



Delegated Report

Prior Approval

Planning Application No: 20231120

Location: Buildings North Of Hill Farm Taylors Lane Higham

Description: Application for a determination as to whether prior approval is required for conversion of existing agricultural storage buildings north of Hill Farm House to 3no. dwellings, including the insertion of windows, glazed doors, first floors and roof lights to ensure all habitable rooms are naturally lit.

Applicant: Mr Richard Batchelor

Site Visit Date: Previous Application – 27/03/23

Submitted Documents/Plans

Application Form
22-36-01 – Location Plan
22-36-02 – Site Layout Plans, Existing and Proposed
22-36-03 – Building Plans as Existing
22-36-04 – Elevations as Existing
22-36-05 – Building Plans as Proposed
22-36-06 – Elevations as Proposed
Structural Reports
Access Appraisal
Planning and Design Statement
Structural Method Statement

Relevant Planning History

Reference	Description	Decision	Decision Date
20230767	Application for a determination as to whether prior approval is required for conversion of existing agricultural storage buildings north of Hill Farm House to 3no. dwellings, including the insertion of windows, glazed doors, first floors and roof lights to ensure all habitable rooms are naturally lit.	Refused	28.08.2023
20230201	Application to determine if prior approval is required for the change of use for existing agricultural storage buildings, including the insertion of windows, glazed doors, first floors and roof lights to ensure all habitable rooms are naturally lit.	Refused	28.04.2023
20070347	Change use of agricultural building to a garage with storage in the roof space.	Permitted	27.06.2007
20060072	Demolition of lean-to extension and erection of two storey extension on the west (rear) elevation to form boot room, covered porch and garden room at ground	Permitted	22.03.2006

	floor level with two enlarged bedrooms at first floor level.		
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Development Plan

The application stands to be assessed under the terms of Part 3 Class Q of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) to determine whether the proposed change of use and building operations are permitted development or not. Adopted planning policy is therefore not necessarily a relevant consideration.

In determining the application, the legislation does require the Local Planning Authority to have regard to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

Consultations, Publicity and Representations

Consultees

Ward Councillors: No comments received.

Parish Councillors: No comments received.

Comments received on previous application ref 20230767 are relevant to this case and have been included as follows:

GBC Highways:

'I am confused by this application as the red line does not include the access, although it is within the applicant's ownership (Blue Line).

The access has suitable visibility splays for the measured speeds using the guidance within Manual for Streets (54 metres), although as the sight line crosses the boundary hedge/grasses to the north this will either have to be kept to less than one metre in height or removed within the sight line boundary.

The size of the parking area does not appear to conform to the requirements of the adopted SPG4 issued by Kent County Council. 2.5 metres x 5metres with the width increasing to 2.7 metres when the space is adjacent to an enclosing boundary such as the flank wall of a building. Also, as there is no control of the eastern boundary of the parking area and it is outside the red line, this parking space should also be increased to 2.7metres to provide some element of pedestrian access to the vehicle. The parking area should therefore measure some 15.4metres wide, I measure 14.3 metres. The depth of the parking area and access aisle should be a minimum of 11 metres, (5 metre parking space plus 6m aisle) I measure in the region of 10.5 metres, so some adjustment is necessary. SPG4 requires one cycle parking space per bedroom and so two cycle parking spaces per dwelling is inadequate.

No details are given regarding foul drainage, this is deemed essential. If there is no mains drainage in the area, (possible in such a rural area). Suitable means of disposal will need to be installed, this will involve a tank or tanks and potentially a drainage field or more which will extend beyond the limits of the red line, although it can be contained within the blue line. The tank will also need to be accessible by tanker so sludge and if necessary, liquid can be removed.

It should be noted that communal foul drainage systems can result in disputes between neighbours as costs are presumably equally shared, but the volume of waste generated may not be.'

GBC Environmental Protection:

'No objection to the application. However, as with any building having been in agricultural use, a

contamination assessment will be required. A staged approach will be required, but every site will require all the stages to be completed. For example, the initial desk study may not highlight any problems or concerns, so no further action would be needed. However, all stages of the condition must be included as it is unknown at this stage what the situation will be and at what point the site will be proven to be low risk.

Conditions and informative are recommended below to address this and other matters.

Contamination:

No development approved by this permission shall be commenced prior to a contaminated land assessment (in accordance with the CLEA guidelines and CLR 11 methodology) and if necessary an associated remedial strategy, together with a timetable of works, being submitted to the Local Planning Authority for approval.

- a) The contaminated land assessment shall include a desk study to be submitted to the Local Planning Authority for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the Local Planning Authority prior to investigations commencing on site.
- b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature so as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
- d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance). If during any works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.
- e) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the Local Planning Authority. The closure report shall include details of the proposed remediation works and the quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- f) Where applicable, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over an agreed period of time, and the provision of reports on the same, must be prepared and approved in writing by the local planning authority.

Following completion of the measures identified in that scheme, and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the local planning authority.

