

Delegated Report

Planning Ref: 24/01121/P3CQ
Applicant: Mr and Mrs H Fisher
Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Frog Hall Farm, Crow Lane, Sheepy Magna

Proposal: Notification to determine if Prior Approval is required for the change of use of two agricultural buildings to create five smaller dwellinghouses.

1. Recommendations

1.1. Grant prior approval subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of two existing agricultural buildings into five smaller dwellinghouses (Use Class C3) at Frog Hall Farm, Crow Lane, Sheepy Magna.
- 2.2. The proposal is identical to the development that received prior approval at Frog Hall Farm via application 22/00137/P3CQ. The application has been submitted to extend the period of time within which to begin and to complete the proposed development.
- 2.3. Dwellings 01, 02, and 03, are located within the steel-portal-framed agricultural building to the rear and north of the site. Dwelling 01 is a six-bedroom property with the final bedroom being located on its own on a new first floor. The two floors of the dwelling have a combined floor space of 425.9 square metres. Dwellings 02 and 03 are identical two-bedroom, single storey properties that are flipped in their layout. Both dwellings have an internal floor space of 86.1 square metres.
- 2.4. To facilitate this, four new windows and two doors are provided on the southern elevation of the property, six new windows are incorporated into the eastern elevation, five new windows are proposed on the northern elevation, and the existing agricultural doors on the western elevation are replaced with six doors and a window. Eight skylights are removed from the roof of the structure and an additional skylight is added for the en-suite of Bedroom 6 of Dwelling 01.

- 2.5. Dwellings 04 and 05 are located within the southern-most steel-framed agricultural building within the site, which is sited in front of, and to the west, of the existing dwelling within the site. Dwellings 04 and 05 are identical two-bedroom, single-storey properties that have an internal floorspace of 85.2 square metres.
- 2.6. As a result, two windows and two doors are incorporated into the southern elevation of this structure, one window is added to the western elevation and two further windows are added to the northern elevation of the property. The agricultural doors on the eastern side of the building are replaced with two new windows.
- 2.7. To facilitate this development, the infill section in the centre of the northern elevation of this second agricultural building shall be removed. The Applicants confirm that the agricultural building to the north of this structure will remain, but it will not be used for agricultural purposes.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is approximately 2km north of Atherstone and 1.9km west of Sheepy Magna outside of any identified settlement boundary in the designated open countryside. The application site is within the Risk Impact Zones for two Sites of Special Scientific Interest (Birches Barn Meadows and Sheepy Fields).
- 3.2. With the exception of the existing bungalow which is 60m to the east and an existing farm that is 440m to the northwest, the site is wholly surrounded by open agricultural fields. The wider site beyond the red line boundary is stated to comprise of 48.9ha of agricultural farmland. However, Public Right of Way (PRoW), Footpath T19, runs north-to-south immediately to the east between the site and The Bungalow, and the Moated Site Northwest of Pinwall Scheduled Monument is approximately 260m south of the site.
- 3.3. The site is accessed from Crow Lane via an existing gated access that leads onto Sheepy Road, which is an adopted and classified 'B' road. The site's access onto Crow Lane is 430.7m from the built form of Frog Hall Farm and is approximately 18m wide at the point where it meets Crow Lane, which then narrows to 5m in width. Crow Lane is an adopted but unclassified road that is subject to a 50mph speed limit. Crow Lane is a single lane carriageway that currently serves Frog Hall Farm, The Bungalow, and Benn Hills, after which Crow Lane becomes a track until it joins the public highway again at Sheepy Road.
- 3.4. The wider Frog Hall Farm site comprises a two-storey farmhouse and two associated single storey red brick outbuildings, three modern, steel-framed and steel-clad open fronted agricultural buildings, and a pole barn. The farmhouse is a simple rectangular plan structure that is constructed with a red brick finish and a dual pitched tile roof.

4. Relevant Planning History**4.1 24/00518/FUL**

- Demolition of all existing farm buildings and farmhouse and the construction of a single new farmhouse
- Awaiting Decision
- TBD

4.2 22/00137/P3CQ

- Change of use of two agricultural building to create five dwellinghouses along with proposed building operations
- Prior Approval Given
- 05.04.2022

5. Publicity

5.1. The application has been publicised by sending out letters to local residents and a site notice was also posted within the vicinity of the site.

5.2. No responses have been received.

6. Consultation

6.1. No objections have been received from the following:

- Hinckley and Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- The Local Highway Authority (LHA) (subject to conditions)
- Sheepy Parish Council

6.2. Sheepy Parish noted that this application conflicts with the planning application 24/00518/FUL that is currently awaiting a decision.

6.3. No further comments have been received.

7. Policy

7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q.

