



Delegated Report

Prior Approval

Application No:	20240186
Location:	Buildings North Of Hill Farm, Taylors Lane, Higham, Rochester, Kent, ME3 7JT
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:	27 March 2023 (Previous Application)

Submitted Documents/Plans

- Application Form – dated 26 February 2024;
 - Supplementary Information – Structural Report by BDR Civil and Structural Engineering Consultants – dated 12 July 2023;
 - Supplementary Information – Access Appraisal by Partrick Parsons (ref. CV/11350/Hill Farm/01) – dated 22 February 2023;
 - Supplementary Information – Environmental Report by Argyll Environmental (ref. 332674015) – dated 25 January 2024;
 - Drawing no. 22-36-01 – Site Location Plan (scale – 1:1250);
 - Drawing no. 22-36-02 B – Site Layout Plans as Existing and Proposed;
 - Drawing no. 22-36-03 – Building Plans as Existing;
 - Drawing no. 22-36-04 – Elevations as Existing;
 - Drawing no. 22-36-05 A – Building Plans as Proposed;
 - Drawing no. 22-36-06 A – Building Elevations as Proposed;
 - Drawing no. 22-36-07 – Planning, Design and Access Statement;
 - Drawing no. 22-36-08 – Planning Statement Addendum;
 - Drawing no. 22-36-SMS 01 – Structural Method Statement (1);
 - Drawing no. 22-36-SMS 01 – Structural Method Statement (2);
 - Drawing no. 22-36-SMS 01 – Structural Method Statement (3).
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- ~~Drawing no. 22-36-02 A – Site Layout Plans as Existing and Proposed – SUPERSEDED;~~
 - ~~Drawing no. 22-36-05 – Building Plans as Proposed – SUPERSEDED;~~
 - ~~Drawing no. 22-36-06 – Building Elevations as Proposed – SUPERSEDED.~~

Relevant Planning History

Reference	Description	Decision	Decision Date
20231120	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.	REFUSED	21.12.2023

	dwelling, including the insertion of windows, glazed doors, first floors and roof lights to ensure all habitable rooms are naturally lit.		
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 floor level with two enlarged bedrooms at first floor level.	PERMITTED	22.03.2006

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

External Consultees

Kent County Council 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 Highway Authority, 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.

Higham Parish Council – No comment received.

Dickens Protection Society – The Society believes that because of the previous use of the buildings as a garage, the prior approval procedure is inappropriate and a full planning application is required.

In the event of the application being submitted the Society would object on the grounds:

1. The site is in an area within which Green Belt policies apply where new residential development would not normally be permitted. No very special circumstances have been put forward to warrant overriding Green Belt policy.
2. The road access to the site is inadequate. Taylors Lane is narrow and unsuitable to carry any significant increase in traffic.
3. In some cases it is questionable if the buildings are suitable for conversion.

Internal Consultees

GBC Environmental Protection – Whilst there is no objection to this application, the following comments are made.

- *Contaminated Land* – The Environmental Report submitted does not amount to a Phase 1 Desk Top Study/Preliminary Risk Assessment. It is a report for conveyancing purposes. As the buildings have been in agricultural/storage use there is a risk of contamination from stored herbicides, pesticides other chemicals and also fuels/oils associated with farm machinery. A contaminated land condition is therefore recommended.
- *Noise* – It is noted that the buildings opposite the proposed site are marked as vehicle garages, workshop and car garages. I'm not sure if these are linked to any commercial activity or are associated with Hill Farm and residential in use. If these are commercial, then noise could be an issue particularly from the workshop. I've recommended a condition below if this is the case. If residential, then the condition will not be needed.

To address the above and other matters, the following conditions and informatives are recommended.

- *Contaminated Land* – 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 to minimise any impact on nearby properties during the conversion works.
- *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.

