

ATLAS

PLANNING GROUP

PLANNING STATEMENT

GARDENERS FARM, FLOWERS LANE, PLAITFORD, ROMSEY SO51 6HH

April 2024

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INTRODUCTION

The application site relates to an agricultural building located west of Flowers Lane and accessed off Sherfield English Road. The building forms part of a site that is also occupied by other agricultural barns.



Figure 1: Application Building

The application is supported by a Signed Statutory Declaration from the previous owner confirming that the building has been used for the storage of agricultural implements, fertiliser, and hay/straw since 1934 (Appendix A)

Most recently, an application was made on the site under Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended) to change the use of the application building and another into two dwellings (LPA Ref: 23/02140/PDQS). This application was withdrawn in October 2023. Correspondence between the applicant and the LPA during the application outlined that the main concerns were the proximity to trees covered by a TPO and the fact that insufficient information had been provided regarding ecology and structural suitability.

This resubmission now focusses upon the agricultural barn that is positioned away from the trees that are protected to ensure that no harm is caused. Moreover, the application is accompanied by an Ecological Assessment and a further Structural Report.

It is considered that the proposal fully accords with Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended).



Figure 2: Proposed Site Plan



Figure 3: Floor Plans and Elevations

THE PROPOSAL

It is proposed for the agricultural building to be converted into a new dwelling under Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended).

Class Q.1 of the GPDO outlines circumstances where development is not permitted:

Development Not Permitted by Class Q.1 if:	Analysis
<p>(a) The site was not used solely for an agricultural use as part of an established agricultural unit –</p> <p>(i) On 20th March 2013, or</p> <p>(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</p> <p>(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</p>	<p>The application site comprises an agricultural building and its curtilage, which has been used solely for agricultural purposes, as confirmed by the supporting statutory declaration.</p> <p>The building was in use on 20th March 2013 and is still in use.</p>
<p>(b) In the case of-</p> <p>(i) A larger dwellinghouse, within an established agricultural unit-</p> <p>(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or</p> <p>(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;</p>	<p>The cumulative number of separate larger dwellinghouses does not exceed 3.</p> <p>The application proposes 1 larger dwellinghouse.</p>
<p>(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;</p>	<p>No dwellinghouse has a floor space greater than 465 square metres.</p>
<p>(c) In the case of-</p> <p>(i) A smaller dwellinghouse within an established agricultural unit-</p> <p>(aa) the cumulative number of separate dwelling houses developed under Class Q exceeds 5; or</p> <p>(bb) the floor space of any separate smaller dwellinghouse having a use falling within Class Q (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;</p>	<p>The cumulative number of smaller dwellings does not exceed 5.</p>

<p>(d) 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-</p> <p>(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</p> <p>(ii) The cumulative number of separate dwellinghouses having a use falling within C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;</p>	<p>The cumulative number of separate dwellinghouses does not exceed 5.</p>
<p>(e) The site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained</p>	<p>No agricultural tenancies exist on site.</p>
<p>(f) Less than one year before the date development begins –</p> <p>(i) An agricultural tenancy over the site has been terminated, and</p> <p>(ii) The termination was for the purpose of carrying out development under Class Q,</p> <p>unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;</p>	<p>No agricultural tenancy over the site have been terminated within the year prior to submission of this proposal.</p>
<p>(g) 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 –</p> <p>(i) Since 20th March 2013; or</p> <p>(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;</p>	<p>No such development has taken place on the agricultural unit since 20th March 2013.</p>
<p>(h) The development would result in the external dimensions of the building extending beyond the external dimensions of the building at any given point.</p>	<p>The external dimensions of the building have not been altered to extend beyond the external dimensions of these buildings as part of this proposal.</p>
<p>(i) The development under Class Q(b) would consist of building operations other than –</p> <p>(i) The installation or replacement of –</p> <p>(aa) windows, doors, roofs, or exterior walls, or</p> <p>(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and</p>	<p>Only building operations contained within provisions (aa) and (bb) have been proposed.</p>

(ii) Partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);	
(j) The site is on article 2(3) land	The site is not on article 2(3) land.
(k) 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	The site is not and does not form part of any of the identified designations.
(l) The site is, or contains, a scheduled monument	The site is not and does not contain a scheduled monument.
(m) The building is a listed building	The building which is proposed for conversion is not listed.

As the development passes all the above ‘tests,’ it is considered that development is permitted, subject to the Council considering that prior approval is not required for the matters outlined below.

PLANNING CONSIDERATIONS

TRANSPORT AND HIGHWAYS

An existing established vehicular access off Sherfield English Road will be used in association with the proposed development to allow vehicles to enter and exit the site. The access provides a satisfactory level of visibility in both directions, which allows for vehicles to safely access and egress the site.

The access has been routinely used in conjunction with the operations of the agricultural barn and surrounding barns, which have been used regularly by farm vehicles, along with the commercial units to the northwest. As such, it is considered that the access provides sufficient access to serve the proposed dwellinghouse.

The suitability of the access has also been assessed within the planning history of the site, including prior notification applications, where no objections were raised.

As part of application 23/02140/PDQS, the Highways Authority were satisfied that the proposal would not lead to any material detrimental impact upon the safety and efficiency of the public highway network. The internal site layout was considered to be adequate with sufficient space for the safe and efficient manoeuvring of vehicles.

The access is not included within the curtilage of the building, as the access is not a requirement within Class X of Part 3, which defines 'curtilage'. The appeal decision at Appendix B relates to a conversion of an agricultural barn into 2 dwellings through Part 3 Class Q of the GPDO. In this appeal, the Inspector confirms that the access does not need to be included within the curtilage submitted as part of Class Q prior approval applications.

The appeal decision states:

"the wording of Class X does not, however, include any requirement that the curtilage of the proposed dwellings should include vehicular access points. There is also no other part of the GPDO or related legislation which sets such a requirement".

