

Delegated Report

Planning Ref: 25/01128/P3CQ

Applicant: Mr Rory Oliver

Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Upton Lodge Farm, Stoke Road, Upton

Proposal: Notification to determine if Prior Approval is required for the conversion of a single storey cattle shed into 3 x bungalows

1. Recommendations

1.1. Prior approval is required and granted

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 a brick barn, into three dwellinghouses/bungalows at Upton Lodge Farm, Stoke Road, Upton.

3. Description of the Site and the Surrounding Area

3.1. The site relates to Upton Lodge Farm, which is located to the north of Stoke Road, Upton. The site accessed along a private driveway which serves the farmstead and the neighbouring property. As part of this proposal, it includes a widening of the existing access onto Stoke Road, following amended plans.

3.2. The building subject to this application is former cattle shed.

4. Relevant Planning History

02/00813/FUL

Conversion of farm buildings to residential dwelling
Planning permission
05/09/2002

04/01048/FUL

Conversion of farm buildings to dwelling and erection of stables
Planning permission
15/11/2004

06/00387/FUL

Erection of new implement store/stable
Planning permission
05/06/2006

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. One objection has been received, making the following comments:

- *Concerns relating to potential access and parking issues, and potentially safety issues of an increased number of vehicles coming to the development, with a lack*

of passing places. Including lack of turning places. Road/access should be surface with hardstanding.

6. Consultation

- 6.1. Hinckley and Bosworth Borough Council (Environmental Health):
- No objection subject to conditions included at the end of this report.
- 6.2. Hinckley and Bosworth Borough Council (Drainage):
- No objections, notes to applicant included at the end of this report.
- 6.3. Leicestershire County Council (Drainage):
- No comments, standing advice.
- 6.4. Leicestershire County Council (Highways):
- No objection subject to conditions included at the end of this report.
- 6.5. Sheepy Parish Council:
- No objections.

7. Policy

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q (as amended).
- 7.2. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (December 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) a change of use of—

(i) a building that is part of an established agricultural unit and any land within that building's curtilage, or

(ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.

- 8.2. Class Q of the GPDO was amended in May 2024, the applicant has indicated on the application form that they wish for the application to be determined under the revised provisions. The following section assesses the proposal against the criteria and conditions of Class Q. In accordance with Paragraph W(3) the LPA may refuse an application where in the opinion of the authority-

(a) The proposed development does not comply with, or

(b) The developer has provided insufficient information to enable the authority to establish whether the proposed development complies with Any conditions except for Paragraph Q.2(1)(g), limitations or restrictions specified in Part 3 applicable to the development.

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

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit—

(i) on 24th July 2023, or

(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,

(b) in the case of a site that was (but is no longer) part of an established agricultural unit—

(i) the site was part of an established agricultural unit on 24th July 2023,

(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or

(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,

The application form states that the site is currently part of an agricultural unit and was part of the established unit on and prior to 24th July 2023.

(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

None of the proposed dwellinghouses exceed a floorspace of 150sqm.

Bungalow 1 – 61 sqm

Bungalow 2 – 50 sqm

Bungalow 3 – 62.7 sqm

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in—

(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or

(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,

The cumulative number of separate dwellinghouses proposed under this application would be 3. The cumulative floor space is stated to be 173.7 sqm.

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

The agent had confirmed that the site is not 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,*

As above the site is not under an agricultural tenancy and one has not been terminated in the last year.

(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 during the period which is 10 years before the date development under Class Q begins,

The application form states that no development under Class A(a) or Class B(b) of Part 6 has been carried out during the 10 year period before development begins.

(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, other than—

*(i)extension of the building allowed by paragraph Q.1(i);
(ii)protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),*

The development would not result in the external dimensions of any of the buildings extending beyond the external dimensions of the existing buildings.

(i)the development under Class Q(b) would result in an extension that—

*(i)has more than one storey,
(ii)is sited anywhere other than to the rear of the existing building,
(iii)extends beyond the rear wall of the existing building by more than 4 metres,
(iv)has eaves the height of which exceed the height of the eaves of the existing building,
(v)is higher than whichever is the lower of—
 (aa)the highest part of the roof of the existing building, or
 (bb)a height of 4 metres above the ground,
(vi)extends beyond a wall that forms a side or principal elevation of the existing building, or
(vii)would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—
 (aa)the hard surface was not provided on the land on or before 24th July 2023, or
 (bb)where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,*

The development would not result in an extension on any of the buildings. The hard surfacing within the site has been situated on the land for at least 10 years.

(j)the development under Class Q(c) 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(j)(i),

Both the Planning Practice Guidance and relevant case law have established that whilst the above building operations are permitted under Class Q the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building. 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. The PPG refers to the Hibbitt case for a discussion of the difference between conversions and rebuilding.

The building in question consists of a brick built barn with a corrugated sheet roof. The structure itself is considered to be structurally sound and would not require demolition or rebuild for the purpose of the proposed conversion.

The proposal does include a new roof which would retain a number of the existing roof lights and remove a number of roof lights, retaining a similar form to the existing. The rear windows are to be replaced with French doors providing natural light and access to the rear garden amenity areas of each plot.

In summary, the proposal demonstrates that the development would not require building operations that would go beyond what would be reasonably necessary for the buildings to function as dwellinghouses. Based on the evidence and plans submitted, the development would be permitted under Schedule 2, Part 3, Class Q of the GPDO.

(k)the site is on article 2(3) land,

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

(l)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,

The site does not form part of any of the areas above.

(m)the site is, or contains, a scheduled monument,

The site is not and does not contain a scheduled monument.

(n)the building is a listed building,

None of the buildings within the site are listed.