- *Noise Control* – Prior to commencement, a noise impact assessment shall be carried out and submitted to the LPA for approval demonstrating that:
 - The internal ambient noise levels in all habitable rooms of the proposed residential dwellings shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014.
 - The maximum internal noise levels in all habitable rooms should not exceed 45dB LAmax more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.
- *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).

Local Ward Councillors – No comment received.

Neighbouring properties

A notice was displayed on site 07 March 2024.

In addition, ten surrounding properties were consulted and two representations were received, raising objection to the proposal. The objections have been summarised below, and split into material and non-material planning considerations.

Material Planning Considerations

- Impractical and undesirable
- Overlooking and loss of privacy
- Increase in pollution and noise
- Increased traffic
- Lack of parking provision (no visitor parking)
- Substandard visibility splays
- Risk of vehicular collisions
- Impact on the landscape and Green Belt
- Impact on small businesses
- Potential health risks (contamination, waste/septic tank)
- Ground stability

Non-Material Planning Considerations

- Disruption caused during the construction period
- Personal circumstances

The consultation period expired 29 March 2024.

Preliminary Matters

This application follows a number of refused prior approvals for identical conversions. The latest refusal was determined in 2023 (ref. 20231120) for “*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*”, and was refused on the following grounds:

1. 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.
2. 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.
3. 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.
4. 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.

This application must be considered to have addressed the previous grounds of refusal to receive a positive decision.

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 20231120. The only changes to this application are the submission of an Environmental Report, to the internal layout/window placements.

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; <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)) 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; <u>Response</u> 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 450m²

(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

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;

Response

There are 3 proposed larger dwellinghouse units, none of which exceed a floor space of 465m².

(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 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;

Response

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 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 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 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 rebuilding 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;

Response

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;**

Response

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;

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.

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 proposals includes a parking area with space for 6no. vehicles (15m x 5m) and a cycle store for up to 9no. bikes. Although the cycle store does not appear to be a secure unit (lockup), these details could be secured by way of condition. Therefore, the parking and cycle parking provisions are considered to address the concerns set out in the previous refusal as raised by GBC Highways Officer.

The proposed parking area would be formed using block paving (Marshalls Driveline Priora permeable paving) as annotated on 'drawing no. 22-36-02-B', which would prevent surface water runoff onto the highway.

Overall, the development provides adequate vehicular and cycle parking, and is not considered to result in an unacceptable uplift in journeys, and therefore can be approved on Q.2 (1) (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Notwithstanding the above, 'drawing no. 22-36-02-B' references the existing site access would be formed using the same material, but this falls outside of the defined redline boundary.

The proposal relies on land outside of the redline plan, but within the blueline ownership, for access to the parking area and the properties, which was also raised as a concern by the Highways Officer in the previous applications. This is a matter of curtilage, which is defined with in the GPDO under the interpretation of Part 3 under Class X 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;

Therefore, the curtilage does not include all of the hardstanding on the east of the buildings and is limited to 578m² (including the buildings at 289m² and curtilage of 289m²). However, as the access falls within the blueline ownership and would be required for the function of the dwellings, an informative will be attached highlighting that a separate application should be sought for the vehicular access onto the site, which identifies visibility splays, materials, etc.

(b) Noise impacts of the development

The nearest dwellinghouse is only 14.7 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.

Gravesham's Environmental Protection Team have requested a noise assessment to be undertaken prior to the commencement of the development to ensure that future occupiers amenity is safeguarded. While this is necessary, the trigger is impractical and a prior to occupation would be more practical and provide a more accurate representation of the living conditions for future occupiers. Therefore, a noise impact assessment condition will be attached which requires submission and approval by the Local Planning Authority, prior to first occupation of the dwellings.

(c) Contamination risks on the site

The application has been accompanied by an Environmental Report (by Argylls), which covers matters of contamination. The report shows only a low to moderate risk of contamination. However, given the past uses of the building and potential for some contamination such as asbestos, 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) subject to condition.

