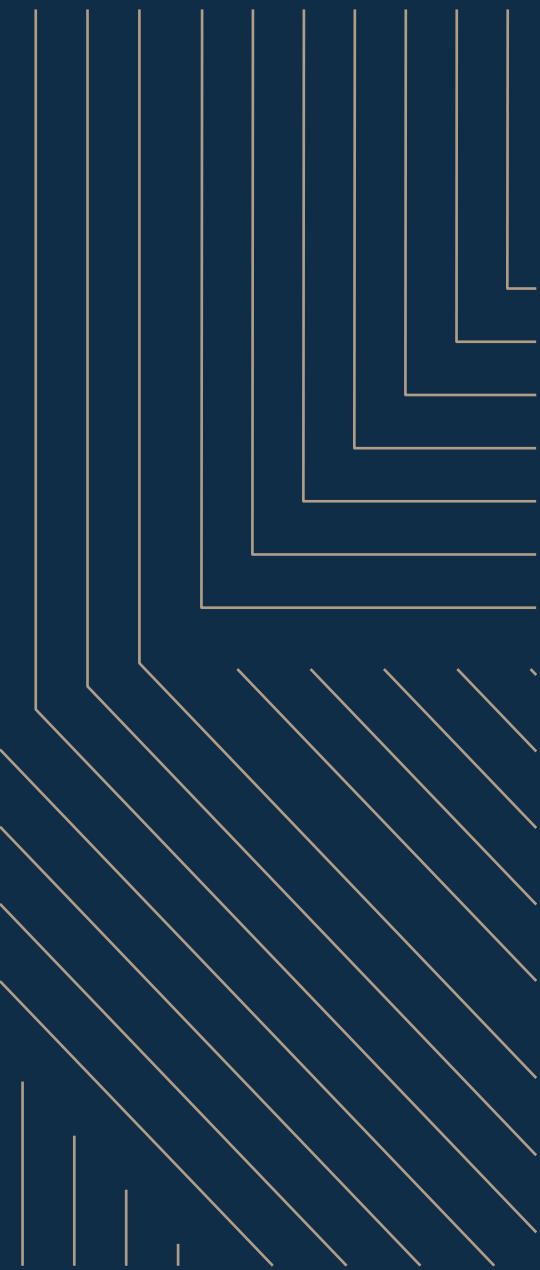
10. CONCLUSION

- 10.1 Whilst the Council has previously granted prior approval, the proposed development is deemed to provide a better scheme than could be achieved through the Class Q conversion.
- 10.2 The initial prior notification proposal, which was granted in November 2023, sought the conversion of an agricultural barn into one dwellinghouse. This subject application seeks to obtain planning permission for a single dwelling, with an improved site location and enhanced sustainability.

- 10.3 The materials to be used on the exterior of the building shall reflect that of a contemporary nature, whilst also being of high standards and quality.
- 10.4 Whilst the original provision for the dwelling was allowed under Permitted Development following the grant of prior approval, it is suggested that the proposed is deemed to represent a significant enhancement (betterment) to both the site and the surrounding area and should receive positive feedback from the LPA.
- 10.5 The proposal is not considered to impact any surrounding properties and the principle of the development should be acceptable, as the Class Q approval should be seen as a material consideration.
- 10.6 It is deemed that it has been demonstrated that a more appropriate and sustainable design may be secured through proceeding to a full planning application compared to that previously considered under the prior notification.
- 10.7 In light of the above, we trust that the LPA shall look on this proposal favourably.

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