



Delegated Report

Prior Approval Application

Application no: 20211422

Location: Agricultural Barn, Warren Farm, Swillers Lane Shorne DA12 3ED

Description: Application for determination as to whether prior approval is required for the proposed change of use of the agricultural barn to a dwelling with associated building operations under Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Applicant: Mr K Gozzett

Site Visit Date: 26 November 2021

Description of Application Site and Surroundings

The application site (Agricultural Barn, Warren Farm) to which this prior approval application relates (as shown in the red line boundary below taken from the applicants Site Location Plan), has a site area of 0.021 hectares (excluding the means of access within the site), comprising the area (footprint) of the agricultural building (105m²) together with an equal area of land as the proposed dwelling curtilage.



Warren Farm is located on the north side of Swillers Lane approximately 165m east of Tanyard Hill. The total land holding at Warren Farm extends to approximately 6.3 hectares. It is bounded to the south by Swillers Lane, which although a highway, serves no other properties beyond Warren Farm. To the west is residential development along Swillers Lane and in Hollands Close and Barndale Court. To the northwest of Warren Farm is the Shorne primary school.

There is a brick and tile 'L' shaped building (known as the Apple Store) which was built in 1988 as an agricultural building for apple grading and packing (174m²) in connection with the orchard at Warren Farm but has been converted to, and is now occupied as a residential dwelling following a prior approval in 2015. The dwelling comprises entrance hall, lounge, kitchen, utility room, dining room, study and bedroom on the ground floor and 3 bedrooms and bathroom in the roof space.

At the time of the case officer site visit it was noted that the existing dwelling (The Apple Store) is rented out to non-farming tenants.



The applicant currently keeps circa 5 llama and 25 sheep on the site. There is a stable on the site to the east of the existing dwelling but not used for horses (only general storage) although some land within the holding is rented out for keeping horses for recreational purposes.

Also on the land is a rather dilapidated agricultural barn, apparently built in 1983, and which is the subject of this current prior approval application. It has a steel frame (supports) and part covered by a corrugated fibre cement roof (missing over a third of the roof covering) and which is totally open at the front (north side) and the western end, with part timber covering as cladding to the eastern end and rear (southern side). It is currently used for storage of old farm or other non-farm machinery and such items as Heras fencing. The roof frame appears to be in a poor state (it is far from being watertight) and there are no rainwater goods. There is no solid or concrete floor to the building.

The rear of the building is close to a tree/shrub belt and a slope in the land, which drops down steeply to Swillers Lane. There are two metal storage containers located next to the western end of the building which have been there for several years.



The land immediately north of the building is part grassed and partly a rough track that leads to land within the holding to the east which is fenced and gated off. The land therefore immediately around the building is more extensive towards the north field, which is fenced off, or to the gates and fencing at the western and eastern ends, than is included within the application site.

Warren Farm is immediately east of Shorne Village, a rural settlement inset from the Green Belt). The site is therefore within a Green Belt area and is also within a Local Wildlife Site (Court Wood Shorne), originally notified in 1987 but extended to include Warren Farm in 2001.

Planning History

The land on which this building is located was a former apple orchard and was originally farmed from a yard and buildings at Swillers Farm to the south, which has subsequently been developed for housing.



Above: Aerial View of Site 1946

From 1979, Warren Farm was then run and managed by the occupants of an existing dwelling in Gravesend Road Higham. The holding was at that time used for growing fruit, and some livestock (sheep and cattle) were kept on the land.

The planning history after that date relating to Warren Farm is set out in the table below in chronological order.

Note: The history relates to the whole site whether or not within the specific red line boundary of this current application.

Ref No	Description and Site	Decision	Date
19870618	Section 53 determination as to whether planning permission is required for erection of a wooden sectional building measuring 1500 sq. ft. and the erection of a purpose built brick building	Planning permission required Appeal withdrawn	16.11.1987

19880395	The erection of a brick built single storey agricultural building (174m ²) for use in apple grading and packing, storage, honey extraction and hive repair, toilet and washing facilities and general agricultural activities, more particularly described in the application form and the submitted plan	Approved	08.07.1988
20080920	Conversion of agricultural building into a dwelling and alterations and extension to the agricultural barn to the south-east to provide implement and general farm storage, animal shelter and three open car parking spaces.	Refused Appeal Dismissed Ref AP09/00011/REF	19.01.2009 14.07.2009
20110846	Conversion of agricultural building into a four-bedroom dwelling.	Withdrawn	07.11.2011
20120033	Conversion of agricultural building into a four bedroom dwelling	Refused Appeal Dismissed Ref AP 2012/00025/REF	16.03.2012 11.12.2012
20130682	Application for prior approval for change of use of former agricultural building to Class C1 bed and breakfast facility.	Inappropriate Procedure and Planning Permission is Required	25.10.2013
20140706	Determination as to whether prior approval is required for the erection of a replacement agricultural barn.	Prior Approval given by default for failure to determine within 28 days	24.09.2014
20150470	Application for determination as to whether prior approval is required for the proposed change of use of the agricultural brick barn to a dwelling under Class Q (a) of the Town and Country Planning (General Permitted Development) (Order) 2015. <i>(Note - Total floorspace of building including mezzanine floor of 198.15m² and a curtilage the same size as the footprint of the building).</i>	Prior Approval is not required	01.07.2015
20150925	Application for determination as to whether prior approval is required for the design, external appearance and exterior works associated with the proposed conversion of the barn to residential use under Class Q(b) of the Town and Country Planning (General Permitted Development) (Order) 2015.	Prior Approval is not required	03.11.2015
20150989	Temporary stationing of caravan on the land.	Temporary permission until 30 May 2017	02.12.2015
20160159	Consultation for use of land as a caravan club site.	Observations Sent	10.03.2016
20160246	Determination as to whether prior approval is required for the erection of an agricultural barn.	Withdrawn	13.04.2016

20171312	Application for determination as to whether prior approval is required for the proposed change of use of an agricultural building for the storage of agricultural vehicles to a three bedroom single dwellinghouse under Class Q(a) and (b) with associated building operations of the Town and Country Planning (General Permitted Development) (Order) 2015.	Prior Approval is Required and Refused	29.01.2018
20211422	<i>This Application</i>		

Proposal

This application is for a determination as to whether prior approval is required for the proposed change of use of the agricultural barn to a dwelling with associated building operations under Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Submitted Plans and Documents

Application Form for Prior Approval

Covering Letter and Supporting Statement by Graham Simpkin Planning Ltd dated 17 November 2021 (ref PR3408/SC)

Structural Assessment Report (TSC Designs Ltd) October 2021

Groundsure Siteguard Report (Ref GS-8339739) Dated 17 November 2021

Drawing No 3408.01: Site Location Plan & Existing Block Plan

Drawing No 3408.02: Existing Floor Plan

Drawing No 3408.03: Existing Elevations

Drawing No 3408.04: Proposed Block Plan

Drawing No 3408.05: Proposed Floor Plan

Drawing No 3408.06: Proposed Elevations

Details of the Development

The existing building, which is shown on the submitted plans as being 19.5m by 5.937m (thus an external footprint of 115.77m²), is shown to be retained including the metal stanchions along with the existing roof framework but the whole structure will have entirely new solid walls on all 4 sides. There is no method statement as to how the building would be converted and constructed or the make-up of the walls, which have a thickness of 0.3m, but the drawings show the existing steel frame built into the new walls but featuring externally.

The proposed floor plan drawing, when scaled appears to show that the external footprint is slightly increased to 19.65m long by 6.17m wide (footprint of 121.24m²), although the roof height will remain the same at 5.1m to the ridge.

The floor plan shows that the converted building will comprise a living area, kitchen and dining area, three bedrooms and a bathroom.