The Inspector concluded:

"I do not consider that the GPDO sets any requirement for the proposed access to be included within the defined curtilage of the dwellings".

As the existing access serves the application site, and surrounding agricultural land, it is evident that sufficient access can be achieved and is therefore considered acceptable.

The 2-bed dwelling will have 2 parking spaces for future occupiers. Adequate turning areas are also provided so vehicles can enter and egress the site in a forward gear. This accords with the parking provisions set out within Annex G of the Test Valley Revised Local Plan regarding car parking standards.

NOISE IMPACTS

The proposed change of use is unlikely to have any adverse noise implications. The surrounding uses include residential dwellings and office uses.

As part of application 23/02140/PDQS, the Local Planning Authority's Environmental Protection Team raised no objections, commenting that:

"I do not consider the proposed residential use to be incompatible with the neighbouring business units."

The new dwellings would be situated in a predominantly residential area and positioned at a sufficient distance from the office uses to the northwest. The proposed dwelling is unlikely to create any undue noise nuisance.

FLOODING

The application site is located in Flood Zone 1 and therefore not in an area at risk of flooding. Consequently, it is considered that the addition of a single dwelling at the site, on an existing built footprint, will not materially impact the risk of flooding in the area.

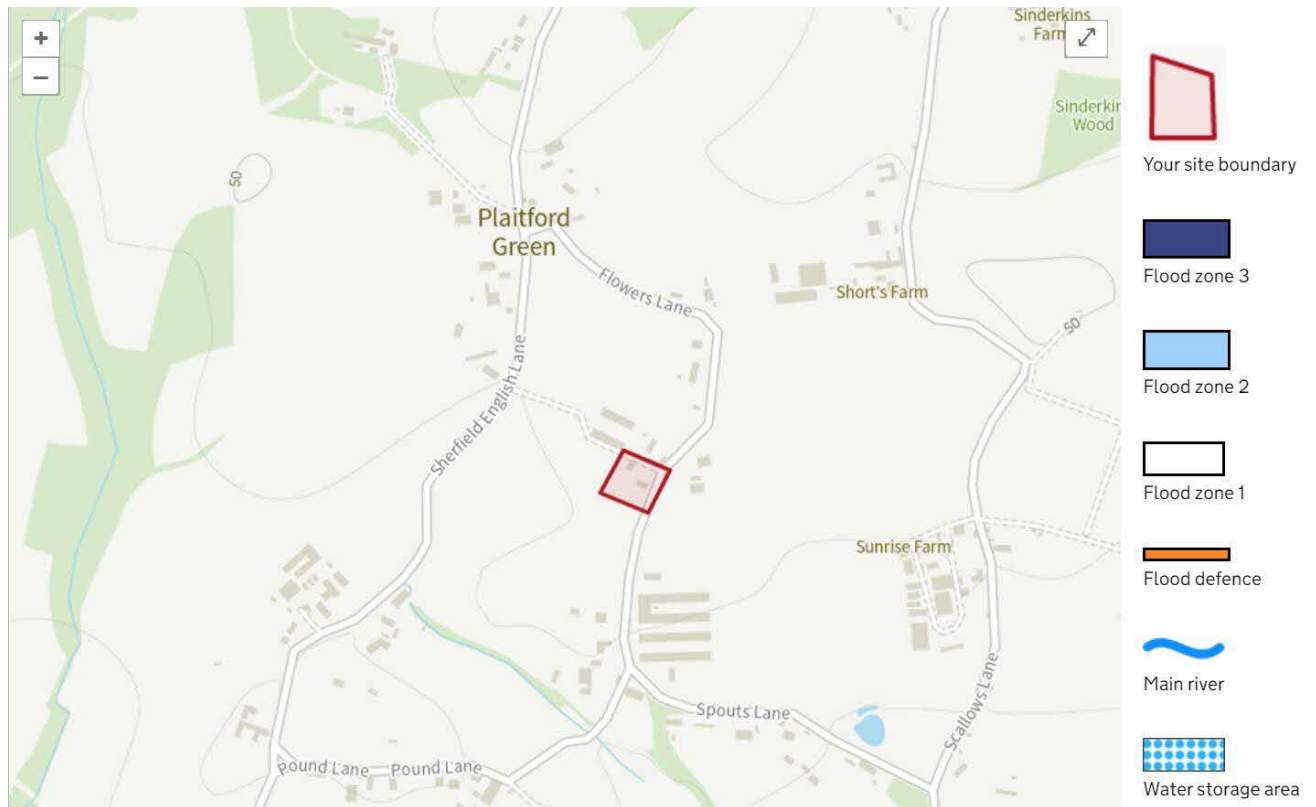


Figure 4: Proposed Flood Map

PRACTICALITY & DESIREABILITY OF THE CHANGE OF USE

PRACTICALITY

There are no obvious barriers to the proposed change of use of the agricultural building. The site has suitable access and is large enough to provide suitable amenity space for occupiers and high-quality accommodation.

Whilst the agricultural building is not located within a settlement boundary, the building is near other residential dwellings. Indeed, there are residential properties immediately beside the site to the north, along with on the other side of Flowers Lane. The dwelling would therefore form a collective group of buildings. The change of use is not considered to be any less practical than the numerous dwellings already located in this area.

Furthermore, there would not be any impact on neighbouring properties. Owing to the position of the agricultural buildings, it is considered there will be a negligible chance of adverse overlooking occurring.

DESIREABILITY

The proposed change of use is also considered desirable. The proposal will introduce a new dwelling to the area, providing more choice for house buyers and helping to achieve housing targets in Test Valley.

In the short term, the conversion of the building will provide employment benefits for the construction industry, which is a clear economic benefit of the scheme. Another longer-term economic benefit of the proposed change of use is the boost to the local economy which will come from new residents utilising local services.

