

Delegated Report

Planning Ref: 24/00987/P3CQ
Applicant: Mr Adam Wykes
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Pretty Oak Farm, Upton Lane, Stoke Golding

Proposal: Change of use of agricultural building to 4 bedroom dwelling (C3)

1. Recommendations

- **Prior approval is required and granted.**

2. Planning application description

- 2.1. The application proposes the conversion of an agricultural building into one dwelling through the prior approval process. The building is a steel framed barn clad with vertical timber joists, pre-cast concrete panels and profiled steel sheeting, permitted in 2013 (13/00751/FUL). The roof is covered with a single layer of profiled steel sheeting and supported by timber purlins spanning between steel rafters. A full height division wall separates the building into two areas. The left-hand gable end of the building is partially clad at high level using profiled steel sheeting and open at the lower level. The floor consists of a concrete slab throughout.
- 2.2. The application is accompanied by a Structural Inspection Report (DWS Ltd, October 2024) and a Preliminary Ecological Appraisal, BNG Statement, and Phase I Desk Study. These documents confirm that as there is no on-site priority habitat, with only buildings and hardstanding present, the Site meets the de-minimis exemption for BNG.

3. Description of the site and surrounding area

- 3.1. The application site consists of an agricultural building measuring approximately 18m in length and 10m in width, with a mono pitch roof with a minimum height of 4.6m and a maximum height of 5.3m. The site lies to the west of the rural settlement of Stoke Golding, approximately 1km from the village centre.
- 3.2. Within the site and neighbouring the building are other agricultural buildings and a menage associated with the holding. The site is accessed via Upton Lane.

4. Relevant planning history

- **24/00766/P3CQ** - Change of use of agricultural building to 4 bedroom dwelling (C3) - Withdrawn
- **20/00439/FUL** – Construction of an outdoor equestrian manege – Permission - 02.07.2020
- **16/00371/FUL** – Erection of an agricultural building – Permission – 30.06.2016
- **13/00751/FUL** – Erection of an agricultural building – Permission – 12.11.2013
- **13/00101/FUL** – Erection of an agricultural building – Refused – 11.04.2013

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. No representations have been received.

6. Consultation

- 6.1. Higham on the Hill Parish Council: Object –

- 1. It is clearly development in open countryside which contravenes many policies in the present Hinckley and Bosworth Development plan*
- 2. Turning buildings such as these into residential properties is a cynical route to getting development in open countryside. The barns were allowed not that many years ago for agricultural storage .*
- 3. Allowing such development sets a precedent for any corrugated roofed barn to be turned into residential properties.*
- 4. This seems to be a growing trend and we ask Hbbc to monitor this growth and protect open countryside where they can.*

- 6.2. No objections from:

- LCC Highways
- HBBC Pollution
- HBBC Waste Services
- HBBC Drainage
- LCC Ecology

7. National Planning Policy and Guidance

- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The PPG advises that the starting point for Class Q of the GPDO is that the permitted development rights grant planning permission, subject to the prior approval process. As this is not an application for planning permission the Development Plan is not a relevant consideration.
- 8.2. As such, it is necessary to firstly determine whether the proposal falls within permitted development under the criteria in Class Q, which relates to development consisting of a change of use of agricultural building(s) to a use falling within Class C3 (dwellinghouse).

8.3. Class Q rights were amended on May 21, 2024, and temporary transitional arrangements are in place which allow the use of the previous version of the GPDO. The applicant has indicated they wish for the development to be considered on this basis on the submitted application form, and the application has been assessed as such under the transitional arrangements.

8.4. The GPDO identifies Class 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;
- (b) Together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses).

8.5. Development is not permitted by Class Q if—

- 8.6. (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;

The site is part of an agricultural unit and is used for this purpose.

- 8.7. (b) in the case of –
- (i) a larger dwellinghouse, within an established agricultural unit –
 - (aa) the cumulative number of separate larger dwellinghouse 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;

There is one larger dwellinghouse proposed with a cumulative floor space of less than 465 square metres (approximately 350 sqm).