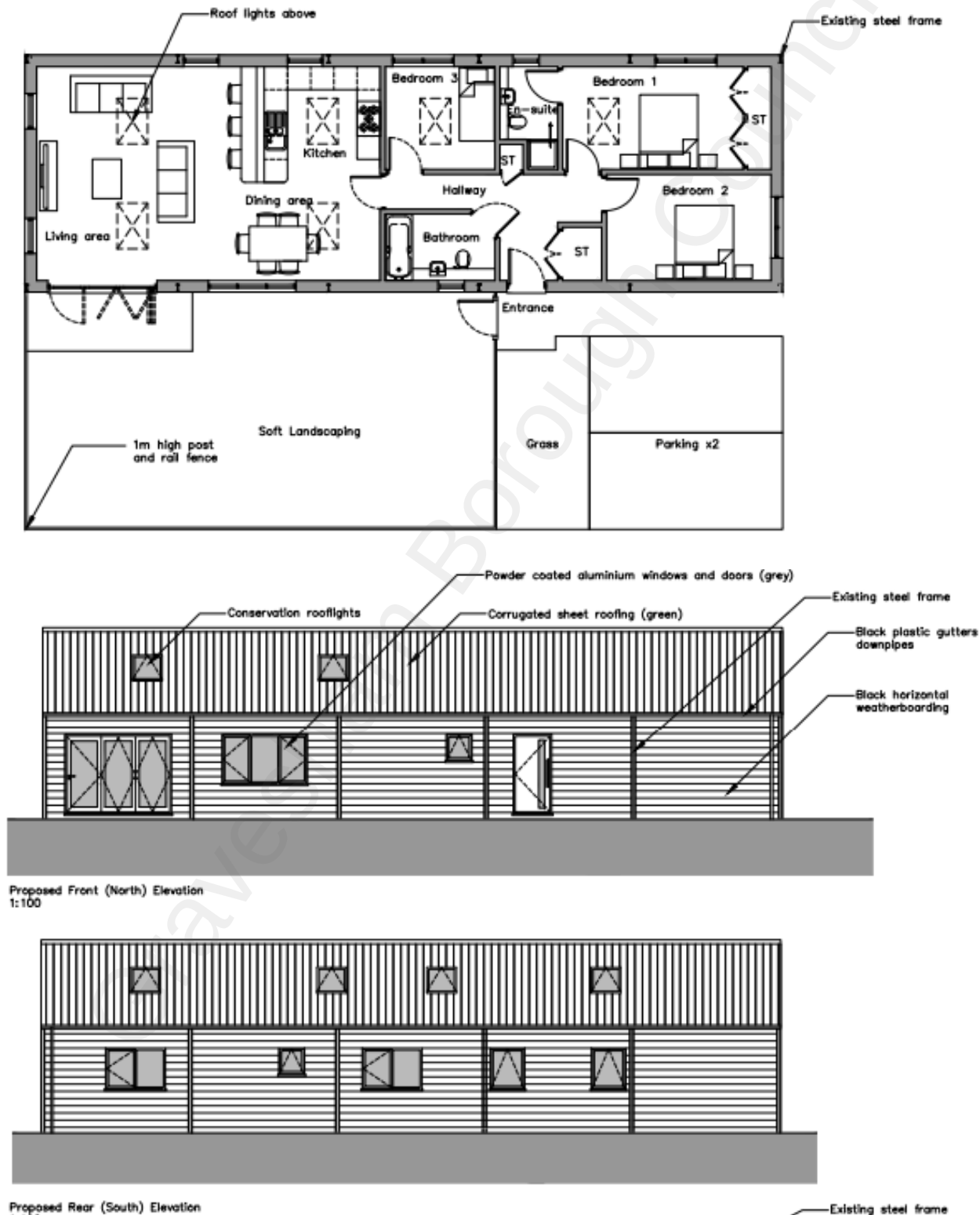
The external wall cladding is shown as being black horizontal weatherboarding. The submitted structural statement suggest that the fibre cement roof sheeting is 'generally in acceptable order and can be retained' and the elevation drawings show the proposed roof material as being corrugated sheet roofing (green) although it is indicated that there would be 6 conservation roof lights inserted into the roof slopes, 2 at the front (north elevation) and 4 at the rear (south elevation) although there are no rooms or use shown for the roof space.

The submitted structural report concludes:

We are of the opinion that the proposed conversion is a viable undertaking and that the building is sound and not in need of major reconstruction and can remain standing as existing throughout the construction process. The drawings produced to date, including the existing and proposed layouts can be considered as a logical and sympathetic use of a redundant farm building without involving any major or substantial reconstruction works. As with any scheme of this nature certain elements of the work will be required to meet the building regulation requirements, but these will be primarily concerned with finishes and insulations.

The external area of the application site is shown as being a space for two parking spaces, with the remainder either as walkways or soft landscaping. No area is shown for vehicle turning space.

The proposed floor plan and elevations are shown below



The applicant's agent's covering letter indicates that the proposals do not fall foul of the criteria in Class Q.1 (a) to (m) of the 'GPDO'.

Against the other tests within Class Q.2 (1) (a) to (g) they make the following comments in summary:

(a) Transport and Highways Impacts

Having regard to its rural location the site is considered to be sustainable and appropriate and it is not impracticable or undesirable for the proposed change of use from agricultural to residential use. The development will have an entirely acceptable and minimal impact on highways and transport.

(b) Noise impacts

The proposed residential use of the building will not result in the generation of any noise that would result in any unacceptable harm to the occupiers of the existing dwelling or other sensitive receptors.

(c) Contamination Risks

The Groundsure Siteguard report confirms that there are unlikely to be any contamination risks.

(d) Flooding risks

The site is located within Flood Zone 1. Potential flooding risks are therefore considered to be very low.

(e) Location and siting

There will be no adverse visual impact on or loss of amenity to the existing dwelling. It is not affected by any heritage or statutory landscape designations. It is the case that it is not impractical or undesirable for the building to change to a Class C3 residential use.

The proposed works do not go beyond what is reasonably necessary for the conversion of the building to residential use.

(g) Provision of adequate light to all habitable rooms

All habitable rooms will be provided with windows to provide adequate light and ventilation. This is supplemented by the four proposed rooflights on the rear roof slope and two rooflights on the front (north) roof slope.

In addition, it is stated:

The extent of the identified residential curtilage meets the requirements of Class X of the Order in that it is no larger than the ground area occupied by the building and is immediately adjacent to the existing building to be converted.

Subsequent to the submission of this prior approval application, the applicant has made the appropriate Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) mitigation payment of £253.83 separately as the site is located within 6km of The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA). *(Please see end of this report)*

Development Plan and other Relevant Planning Policies and Guidance

The application stands to be assessed under the terms of Article 3, Part 6, Class A of Schedule 2 to the Town and Country (General Permitted Development) (England) Order 2015 (as amended) to determine whether the siting, design and external appearance of the proposed building requires prior approval.

In this determination, the Local Planning Authority shall have regard to the following development plan and national planning policies, which are relevant to the subject matter of the prior approval.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Courts have held that it is a matter of planning judgement as to whether a proposal is in accordance with the development plan when 'read as a whole' and conflict with a particular policy or policies may not pass that threshold.¹

Where there are other material considerations, the development plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date.

The Development Plan for Gravesham currently comprises:

- *The Gravesham Local Plan Core Strategy and Policies Map (September 2014);*
- *Remaining Saved Policies in the Gravesham Local Plan First Review (November 1994); and*
- *The Kent Minerals and Waste Local Plan 2013 - 2030 (July 2016, revised 2020)*

There are a number of other planning policy documents which are of some relevance to the consideration of planning applications and are material considerations, including national planning advice and guidance in the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG), and supplementary planning guidance and where they exist neighbourhood plans. There are currently no relevant neighbourhood plans.

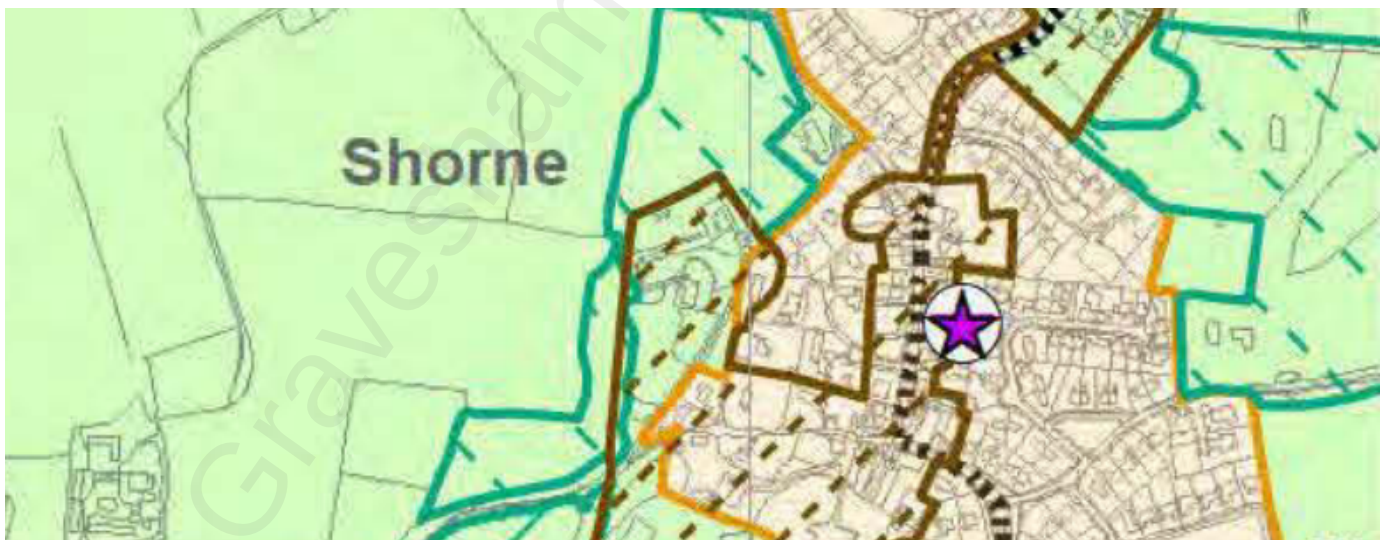
Previous decisions on planning applications and appeals relating to the site and relevant case law etc. are also capable of being material considerations.

Local Planning Guidance

Gravesham Local Plan Core Strategy (September 2014):

The Core Strategy sets out the Council's spatial vision and strategic objectives for the Borough to 2028 and the policies which will deliver them. It identifies the main areas where major change is likely to take place and allocates sites which are key to achieving the strategy.

The site is shown as being within a **Green Belt area** (Policy CS02) and a **Local Wildlife Site** (Policy CS12) in the Gravesham Local Plan Policies Map.



The following development plan policies in the Gravesham Local Plan Core Strategy are of relevance:

Core Strategy Policy CS01: Sustainable Development;
Core Strategy Policy CS02: Scale and Distribution of Development;
Core Strategy Policy CS11: Transport;
Core Strategy Policy CS12: Green Infrastructure;

¹ See the Judgement in the Court of Appeal on R(on the application of William Corbett) and The Cornwall Council and others [2020] EWCA Civ 508 at <https://www.bailii.org/ew/cases/EWCA/Civ/2020/508.pdf>

Core Strategy Policy CS18: Climate Change;
Core Strategy Policy CS19: Development and Design Principles;
Core Strategy Policy CS20: Heritage and the Historic Environment;

Policy CS01 (Sustainable Development) sets out that support will be given to proposals that accord with the development plan. A positive approach to new development will be taken that reflects the presumption in favour of sustainable development set out in the NPPF and the Local Plan Core Strategy.