Moreover, the proposed development would not have any practical or desirability issues due to the nearby protected trees. Previously, concerns were raised by the Council that the proximity to protected trees would threaten their retention due to potential direct impacts on roots during construction, and on-going pressure to prune or fell tree canopies to the amenity areas and habitable windows.

Furthermore, there were concerns that the shading of the garden for large portions of the day, and long-term maintenance issues of the guttering, roofs and garden would place pressure on the removal or excessive pruning of these important protected trees.

In response, it is only proposed to convert the building that would not be affected by the TPO due to its distance and proximity to the trees. The application is supported by an Arboricultural Implications Assessment and Method Statement, which shows the Root Protection Areas of the protected trees and others in the area.

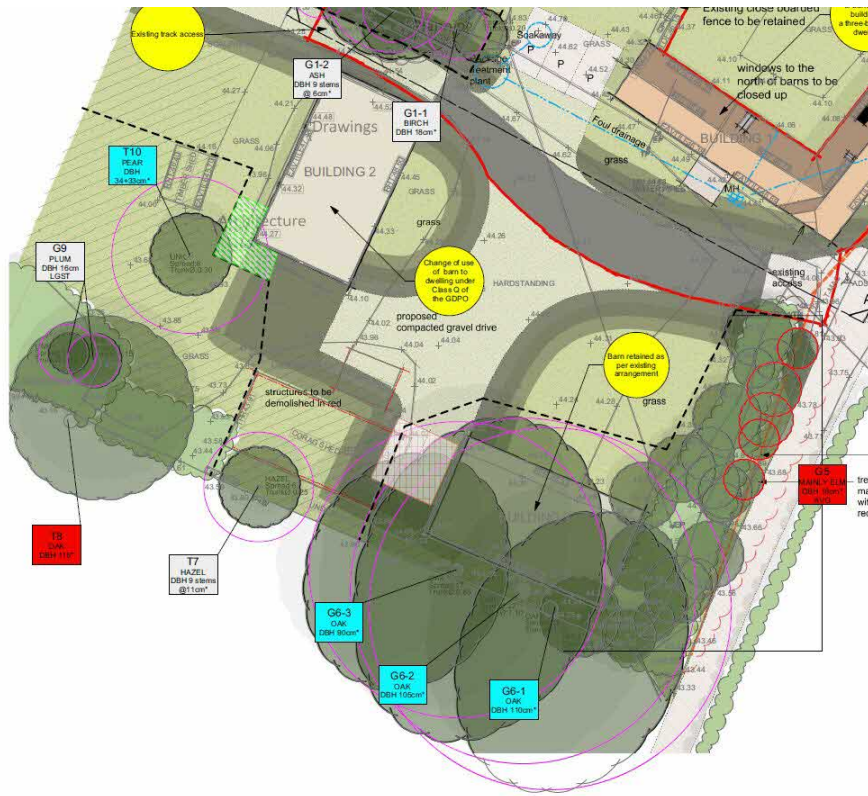


Figure 5: Tree Constraints Plan

It is clear that the application building lies well outside the Root Protection Area (RPA) of the protected trees. There is also sufficient room around the building to ensure that these trees would not be impacted by construction traffic and future occupier's amenity space would not be shaded. Furthermore, the application is accompanied by a drainage report and plan, which shows that utilities could be connected to the new dwelling without interfering with the RPA of the protected trees.

Therefore, it is considered that the development's location is desirable and does comply with Q.2 e) of Class Q.

DESIGN & EXTERNAL APPEARANCE

The new dwelling has been designed to complement the existing agricultural form of the building and the surrounding area. The existing blockwork will remain untouched but infilled with timber cladding. The proposed elevations include the insertion of the necessary doors and windows to serve the main living areas.

The proposed design is sympathetic to the surrounding area and the existing agricultural character of the buildings. It will therefore have a minimal impact on the character and appearance of the surrounding area and is acceptable in this regard.

or damage/deformation and structurally can be retained as part of the proposals. Furthermore, the existing timber columns are considered to be of a sufficient strength to carry the new roof load and the existing blockwork masonry walls are of sound construction and in good condition.

New elements would include a new wall where the external wall is currently missing on the west elevation. Whilst this would require alterations to the building's outer fabric, such alteration would be reasonably necessary to convert the building to residential use and would amount to no more than approximately 33% of the building's elevational façade. Therefore, would not be a significant portion.

Insulation would be applied to the inner side of the external walls via an inner leaf, which would be supported by the existing structure. Inspectors at appeal have confirmed that the inclusion of insulation and an inner leaf can be classed as reasonably necessary for an agricultural to residential conversion. 'The list of internal structural works provided in the PPG is not exhaustive and while the text does not mention elements like the inner frame, I consider it to be reasonably necessary to provide insulation that is appropriate to a new dwelling, but which was not needed for agricultural use' (Appeal Decision APP/L2820/W/19/3243571, Appendix C).

Therefore, the barn would retain a significant proportion of its original structure and building fabric (walls, roof and frame). Moreover, the building operations would be necessary to make the building weatherproof and suitable for human habitation.

The conversion works would involve the construction of an internal floor slab as currently the building needs to be damp proofed and insulated. The Structural Report confirms that this would not involve excavation below the level of the existing structure and no new foundations will be created.

Although the floor slab would be reasonably necessary for the building to function as a dwelling, it is not listed as a permitted building operation under paragraph Q.1 (l).