Similar to the access comments in section Q.2 (1) (a) above, the foul sewerage would be piped to a 'Klargester Biodisk BB Sewage Treatment Plant', which falls outside of the redline boundary. Therefore, this prior approval does not grant planning consent for the foul sewerage tank and an informative would be attached to the decision notice to highlight that this would require separate planning consent.

(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 Environmental Report covers flood risk and suggest that there would be a low risk of any flooding.

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

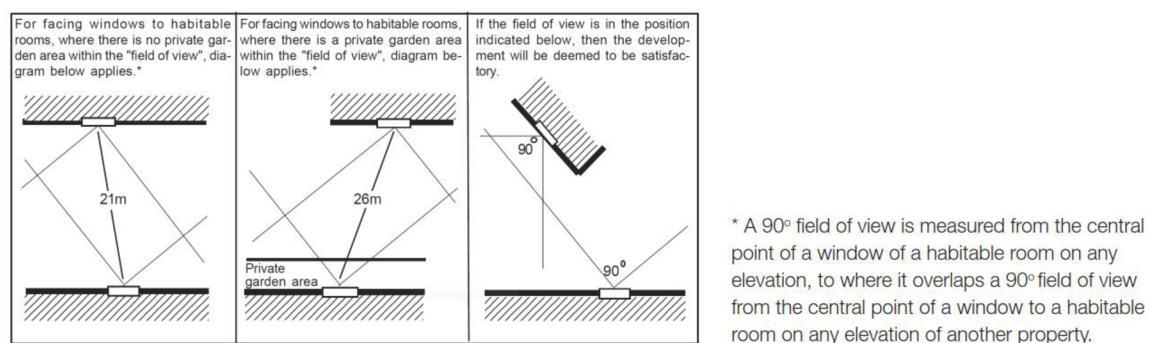
right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. There may be circumstances 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.

The previous application raised concerns with impact on neighbouring amenity, through indirect or perceived overlooking for occupiers of Hill Farm. The supporting plans have annotated the internal layout of the neighbouring property, showing the ground floor layout of the dwelling and the position of habitable and non-habitable rooms. This demonstrates that the habitable rooms of Hill Farm are positioned toward the front of the property and would be approx. 23m, at an oblique angle and are elevated above the level of the new windows of plot 1. Therefore, the new development is not considered to impact on the privacy of neighbouring properties.

The plans originally submitted raised concerns with the impact of overlooking from windows on Hill Farm for the future occupiers of the new dwellings, particularly the living/kitchen/dining room of Plot 1. As aforementioned, Hill Farm is elevated at a higher ground level than the application buildings, with windows at first floor level. These windows would be within approx. 19m of the large double doors serving the living space of plot 1, creating both direct and perceived overlooking. Gravesham's Residential Layout Guidelines applies appropriate privacy distances which are included below for information:

Figure 1



The agent was contacted regarding this matter, and only minor amendments were required to the window layout to overcome the issue of overlooking. The revised plans were submitted to the Local Planning Authority with the existing doors on the eastern edge to be retained and the windows fronting Hill Farm to be obscure glazed. These amendments are considered to have overcome direct and perceived overlooking into habitable rooms for future occupiers of the dwelling.

The amenity of future occupiers of the new dwellings would not be adversely impacted from the surrounding agricultural land or neighbouring property. Similarly, the amenity of the neighbour would not be impacted by the new dwellings through overlooking or privacy. As such the previous ground of refusal has been sufficiently addressed and this matter would not trigger the requirement for prior approval.

(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 some of the large timber grilled 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 £328.27 per dwelling as part of the SAMM's tariff applied by the Local Planning Authority for developments impacting the SPA and RAMSAR sites.

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 proposal has addressed the previous grounds of refusal attached to ref. 20231120, in terms of parking and cycle provision, contamination impacts, flooding risks and amenity impacts.

Therefore, the proposed conversion of Buildings North of Hill Farm 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 Granted

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	28 th May 2024	Dated:	28 May 2024