Policy CS02 (Scale and Distribution of Development) makes a commitment to meeting the Borough's objectively assessed need for 6,170 new dwellings over the plan period and outlines where new development will take place. The strategy prioritises development in the urban area by promoting regeneration by:

- the redevelopment and recycling of underused, derelict and previously developed land;
- revitalising Gravesend Town Centre as a focal centre for small scale office development; and
- bringing forward a range of suitable sites for residential and employment development.

Paragraph 4.2.27 indicates that the rural area, development will be supported within those rural settlements inset from the Green Belt and defined on the Policies Map. Development outside those settlements, including affordable housing and proposals to maintain and diversify the rural economy, will be supported where it is compatible with national policies for protecting the Green Belt and policies in this plan. The extent of the Green Belt is defined on the Policies Map.

Policy CS11 (Transport) sets out that new developments should mitigate their impact on the highway and public transport networks as required. As appropriate, transport assessments and travel plans should be provided and implemented to ensure the delivery of travel choice and sustainable opportunities for travel. Sufficient parking in new development will be provided in accordance with adopted parking standards reflecting the availability of alternative means of transport and accessibility to services and facilities.

Policy CS12 (Green Infrastructure) indicates that all green spaces contribute to the green infrastructure network and that the multifunctional network of green spaces will be created, protected, enhanced and maintained. It requires that there should be no net loss of biodiversity in the Borough and gives protection amongst other things to internationally designated sites. It sets out that the overall landscape character and valued landscapes within the borough will be conserved and enhanced.

Policy CS18 (Climate Change) seeks to ensure that Water Framework Directive objectives are secured and that the impact of development on waste water drainage systems is minimised. Surface water run-off from all new development should, as a minimum, have no greater adverse impact than the existing use. It requires the use of Sustainable Drainage Systems where technically and financially feasible. It requires the water efficiency measures to be installed to achieve the equivalent of level 3/4 of the Code for Sustainable Homes (105 litres per person per day)²

Policy CS19 (Development and Design Principles) sets out detailed criteria against which the acceptability or otherwise of proposed development will be evaluated. In particular, it requires new development to be visually attractive, fit for purpose and locally distinctive. It should conserve and enhance the character of the local built, historic and natural environment, integrate well with the surrounding local area and meet anti-crime standards. The design, layout and form of new development will be derived from a robust analysis of local context and character and make a positive contribution to the street scene and to the character of the area.

It requires account to be taken of the scale, height, building lines, layout, materials and other architectural features of adjoining buildings and of the wider context including features of townscape and landscape value, which contribute to local character and sense of place.

It requires new development to be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land and avoid adverse environmental impacts from pollution. New residential development is required to accord with the adopted Residential Layout Guidelines and will be required to provide appropriate levels of private and public amenity space.

² Now equivalent to 110 litres per person per day as required by National Standard – see GBC Housing Standards Policy Statement (2015) at http://www.gravesham.gov.uk/__data/assets/pdf_file/0016/201625/Housing-Standards-Policy-Statement.pdf

Proposals should include details of appropriate hard and soft landscaping, protect and where opportunities arise enhance biodiversity and provide appropriate facilities for the storage and disposal of waste.

Policy CS20 (Heritage and the Historic Environment) indicates that the Council will accord a high priority towards the preservation, protection and enhancement of its heritage and historic environment as a non-renewable resource, central to the regeneration of the area and the reinforcement of sense of place. Particular attention in this regard will be focused on those heritage assets most at risk through neglect, decay or other threats. Securing viable, sustainable and appropriate futures for such assets at risk will need to be reconciled with the sensitivity to change that many present.

When considering the impact of a proposed development on a designated heritage asset, the weight that will be given to the asset's conservation value will be commensurate with the importance and significance of the asset. For non-designated assets, decisions will have regard to the scale of any harm or loss and the significance of the heritage asset.

Gravesham Local Plan: First Review (1994)

The Gravesham Local Plan First Review was originally adopted in November 1994.

A substantial number of policies of the Gravesham Local Plan First Review were saved by a Direction dated 25 September 2007 of the Secretary of State under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 as transitional arrangements pending adoption of the Core Strategy.

Those Local Plan First Review policies that remain in force are listed in Appendix 1 of the Local Plan Core Strategy. The remaining saved policies will be replaced following the adoption of the Site Allocations and Development Management Policies Development Plan Document.

The following remaining saved policies are relevant to the consideration of this proposal:

Policy C11: Policy for Change of Use of Redundant Buildings in the Countryside;
Policy C18: Incorporation of Additional Land into Residential Gardens;
Policy T1: Impact of Development on the Highway Network;
Policy T2: Channelling of Traffic on the Highway Network;
Policy T4: Development outside the Built-Up Area
Policy P3: Policy for Vehicle Parking Standards;

Saved Policy C11 (Conversion of farm buildings) indicates that

Conversion of farm buildings to other uses will be permitted where:-

- (i) It can be demonstrated that the building was originally erected as an agricultural building but is no longer needed for farming.
- (ii) The building is a substantial one, of permanent construction and is in an appropriate location in relation to roads and services.
- (iii) The building is attractive, in having some architectural, historic or landscape interest or being of a type representative of the Kent Countryside and the proposed alterations preserve that interest.
- (iv) The proposed use will diversify the rural economy and not result in the longer term dilution of farm viability*.
- (v) The curtilage is confined to the minimum necessary to operate the use.
- (vi) The nature and intensity of the proposed use is not detrimental to amenity or traffic safety.

Footnote: * This will often rule out residential conversion

Saved Policy C18 indicates that the incorporation of productive or potentially productive farmland and woodlands in the countryside into residential gardens will be resisted.

Saved Policy T1 requires that all proposed developments are adequately served by the highway network identified on the Proposals Map.

Saved Policy T4 indicates that proposal that generate significant vehicular or pedestrian traffic outside of built up areas will not be permitted.

Saved Policy T5 requires that the formation of new accesses or the intensification of use of existing accesses to the roads forming the highway network shown on the Proposals Map, will not normally be permitted, except where no danger would arise and where a properly formed access can be created in a location and to a standard acceptable to the Local Planning and Highway Authorities.

Saved Policy P3 requires development to make provision for vehicle parking, in accordance with the Kent County Council Vehicle Parking Standards, as interpreted by Gravesham Borough Council, unless justified as an exception. All vehicle parking provision should normally be made on the development site.

Review of Local Plan

Paragraph 33 of the NPPF (2021) sets out those policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and The review found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02 due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) general conform with the National Planning Policy Framework (2021), the Council will also seek to replace these.

Gravesham Local Plan Regulation 18 Stage 2 Consultation Part 2: Draft Development Management Policies Document October 2020

The Council published in 2020 a Regulation 18 (stage 2) consultation on its proposed Development Management Policies Document, replacing the 2018 Stage 1 version, which will in due course form part of and update the Gravesham Local Plan. Under paragraph 48 of the NPPF, policies in this document may be accorded weight in the decision making process with this varying according to its stage of preparation; the extent to which there are unresolved objections; and the degree of consistency of policy with those in the Framework. As the Development Management Policies Document is at an early stage and the fact that the consultation has only recently concluded, the policies therein should at this stage be given very limited weight. It should be noted, in any event, that many of the relevant policies reflect those set out in the Framework and for the purposes of this pre-application these should be relied on instead.

The following draft policies from the Regulation 18 (Stage 2) Development Management Policies Document (2020) show the direction of travel the Council is going albeit the weight that these emerging policies may be accorded at this stage is very limited.

Proposed Policy GB 1: Agricultural and Forestry Development;
Proposed Policy GB 7 Re-use of Buildings in the Green Belt;
Proposed Policy AG 1 Agricultural Land;
Proposed Policy INF 2: Transport Design Principles;
Proposed Policy INF 3: Understanding and Mitigating Transport Impacts;
Proposed Policy INF 4: New Accesses and Junctions;
Proposed Policy GI 5: Landscape Character;

Proposed Policy GB1: Agricultural and Forestry Development states:

3.2.7. Proposals for new development related to agriculture and forestry will be supported where it is demonstrated to be reasonably necessary to sustain the agricultural unit or forestry enterprise to which it relates.

3.2.8. The Council will seek to ensure that any such development is appropriately designed and located, having regard to sensitivity of context and to minimise its impact to an acceptable level.

3.2.9. Proposals involving farm diversification (including the introduction of farm shops selling predominately locally grown produce, processing, workshops or leisure activities) should be ancillary and related to the primary agricultural use of the site and be appropriate to a rural location.

3.2.10. Unless otherwise justified, the Council will seek to ensure that the re-use of existing buildings of

permanent and substantial construction are prioritised over the introduction of new buildings, with such re-use not resulting in a need for replacement buildings.

3.2.11. To avoid the proliferation of buildings in the countryside, the Council will seek the removal of redundant buildings where replacements are proposed.

3.2.12. In determining applications, the Council will also have regard to the highway and amenity impacts of any proposals, including but not limited to the access and the approach roads and the need for additional car parking, hard standings, fencing or lighting.