However, Inspectors at appeal have confirmed that "Section 55 of The Town and Country Planning Act at paragraph (2) (a) provides that works of 'maintenance, improvement or other alteration which only affect the interior...or do not materially affect the external appearance of the building' do not amount to development. As the floor slab would be new it could not amount to maintenance. However, the floor slab would be an improvement or alteration to the building within its existing walls, it would affect only the interior of the building and would not have any material effect on its external appearance. Therefore, the floor slab would fall within the description of works which, according to Section 55 (2) (a), do not amount to development. As no development is involved in its formation, the floor slab would not amount to rebuilding. Paragraph Q.1 (i) is only concerned with works which fall within the definition of development. Consequently, the floor slab is not subject to the limitations of that paragraph or of Class Q as a whole." (Appeal Decision APP/N1215/W/17/3185230, Appendix D)

The Planning Policy Guidance (PPG) explains that it is not the intention of the permitted development right for buildings to change to residential use to include the construction of new structural elements. However, Inspectors have confirmed that when this paragraph is read as a whole it is clear that it is largely aimed at whether a building would be structurally strong enough to take the loading of any external operations providing for its residential use. Consequently, the PPG does not concern itself with works which, as in the case of the floor slab, do not materially affect the external appearance of the building.

In this case, the external building operations as part of this development would not amount to the complete or substantial re-building of the pre-existing structure, or in effect, the creation of a new building. The proposed dwelling will retain all existing walls and would retain the roof structure and structural columns.

Inspectors have confirmed that 'considering the inner frame and floor in the context of the Hibbitt case and the PPG I do not find them to be starting afresh or to go beyond conversion works but reasonably necessary for the building to function' [as a dwelling].

Given the above, in respect of the new building work required to facilitate the residential use of the building, as a matter of fact and degree, the building operations would be reasonably necessary in this instance and not exceed the limitations set out in paragraph Q. 1(i) of the GDPO. As such, this part of the proposal would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the GDPO.

PRECEDENTS

The accompanied structural report outlines that the existing structure is capable of conversion without any major rebuilding and when compared to several other Class Q applications approved in Test Valley, it is clear that the building works involved in this application are not extensive.

Examples of other Class Q applications between 2 and 3 miles of the application site include:

21/00526/PDQS

In April 2021, prior approval was granted to change the use of agricultural buildings to 5 dwellinghouses under Class Q. Demonstrated below are two of the buildings, where all external walls are to be rebuilt and only the frame retained.



Figure 7: Existing barn and approved elevation



VERTICALS
BEING RETAINED,
CLADDING TO FACADE.
ALUMINUM WINDOWS AND
VERTICAL BOARDED FRONT DOOR.

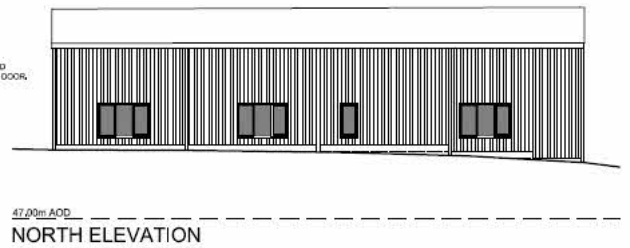


Figure 8: Existing and approved elevation

In February 2024, prior approval was granted the conversion of an existing agricultural buildings into 2 larger dwellings (Use Class C3). The photographs again show that this was just a steel frame.

The Officer Report outlined that “The application is supported by a structural report which concludes that the principles of the existing structure (including the steel portal frames, timber purlins, edge beams and floor slab) are sound and the main structural elements of the building are in a satisfactory condition.”

Clearly in this case, the principles of the existing structure (including the walls, columns ad roof) are sound and the main structural elements of the building are in a satisfactory condition. Therefore, should be considered acceptable.

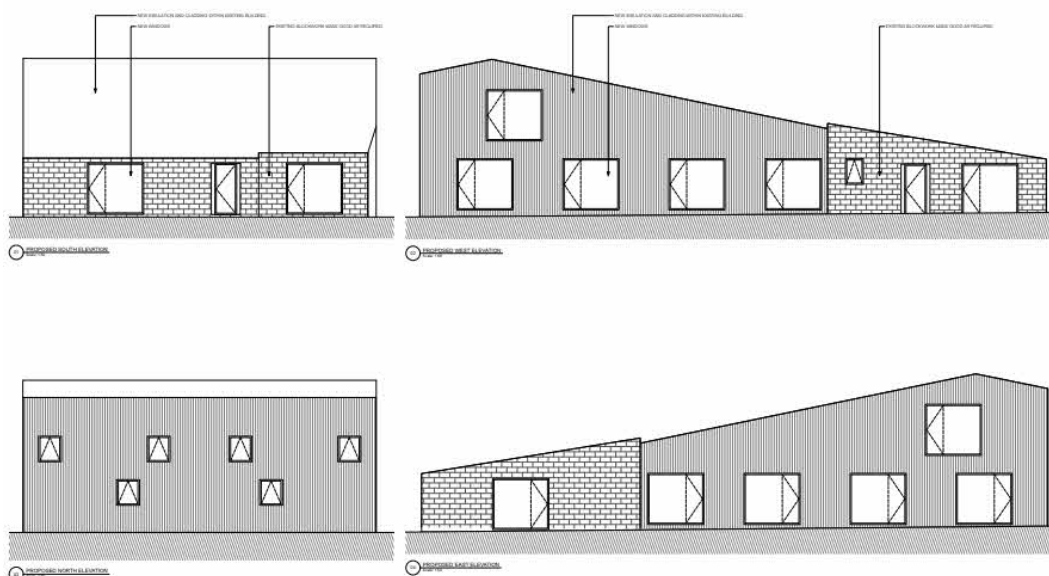


Figure 9: Existing and Approved Elevation

ECOLOGY

The application is accompanied by an Ecological Assessment, which confirms that the building offers very little opportunity for roosting bats and as such, during the initial inspection was deemed negligible. The building may offer opportunities for nesting birds but with suitable mitigation incorporated into the design, no harm would arise.

In terms of habits, the grassland on site is considered to have limited ecological value.

The proposed development is therefore considered in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended).

