

Delegated Report

Planning Ref: 23/00637/P3CQ

Applicant: Mr and Mrs Hunt

Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Willow Farm Fenn Lanes Fenny Drayton

Proposal: Change of use of agricultural building to a single dwelling

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined 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 an existing agricultural building into a three-bedroom dwellinghouse (Use Class C3) at Willow Farm, Fenn Lanes, Fenny Drayton.

2.2. The structure is constructed with metal sheeting with a corrugated roof. The existing cladding is painted dark grey, and the roof is replaced with corrugated steel sheeting that is painted black. The building is in obviously good condition.

2.3. The change of use includes an area of curtilage including 141sqm, which is an area no greater than the area occupied by the building, in accordance with Paragraph X of Part 3 of Schedule 2 of the GPDO.

2.4. The existing structure to the east of the dwelling is retained but removed from agricultural use.

3. Description of the site and surrounding area

3.1. The application site is located outside of any identified settlement boundary within the designated open countryside. The wider application site is bordered by open agricultural fields to the north, White Gables Farm to the west, and Stoke Road and Fenn Lanes bound the site to the east and south respectively. Beyond these two roads is further open agricultural fields.

3.2. Fenn Lanes is a typical country road, whereby it has one lane in each direction with a 50mph speed limit.

3.3. The area surrounding the site is rural in nature, and the nearest settlement to the application site is Fenny Drayton, which is classified as a rural hamlet within the adopted Core Strategy.

4. Relevant planning history

4.1 23/00468/DISCON

- Application to discharge condition 7 (Archaeology) of planning application 21/00586/FUL
- Partial Discharge of Conditions
- 09.06.2023

4.2 21/00586/FUL

- Creation of a new access track

- Permitted
 - 13.07.2022
- 4.3 **13/00721/HOU**
- Extensions and alterations to dwelling
 - Permitted
 - 23.10.2013
- 4.4 **03/00459/FUL**
- Construction of manège
 - Permitted
 - 16/06/2003
- 4.5 **02/01233/FUL**
- Conversion of stable to living accommodation with extensions and alterations
 - Permitted
 - 13.12.2002
- 4.6 **98/00430/FUL**
- Conversion of existing storage building to additional living accommodation
 - Permitted
 - 22.07.1998
- 4.7 **98/00429/FUL**
- Erection of stable block and tractor shed
 - Permitted
 - 19.08.1998
- 4.8 **96/00575/FUL**
- Erection of replacement stables
 - Permitted
 - 16.09.1996
- 4.9 **95/00372/FUL**
- Erection of garages
 - Permitted
 - 19.06.1995
- 4.10 **86/01116/4**
- Conversion of barn to dwelling
 - Permitted
 - 27.01.1987
- 4.11 **79/02375/4**
- Formation of vehicular access and closing of existing access
 - Permitted
 - 11.01.1980
- 5. Publicity**
- 5.1. The application has been publicised by sending out letters to local residents. 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 & Bosworth Borough Council's Drainage Officer
 - HBBC's Environmental Services' Pollution Officer (subject to conditions)
 - HBBC Waste Management Officer
 - Leicestershire City Council (LCC)'s Ecology Unit (subject to conditions)
- 6.2. LCC's Ecology Team did not identify any designated sites or protected species records from within or immediately adjacent to the redline boundary of the site. However, LCC Ecology have advised that the precautionary safeguard recommendations and biodiversity enhancement recommendations within the Applicant's Preliminary Bat Roost Assessment, and Barn Owl Presence / Absence Survey reports should be secured via planning condition.
- 6.3. The Local Highway Authority have acknowledged the extant use of the building would have generated trips in its own right and as a result have referred to standing advice.
- 6.4. Witherley Parish Council has not commented on the application.
- 6.5. 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) (2021)
 - 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, 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), Part 3, Schedule 2 of that Order.
- 8.2. 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 one dwellinghouse is developed within this scheme with a footprint of 301sqm.

- (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.*

Only one dwellinghouse is developed within this scheme with a footprint of 301sqm.

- (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;*

No previous development under Class Q is established within the site and the building subject to this Class Q development has a floorspace of 301sqm and only converts the structure into one dwellinghouse.