The plan accompanying Proposed Policy AG 1 Agricultural Land shows that the land within the site may fall within best and most versatile land under the agricultural land classification system.

Proposed Policy GB 7 Re-use of Buildings in the Green Belt states:

3.8.7. Proposals for the re-use of buildings in the Green Belt will only be allowed where it would not adversely impact openness of the Green Belt or conflict with the purposes of including land in it, having regard to the need to provide any associated curtilage, curtilage buildings, parking, hard standing, or lighting associated with that alternative use; and:

- The building is lawful, permanent and structurally sound; and
- The building is suitable for conversion for the use proposed without the need for substantial reconstruction, alterations, extensions or other development, evidenced by a structural report prepared by a RICS Chartered Surveyor or equivalent.

3.8.8. Where the proposed use of building is not residential, consideration will be given as to whether the site is suitably located for the proposed use having regard to dependence on private vehicles e.g. cars and the need to service that use. In undertaking the planning balance, consideration will be given to the benefits of the re-use of the building as opposed to any disadvantages of location.

National Planning Policy Guidance

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) July 2021 is a material consideration.

At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11) which means approving development proposals that accord with the development plan without delay and where there are no relevant development plan policies or where the policies are out of date planning permission should be granted unless policies of the Framework provide a clear reason for refusing the development such as where land is designated as Green Belt or any adverse impacts would so significantly and demonstrably outweigh the benefits or specific policies in the NPPF taken as a whole.

The NPPF includes (in paragraph 8) three overarching objectives to achieving sustainable development:

- an economic objective;
- a social objective; and
- an environmental objective.

The following paragraphs are specifically highlighted as being of importance to the consideration of the application proposals, but it should not be taken that these are the only parts of the NPPF that need to be considered. Reference to the national planning guidance is also considered in the analysis section of this report.

Section 2, Paragraphs 7 - 14: Achieving Sustainable Development

Section 4, Paragraphs 38 - 59: Decision Making

Section 5, Paragraphs 60 - 80: Delivering a sufficient supply of homes

Section 9, Paragraphs 102 - 111: Promoting Sustainable Transport

Section 12, Paragraphs 126 - 136: Achieving well-designed places

Section 13, Paragraphs 137 - 151: Protecting Green Belt land

Section 14, Paragraphs 152 - 173: Meeting the Challenge of Climate Change, Flooding and Coastal Change

Section 15, Paragraphs 174 - 188: Conserving and Enhancing the Natural Environment

Section 16, Paragraphs 189 - 208: Conserving and Enhancing the Historic Environment

National Planning Policy in relation to Green Belt

Section 13 on Protecting Green Belt Land is particularly important in relation to this property. The most relevant paragraphs are as follows.

Paragraph 137 of the NPPF indicates that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 138 advises that Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

In addition to the above five nationally defined purposes of the Green Belt, policy CS02 of the adopted Gravesham Local Plan Core Strategy states that the local purposes of the Green Belt will be maintained. Paragraph 4.2.7 of the document sets these purposes as being:

- to maintain the break in development between the eastern edge of Gravesend and the Medway Towns which is one of the few barriers preventing the further eastward sprawl of London and the merging of towns along the southern part of the Thames Estuary;
- to assist in safeguarding the countryside by minimising the expansion of the Borough's rural settlements; and
- to assist in concentrating development on underused, derelict and previously developed land in the urban area of Gravesend and Northfleet.

Paragraph 147 of the NPPF sets out that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 148 of the NPPF advises that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Any development in the Green Belt is inappropriate unless it falls within one of the exceptions set out in the closed lists contained in paragraphs 149 and 150 of the NPPF.

Paragraph 149 states that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are: -

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the Local Plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development;
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within an area of the local planning authority

Paragraph 150 states that other forms of development are also not inappropriate in Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction; and
- e) the material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.

National Planning Policy towards Rural Housing

Paragraph 80 of the NPPF advises that:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) The development would re-use redundant or disused buildings and enhance its immediate setting;
- d) The development would involve the subdivision of an existing residential dwelling; or
- e) The design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

National Planning Policy towards Landscape

Paragraph 174 of the NPPF indicates that Planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); while paragraph 176 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

The National Planning Practice Guidance (NPPG)

Planning Practice Guidance (<http://planningguidance.planningportal.gov.uk/>) supports and clarifies areas in the NPPF.

It contains guidance on assessing housing need; design; public consultation; open space provision in new development; travel plans, transport assessments and statements in decision-taking; health and wellbeing; water supply, wastewater and water quality; light pollution; determining a planning application; the use of planning conditions and viability, amongst other things

The NPPG gives guidance on what is a material planning consideration in determining a planning application indicating that the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

The NPPG includes more detailed advice on the use of planning conditions (replacing the cancelled Circular 11/95). It outlines the six tests.

Supplementary Planning Guidance and other Documents

The Council has adopted a number of Supplementary Planning Guidance documents, Development Briefs and Conservation Area Appraisals. These elaborate on saved policies in the Gravesham Local Plan First Review and policies in the Gravesham Local Plan Core Strategy and are material considerations in determining planning applications.

In addition, the Council has adopted a number of documents that have been produced by Kent County Council also as Supplementary Guidance.

The following documents are relevant to the consideration of this application:

- Kent County Council Supplementary Planning Guidance SPG1: Landscape Character (adopted July 2006);
- Adopted Kent Vehicle Parking Standards (SPG 4 published in 2003 and adopted in 2006);
- Gravesham Landscape Character Assessment, May 2009 (a technical document which underpins policy CS12 of the Gravesham Local Plan Core Strategy);

The application site lies within the Shorne Woodlands landscape character area in the Gravesham Landscape Character Assessment where the key characteristics are:

Undulating topography; tree cover is dominant with native chestnut coppice providing a strong sense of enclosure throughout much of the area; the high proportion of woodland provides a strong ecological framework. Few highways with busier roads along character area boundaries. The sensitivity of the landscape is assessed as being moderate. Guidelines for Shorne Woodlands aim to conserve areas in good condition and reinforce the distinctive features and elements of the landscape.

Planning Legislation

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Consultations, Publicity and Representations

Consultations

There is no statutory requirement for the Local Planning Authority to consult upon a prior approval application. However, in determining whether the siting, design and external appearance of the proposed building requires prior approval, the following consultation responses will be taken into account:

Internal Responses

GBC Environmental Protection Comments

Watching Brief

The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

Code of Practice on Construction and Demolition

Please apply

Drainage/sewerage informative

The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable. If foul sewage is to be removed using non-mains sewerage systems, a sewage treatment plant or septic tank system will be considered in preference to a cesspool. Such a system may require the prior consent of the Environment Agency under the terms of the Water Resources Act 1991. Applicants are therefore advised to discuss their requirements with the Environment Agency at the earliest opportunity. It should be ensured that the septic tank or cesspool is of adequate capacity to serve the proposed development and suitable access and hardstanding area shall be maintained to it on site.

GBC Highways Development Management Officer

This proposal raises some questions.

1. How will foul water be disposed of, if piped to a local main sewer then there shouldn't be a problem, but any other system may require access by a tanker for occasional maintenance and suitable provision should be made for such an eventuality.
2. Two car parking spaces complies with guidance but there also needs to be secure parking for three cycles to meet the guidance in SPG4.
3. Given the length of the drive there should be on site turning for all vehicles liable to visit the site, (suggested 12-metre rigid vehicle to accommodate a refuse freighter/tanker). Currently none is shown, not even one to accommodate the cars owned by the resident.
4. Given the distance from the highway, consideration should be given to an additional parking space for visitors either for the new dwelling in isolation or shared with the existing dwelling

External Responses

GBC Agricultural Advisor (Rural Planning Ltd)

I have no personal knowledge of whether the past use of the building concerned meets the Class Q criteria. The issue of the suitability of the conversion under the GPDO provisions is not within Rural Planning Limited's advisory remit.

I do not see that there is any scope under the Class Q provisions for Councils to refuse to approve conversion proposals on grounds relating to "the effect of the loss of this building to the overall operation of the remaining farm holding".

Whilst you refer to Class Q.2 (1) (e) in this context, I think it is clear that this concerns whether the conversion to residential use would be impractical or undesirable due to location or siting. It does not require consideration of whether conversion to residential use would be impractical or undesirable due to any adverse effect on the operation of any remaining farm holding arising from the loss of the building per se.

Indeed no such reasoning was included in the Council's decision on 20171312 relating to the same structure.

If the loss of the building to agriculture had been considered a relevant consideration in principle, one would have expected Class Q to require evidence that the building was redundant to agriculture. On the contrary, one of the Class Q requirements is that the building was solely in agricultural use on the relevant date, or was last so used on that date.

The only stipulation in the context of "loss" that would apply, as I see it, is that carrying out an approved Class Q conversion would remove permitted development rights for other farm buildings on the same holding for 10 years.

It is arguable that a Class Q.2 (1) (e) objection could apply where, once converted, the proximity of the

building to on-going agricultural operations, or to other uses, would be detrimental to those operations or uses, or conversely that its residential amenity would be unacceptably impaired by such operations or uses. However in this case any on-going agricultural activity appears pretty low key, at best, and the building looks to be in a relatively isolated position. Again, no objection on “proximity” grounds was included in the decision on 20171312.

Shorne Parish Council

This application is similar to ref 20171312, to which the Parish Council also objected and which was refused. Our previous comments have been repeated or updated.

The Parish Council does not consider that the overall criteria in Class Q of the General Permitted Development Order have been met. The building does not appear suitable for conversion. Being just a frame without existing floor or services it is not already capable of functioning as a dwelling so conversion would require substantial building operations, construction of structural elements and engineering works including access drive continuation, vehicle hardstanding and pathway.