CONCLUSION

The proposal is for the change of use of an agricultural building to a dwellinghouse under Class Q of the General Permitted Development Order 2015. The proposal ensures that:

- ✓ All relevant criteria of Class Q are met;
- ✓ It will not have a detrimental impact on highways in the surrounding area;
- ✓ It will not increase the risk of flooding in the locality;
- ✓ Issues concerning noise on amenity are not anticipated to occur;
- ✓ The conversion is both practical and desirable, particularly with regards to trees;
- ✓ The design and external appearance of the dwellings is suitable;
- ✓ It will provide adequate natural light to all habitable rooms;
- ✓ It will not adversely impact protected species.

For these reasons, we commend the proposals to you.

A

STATUTORY DECLARATION

I ANDREW EDWARD JEWELL of Gardeners Farm Flowers Lane Plaitford Romsey SO51 6HH **SOLEMNLY AND SINCERELY DECLARE** as follows:

1. I am the owner of the freehold land at Gardeners Farm Flowers Lane Plaitford Romsey ("the Property") along with other members of my family. The Property is registered at HM Land Registry and forms part of Title Numbers HP629116 and HP862524.
2. I attach a plan marked "AEJ1" ("the Plan") showing the extent of the Property coloured in red.
3. The Property has been in the ownership of my family since 1934.
4. I confirm that the buildings marked "Building A" edged in blue and "Building B" edged in green on the Plan marked "AEJ2" ("the Buildings") have been solely in agricultural use since 1934 and have remained in agricultural use since that date.
5. I confirm the specific use of each building has been as follows:
 - a. Building A - Storage of agricultural implements fertiliser and hay/straw.
 - b. Building B - Storage of agricultural implements fertiliser and hay/straw
6. I confirm Building A and Building B have been used as part and parcel of the family's farming business at Gardeners Farm, Plaitford Romsey which comprises 8.5 hectares of land used for cereal crops.

AND I MAKE this Statutory Declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

Signature of Declarant A. E. Jewell

Declared at: 5 MARKET PLACE ROMSEY HAMPSHIRE SO51 8XF

on 26th MAY 2023)

Before me... 

Solicitor/Commissioner for Oaths

AMICHAEL JUNE PHILLIPS



THIS IS THE EXHIBIT marked "AEJ1" referred to in the Statutory Declaration of Andrew Edward Jewell

Declared at: 5 MARKET PLACE)
ROMSEY HAMPSHIRE)
on 26th MAY 2023)

Before me..... [REDACTED]

~~Solicitor/Commissioner for Oaths~~
MAYUMI JUNE HILLIPS



THIS IS THE EXHIBIT marked "AEJ2" referred to in the Statutory Declaration of Andrew Edward Jewell

Declared at: 5 MARKET PLACE)
ROMSEY HAMPSHIRE SO18 2X4
on 26th MAY 2023)

Before me.....
HARLEY JUNE PHILLIPS,

Solicitor/Commissioner for Oaths



B

Appeal Decision

Site visit made on 9 February 2016

by J C Clarke BSc BTP MRTPI

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

Decision date: 26 February 2016

Appeal Ref: APP/K3415/W/15/3134959

Wigginton Fields Farm, Wigginton, Tamworth, Staffs B79 9LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr and Mrs R Calcott against the decision of Lichfield District Council.
 - The application Ref 15/00813/PND, dated 15 June 2015, was refused by notice dated 14 August 2015.
 - The development proposed is change of use of an agricultural building into two dwellings (Use Class C3) and associated operational development necessary to convert the building.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of an agricultural building into two dwellings (Use Class C3) and associated operational development necessary to convert the building at land at Wigginton Fields Farm, Wigginton, Tamworth, Staffs B79 9LH in accordance with the terms of the application Ref 15/00813/PND, dated 15 June 2015, and the plans submitted with it.

Procedural Matters

2. My decision uses a corrected spelling of "Wigginton" based on information in the appeal form and on the post office website. The description of development in this decision is based on paragraph 1.1 of the planning statement submitted with the application. At the site visit, representatives of the parties confirmed that drawing number 14.3082.03B had been replaced by the date that the Council determined the application by drawing number 14.3082.03C. I have determined the appeal on this basis.
 3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the "GPDO") identifies types of development which, subject to certain criteria, are Permitted Development and which therefore do not require a specific planning permission. The application subject to appeal was for prior approval under Class Q of Part 3, Schedule 2 of the GPDO. My remit in determining the appeal is solely limited to matters relating to Class Q development set out in the GPDO.
 4. The Council considers that the proposal would exceed the limitations relating to Permitted Development under Class Q. Any proposal which is not Permitted
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Development can not be subject to the prior approval process as it would need a full planning permission. I therefore deal with this matter first in my reasons. The second issue, relating to the merits of the prior approval application, is only relevant if I conclude that the proposal is Permitted Development.

Main Issues

5. The main issues are:

- (a) Whether the proposed dwellings would exceed the limitations relating to Permitted Development by virtue of the extent of their curtilage; and
- (b) Whether the continued use of adjacent land for agriculture would cause unacceptable living conditions for occupiers of the proposed dwellings.