- 8.8. (ba) the floor space of any dwellinghouse developed under Class Q having a use within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;

The floor space of the dwellinghouse would not exceed 465 square metres.

- 8.9. (c) in the case of-
- (i) a smaller dwellinghouse within an established agricultural unit-
 - (aa) the cumulative number of smaller dwellings developed under Class Q would exceed five; 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;

There would be one dwellinghouse total.

- 8.10. (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;

There would be one separate dwellinghouse developed within this agricultural unit.

- 8.11. (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Class Order exceeding 5;

The cumulative number of separate dwellinghouses having a use class falling within Class C3 (dwellinghouses) would not exceed 5 as one dwelling is being proposed.

- 8.12. (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.

- 8.13. (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;

The applicants have indicated that the site has not been subject to an agricultural tenancy.

- 8.14. (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;

No development has been carried out under Part 6 within the last 10 years

- 8.15. (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 development would not extend beyond the existing external dimensions of the building.

- 8.16. (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)

Class Q.1 (i) details which building operations are permitted in order to carry out the conversion, as identified above, to the extent reasonably necessary for the building to function as a dwelling. In this respect regard must be had to Planning Practice Guidance (PPG), which states that it is not the intention of permitted development right to allow rebuilding work which would go beyond what is reasonable and necessary. 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 rights. Relevant case law Hibbitt & another v SSCLG & Rushcliffe Borough Council [2016] supports this, but that as a matter of fact and degree there is an element of judgement and subjectivity.

The building has a steel frame which would be entirely retained. Some lower/ground floor elements of the building also feature blockwork, which is to be retained, along with most of the vertical profiled metal wall cladding which envelopes the building. There is a section of vertical timber cladding on the upper part of the south elevations, which is to be replaced with metal wall cladding to match the existing. The ground floor section of this elevation contains an opening which is to be closed by the proposed cladding, with two new windows added, one on the ground floor and one on the upper floor.

The other openings on the south elevation include a large central floor to ridge area, which is to be entirely glazed (including mullions and a main entrance door). Alongside this is another smaller existing opening which is also proposed be fully glazed.

The west elevation features an existing opening spanning the entire depth of the building. This is to be clad with vertical timber cladding, with one small letterbox window added towards the rear of the building.

The only other works would include the addition of a top hung window on the upper section of the north (rear) elevation), as well as the demolition of the adjoining stable building. All other external elements of the building would be retained, and the only works would be to the interior of the building.

The Agent has confirmed that the existing roof structure (metal sheeting) is to be retained and insulated/reinforced internally to meet building regulation requirements.

The submitted Structural Report states that the proposals would need to include enclosure of the building, however most of this would consist of internal works, apart from the parts of the building which are currently exposed. To determine the adequacy of the existing frame, a preliminary two-dimensional analysis has been undertaken for the application of dead, imposed and wind loading conditions. This has not taken into consideration any stiffness afforded by the rafter to column joints, or of the internal division wall or first floor construction, both of which will add to the overall stiffness and stability. Other required works include the removal of surface rusting and remedial works to the rafter column joints, which are considered minor structural elements.

The addition of any significant structural elements is not necessary according to the report, and the building is considered structurally suitable and sufficiently robust for conversion from agricultural to residential use.

The LPA recognise that the main remaining structural portion of the original building would be retained. The works required to provide a building capable of habitation

are considered, on balance, to amount to a conversion and not a partial re-build, as the majority of the external features of the building would be retained, with the main works consisting of a limited number of new windows, and the closure of existing openings. The proposed scheme is therefore considered to consist only of the operations identified within Q.1(i) and is acceptable in this regard.

- 8.15 (j) the site is on article 2(3) land;

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

- 8.16 (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;

The site does not form any of the above.

- 8.17 (l) the site is, or contains, a scheduled monument; or

The site is not associated with a scheduled ancient monument.

- 8.18 (m) the building is a listed building

The building is not listed.

- 8.19 Permitted development rights have not been removed on an earlier planning permission.