We consider that the nature and location of the proposed dwelling, and the planning history of the site, are such that a formal planning application should be submitted for this proposed development.

The Parish Council therefore has to again **OBJECT** to this application.

We submit the following reasons and comments:

1. Village envelope, Green Belt, land designation: The Warren Farm site is outside the village envelope of Shorne, so in an area where Green Belt policy applies. The site is classified as a local wildlife site although it has been subject to more intensive farming in recent years.

2. Landscape impact, light pollution, privacy: An inhabited building in this location will have landscape impact for the Green Belt and the nearby Shorne Woodlands landscape area. The building would cause additional light pollution in an area that is presently dark, especially as the proposed building has a large number of windows and rooflights (six) for its small size. Perhaps this aspect of the design could be reviewed.

The existing building is on the southern boundary of the field. Its southern flank is partly screened from wider view by bushes and trees growing close to its wall, which would not be practical for a residential building with windows, which should be retained. As it is located on higher ground and right on the border of the land, a converted building would be visually intrusive to a wide area of view and would affect the openness of the rural area.

Both the barn and the adjacent walking path would mutually have their amenity and privacy compromised by this conversion.

3. Justification for new dwelling: No “very special” reasons have been provided to justify the creation of a new and additional dwelling in the Green Belt.

4. Need for a barn on a smallholding, barn not redundant: Warren Farm was previously given permission to convert the “Apple Store” to residential use, to become a farmhouse for the smallholding. A smallholding needs to have covered storage for feed, machinery and equipment, and shelter for animals - for practical reasons these should be located near to the farm residential accommodation. This facility is being/can be provided by the present barn structure hence it cannot be said to be redundant.

5. No additional agricultural buildings: If conversion should be permitted, the question arises as to what additional/replacement agricultural building(s) will be needed instead of the existing barn, where on the site they will be located and how they will be accessed. This could further adversely affect the openness of the rural setting and again be detrimental to the Green Belt.

We note in connection with this point that a stable building has also been built on the site.

6. Potential need for replacement barn: A replacement barn would need to be built and brought into use before the existing barn could be converted but there is no current planning application/permission for that

purpose.

7. Suitability for conversion: We would question the suitability of the building for conversion. There is no current floor and the steel uprights are just set in concrete blocks.

8. Proposed versus actual boundaries: A red line bounded area is shown on the OS site plan. As a converted agricultural building the permitted residential curtilage would normally be very narrow around the building, differently configured than the area shown on the plans. The future use of the remainder of the recently defined field needs to be clarified as it would otherwise appear that a much larger area is being defined for dedicated use by the proposed dwelling. It is noted that a significant number of windows are shown as looking outside of the building at the sides and rear.

9. Vehicular access, turning and parking, refuse bins and cycles: The vehicular access arrangements are in common with the converted Apple Store building but are incomplete as the extension to the driveway is not shown on the plans, and neither is there a turning area or locations for refuse bins and cycle storage.

The Parking spaces appear to be 5m long by only 2.5m wide. These are small and likely to be impractical.

10. Future access to remainder of the smallholding: It needs to be clarified as to how access to the rest of the smallholding will in future be made and maintained. The barn is bordered by an unmaintained highway now used frequently as a walking path to Public Footpaths so safety issues might arise through increased vehicular usage.

11. Cramped development, future changes not permitted: The proposed dwelling is small and will create a cramped form of development out of keeping with the general area. No extensions, loft conversions or additional buildings should be permitted.

12. Detriment to the amenity of the Apple Store: Having a driveway to another property passing through and so close to the existing previously permitted barn conversion will be detrimental to its amenity.

Kent County Council Highways and Transportation Services

This application would fall outside our protocol for formal comments as it is for prior notification for the change of use from an agricultural barn to a dwelling.

The application would not result in an increase in vehicle movements from the existing use and would therefore not have a significant impact on the highway network.

Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county, there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls, which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>.

Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

Natural England

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution, which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017.

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can however be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-ad>

KCC Biodiversity Officer

No ecological information has been submitted with this application. As a result of reviewing the data we have available to us (including aerial photos and biological records), photos provided by the planning officer and the information submitted with the application, we advise that the proposed development has limited potential to result in ecological impacts and as such we are satisfied that there is no requirement for an ecological survey to be carried out.

We have taken this view because the photos provided by the planning officer show the site as having short grassland/bare ground and the building does not provide optimal habitat for roosting bats. We have taken the view on the building as much of the walls/roof are missing creating a very drafty sub optimal habitat for bats and where walls/roof exist the photos don't suggest that there are suitable features for roosting bats.

The photos suggest that there is suitable habitat within the site for breeding birds on the building and the scrub adjacent to the building. All breeding birds and their young are protected under the Wildlife and Countryside Act 1981 (as amended) and therefore we advise that the following informative is included:

Breeding Birds Informative – suggested wording:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees, scrub, hedgerows and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Buildings and scrub is present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

Environment Agency

We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee. Please refer to the attached 'When to consult the Environment Agency' document for guidance on when to consult us.

Please note: If the application at a later stage proposes the use of non-mains drainage, we will need to be re-consulted.

Non-planning consents

Although we have no comments on this planning application, the applicant may be required to apply for other consents directly from us. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them.

The applicant should contact 03708 506 506 or consult our website (<https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>) to establish whether a consent will be required

Dickens' Country Protection Society

The Society would wish to object to this application on the grounds that the site is in an area within which Green Belt policies apply. In the Society's view, the prior approval procedure is not appropriate in this case.

In the Society's view, the building is not suitable for conversion. The Society also notes that if the building is lost from its present use it is likely to generate a demand for further development on the site, which would in turn impact on the openness of the Green Belt. We also note that a similar application made under ref GR/2017/1312 was refused.

Publicity and Representations

There is no statutory requirement for the Local Planning Authority to publicise a prior approval application by neighbour notification. However, in this case neighbour notification was sent to 25 adjoining properties and site notice displayed on the site. The expiry date was 17 December 2021

Two objections have been received commenting:

- The site is outside the confines of the village in an area where Green Belt policies apply;
- This area is classed as an area of outstanding natural beauty and this will spoil the area;
- The existing building is not suitable for conversion; the described Agricultural Barn is in fact a slab of concrete with the skeleton of a metal frame only;
- This is not a change of use, it is building of a new property;
- It is set up high and would look down on nearby dwellings
- The level of agricultural activity on site varies; during the summer months, there is usually some grazing and this year at different times there were llamas and sheep on site. There are some horses on the land;
- With the exception of some pig houses (not recently used) there is no other building on site to support any agricultural activity;
- A number of agricultural vehicles are being kept on the site to run another business;
- There has already been one so called barn converted into a dwelling about 10 years ago; this was occupied by the applicant for about 10 years but it is now rented out; it took over a year to complete and all the premises in Swillers Lane had to put up with all the inconvenience;
- If the building is converted, it is likely to generate a need for a replacement building which would compromise the local openness of the Green Belt;
- It will lead to other applications to build further dwellings on Warren Farm;
- Prior approval should be required and the application be refused;

Officer Assessment and Analysis

Introduction

This current application claims that the proposed works of the change of use of this building along with the building operations to convert the building, fall within the scope of permitted development under Article 3 of and Part 3 Class Q (a) and (b) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, and therefore do not require planning permission.

This is required to be verified by the Borough Council in relation to the criteria in Class Q.1 and under the conditions in Class Q.2 the applicant is required to seek a determination as to whether **prior approval** is required for the change of use of this building along with the building operations to convert the building in relation to a number of impacts and other matters (including transport, noise, contamination, design and external appearance etc.).

A very similar planning application (ref 20171312) for a determination as to whether prior approval is required for the proposed change of use of the same agricultural building, used for the storage of agricultural vehicles, to a three bedroom single dwellinghouse under Class Q (a) and (b) with associated building operations of the Town and Country Planning (General Permitted Development) (Order) 2015, was submitted to the Borough Council in December 2017.

It was determined on 29 January 2018 that Prior Approval was Required and Refused on the grounds that:

1. The proposed development does not fall within the definition of permitted development set out in Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as follows:

(a) The area of the curtilage of the proposed development will be larger than the area of land occupied by the building.