(o)the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

The buildings would be capable of complying with the national described space standard.

(p)the building does not have suitable existing access to a public highway.

The buildings have suitable access on to a public highway.

Conditions

Q.2. – (1) *Where the development proposed is development under Class Q(a) together with development under Class Q(c), 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 LHA has no objection subject to conditions and confirm that the amendments to the site access point in the way of widening is welcomed.

The LHA consider that the access would be safe, and has adequate visibility, and given the scale of the proposals the very low level of traffic generated as a result of the development is unlikely to cause any adverse impacts.

The LHA advises that whites the site is remote, in a rural location and some distances from amenities, it is not considered to be a sustainable location, however in the wider context this is not significant.

(b) noise impacts of the development,

It is not considered that the noise impacts of the development have a significant adverse impact on any neighbouring or prospective occupier residential amenity owing to the scale of the development.

(c) contamination risks on the site,

No contamination risks have been identified on the site and the Council's Pollution Officer has no objections to the scheme, subject to conditions.

- (d) flooding risks on the site,*

According to the Environment Agency (EA) website, the application site is located within Flood Zone 1, designated as low probability of flooding from rivers and sea, and the principle of residential development in low flood risk areas is acceptable.

- (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,*

This application site is located outside of a defined settlement boundary, and is located approx. 1.2km from the settlement of Upton. Whilst the site would predominantly be accessed by motor vehicle, and the settlement of Upton has limited services, given the very nature of a Class Q conversion, the site in this instance is not considered to be impractical or undesirable for the buildings to change from agricultural to C3 use. Therefore, the development is considered to be acceptable in these site-specific circumstances.

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

The overall design of the scheme is not considered to result in any significant harm to the character of the surrounding area. The proposal retains the existing brick built character of the building and whilst a new roof is proposed, this is sympathetic to the original building.

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

Each on the three bungalows have sufficient natural light through the inclusion of windows and existing rooflights into habitable rooms, with the only internal rooms without windows being the bathroom on each plot.

It is therefore considered that the application will provide 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.

- (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.

That is the purpose of this application.

- (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.

Q3.— (1) *For the purposes of Class Q, “curtilage” means the lesser of—*

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be), closely associated with and serving the purposes of that building, and

(b) an area of land immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by that building.

The curtilage of Houses 1, 2 and 3 would not amount to an area larger than the land occupied by those buildings, when the necessary aspects of the domestic curtilage (private amenity space and parking areas) are considered. The applicant has provided Site Plan demonstrating that the curtilage for each dwelling would be less than the footprint of each dwelling. The proposal would therefore be permitted development under this criteria.

(2) *For the purposes of Class Q.1(d), “the original limits of an established agricultural unit” means—*

(a) in the case of an established agricultural unit which ceased to exist prior to 24th July 2023, all the land which comprised the established agricultural unit at the time it came into existence;

(b) in the case of an established agricultural unit which exists on 24th July 2023, all the land which comprised the established agricultural unit at the time it came into existence;

(c) in any other case, all the land which comprises the established agricultural unit at the time it comes into existence.

The original limits of the agricultural unit include all the land the which comprised the established agricultural unit at the time it came into existence.

Additional Matters

Concerns have been raised by a neighbouring resident with regards to highway safety and parking. Right of access are a civil matter, however, the LHA are satisfied that safe and suitable parking and highways arrangements are available and for this reason it is unlikely that the proposal (at this scale) would give rise to highways safety harm.

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, 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 is required and granted subject to:

The conditions outlined below:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Site Location, Block Plans,- Barns, Drg No. 25/85 07
 - Proposed Access Widening, Drg No. 25/85 09
 - Proposed Curtilage Plan,- Barns, Drg No. 25/85 06
 - Proposed Site Plan,- Barns, Drg No. 25/85 05
 - Proposed Elevations, Roof, Floor Plans, Drg No. 25/85 02
 - Topographical Plan, Drg No. 25655-25-01

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. Prior to the installation of the replacement roof, details of the materials to be used shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the roof shall be replaced in accordance with the approved details.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown Proposed Access Widening, Drg No. 25/85 09 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2024).

4. 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 Plan,- Barns, Drg No. 25/85 05. Thereafter the onsite parking and turning provision shall be kept available for such uses 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 (2024).

5. 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 in writing 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. 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 in writing 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 first dwelling 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).

7. Prior to first occupation of the hereby approved development, a detailed landscaping plan shall be provided to and approved in writing by the local planning authority. The plan shall include details of all hard and soft landscaping and boundary treatments. Thereafter the hard landscaping shall be implemented in accordance with the approved details prior to first occupation of the dwelling to which it relates. The soft landscaping shall be implemented no later than the first planting season following first occupation of the dwelling to which it relates. Thereafter the soft landscaping scheme

shall be maintained for a period of five years from the date of planting. During this period any plants which die, are removed or become seriously damaged or diseased shall be replaced by plants of a similar size and species to those originally planted in the next planting season.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

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 building.control@blaby.gov.uk or call 0116 272 7533.
2. 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 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 describe in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced.
3. No bin collection point has been shown on the submitted plans. Due consideration should be given to waste collection provision. Refuse vehicles will not access the site given that it is located more than 25m from the highway boundary and via a private road. Any bin collection point should be within the site and not within the public highway, nor should it be located within visibility splays. It would be advisable to include an area next to the adopted highway for safe placement of the various containers on collection day. Please ensure there is adequate space on the property to store the waste containers.
4. In relation to Conditions 5 and 6, 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.
5. Planning permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://www.leicestershirehighwaydesignguide.uk/> To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).