Code of Practice on Construction and Demolition:

Please apply as appropriate.

Lighting:

Artificial lighting can cause a statutory nuisance under the Environmental Protection Act 1990. It is important that the applicants are not permitted to install external lighting that illuminate anything other than

the ground within the curtilage of the new properties in order to assist in preventing a nuisance from occurring (which would be most likely if the bedrooms on neighbouring properties are illuminated).

Drainage/sewerageinformative;

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.'

KCC Highways:

'Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

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'

Neighbouring properties

A site notice was displayed on 13.11.23. The final date to submit comments ended on 08.12.23. 7no. surrounding properties were consulted, and 1 objection was received.

The summary of objection is as follows:

- Impact on privacy
- Increase in pollution and noise
- Increased traffic
- Impacts on wildlife
- Lack of parking provision
- Impacts on Landscape
- Harm to small businesses
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Also still relevant given the lack of change to the proposed scheme from 20230767 are the 3 neighbouring objections received in that application, the summary of which was as follows:

- Significant Loss of Privacy
- Increased pollution
- Noise and light disruption
- Increased Traffic
- Insufficient Parking Provision
- Insufficient visibility splays
- Increased road accidents on existing unsafe road
- Impact on small business
- Impact on landscape
- Impact on Protected Wildlife
- Proximity to Green Belt land

Officer's Analysis

Site Description

This site relates to a detached agricultural building which appears to have fallen into some disrepair and is particularly overgrown at the rear. The building has a total length of 37.7m and width of 12.1m. Access is currently gained by an informal track stemming from Taylors Lane.

It is noted that this application in terms of the plans and elevations proposed remain the same as proposed under 20230767. The only change to this application is the submission of a Structural Method Statement.

Photos of the building taken during the site visit are shown below for clarity.





Discussion

This assessment concentrates on whether the prior approval of the Local Planning Authority is required in respect of the following matters.

- Transport and highways impacts of the development;
- Noise impacts of the development;
- Contamination risks on the site;
- Flooding risks on the site; and
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling house
- The design and external appearance of the building
- The provision of adequate natural light in all habitable rooms of the dwellinghouses

As advised in legislation, when determining such an application the Local Planning Authority shall take into account any representations made to them and have regard to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

However, whilst this submission does not comprise a Lawful Development Certificate application, the legislation advises that the Local Planning Authority may refuse an application for prior approval if the development does not comply with any conditions, limitations or restrictions specified in the relevant class. It is therefore proposed to consider first whether the proposed development complies with other limitations attached to the permitted change of use, before assessing the prior approval matters. If there are any obvious breaches that automatically trigger the requirement for planning permission, the prior approval matters will not need to be assessed.

Class Q Assessment

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

Q. 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; or

(b) 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.

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 or the purposes of Class Q, R or S only—*
 - (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, which are listed in the table below alongside an assessment of whether the proposal accords with these limitations.

Criteria Q1	
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;**

Response

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))

Application reference 20070347 received in 2007 for neighbouring plot indicated the buildings referred to in this application as 'farm buildings'. And so, it was at this time the established use of the buildings. No other nearby planning applications surrounding this building have been received since this time. Therefore, it appears that on 20th March 2013, the buildings were in all likelihood used solely for agricultural purposes.

The proposal complies with the relevant criteria of Q1 (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 existing dwelling and the proposed dwelling would not exceed 3 larger dwellinghouse units.

Floor Spaces:

Plot 1: 101m²

Plot 2: 106m²

Plot 3: 170m²

The cumulative floor area of the building (measured externally) is 320m² and therefore it does not exceed 450m²

(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 cumulative floor area of the building (measured externally) is 320m² and therefore it does

not exceed 450m ²
(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; <u>Response</u> The existing building and the proposed dwelling would not exceed larger dwellinghouse 3 units, complying with part b as above.
(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; <u>Response</u> There are 3 proposed larger dwellinghouse units, none of which exceed a floor space of 465m².
(a) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; <u>Response</u> According to the application form no agricultural tenancy exists over the site.
(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; <u>Response</u>

According to the application form no agricultural tenancy over the site has been terminated a year before this development is proposed.

(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.

(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

The development does not involve the external dimensions of the building extending beyond the external dimensions of the existing building.

(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 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.

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 mono-pitch 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. They 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 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 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 list is not exhaustive

It is noted also that the existing plans do not show areas of disrepair. On site it was possible to see areas of disrepair, overgrowth and walls covered with corrugated sheeting. Some images are shown below for reference:







The details submitted with the application, which now include a Structural Method Statement, shows that the extent of the works to be carried out to the building falls within the above limitations.