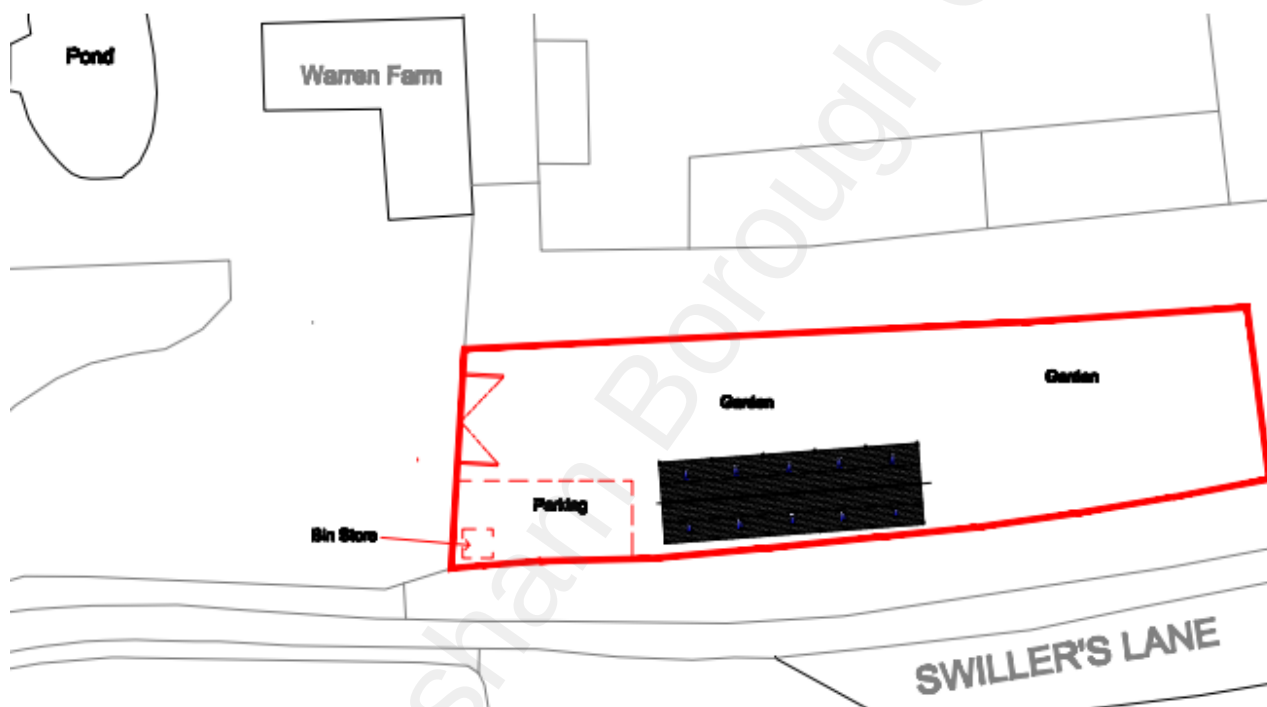
(b) The cumulative floor space of the building already converted and the building the subject of this application would exceed 450 square metres within the established agricultural unit.

(c) Insufficient information has been submitted with the application to demonstrate that the extent of the works required to facilitate the change of use of the building to a dwelling do not extend beyond the limitations set out in Q.1 (i) (i) and (ii) and would not include the construction of new structural elements.

Consequently, the Prior Approval procedure is not applicable to this proposal.

2. The proposal fails to comply with Article 3 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as it fails to comply with and regulations 75 to 78 of the Conservation of Habitats of Species Regulations 2017. In this context of this site, it is located within 6km North Kent Special Protection Areas (SPAs) and Ramsar site. In the absence of any evidence that the test of no alternatives under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 can be satisfied, or evidence that there are grounds of overriding public interest, the proposed development, either alone or in combination with other plans or projects, would be likely to have a significant adverse effect on the SPA and Ramsar site.

There are however, some differences between that refused prior approval application and the current prior approval application notably that the curtilage was significantly greater than the area of land occupied by the building. (See block plan below in application ref 20171312)



In the current application, the curtilage is significantly smaller and equates to the footprint of the building.

No structural information had been submitted with the previous application to indicate whether the building was capable of conversion to meet the requirements of Class Q of the GPDO. Such a report now accompanies the current application, albeit that this still needs to be properly assessed.

In addition, the internal layout (whilst still as a three-bedroom unit) was different in terms of room location.

The roof material was indicated as black slate tiles with Velux rooflights whereas in the current application it is suggested that the roof material will be fibre cement sheeting.

The current application addresses the Conservation of Habitats of Species Regulations 2017 (that constituted the previous second ground of refusal) as the Strategic Access Mitigation and Monitoring Strategy (SAMMS) (tariff) payment has been made to mitigate the impact from recreational disturbance on the Thames Estuary and Marshes, which is classified as a Special Protection Area (SPA) in accordance with the European Birds Directive and is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site). The application site falls within the 6km zone and since September 2015, the Borough Council has accepted that the impacts of recreational disturbance arising from new

residential development (either as new building or through conversion) can be mitigated by accepting a tariff payment. Natural England approves this approach for all new residential developments.

Class Q Assessment of the Current Application

Class Q sets out that the following change of use and building operations are permitted development:

Development consisting of—

(a) 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 (dwellinghouses) of the Schedule to the Use Classes Order; and

(b) Building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Class X of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) defines the terminology used in Class Q, as follows:

- *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;*
- *The term “agricultural use” refers to such uses.*
- *“Curtilage” means*
 - (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
 - (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser;*

This permitted change is subject to a number of limitations (that potentially take the change of use and associated building operations beyond the scope of permitted development), which are listed in the table below alongside an assessment of whether the development accords or not with these limitations.

Criteria Q.1
(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; <u>Response</u> The key with this limitation, given that the building exists, is how the building was used on 20 March 2013. On this date the site must have been used solely for an agricultural use as part of an established agricultural unit (Q1 (a)(i)) or if it wasn't in such a use, when it was last used for that purpose (Q1 (a)(ii)) When the Borough Council determined 20150470 (for a determination as to whether prior approval is required for the proposed change of use of the agricultural brick barn to a dwelling), the view was that the site was used solely for an agricultural use as part of an established agricultural unit. The officer report commented that the site visit showed a well-established farming operation on the site. The evidence at the time provided by the agent acting for the current applicant to help confirm the site

was an established agricultural unit on 20 March 2013 included:

- Photographs of livestock on site on 20 March 2013.
- Livestock movement order for 18 March 2013
- A letter from the applicant (dated 5 May 2015)

The use of the building for agricultural storage over the last few years appears to be somewhat limited and photographs taken in 2017 compared to now show some stored items have not moved at all.

However in the absence of any contrary evidence the view is that the development does not fall foul of the limitations of Q.1 (a)

(b) 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;

Response

The applicants advise that:

The proposed dwelling (Agricultural Barn) has a footprint of 105m² GIA.

The existing dwelling (Apple Store) has a floorspace of GF - GIA - 150.6m² FF - GIA - 99.7m² or (69.09m² with 1.5m headroom) TOTAL Floorspace – 250.3m² or (219.69m² with 1.5m headroom)

2 Units: Total floorspace 355.3m² GIA (250.3 + 105m²)

Therefore the development is not contrary to the limitations in Q.1 (b)

(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;

Response

The floor space of any of the dwellings does not exceed 450m²

Therefore the development is not contrary to the limitations in Q.1 (ba)

(c) 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;

Response

There are no small units.

Therefore, this is not applicable in this case.

(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—

- (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;**

Response

The cumulative floorspace does not exceed 465 square metres and the number of units is two and thus the development is not contrary to the limitations in Q.1 (d).

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

Response

According to the application form, the site is currently not occupied under an agricultural tenancy agreement. Therefore the development is not contrary to the limitations in Q.1 (e)

(f) 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;**

Response

According to the application form no agricultural tenancy over the site has been terminated a year before this development is proposed. Therefore the development is not contrary to the limitations in Q.1 (f)

(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—

- (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;**

Response

No development under Class A (a) or Class B (a) or Part 6 (agricultural buildings and operations) has been carried out on the agricultural unit.

Under application 20140706, Prior Approval was given for a larger replacement barn (30m by 14m) on the site of the barn subject to this application. It has not been implemented.

Therefore the development is not contrary to the limitations in Q.1 (g)

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

Response

A comparison of the submitted drawings - Drawing No 3408.02: Existing Floor Plan and Drawing No 3408.05: Proposed Floor Plan reveals that the existing building, is shown as being 19.5m by 5.937m (thus an external footprint of 115.77m²), whereas for the proposed building the external footprint is slightly increased to 19.65m long by 6.17m wide (external footprint of 121.24m²), although the roof height is shown to remain the same at 5.1m to the ridge.

On this basis the development falls foul of the limitations in Q.1 (h) and the development cannot be considered as permitted development.

(i) the development under Class Q (b) would consist of building operations other than—

(i) the installation or replacement of—

(aa) windows, doors, roofs, or exterior walls, or
(bb) water, drainage, electricity, gas or other services,

to the extent reasonably necessary for the building to function as a dwellinghouse;
and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

Response

The GPDO does not include any interpretation on what is considered to be the extent of building operations reasonably necessary for the building to function as a dwellinghouse, or the extent of demolition reasonably necessary to carry out building operations.

However paragraph 105 of the National Planning Practice Guidance (Reference ID: 13-105-20180615) does provide advice on what works are permitted under the Class Q permitted development right for change of use from an agricultural building to residential use. It says:

The right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

It goes on to say:

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

There is also case law that can be referred to. The leading high court case of *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin) has established that there is a clear distinction between conversion and rebuilding and in applying the principles of this judgment.

The Courts held that the Inspector's analysis in dismissing an appeal against the refusal of a planning authority to grant prior approval to a proposed development was correct and the application to quash the decision did not succeed.

The building in question in that case was a 30 metre, steel framed barn largely open on three sides with a monopitch roof, a concrete floor slab and six steel uprights which span to support a corrugated fibre roof.

In order to convert the barn into a dwelling the existing steel frame and roof would be retained. No demolition was proposed. Panels were proposed for the four external walls and a ceiling within the

existing frame.

The planning appeal was dismissed, the Inspector considered that the agricultural building would not be capable of functioning as a dwelling without substantial building works, including the construction of all four exterior walls. The proposed works went “*well beyond what could reasonably be described as conversion*”. Effectively it was a new building, except for a limited amount of the existing building.

