



# Delegated Report

## Planning Application

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| <b>Application no:</b>  | 20211026                                                                                                                                                                      |
| <b>Location:</b>        | Barn East Of Abbotsview Northfleet Green Gravesend Kent                                                                                                                       |
| <b>Description:</b>     | Application for determination as to whether prior approval is required for the proposed change of use and conversion of an agricultural building to 2no. 3 bedroom dwellings. |
| <b>Applicant:</b>       | Mr B Arnold                                                                                                                                                                   |
| <b>Site Visit Date:</b> | 5 <sup>th</sup> October 2021                                                                                                                                                  |

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### The Site and Surroundings

The site comprises an 'L' shaped agricultural building currently in use as storage for agricultural equipment in association with the wider farm. The barn and parcel of land to which it sits has recently been purchased by the applicant from the former farmer and user of the building. The barn is located to the west of the plot and sits to the east of the adjacent property Abbotsview. To the south is open farm land and to the north is open pasture. The site benefits from an existing vehicular entrance from Northfleet Green Road.

The building itself consists of two different parts with the main section being timber framed barn with a pitched roof measuring externally 23.79m wide, 7.77m deep, 4.49m to the eaves and 6.77m to the ridge. The eastern part is brick built with a shallow pitch roof measuring externally 7.58m wide, 6.56m deep and a maximum height of 5.08m at the front, sloping down to 4.53m.

The timber barn and both roofs are finished with traditional fibre cement profiled sheet material.

The building has a total footprint of 231m<sup>2</sup> and the application site area of the building and associated hardstanding, as shown by the red line in Drawing No. 01 dated July 2021, has an area of 460m<sup>2</sup> (0.046 hectares). Whilst the larger site, as shown outlined in blue on the location plan, falls within the ownership of the applicant, it does not form part of this prior approval.

Vehicular access to the site is provided by the existing access from Northfleet Green Road a narrow road with passing places off New Barn Road providing access to farm land, farm buildings and several residential properties including Abbotsview, to the west of the site, Gingerbread Cottage, The Cottages and Dawes Cottage to the north east of the site.

### Submitted Documents/Plans

The application comprises the following documents and plans:

Planning Application form (prior approval, Class Q) received 12 August 2021.  
Planning Statement received 12 August 2021;  
Drawing No. 01 – Location Plan and Proposed Block Plan received 12 August 2021

Drawing No. 02 – Existing Floor Plan, Elevations, Section and Block Plan received 12 August 2021; and Drawing No. 03 – Proposed Floor Plan, Elevations, Section and Block Plan received 12 August 2021.

### **Relevant Planning History**

None Relevant.

### **Material consideration**

Article 3, Part 3, Class Q of Schedule 2 to the Town and Country Planning (General Permitted Development) Order (England) 2015 (GPDO) as amended.

### **Planning Policies**

The nature of this application is such that adopted and emerging planning policies are not relevant, since it relates to whether the proposed change of use requires prior approval only.

### **Consultations, Publicity and Representations**

#### Environment Agency

No comments received.

The application has been advertised by site notice.

#### Neighbouring properties

Letters have been sent to seven neighbouring properties. No letters of representation have been received.

### **Permitted Development**

Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (England) 2015 (GDPO) as amended, allows the 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; or development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule, subject to a number of conditions.

### **Proposal**

The application is for determination as to whether prior approval is required for the proposed change of use of the existing agricultural buildings to a two 3no. bedroom dwellings and associated operational development under Class Q(a) and (b) - *agricultural buildings to dwellinghouses* - of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Subject to the relevant criteria being met, the change of use and physical works are permitted development, thus not requiring planning permission, subject to the developer first applying to the Local Planning Authority for a determination as to whether their prior approval will be required for two separate matters, as follows:

- Class Q (a) – Change of use of a building and any land to a dwelling considering transport and highway impacts of the development, noise impacts, contamination risks, flooding risks and whether the location of the building makes it otherwise impractical or undesirable for residential conversion;
- Class Q (b) – Building operations being reasonably necessary to convert the building into a dwelling thus considering the design and external appearance of the building.