7.2. National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), which relates to development consisting of a change of use of a building and any land within its curtilage from a use of an agricultural building to a use falling within Class C3 (dwellinghouses) of Part 3 of Schedule 2 of that Order.
- 8.2. The Applicant has referred to the decision of High Court in *Hibbit & Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2852 (Admin) ('Hibbit') within their justification for their proposed development.
- 8.3. As confirmed at Paragraph 27 of Hibbit, a, "*Conversion*," is conceptually different to a, "*Rebuild*." Consequently, Paragraph 105 of the National Planning Policy Guidance (NPPG) confirms that the permitted development rights within Class Q only apply where, "*The existing building is already suitable for conversion to residential use.*"
- 8.4. Contrary to the suggestion on Page 15 of the Planning Statement, the Structural Report does not state that the two agricultural building are capable of conversion.
- 8.5. Paragraph 3.1 of the Structural Report concludes that, the current structural codes of practise, "*Will mostly likely show all structures to be insufficient in their current capacity*," and therefore, "*A number of remedial details will then need to be designed.*" Alongside the provision of new roofs as stated by Paragraph 3.1 of the Structural Report, additional details provided by the authors of the Structural Report on 03 February 2025 confirmed that both barns would require a measured survey and structural analysis to assess the extent to which remedial works are required to ensure the structures are suitable for conversion.
- 8.6. It is also noted that the Proposed Floor Plans and the Proposed AA Section for Agricultural Barn 02 highlight that walls on all four elevations are rebuilt, with the exception of 7.1m of wall on the western elevation of the structure. Furthermore, Agricultural Barn 01 requires new supplementary walls on all four elevations.
- 8.7. Given the above, the Applicant has failed to demonstrate that the two structures can be appropriately converted into a residential use. It is therefore considered that the works needed to alter the structures into uses for residential purposes would be of such magnitude that they would go a very long way beyond what might sensibly or reasonably be described as a conversion.
- 8.8. In light of the above, the Applicant has failed to demonstrate that the proposal benefits from permitted development rights and that the proposal represents a conversion of the two structures rather than a rebuild.

- 8.9. Whilst it is acknowledged that prior approval has previously been granted for these proposed works via application 22/00137/P3CQ, it is not considered that this previous prior approval appropriately justifies the approval of this application in light of the issues that have been identified within the submission.

Amendments to the GPDO

- 8.10. The GPDO was amended on 21 May 2024 to broaden the range of buildings that could be converted to dwellings, allow extensions to the buildings, and to increase the total number of dwellings from 5 to 10. However, the revisions to the GPDO removed the right to create any dwelling with a floorspace of over 150 square metres and the eligibility of any building that does not have suitable existing access to a public highway.
- 8.11. However, proposals that do not meet the above criteria are temporarily allowed to use the previous version of the GPDO, provided that the application is supported by a covering letter detailing the scheme's eligibility for prior approval via the pre-21 May 2024 GPDO and received by the Local Planning Authority by 20 May 2025.
- 8.12. The Applicants have stated that they wish to use the permitted development rights within the GPDO as it stood prior to 21 May 2024.
- 8.13. For the purpose of Class Q, a, "*Larger dwellinghouse*," means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. On the other hand, a, "*Smaller dwellinghouse*," means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

Q.1. – (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 time 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 building has been regarded as an agricultural building since, and prior to, 20th March 2013.

- (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;*

Only Dwelling 01 is considered to represent a larger dwellinghouse for the purposes of Class Q development. The dwellings do not exceed the maximum cumulative floor space requirements of 465 square metres.

- (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.*

The proposal does not exceed the creation of five smaller dwellinghouses, for the purposes of Class Q development. None of the four smaller dwellinghouse developments have a floor space that exceeds 100 square metres.

- (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;*

The development does not result in a larger dwellinghouse or larger dwellinghouse having more than 465 square metres of floorspace, nor does the development create more than five separate dwellinghouses within the established agricultural unit.

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

The site is not occupied under an agricultural tenancy.

- (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

An agricultural tenancy over the site has not been terminated less than 1 year before the date development begins.

- (g) *Development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have 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 under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have been carried out on the established unit since 20th March 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 scheme does not result in the external dimensions of the buildings extending beyond their external dimensions at any given point.

- (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

As highlighted at Paragraphs 8.2 to 8.9 of this Report, the Applicant has failed to demonstrate that the two structures can be appropriately converted into a residential use. It is therefore considered that the works needed to alter the structures into uses for residential purposes would be of such magnitude that they would go a very long way beyond what might sensibly or reasonably be described as a conversion.

As a result, the required works to convert the two agricultural buildings into dwellings are considered to go beyond that which is reasonably and necessary for the building to function as a dwellinghouse. Therefore, the proposal does not comply with the limitations of Q.1(i)(i).

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

The proposal includes the partial demolition to Agricultural Building 02 to separate it from the existing agricultural structure to the north. These demolition works include the removal of 9.7 metres of the adjoining structure, which results in a total footprint loss of 174.9 square metres. No justification has been provided for these demolition works, nor is it addressed within the submitted Planning Statement.

Whilst these demolition works enable the provision of two primary windows within the converted building, an alternative design could be utilised to undertake the required building operations without the proposed partial demolition works. Therefore, the proposed layout of the scheme is not considered to provide sufficient justification to demonstrate that these works comply with the limitations of Q.1(i) (ii).