The Inspector stated her view that the simple fact that the existing barn was sufficient to bear the load of the proposed development was not, in and of itself, sufficient to meet the requirements of part Q. She thus stated:

Nevertheless, having regard to the extent of works necessary for the frame and fibre roof to function as a dwelling, a demonstration of the load bearing capacity of the frame alone is insufficient to meet the requirement of part Q in this case. Although I accept that substantial works could fall under the scope of class Q they nonetheless presuppose that the works comprise 'conversion'. In this case, the building before me would not be capable of functioning as a dwelling without the building works outlined above which include the construction of all four exterior walls. This goes well beyond what could reasonably be described as conversion, and notwithstanding the re-use of the 6 steel uprights as the main structural element for the building and the retention of the fibre roof, the works described would be so extensive as to comprise rebuilding. I must therefore conclude that the works necessary to create a dwelling from the structure onsite would not fall within the scope of that permissible under part Q. Accordingly, they would not be permitted development under Class Q(b).

Each application is considered and assessed on a case by case basis having regard to the NPPG advice and case law but ultimately building operations and demolition that result in a building of a different size and form would exceed the works reasonably necessary to convert the building, and therefore would not meet the provisions of the GPDO. As an example of basic guidance (*sourced from other LPA guidance notes*) a scheme might not comply where the following applies:

- Substantial reconstruction;
- Where the existing structure requires strengthening to enable the safe conversion of the building;
- the replacement of the roof where that requires the strengthening of the existing structure;
- Having regard to *Hibbitt v Secretary of State for Communities and Local Government* [2016], the construction of walls to enclose a largely open sided building (e.g. a Dutch or pole barn);
- Internal walls that provide lateral stability, strengthen the existing structure or take any load from the roof or other parts of the building;
- Provision of internal structures to support new window and door openings;
- Development extending beyond the existing building's envelope;
- Provision of external features such as chimneys, flues, external cladding that extends beyond the existing envelope;

Note: This is not exhaustive

In this particular case the details submitted with the application show that the extent of the works to be carried out to the existing building to convert to a dwelling and this is supplemented by a structural survey (Structural Assessment Report by TSC Designs Ltd, October 2021).

As indicated earlier already the floor plans appear to show that the footprint of the building will be enlarged even if only marginally.

The building itself is virtually an open pole barn and similar to the *Hibbert* case comprises a building that is open to the elements entirely on two sides with only steel uprights. Where there are any wall coverings remaining they are only partial and comprise poor quality shiplap boarding/weather boarding and this could not be retained. See photograph below.

The existing building is shown to be retained including the metal stanchions along with the existing roof framework but the whole structure will have entirely new solid walls on all 4 sides. However there is no method statement as to how the building would be converted and constructed or the make-up of the walls, which have a thickness of 0.3m.



Much of the roof, which is covered by a light corrugated covering, is already missing. The submitted structural statement suggest that the fibre cement roof sheeting is 'generally in acceptable order and can be retained' and the elevation drawings show the proposed roof material as being corrugated sheet roofing (green) although it is indicated that there would be 6 conservation roof lights inserted into the roof slopes, 2 at the front (north elevation) and 4 at the rear (south elevation).

As the roof covering is shown to be the same as existing namely as fibre cement roof sheets it is inevitable that to meet Building Regulations there is going to be a need for insulation and this will result in the raising of the roof even if only marginally this will increase the size/height of the roof and roof pitch and ridge and therefore would not comply with the prior approval requirements.

There is no flooring whatsoever for the existing building. This is also likely to involve significant structural alterations to the building. While the structural report suggests that from just a single trial hole (showing 1.0m³ of concrete for the column foundations) but it has not been categorically demonstrated that no underpinning or other structural works to the foundations would be required in order to carry out the proposal which includes additions such as heavy glazing panels. The excavation and installation of foundations are not included in the list of permitted operations set out in the NPPG.

Whilst the submission of the structural survey is noted and acknowledged including its conclusions that the proposed conversion is a viable undertaking and that the building is sound and not in need of major reconstruction, it is considered that its findings are not convincing, conclusive or clear cut and in the Local Planning Authority's view and by fact and degree the works, operations and demolition to convert the building go beyond what is reasonably necessary for the for the building to function as a dwellinghouse and inevitably result in substantial works and could be considered as the rebuilding of the existing agricultural building.

On this basis the development falls foul of the limitations in Q.1 (i) and the development cannot be considered as permitted development.

(j) the site is on article 2(3) land;

Response

The site is not on Article 2 (3) land (such as AoNB or conservation area). The Kent Downs AoNB lies much further to the south beyond Shorne Ridgeway.

(k) the site is, or forms part of—

- (i) a site of special scientific interest (SSSI);**
- (ii) a safety hazard area;**
- (iii) a military explosives storage area;**

Response

The site is not part of a SSSI, a safety hazard zone, a military explosives storage area.

It is part of Local Wildlife Site. KCC Biodiversity were consulted and have advised that the current building does not provide optimal habitat for roosting bats but there is suitable habitat within the site for breeding birds on the building and the scrub adjacent to the building.

(l) the site is, or contains, a scheduled monument;

Response

The site is and does not contain a scheduled ancient monument

(m) the building is a listed building.

Response

The building is not listed or within the curtilage of a listed building.

Class Q.2 (1) Conditions and Prior Approval Assessment

For a Class Q application, the following matters are for Prior Approval:

- (a) Transport and highways impacts of the development
- (b) Noise impacts of the development
- (c) Contamination risks on the site
- (d) Flooding risks on the site
- (e) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order
- (f) The design or external appearance of the building, and
- (g) The provision of adequate natural light in all habitable rooms of the dwellinghouses,

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

Part W requires (amongst other things) the Local Planning Authority to take into account any representations made to them as a result of any consultation and in response to a site notice and have regard to the National Planning Policy Framework (NPPF) 2021, so far as relevant to the subject matter of the prior approval, as if the application were a planning application

In terms of the Local Planning Authority's assessment in relation to the above matters for prior approval, and notwithstanding the assessment under Class Q1 above, the following comments are made:

(a) Transport and highways impacts of the development

The development is for a single dwelling utilising an existing farm access that also serves the existing Apple Store dwelling. KCC Highways who were consulted have commented that the application would not result in an increase in vehicle movements from the existing use and would therefore not have a significant impact on the highway network. Although given the current level of inactivity on the site and the very low level, if at all, of the use of the building in connection with agriculture this is not in the Local Planning Authority's view a reasonable assessment of likely impacts. The applicant's statement suggests that there would be 6-8 trips per day from the proposed residential use. Whilst the use of the access from the site on to Swillers Lane from this level of activity would not have a material impact on highway or pedestrian safety, from a local highway perspective the GBC Highways Development Management Officer raises some questions and concerns.

He points out, amongst other things, that there should be on site turning for all vehicles liable to visit the site, (suggested 12-metre rigid vehicle to accommodate a refuse freighter/tanker). Currently none is shown, not even one to accommodate the cars owned by the resident and while the provision of two car parking spaces complies with guidance there also needs to be secure parking for three cycles to meet the guidance in SPG4. He also suggests that given the distance from the highway, consideration should be given to an additional parking space for visitors either for the new dwelling in isolation or shared with the existing dwelling.

All of this suggests that the curtilage associated with the proposed dwelling (which is only the size of the building footprint) would not be sufficient for the provision of adequate amenity and operational requirements for the proposed dwelling.

The prior approval of the Local Planning Authority would be required on this matter.

(b) Noise impacts of the development

A dwellinghouse is recognised as being a noise sensitive development but it is accepted that the dwelling itself is not likely to generate significant levels of noise and is a sufficient distance away from the neighbouring dwelling at Warren Farm (The Apple Store) or from Barndale Court to the south west not to result in noise impacts. No concerns were raised in relation to this aspect by the Council's environmental health officers and the site is well away from any likely significant noise generating uses.

Therefore the proposed works would satisfy criteria Q.2 (1) (b)

(c) Contamination risks on the site

The application has been accompanied by a technical report that shows only a low to moderate risk of contamination. Given the past uses of the building and potential for some contamination from vehicle storage GBC Environmental Protection suggest that the applicant shall undertake a watching brief during construction in case any contamination issue is encountered.

Therefore the proposed works would satisfy criteria Q.2 (1) (c)

(d) Flooding risks on the site

The site is within Flood Zone 1 and no formal Flood Risk Assessment (FRA) has been submitted or would be necessary. The Groundsure Siteguard technical report suggest that there would be a low risk of any flooding.

The Environment Agency have made no comments in relation to flood risk but have indicated that if the application at a later stage proposes the use of non-mains drainage, they will need to be re-consulted.

Therefore the proposed works would satisfy criteria Q.2 (1) (d)

(e) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order

The National Planning Policy Guidance (Paragraph 109) addresses this in detail as follows:

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”.

When considering whether it is appropriate for the change of use to take place in a particular location, 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. There may be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally 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.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.

In this case the proposed change of use to a dwelling is not impractical because of its siting as it is not in a totally isolated location and its use as residential would not be materially affected by any adjoining agricultural activities although the matter relating to the practicality of the proposed dwelling curtilage as referred to earlier and how the land around it is used including future access to the remainder of the holding has not been considered in this prior approval application.

Therefore the proposed works would satisfy criteria Q.2 (1) (e)

(f) The design or external appearance of the building

The Local Planning Authority will require that any submission is of a design and appearance which reflects and upholds the inherently agricultural and rural character of a building and its setting. This would accord with the guidance in the NPPF and policy CS19 of the Gravesham Local Plan Core Strategy and Saved Policy C11 (Conversion of farm buildings) of the Gravesham Local Plan First Review

Works are only permitted where they are reasonably necessary to facilitate the buildings conversion to a dwelling and it is not the aim of the Class Q permitted development rights to allow the domestication of the countryside.