- 8.20 Definition of curtilage: Paragraph X of part 3 of the GPDO defines curtilage as:

- (i) 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
- (ii) 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.

- 8.21 *In this case the area around the building associated with the application does not exceed the area occupied by the building.*

- 8.22 Paragraph Q.2-(1) requires that the applicant applies to the Local Planning Authority for a determination as to whether the prior approval of the authority is required as to:

- 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 (dwellinghouse) 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 dwellinghouse.

- 8.23 Given the location of the building adjacent to other buildings, its shared access and the importance placed by the NPPF on ensuring good design, it is considered that if the prior approval process were appropriate, the prior approval of the LPA would be required. An assessment is set out below to establish whether prior approval would be granted. The GPDO states that regard should be had to the NPPF when assessing the proposal where relevant to the above matters. The LPA may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Transport and highways impacts

- 8.24 The site would be accessed off an existing serving Pretty Oak Farm off Upton Lane. Visibility is acceptable and the Local Highway Authority have made no objections. A condition requiring the provision of access and parking to the units prior to occupation is recommended. Therefore, prior approval could be granted for permitted development under Class Q subject to these conditions in respect of the transport and highways impacts.

Noise impact of the development

- 8.25 The proposal is for a residential use, and it is not considered that noise impacts would not be unacceptable due to the remoteness of the site. Any noise during construction would not be significant to warrant refusal and would be temporary in any case. Prior approval could be granted unconditionally for permitted development under Class Q with regards to the noise impact of the development.

Contamination risks on the site

- 8.26 The Environmental Health officer expressed no concerns and no objections to the proposal.

Flooding risks on the site

- 8.27 The site is in flood risk zone 1 (low risk). The Drainage officer has indicated that 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. 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.

Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use

- 8.28 The PPG has clarified that sustainability is not a factor in this assessment. Impractical or undesirable are not defined in the regulations and the LPA should apply a reasonable meaning in making any judgement. Impractical reflects that the location and siting would “not be sensible or realistic” and undesirable reflects that it would be “harmful or objectionable”.
- 8.29 In this instance the building is located 1km west of Stoke Golding and has vehicular access. There is no reason to believe the proposal is impractical or undesirable in terms of its location.

The design or external appearance of the building

- 8.30 The NPPF states that planning decisions should aim to ensure that developments add to the overall quality of the area, respond to local character and history and reflect the identity of local surroundings and materials. The building is traditional in its construction and design and it is not considered that the additional works would result in the appearance of the building changing to an extent which would harm the character and appearance of the area. Prior approval could therefore be granted subject to a condition that the design and materials accord with the approved plans.

The provision of adequate natural light in all habitable rooms of the dwellinghouse

- 8.31 The GPDO states that 'habitable rooms' means any room used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms. All of the proposed habitable room have access to adequate natural light. Therefore, prior approval could be granted in respect of the provision of adequate natural light in all habitable rooms.

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).

- 10.2. A condition is attached to ensure that the conversion works to the building remain within the limits allowed under Class Q.

11. Recommendation

- 11.1 Prior Approval is required and granted subject to:

The conditions outlined at the end of this report.

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Site Location Plan - Drawing No. 9076_01-01 Revision P1.
 - Proposed Site Plan – Drawing No. 9076_03_01 Revision P1 (submitted: 28.10.2024)
 - Proposed Elevations (Updated) – Drawing No. 9076_03_05 (submitted 12.12.24)
 - Proposed Floor Plans (Updated) – drawing No. 9076_03_06 – Revision P2 (submitted: 17.12.2024)
 - Email from Simon Cheshire dated 12.12.24 regarding the retention of the existing roof structure and metal sheeting.

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. The development hereby permitted shall not be occupied until such time as the parking (with turning facilities)} has been provided, hard surfaced in accordance with Proposed Site Plan – Drawing No. 9076_03_01 Revision P1. 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 Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD (2016).

Informatives:

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 collection point for domestic refuse and recycling waste is from the adopted highway boundary.

We cannot travel along or collect from private driveways using our RCV, therefore 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.

3. 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. 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.

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.