By virtue of these factors, the scheme's partial demolition of the existing structure is not considered to be reasonably necessary to carry out building operations allowed by Paragraph Q.1(i)(i) to the extent reasonably necessary for the building to function as a dwellinghouse.

(j) *The site is 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*
- (l) The site is, or contains, a scheduled monument; or*
- (m) The building is a listed building*

The application site is not on article 2(3) land, it does not form a site of special scientific interest, a safety hazard area or a military explosives storage area and the site does not contain a scheduled monument, nor is the building a Listed Building.

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 impact of the development,*

The development is identical to the previously submitted application 22/00137/P3CQ, which was granted prior approval following the Local Highway Authority (LHA) advised approval for in matters relating to the highway, subject to conditions. Given this is an identical application of a currently extant application to which the LHA advised approval for, the LHA would not seek to resist the current application in these site-specific circumstances. Therefore, the proposal's impact on transport and highways matters is acceptable.

- (b) noise impacts of the development,*

The agricultural use of the site has ceased, and the proposal is for five new residential dwellings. Therefore, it not considered that the noise impacts of the development have a significant adverse impact on neighbouring residential amenity.

- (c) contamination risks on the site,*

The Council's Pollution Officer has requested two planning conditions in relation to the investigation of land contamination prior to the commencement of development.

- (d) *flooding risks on the site,*

The application site is within Flood Zone 1 and is not considered at risk of flooding.

- (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,*

Although the application site is outside of defined settlement boundaries, there is an existing dwelling within the site.

Therefore, the application is not considered to be located in an impractical or undesirable location for the building to change from an 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*

The design and external appearance of the building does not have a significant adverse impact on the character of the building or the surrounding area.

- (g) *the provisions of adequate natural light in all habitable rooms of the dwellinghouses*

There are windows to every habitable room. It is considered that the application provides an adequate provision of natural light in all habitable room of the dwellinghouse.

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

The application accords with the provisions of Paragraph W (prior approval) of this Part.

- (2) *Where the development proposed is development under Class Q(a) only, 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 the items referred to in sub-*

paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

Note to Applicant.

- (3) *Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.*

Note to Applicant.

9. Equality Implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The application does not meet the requirements of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024). It is therefore recommended that the application is refused.

11. Recommendation**11.1 Prior approval refused** subject to:

- Reasons detailed at the end of this report.

11.2 Reasons

1. The Applicant has failed to demonstrate that the proposal benefits from permitted development rights and that the proposal represents a conversion of the two structures rather than a rebuild. Based on the submitted details, the Applicant has failed to demonstrate that the two structures can be appropriately converted into a residential use. Consequently, it is the opinion of the Local Planning Authority that the works required to alter the structures into residential uses would be of such magnitude that they would go a very long way beyond what might sensibly or reasonably be described as a conversion. Therefore, the proposal does not comply with the limitations of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
2. The scheme's partial demolition of the existing structure is not considered to be reasonably necessary to carry out building operations allowed by Paragraph Q.1(i)(i) to the extent reasonably necessary for the building to function as a dwellinghouse. Therefore, the proposal does not comply with the limitations of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).

a. Notes to Applicants

1. The application has been determined in accordance with the following submitted details:
 - Agricultural Barn Building 01 Elevations, Sections, Drg No. 2568-1104 Rev A (submitted: 10.12.2024)
 - Agricultural Barn 01 Existing Elevations, Section, Drg No. 2568-0013 Rev A (submitted: 10.12.2024)
 - Agricultural Barn 01 Existing Floor and Roof Plan, Drg No. 2568-0012 Rev A (submitted: 10.12.2024)
 - Proposed Agricultural Building 01 Proposed Ground and First Floor Plans, Drg No. 2568-1102 Rev A (submitted: 10.12.2024)
 - Agricultural Bar Building 01 Proposed Roof Plan, Drg No. 2568-1103 Rev A (submitted: 10.12.2024)

- Agricultural Barn Building 02 Elevations, Sections, Drg No. 2568-1106 Rev A (submitted: 10.12.2024)
- Agricultural Barn 02 Existing Elevations, Sections, Drg No. 2568-0015 Rev A (submitted: 10.12.2024)
- Agricultural Barn 02 Existing Floor Plan, Roof Plan Drg No. 2568-0014 Rev A (submitted: 10.12.2024)
- Agricultural Barn Building 02 Proposed Floor, Roof Plans, Drg No. 2568-1105 Rev A (submitted: 10.12.2024)
- Application Form (submitted: 10.12.2024)
- Covering Letter to Application (submitted: 10.12.2024)
- Ecological Appraisal (submitted: 10.12.2024)
- Existing Site Plan, Drg No. 2568-0001 Rev A (submitted: 10.12.2024)
- Proposed Site Plan, Drg No. 2568-1101 Rev A (submitted: 10.12.2024)
- Site Location Plan, Drg No. 2568-110 Rev A (submitted: 10.12.2024)
- Statement to Accompany Class Q Application (submitted: 10.12.2024)
- Structural Report (submitted: 10.12.2024)