The proposal is stated as being to convert the building into 2no. dwellings with Unit 1 having an overall floor area of 133.3m<sup>2</sup> and Unit 2 182.5m<sup>2</sup> (including the first floor areas). A further 231m<sup>2</sup> of curtilage associated with the barn will be included (stated to be equal to the size of the building footprint).

The dwellings will be on two floors by insertion of a mezzanine floors and the first floor would include voids over the ground floor living areas.

Vehicular access, turning area and parking for four cars (two per dwelling) has also been included.

## Analysis

### Development not permitted

*Q.1 Development is not permitted by Class Q if—*

*(a) the site was not used solely for an agricultural use as part of an established agricultural unit—*

*(i) on 20th March 2013, or*

*(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or*

*(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;*

The supporting planning statements states that the building has been in agricultural use for storage of equipment prior to being sold to the applicant from the former farmer. There is nothing to suggest from a recent site visit, and aerial photos submitted within the statement, that the use has changed. The Planning Statement states that “the barn has been in recent use as storage for agricultural equipment, as such the barn complies with the requirement of Class Q”. The Council has no reason to dispute this.

*(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;*

*(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;*

In this instance Unit 1 would have an internal floor area of approx. 133.3m<sup>2</sup> in total and Unit 2 would have an internal floor area of approx. 182.5m<sup>2</sup>, which means both units would be classified as larger dwellinghouses.

*(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;*

N/A

*(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;*

N/A

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

The applicant has confirmed that the site is not currently occupied under any agricultural tenancy agreements under section 5 of the submitted application form. The Council has no reason to dispute this remains to be the case.

*(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;*

Again, the applicant has confirmed this and the Council has no reason to dispute this.

*(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;*

No development has been carried out since before 2013.

*(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;*

The applicant has confirmed under section 4 of the application form that the external dimensions will not extend beyond the existing building at any point. The submitted plans also show this.

*(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);*

The proposed changes some repairs to the timber but is limited to some missing timber studs and joint repairs. There are no visible cracks or issues with the brick part of the building. The proposed repairs are considered reasonably necessary for the building to function as two new dwellinghouses.

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

The site is not on Article 2 (3) land.

*(k) the site is, or forms part of—*

*(i) a site of special scientific interest;*

*(ii) a safety hazard area;*

*(iii) a military explosives storage area;*

None of the above apply.

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

N/A

*(m) the building is a listed building.*

N/A

## **Conditions**

Q.2—

*(1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—*

*(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, and  
(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.

### Transport and Highways

The site already benefits from a vehicular access with vision splays which is accessed from Northfleet Green Road. Parking for four vehicles is provided, two for each new dwelling. There are residential properties within the immediate area with similar accesses and as such there are no objections to the scheme that would not trigger the requirement for prior approval.

### Noise Impacts

The nearest property is over 27m away and a residential use would remove any agricultural noise that could be generated by this building in its current use.

### Contamination

The building has been used for the storage of agricultural machinery and whilst this would not typically generate contamination, the following condition will be imposed:

No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority according to the approved timescale.

This will be conditioned.

### Flood

The site is located in flood zone 1 (lowest risk from flooding) and as such this matter would not trigger the requirement for prior approval.

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)

Q.2 (1) (e) does not apply a test in relation to sustainability of location (for the record the case officer views the site as being unsustainable). This is deliberate as the many LPA's and the Inspectorate recognises that many agricultural buildings will not be in a sustainable location.

The Local Planning Authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.

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".

The new dwelling will be adjacent to existing dwellings and there will be no adverse impact on the amenity

of future residents from the surrounding agricultural land. As such this matter would not trigger the requirement for prior approval.

#### The design or external appearance of the building

It is also a condition that the Local Planning Authority should determine as to whether the design or external appearance of the building requires prior approval (condition Q.2 (1) (f)).