Reasons

Curtilage

6. Class Q of Part 3, Schedule 2 of the GPDO grants Permitted Development rights for the change of use of a building and "...any land within its curtilage..." from agricultural to dwellinghouse use.
7. Class X of Part 3 defines "curtilage" for this purpose as being whichever is the lesser of two areas defined by sub-paragraphs (a) and (b). As the area of land occupied by the appeal building is less than that of relevant other associated land, the crucial part of the definition in Class X is sub-paragraph (b). This in effect requires that the area of the curtilage of the proposed dwellings should not exceed that of "... an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building".
8. The proposed curtilage defined by the red edge on drawing number "DGADL Job Ref: 14.3082" includes the proposed gardens and parking spaces for the dwellings but does not include the proposed vehicular access to the parking spaces. The parties are agreed that the area covered by the garden and parking spaces would not in itself exceed that occupied by the footprint of the appeal building. However, the Council has argued that the area of the proposed vehicular access should also be included, which would result in the "curtilage" area which is allowed as Permitted Development being exceeded.
9. The wording of Class X does not, however, include any requirement that the curtilage of the proposed dwellings should include vehicular access points. There is also no other part of the GPDO or related legislation which sets such a requirement. As the proposed access could serve the residual land around the proposed dwellings, which is proposed to remain in agricultural use, plus the dwellings themselves it is not inevitable that it would form part of the curtilage of the dwellings.
10. The fact that the creation of the access may involve some operational development does not alter this situation. Although the boundaries of the proposed curtilage area for the dwellings would not follow existing physical features on the ground, there is no requirement in the GPDO for them to do so.
11. For these reasons, I do not consider that the GPDO sets any requirement for the proposed access to be included within the defined curtilage of the

dwellings. The proposal satisfies the limitations relating to Permitted Development in this respect.

Living environment

12. The appeal building is currently used for storage and forms part of the 130 acre agricultural unit of Wigginton Fields Farm. The main operational buildings serving the Farm are located about 60 metres to the north east. An existing dwelling at Wren Cottage is located closer to the main farm building complex. The vehicular access to the main farm buildings is separate from the new access which would serve the appeal building.
13. With the exception of their small gardens and parking area, the proposed dwellings would be surrounded by land remaining in agricultural use. Whilst the largest windows to the living rooms and dining areas would outlook towards the gardens, a number of other windows, mainly in the eastern elevation, would outlook directly over agricultural land likely to be outside the control of the dwelling occupiers.
14. At my site visit I noted that there is some external storage connected with farming activities on the area between the building and the main road and evidence of vehicle movements around the building. Whilst it is possible that these or other farming activities such as keeping of livestock may continue or be introduced on this land, the appellants have stated that once the current storage use of the appeal building has ceased there would be no reason for them to use these areas intensively. I have no reason to doubt this.
15. Furthermore, the main focus of vehicle movements associated with the farm would be likely to be around the main farm complex to the north east of the site and between this and Main Road. Movements of livestock are also likely to be focussed in and around the main farm complex, within which the main accommodation facilities and associated plant are located. Occupiers of the proposed dwellings would not be likely to be seriously affected by these activities in this location.
16. I am aware of no other substantial existing sources of noise or disturbance in the area of the appeal building. The appeal proposal would leave a small and unusually shaped area of residual agricultural land around the proposed dwellings. However, there is no substantive evidence to suggest that the use of this land or the access points to it would be sufficiently frequent or intensive as to cause an unacceptable loss of privacy, nuisance or health and safety problems for future residents.
17. The Council has raised the potential for the residual land to be subject to fly tipping, vermin or other problems if it is left vacant or under-used. It would be the responsibility of the owner, as it is now, to manage any such problems and I have no reason to believe that any such problems would be made materially worse by the appeal proposal.
18. For the above reasons, it has not been demonstrated that the continued use of adjacent land for agriculture would cause unacceptable living conditions for occupiers of the proposed dwellings. Whilst the Council officer report refers to a number of Local Plan policies, these do not lead me to a different conclusion. There is therefore insufficient justification to in effect remove the Permitted Development right that would otherwise exist for the proposal.

Conditions

19. In granting approval the appellants should note that the GPDO requires at paragraph Q.2(3) that the appeal proposal must be completed within a period of 3 years starting with the date of this approval. Paragraph W(12) of the GPDO requires that the development must be carried out in accordance with the approved details, which in this case include the submitted plans referenced "DGADL Job Ref: 14.3082" and "14.3082.03C".

Conclusion

20. I have concluded that the appeal proposal constitutes Permitted Development as defined in the GPDO. I have also found that there is insufficient justification related to the future living conditions of occupiers of the proposed dwellings to withhold prior approval. I accordingly allow the appeal and grant prior approval.

Jonathan Clarke

INSPECTOR

C



Appeal Decision

Site visit made on 10 March 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2020

Appeal Ref: APP/L2820/W/19/3243571

Agricultural Barn, Harborough Road, Dingley, Leicestershire LE16 8PJ

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The appeal is made by Mr D Harding, Samuel Harding & Sons Ltd, against the decision of Kettering Borough Council.

The application Ref KET/2019/0618, dated 5 September 2019, was refused by notice dated 4 November 2019.

The development proposed is prior approval for change of use of agricultural building to 4 dwellings.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of agricultural building to 4 dwellings at Agricultural Barn, Harborough Road, Dingley, Leicestershire LE16 8PJ in accordance with the application KET/2019/0618 made on 5 September 2019, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr D Harding against Kettering Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed development meets the requirements of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

4. The appeal relates to a steel framed agricultural building comprising a central section with apex roof and two side sections with catslide roofs. The walls are profiled sheeting above blockwork and the roof is profiled sheeting, with some translucent sections, supported by steel purlins. The elevation of the central section facing Harborough Road is largely open, with double gates, and the two

side sections each have gate width doorways in their front and rear elevations. One side elevation includes a translucent section.