- (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 building extending beyond the external dimensions of the existing building 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

The scheme only consists of the building operations identified within Q.1(i).

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

The proposal does not involve any demolition of the existing building.

- (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,*

Given the extant use of the building, the existing use of the property would have generated trips in its own right. Therefore, this development for one dwelling and is not considered to have a severe, unacceptable impact on highway safety or the road network. It is also regarded that the provision of two parking spaces for a two-bedroom dwelling are in accordance with Paragraph 3.151 (Quantum) and 3.165 (Dimensions) of Part 3 of the LHDG.

- (b) *noise impacts of the development,*

The buildings to the east and west are retained but removed from agricultural use, which is secured via planning condition. The Council's Pollution Officer considers this to address any noise concerns within the development.

The proposal is for one three-bedroom dwelling and therefore it is not considered that the noise impacts of the development have a significant adverse impact on neighbouring residential amenity.

- (c) *contamination risks on the site,*

Investigation into any land contamination risks within the site is secured via planning condition.

- (d) *flood risk 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 another residential unit within the application site, and there is another residential dwelling to the west of the site. The Applicant's work on site, and, 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. The incorporation of fenestration and doors are the only alterations to the building.

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

There are windows to every habitable room, and four existing roof lights are retained, which supports further natural light within the kitchen, living, dining area.

To ensure that Bedroom 2 has adequate natural light, the existing structure to the west of the development is removed, and this is secured via planning condition.

Therefore, 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 subparagraphs (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 meets the conditions of Class Q of Schedule 2 of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that the application is acceptable and is in accordance with the conditions and the provision of Paragraph W of the General Permitted Development Order (2015) (as amended).

11. Recommendation

11.1 **Prior approval required and granted** subject to:

- Conditions outlined at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Existing Site Location, Block Plan, Drg No. E001 Rev A, Existing Floor Plan, Elevations, Drg No. E010 Rev A, Proposed Site Location, Drg No. P003 Rev A Proposed Floor Plan, Elevations, Drg No., P010 Rev A (submitted: 26.06.2023)
 - Proposed Site and Location Plan (submitted: 08.08.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site

has been submitted to, and agreed in writing by, the Local Planning Authority, which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details, and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to, and approved in writing by, the Local Planning Authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development shall be carried out in full accordance with the recommendations within Section 5 of the Bat, Barn Owl Survey Report (submitted: 26.06.2023).

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The development hereby permitted shall not be occupied until such time as the existing adjoining structure to the west of the structure, adjacent to the Office, and Bedroom 2, has been demolished.

Reason: In order to provide adequate natural light to the habitable rooms in the interests of safeguarding the residential amenity of the future occupants of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Paragraph 130 of the National Planning Policy Framework (2021).

6. The development hereby permitted shall not be occupied until such time as the existing adjoining structure to the east of the building, situated next to the Kitchen/Living/Dining Room and Boot Room, has been removed from agricultural use. This structure will then be restricted to the ancillary residential use of the Applicant.

Reason: In order to provide adequate natural light to the habitable rooms in the interests of safeguarding the residential amenity of the future occupants of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Paragraph 130 of the National Planning Policy Framework (2021).

7. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Proposed Site and Location Plan (submitted: 08.08.2023). Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

a. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. In relation to Conditions 02 and 03, advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.
3. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway. Further information and guidance regarding the adequate provision of waste and recycling containers and their storage and collection is available within the Council's Wheeled Bin and Container Policy (2018), which is available on the Council's website. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point and returned to private properties after collection place. Please ensure occupiers are advised procedure and bin collection points.
4. The surface water drainage system for the proposed development should incorporate sustainable drainage principles (SuDS) to mitigate the risk of flooding on the site and ensure that surface water runoff does not increase flood risk elsewhere. The proposals should also include measures to address issues of water quality in accordance with current SuDS guidance.
5. The proposed outfall for the discharge of surface water runoff from the development should be in accordance with the hierarchical approach outlined in Building Regulations Part H.
6. The use of infiltration drainage is preferred, subject to the site being free from a contaminated ground legacy. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.