The structural survey and Method Statement together address the required strengthening to walls and roofing. The Design and Access Statement confirms that the corrugated asbestos roofing will be replaced with black bitumen sheet and areas of slate are to be replaced with slate. The proposal does also appear to require construction of new walls and structural elements to part C of the building as described in the Structural Survey. However, based on the information supplied this would be a small aspect of re building of the wider site. As such the proposal is now considered to meet the limitations set out in Q1 (i).i
(j) the site is on article 2(3) land; <u>Response</u> 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; <u>Response</u> The site is not part of a SSSI, a safety hazard zone, a military explosives storage area
(l) the site is, or contains, a scheduled monument; <u>Response</u> The site is and does not contain a scheduled ancient monument
(m) the building is a listed building. <u>Response</u> The building is not listed.

Under planning application 20230201 and 20230767 the application was refused for the following reason:

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

(a) 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.

In that report it was advised that as a structural appraisal and Construction Method Statement undertaken by a suitably qualified engineer were required. These have now been provided and are sufficient to overcome the reason for refusal. The next stage of the assessment should now be undertaken.

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) 2023, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

(a) Transport and highways impacts of the development

The GBC Highways Officer has raised concerns regarding the size of the parking area and the lack of foul drainage details. They have also expressed concern that the site area shown in red on the plans does not include the access.

(b) Noise impacts of the development

Environmental Protection comments have not raised noise concerns. The nearest dwellinghouse is only 6 metres away. However, the change of use from Agricultural to Residential property would likely result in lesser noise than could be generated by this building in its current use.

(c) Contamination risks on the site

Environmental Protection Comments have raised requirement for submission of supporting information in terms of contamination risks. Insufficient information is therefore available to assess whether there are contamination risks on the site.

(d) Flooding risks on the site

There is a lack of foul surface drainage details, and so insufficient information is available in this regard.

(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

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 as it is in the Green Belt). This is deliberate as the many LPA's and the Inspectorate recognises that many agricultural buildings will not be in a sustainable location.

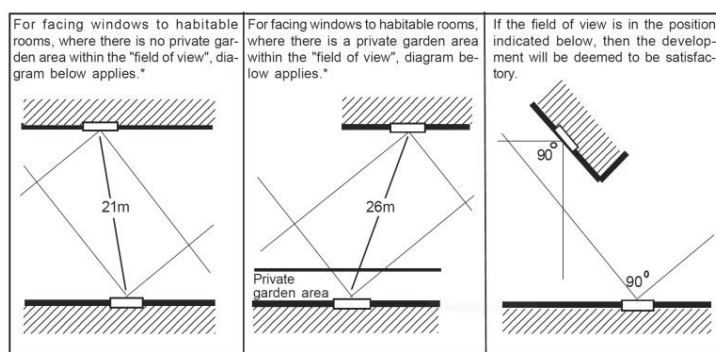
The Local Planning Authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.

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 south elevation of the building facing the adjoining neighbours would have a distance of between 5.8m and 15.6m which would be quite significantly below the required privacy distances. The Residential Layout Guidelines applies appropriate privacy distances which are included below for information:

Figure 1



* A 90° field of view is measured from the central point of a window of a habitable room on any elevation, to where it overlaps a 90° field of view from the central point of a window to a habitable room on any elevation of another property.

The new dwelling will be adjacent to existing dwellings and there would be adverse impact on the amenity of future residents of these neighbouring dwellinghouses as a result of the increased overlooking.

(f) *The design or external appearance of the building, and*

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 external appearance of the building raises no significant concerns, in terms of changes in principle. It is however unfortunate that the scheme would lose the large timber gridded windows, which are reflective of the rural area and neighbouring properties. But it is noted, that this alone would not be a reason to object to the entire design of the development which otherwise would result in minimal external changes.

It is considered that the design and external appearance of the building as proposed is generally acceptable.

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

A number of windows and roof lights would be installed, allowing for sufficient natural light internally.

Other Matters:

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

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. 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 £314.05 per dwelling as part of the SAMM's tariff applied by the Local Planning Authority for developments impacting the SPA and RAMSAR sites.

Conclusion & Recommendation

The proposal fails to provide adequate parking and cycle storage provision, with insufficient drainage information provided to assess potential flooding of the highway and as such the development proposed does not comply with Schedule 2 Part 3, Class Q.2(a) of the Town and Country (General Permitted Development) Order 2015.

Insufficient information has been provided to ascertain the contamination impacts as such the development proposed does not comply with Schedule 2 Part 3, Class Q.2(c) of the Town and Country (General Permitted Development) Order 2015.

Insufficient information has been provided to ascertain the flooding risks as such the development proposed does not comply with Schedule 2 Part 3, Class Q.2(d) of the Town and Country (General Permitted Development) Order 2015.

The proposed development, by reason of its siting in close proximity to existing dwellinghouses would result in direct and significant levels of overlooking. As such, the location and siting of the building, the subject of this application, makes it impractical and undesirable for a change from agricultural use to a use Class C3 (dwellinghouse) and as such the development proposed does not comply with Schedule 2 Part 3, Class Q.2(e) of the Town and Country (General Permitted Development) Order 2015.

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Ms Lisa Williams	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	20th December 2023	Dated:	21st December 2023