Any conversion should utilise existing openings and minimise the number of new openings. Where new openings are required they should be appropriately designed so as to reflect the buildings character in terms of profile and material use. Where the building or its features are of historic or architectural interest, the proposed development will be expected to uphold the character. External materials to be used will be expected to reflect the agricultural appearance of the building in all cases.

In this case the external wall cladding as being black horizontal weatherboarding is appropriate to the rural location and setting although whilst attempting to retain the roof as corrugated cement sheeting this does appear to be somewhat impractical. The existing building is mostly open with no windows so that the inclusion of a large number of openings (windows/doors) notably all the rooflights would appear to be at odds with the character of the existing building giving it a very domestic appearance although it is acknowledged that this may also reflect the need to meet Q.2 (g) in respect of the provision of adequate natural light in all habitable rooms.

The prior approval of the Local Planning Authority would be required on this matter though the submission of a design statement and re-assessment of the extent of roof covering and new openings

(g) The provision of adequate natural light in all habitable rooms of the dwellinghouses

It is noted that all habitable rooms are served by windowed elevations, thereby achieving adequate natural light.

Therefore the proposed works would satisfy criteria Q.2 (1) (g)

Conservation of Habitats and Species Regulations 2010 (as amended)

In addition to the criteria of Class Q, the development, pursuant to Article 3 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, is subject to Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2010 (as amended) which requires the Authority to take into account whether it would either alone or in combination have likely significant effects on a European Site (SPA/SAC/Ramsar site). Regulation 75 of the Habitat Regulations states: "It is a condition of any planning permission granted by a general development order....that development which is likely to have a significant effect on a European site... (either alone or in combination with other plans or projects)... must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77."

The proposed development is considered to have likely in-combination effects due to its recreational impacts on the Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA), internationally important for nature conservation as the area is a wetland and supports important numbers of wintering waterbirds and migrating birds. The application site is within 6km of the boundaries of the parts of the Ramsar Site and Special Protection Area in Gravesham.

Thus, any successful application would need to satisfy the requirements of the Habitat Regulations and would require a financial contribution as mitigation currently £253.83 (per dwelling).

Although the applicants have, subsequent to the submission of this prior approval application, paid the appropriate Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) mitigation payment of £253.83, this has not been received through an application submitted pursuant to Regulation 77 of the Conservation of Habitats and Species Regulations 2010 (as amended).

If the recommendation on this prior approval application had been that either prior approval is not required or that prior approval is required and granted, then an informative would have been added to the decision to state:

It is a condition of any permission granted by a general development order that, in those cases where a development is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the development must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77, of the Conservation of Habitats and Species Regulations 2010, which is expressly saved by Schedule 7 of the Conservation of Habitats and Species Regulations 2017. Pursuant to Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, an application under Regulation 77 would therefore be required before development is begun.

Conclusions

After assessing the above criteria, it is considered that the change of use of this agricultural building to a Class C3 dwellinghouse and the associated building operations and works reasonably necessary to convert the building do not fall within the definition of permitted development as set out in Article 3 of and Part 3, Class Q (a) and (b) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the 'GPDO') as follows:

The development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point therefore exceeding the limitation in Class Q.1 (h).

The development under Class Q (a) and (b) would consist of building operations and demolition works that go beyond the extent reasonably necessary for the building to function as a dwellinghouse allowed by paragraph Q.1(i), (i) and (ii).

Prior approval is required and refused in relation to the transport and highways impacts of the development pursuant to Class Q.2 (1) (a) of the GPDO as in the opinion of the Local Planning Authority the curtilage associated with the proposed dwelling would not be sufficient for the provision of adequate amenity and operational requirements for the proposed dwelling.

In addition prior approval is required and refused due to the proposed design and external appearance of the building pursuant to Class Q.2 (1) (f) of the GPDO as in the opinion of the Local Planning Authority the large number of openings (windows/doors) and notably all the rooflights would appear to be at odds with the character of the existing building giving it a very domestic appearance, and due to the impracticalities of retaining and reusing corrugated cement sheeting as roof covering for the dwelling.

Recommendation:

Prior approval is required and refused.

Reasons for refusal

1. The change of use of this agricultural building to a Class C3 dwellinghouse and the associated building operations and works reasonably necessary to convert the building do not fall within the definition of permitted development as set out in Article 3 of and Part 3, Class Q (a) and (b) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the 'GPDO') as follows:

(a) The development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point (in this case enlarging the width and footprint) and therefore exceeding the limitation in Class Q.1 (h).

(b) The development under Class Q (a) and (b) would consist of building operations and demolition works that go beyond the extent reasonably necessary for the building to function as a dwellinghouse allowed by paragraph Q.1(i), (i) and (ii)

The building itself is virtually an open pole barn and comprises a building that is open to the elements entirely on two sides with only steel uprights. Where there are any walls coverings remaining they are only partial and comprise poor quality shiplap boarding/weather boarding and this could not be retained.

The existing building is shown to be retained including the metal stanchions along with the existing roof framework but the whole structure will have entirely new solid walls on all 4 sides. However there is no method statement as to how the building would be converted and constructed or the make-up of the walls, which have a thickness of 0.3m.

Much of the roof, which is covered by a light corrugated covering, is already missing. The submitted structural statement suggest that the fibre cement roof sheeting is 'generally in acceptable order and can be retained' and the elevation drawings show the proposed roof material as being corrugated sheet roofing (green) although it is indicated that there would be 6 conservation roof lights inserted into the roof slopes, 2 at the front (north elevation) and 4 at the rear (south elevation).

As the roof covering is shown to be the same as existing namely as fibre cement roof sheets it is inevitable that to meet Building Regulations there is going to be a need for insulation and this will result in the raising of the roof even if only marginally this will increase the size/height of the roof and roof pitch and ridge and therefore would not comply with the prior approval requirements.

There is no flooring whatsoever for the existing building. This is also likely to involve significant structural alterations to the building. While the structural report suggests that from just a single trial hole (showing 1.0m³ of concrete for the column foundations) but it has not been categorically demonstrated that no underpinning or other structural works to the foundations would be required in order to carry out the proposal which includes additions such as heavy glazing panels. The excavation and installation of foundations are not included in the list of permitted operations set out in the National Planning Practice Guidance (NPPG).

Whilst the submission of the structural survey is noted and acknowledged including its conclusions that the proposed conversion is a viable undertaking and that the building is sound and not in need of major reconstruction, it is considered that its findings are not convincing, conclusive or clear cut and in the Local Planning Authority's view and by fact and degree the works, operations and demolition to convert the building go beyond what is reasonably necessary for the building to function as a dwellinghouse and inevitably result in substantial works and could be considered as the rebuilding of the existing agricultural building.

Consequently, the Prior Approval procedure is not applicable to this proposal.

2. Notwithstanding the Local Planning Authority's conclusions in relation to the applicability of permitted development rights in relation to Class Q.1 (h) and (i) prior approval is required and refused in relation to the transport and highways impacts of the development pursuant to Class Q.2 (1) (a) of the 'GPDO' as in the opinion of the Local Planning Authority the curtilage associated with the proposed dwelling would not be sufficient for the provision of adequate amenity and operational requirements for the proposed dwelling.

3. Notwithstanding the Local Planning Authority's conclusions in relation to the applicability of permitted development rights in relation to Class Q.1 (h) and (i) prior approval is required and refused due to the proposed design and external appearance of the building pursuant to Class Q.2 (1) (f) of the 'GPDO' as in the opinion of the Local Planning Authority the large number of openings (windows/doors) and notably all the rooflights would appear to be at odds with the character of the existing building giving it a very domestic appearance, and due to the impracticalities of retaining and reusing corrugated cement sheeting as roof covering for the dwelling.

INFORMATIVES

1 DRAWINGS AND DOCUMENTS

For the avoidance of doubt, the decision to refuse this application was taken in relation to the following forms, plans and documents

Application Form for Prior Approval

Covering Letter and Supporting Statement by Graham Simpkin Planning Ltd dated 17 November 2021 (ref PR3408/SC)

Structural Assessment Report (TSC Designs Ltd) October 2021

Groundsure Siteguard Report (Ref GS-8339739) Dated 17 November 2021

Drawing No 3408.01: Site Location Plan & Existing Block Plan

Drawing No 3408.02: Existing Floor Plan

Drawing No 3408.03: Existing Elevations

Drawing No 3408.04: Proposed Block Plan

Drawing No 3408.05: Proposed Floor Plan

Drawing No 3408.06: Proposed Elevations

2 STATEMENT OF POSITIVE AND PROACTIVE APPROACH TO DECISION-MAKING

In accordance with Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and paragraph 38 of the National Planning Policy Framework (NPPF)

2021, the Local Planning Authority has approached the assessment and determination of this application in a positive and creative way and, where appropriate, has worked pro-actively with the applicant to secure a development that is sustainable and that improves the economic, social and environmental conditions of the area, and that is in accordance with the Development Plan for the area.

In this instance, the application does not meet the permitted development rights under Article 3 of and Part 3, Class Q (a) and (b) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and cannot be supported and therefore prior approval is required and refused accordingly.

Case Officer:	Mr Peter Price	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	7 th January 2022	Dated:	10 th January 2022

File Location: H: Plan/Typing/General/Peter/Delegated Reports/Uniform - 20211422 - Delegated Report - Agricultural Barn Warren Farm Swillers Lane Shorne - Prior Approval for change of use of agricultural building to a dwelling