The submitted statements (Planning and Structural Condition Survey) indicate that the intention is for the brick walls to remain and the previous cement cladding would be replaced with metal insulated cladding of a similar profile coloured in dark green. The profiled cement cladding of the roof to be replaced with metal insulated cladding of a similar profile finished in light grey colour. All insulation to be installed within the original external envelope of the building to clad the building. Proposed windows are to be timber double glazed and dark stained and would be set within the reveals of the existing building to avoid any projecting outside the lines of the external face of the original building. For the brick building there would be brick cant cill detail. The doors are to be timber glazed doors dark stained as shown on the proposed drawing (Drawing No. 03). The original barn door opening to be a pair of sliding doors fixed together to slide as one.

It is considered that the design and external appearance of the building as proposed is generally acceptable. As such this matter would not trigger the requirement for prior approval but it may be relevant if prior approval is not required to seek details of materials through a planning condition.

All rooms contain sufficient natural light and therefore this aspect does not trigger the requirement for prior approval.

#### Curtilage

The area of the curtilage cannot be larger than the area of the building. This is because in the interpretation of Part 3 under Class X of the GPDO it is stated:

*(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;*

The proposed site layout (Drawing No. 01 – Location Plan and Proposed Block Plan - scale 1:500) shows a curtilage immediately around the barn building and with an area (including the building) of 460m<sup>2</sup>. It does not include all of the hardstanding or the grassed areas on the east, south and west of the building and has been denoted on the plan as 'paddock'. It is noted from the details with Drawing No. 03 that these areas are to be laid to grass/lawn using a paddock/meadow mix of grass seeds. Each property would have its own paddock area which would be separated by high post and rail timber fence and 5 bar farm gates.

As the building has a footprint of 231m<sup>2</sup> the curtilage is clearly no greater than the land occupied by the building and thus only 231m<sup>2</sup>.

The proposed development therefore complies with Part 3 Class X.

#### Structural integrity of the building

Paragraph 105 of the NPPG states:

*Building works are allowed under the change to residential use. The permitted development right under [Class Q](#) assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for 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 include the construction of new*

*structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.*

In assessing the adequacy of the building as being structurally sound and whether the conversion works are reasonably necessary such matters as whether new foundations are required, whether or not the conversion incorporates substantial parts of the original structure, whether load bearing floor slabs are proposed and even whether the insertion of first floors are proposed are matters that need to be considered and in some appeal cases appeal inspectors have found such matters as not falling within the scope of permitted development.

The supporting planning statements states that the building is structurally sound with some minor repairs being required to the timber frame being limited to some missing timber studs and joint repairs and the brick part of the building has no visible cracks or issues. The Council has no reason to dispute this remains to be the case.

There would be no significant structural works proposed and the replacement of the external cement cladding and installation of doors and windows would not conflict with para. Q.1 (i) of the GDPO. The insertion of a first floor inside the building, rather than being structural work, would be done to create a desired amount of quality accommodation.

### Ecology and Biodiversity

#### *Thames Estuary and Marshes Ramsar / Special Protection Area (SPA)*

In addition to the criteria of Class Q, the development is subject to Regulations 73 to 76 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 73 (1) 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 75."

The proposed development is considered to have likely in-combination effects due to its recreational impacts. Thus, any successful application would need to satisfy the requirements of the Habitat Regulations and would require a financial contribution of £253.83 per dwelling.

An informative to this effect will be added to the decision notice which will state the following.

*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 73, 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, an application under Regulation 73 would therefore be required before development is begun.*

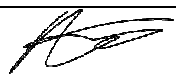
### **Conclusion**

The proposed conversion of Whitehouse Barn meets the criteria set out on paragraphs Q (a) and Q (b) of Part 3 of Schedule 2 to the Town and Country (General Permitted Development) (England) Order 2015.

### **Recommendation:**

Prior approval is required and granted

**See draft Decision**

|                      |                                                                                   |                     |                                    |
|----------------------|-----------------------------------------------------------------------------------|---------------------|------------------------------------|
| <b>Case Officer:</b> | Mrs Amanda Grout                                                                  | <b>Team Leader:</b> | <b>Richard Hart</b>                |
| <b>Signed:</b>       |  | <b>Signed:</b>      | <i>R Hart</i>                      |
| <b>Dated:</b>        | 6 <sup>th</sup> October 2021                                                      | <b>Dated:</b>       | <b>7<sup>th</sup> October 2021</b> |

Gravesham Borough Council