5. The proposed external works comprise the insertion of doors and windows, some adapting existing openings, with new sections of profiled sheeting to make good. The proposed internal works include a raised floor, resting on existing areas of concrete floor and over a central area that would be cleared and reinstated with hardcore and a new concrete slab. Other internal works include the creation of partition walls and the insertion of an inner frame, within the outer walls and under the roof, to support insulation, internal wall surfaces, ceilings and a damp-proof layer. This element would be fixed to the steel frame and the blockwork by metal studs. A Structural Investigation and Report commissioned by the appellant concludes that the steel frame will support the existing structure and the proposed inner frame and that the foundations are suitable for the proposed residential use.
6. The issue in contention relates to the requirement in paragraph Q.1(i) of the GPDO Schedule 2, Part 3 that the conversion works be no more than "reasonably necessary for the building to function as a dwelling house". In this case, that turns on whether the elevational changes, the inner frame and floor constitute new elements that go beyond conversion and amount to rebuilding. Advice in paragraph 105 of the Planning Practice Guidance (PPG)¹ states "It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".
7. Both parties have referred to the Hibbitt case², which involved four new external walls to a building that was entirely open on two sides and partly open on a third. It was held that "the works went a very long way beyond what might sensibly or reasonably be described as a conversion" and that "the development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building".
8. The appellant has drawn my attention to 5 other appeals where prior approval was granted between March 2018 and November 2019³ and which included changes to elevations.
9. The Council has referred to a further appeal⁴, dismissed in July 2019, in which another Inspector found the proposed works to be greater than allowed for by paragraph Q.1 because "very extensive other works would be necessary including the installation of external wall sheeting, doors and windows and a new roof covering to provide the envelope for the new dwelling".
10. Having considered these appeal decisions and the nature and size of the existing openings in the building, particularly those in the front of the central section, and the damage evident to adjacent sections of sheeting, I do not find the proposed elevational changes to amount to starting afresh, as in Hibbitt, or

¹ Reference ID: 13-105-20180615, Revision date: 15 06 2018

² Hibbitt & Another v SCLG & Rushcliffe BC [2016] EWHC 2853 (Admin)

³ APP/J3720/W/17/3179581, APP/V0510/W/18/3198442, APP/Z3825/W/18/3211612, APP/Y2810/W/19/3234721 and APP/Y2810/W/19/3234921

⁴ APP/L2820/W/19/3223350

to go beyond what would be reasonably necessary to convert the building to residential use.

11. The remaining question relates to the inner frame and the raised floor, which the Council describe as "a superstructure and its associated complete sub-structure layers". Paragraph 105 of the PPG confirms that internal works are not generally development and that "For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q." I consider the inclusion of insulation in the floor to be reasonably necessary for an agricultural to residential conversion.
12. The list of internal structural works provided in the PPG is not exhaustive and while the text does not mention elements like the inner frame, I consider it to be reasonably necessary to provide insulation that is appropriate to a new dwelling but which was not needed for agricultural use.
13. The existing and proposed sections drawing indicates that the raised floor would rest on existing concrete slabs, but it does not show the central section of the floor. The Structural Investigation and Report indicates that the current floor in this area would be cleared and replaced with a new concrete slab laid over hardcore. From my inspection of the building it was evident that the central section would need to be made level for domestic use, therefore some work must be reasonably necessary and within the scope of paragraph 105.
14. The Council considers that work below ground level would be required to install this section, whereas the Structural Investigation and Report indicates it would not involve excavation below the level of the existing structure.
15. While this new section of floor would support some of the lightweight partition walls, that would be a natural consequence of it lying beneath them. The key wording in paragraph 105 is "to allow for a floor" which implies more than a floor alone. In this context I find the laying of hardcore beneath the section of new concrete floor to be a reasonable action and I note there is no evidence that new foundations would be created.
16. Considering the inner frame and floor in the context of the Hibbitt case and the PPG I do not find them to be starting afresh or to go beyond conversion works but reasonably necessary for the building to function as 4 dwellings.

Conditions

17. Paragraph W(13) of Part 3 of Schedule 2 of the GPDO allows for the imposition of conditions reasonably related to the subject matter of the prior approval. I accept that conditions to allow any unexpected contamination to be dealt with and to avoid the new dwellings sharing the access to Harborough Road with farm vehicles would be appropriate for the welfare of the occupiers of the new dwellings and for reasons of highway safety, although I have not been provided with suggested wording.
18. The Council has also suggested a condition to exercise control over the building's external materials. While I have found the proposed external works to be reasonably necessary, I have noted that some new sheeting would be installed. Consequently, I consider it appropriate to impose such a condition to ensure the conversion works are visually acceptable.

Conclusion

19. For the reasons given above the proposal is a conversion permitted by Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO and the appeal is allowed.

Mark Harbottle

INSPECTOR

Schedule of Conditions

- 1) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 2) Following the initial occupation of any dwelling, the vehicular access to Harborough Road shall not be used for any purpose other than in association with the residential occupation of the site.
- 3) No development shall commence until details / samples of the materials to be used in the alteration of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

D



Appeal Decision

Site visit made on 6 February 2018

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2018

Appeal Ref: APP/N1215/W/17/3185230

The Barn, Zoar Lane, Fifehead St Quintin, Sturminster Newton, Dorset DT10 2AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mrs Monica Martin against the decision of North Dorset District Council.
 - The application Ref 2/2017/1028/AGDWPA, dated 28 June 2017, was refused by notice dated 15 August 2017.
 - The development proposed is change of use of agricultural building to a dwelling house (Class C3) and associated operational development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q. (a) & (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of an agricultural building to a dwelling house (Class C3) and associated operational development at land at The Barn, Zoar Lane, Fifehead St Quintin, Sturminster Newton, Dorset DT10 2AP in accordance with the terms of the application Ref 2/2017/1028/AGDWPA, dated 28 June 2017. The approval is subject to the following conditions:
 - 1) The development hereby permitted must be completed not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 16145.01, 16145.03, 16145.04, 16145.05, 16145.06, 16145.08, 16145.09, 16145.10, 16145.11, 16145.21 A, 16145.22 A, 16145.23 A, 16145.24 A, Visibility Splay Plan.
 - 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites-Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved

measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 28 days of the report being completed and approved in writing by the Local Planning Authority.

- 4) No development shall take place in respect of the external walls and roof of the dwelling hereby approved until samples of all external facing materials have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved samples and approved details.

Preliminary Matter

2. The application form refers to an accompanying letter which describes the proposed development. Therefore, the description of development in the banner heading and my formal decision is taken from that letter.

Main Issue

3. The main issue in this appeal is whether the proposal would be permitted development by virtue of Schedule 2, Part 3, Class Q (agricultural buildings to dwellinghouses) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

4. The appeal building ("the building") is a steel portal framed agricultural structure of substantial size, stood on concrete pad foundations. The building has an open front, with profile metal sheeting on most of the side and rear walls and a fibre cement sheet roof covering. When I visited, although some farm equipment was stored in the building it was mostly empty. The building is set back from a country lane within an enclosed yard and is largely surrounded by open fields.
5. Part 3, Class Q. (a) and (b) of the GPDO permits the change of use of an agricultural building to a dwelling and the building operations reasonably necessary to convert it to such a use. Paragraph Q.1 (i) limits the building operations permitted under Q. (b) to the installation or replacement of windows, doors, roofs and exterior walls, as well as water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
6. The proposal would retain the steel frame and concrete foundation pads of the building. According to a survey, the building is structurally sound and capable of conversion. The building would accommodate a four bedroom dwelling arranged over one floor level. In addition to the replacement wall and roof coverings, the conversion works would include construction of an internal floor slab with a damp proof membrane and thermal insulation, as the building currently has a rough earth surface. Although the floor slab would be

- reasonably necessary for the building to function as a dwelling, it is not listed as a permitted building operation under paragraph Q.1 (i).
7. Be that as it may, Section 55 of the Act¹ at paragraph (2) (a) provides that works of 'maintenance, improvement or other alteration which only affect the interior...or do not materially affect the external appearance of the building' do not amount to development. As the floor slab would be new it could not amount to maintenance. However, the floor slab would be an improvement or alteration to the building within its existing walls, it would affect only the interior of the building and would not have any material effect on its external appearance. Therefore, the floor slab would fall within the description of works which, according to Section 55 (2) (a), do not amount to development. As no development is involved in its formation, the floor slab would not amount to rebuilding. Paragraph Q.1 (i) is only concerned with works which fall within the definition of development. Consequently, the floor slab is not subject to the limitations of that paragraph or of Class Q as a whole.
 8. The Planning Policy Guidance (PPG)² explains that it is not the intention of the permitted development right for buildings to change to residential use to include the construction of new structural elements. However, when this paragraph is read as a whole it is clear that it is largely aimed at whether a building would be structurally strong enough to take the loading of any external operations providing for its residential use. Consequently, the PPG does not concern itself with works which, as in the case of the floor slab, do not materially affect the external appearance of the building.
 9. I have been referred to recent case law³ concerning the scope of permitted development rights under Class Q. However, that case concerned an open-sided modern agricultural building and the effect of erecting new external walls on its structure. There is no firm evidence before me to suggest that the external building operations in this appeal would amount to the complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. As a result, there is nothing to indicate that the building is not capable of functioning as a dwelling. Consequently, the above case is of limited relevance to this appeal.
 10. The Council also referred to two appeal decisions concerning the residential conversion of agricultural buildings under Class Q. In the first of those⁴, insertion of a first floor was held to not fall within Class Q. However, the effect of the first floor on the external appearance of the building and on its structure in terms of supporting the additional loadings is not clear. The second case⁵ concerned the insertion of a floor slab and a first floor in an open-sided building where there was insufficient evidence of the structure being capable of supporting the associated loadings. As a result, on the basis of the limited information before me I consider that the circumstances in both of those appeals are materially different to the appeal scheme. Therefore, neither decision adds any weight to the Council's case.

¹ The Town and Country Planning Act 1990 (as amended).

² Paragraph: 105 Reference ID: 13-105-20150305.

³ *Hibbitt and Anor v Secretary of State for Communities and Local Government & Rushcliffe Borough Council* [2016] EWHC 2853.

⁴ Ref: APP/X1545/A/14/2226285.

⁵ Ref: APP/N1215/W/16/3144194.

11. Consequently, I find that there would be no breach of the limitation at paragraph Q.1 (i). Although an interested party suggested that the building had been used as a sculptor's studio and not used for agriculture for ten years, a Statutory Declaration sworn by the appellant's son states that it was in use for agriculture as part of a farming business on 20 March 2013. Therefore, on the balance of probabilities I am satisfied that the proposal would not breach the limitation at paragraph Q.1 (a). The Council did not find any breach of the limitations at Q.1 (b)-(h) and Q.1 (j)-(m) and I have not found any reason to disagree with them in respect of those matters.
12. Further, in order to be permitted development under Class Q, prior approval must be sought and either obtained or not required in relation to the matters listed at Q.2 (1) (a)-(f). The Council did not raise any significant concerns regarding transport and highways or noise impacts, contamination or flooding risks, whether the location or siting of the building made it otherwise impractical or undesirable to be changed to residential use, or in relation to the design or external appearance of the building. Having made my own assessment of the above matters, I have not found any reason to come to any different conclusions.

Conditions

13. Paragraph Q.2 (3) of the GPDO requires that the development must be completed within three years. Part 3, paragraph W. (12) requires that the development must be carried out in accordance with the approved details. I have therefore imposed these conditions.
14. Paragraph W. (13) of Part 3 allows for the imposition of conditions reasonably related to the subject matter of the appeal. Therefore, I have imposed a condition requiring an assessment of the risks of contamination and implementation of any approved remedial measures, in order to safeguard against the risks to health and the environment of any contamination of the site. This is a pre-commencement condition as it is necessary for any site contamination to be identified and any remediation measures approved before any development starts. I have amended the condition suggested by the Council, in order that it satisfies the tests in paragraph 206 of the National Planning Policy Framework. After seeking the views of both main parties I have also imposed a condition requiring the prior approval of samples of the external materials to be used on the building. This is in order to ensure that the development safeguards the character and appearance of the area.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Stephen Hawkins

INSPECTOR