

Delegated Report

Planning Reference 25/00506/P3CQ
Applicant Mrs Helen Fisher
Ward Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Application Site Frog Hall Farm, Crow Lane,
Sheepy Magna

Proposal Notification to determine if Prior Approval is required for the change of use of one agricultural building to 3 dwellinghouses (Class C3)

Case Officer Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. Refuse prior approval subject to:

- Planning reasons detailed at the end of this report.

2. Planning Application Description

- 2.1. This application seeks to confirm whether prior approval is required for the change of use of an existing agricultural building into three dwellings (Use Class C3) at Frog Hall Farm, Crow Lane, Sheepy Parva via Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended ('GPDO')).
- 2.2. The application resembles a partial resubmission of refused prior approval application 24/01121/P3CQ, but the current submission removes Agricultural Building 02 from the proposal.

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. The application site consists of an existing agricultural building that is located within the wider Frog Hall Farm complex, which is not included within the red line boundary of this application. 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.

- 3.3. The agricultural building within this proposal is the most northerly structure within the Frog Hall Farm complex. The building is a steel-framed structure that externally measures 27.5 metres in width by 23 metres in depth, which creates a total footprint of 630 square metres. The building is constructed with cladded concrete block to a maximum height of 2.2 metres with timber boarding on three sides and is open on its western elevation. The structure has two corrugated cement sheeted pitched roofs, and the southern-most roof has a ridge height of 6.2 metres, and the northern-most roof has a ridge height of 6 metres.
- 3.4. 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. 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.
- 3.5. 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.

4. Relevant Planning History

4.1 24/01121/P3CQ

- Notification to determine if Prior Approval is required for the change of use of two agricultural buildings to create five smaller dwellinghouses. (*The building that is the subject of the current application was one of the two covered by this application*)
- Prior Approval Refused
- 04.02.2025

4.2 24/00518/FUL

- Demolition of all existing farm buildings and farmhouse and the construction of a single new farmhouse
- Refused
- 07.03.2025

4.3 22/00137/P3CQ

- Change of use of two agricultural building to create five dwellinghouses along with proposed building operations. (*The building that is the subject of the current application was one of the two covered by this application*)

- Prior Approval Given
- 05.04.2022

5. Publicity and Consultation

- 5.1. In accordance with Clause 8 of Paragraph W of Part 3 of Schedule 2 of the GPDO, the Local Planning Authority must give notice of the proposed development by site notice for not less than 21 days, and by serving notice on any adjoining owner or occupier, and any owner or occupier of the other part or parts of the building.
- 5.2. Therefore, 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. No responses have been received.
- 5.3. In this instance, the Council's Drainage and Pollution Officers were consulted on the application proposal as well as Leicestershire County Council as the Local Highway Authority (LHA). Their responses to the application are included within the Appraisal Section of this Report.

6. Policy

- 6.1 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').
- 6.2 National Planning Practice Guidance (NPPG)

7. Appraisal

- 7.1 Development consisting of a change of use of a building and any land within its curtilage from a use an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order and building operations reasonably necessary to convert the building referred to, to a use falling within Class C3 (dwellinghouse) of that Schedule can be considered to represent Permitted Development, subject to the proposal meeting the limitations of the GPDO.
- 7.2 The main considerations in respect of this application are therefore whether the proposed change of use meets the limitations for the change of use of an agricultural building to a Class C3 use under Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.3 Clause 3 of Paragraph W of Part 3 of Schedule 2 of the GPDO confirms that the Local Planning Authority may refuse an application where, in the opinion of the Authority, the proposed development does not comply with, or the development has provided insufficient information to enable the Authority to establish where the proposed development complies with any conditions, limitations or restrictions specified in Part 3 as being applicable to the development in question.

Amendments to the GPDO

- 7.4 The Town and Country Planning (General Permitted Development) Order 2015 (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.
- 7.5 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.
- 7.6 This prior notification application was received on 20 May 2025 and the Applicant has stated that they wish to use the permitted development rights within the GPDO as it stood prior to 21 May 2024.
- 7.7 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.
- 7.8 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.

Development Not Permitted by Class Q of Part 3 of Schedule 2 of the GPDO

- 7.9 Not all developments involving the change of use of an agricultural building to a Use Class C3 use are permitted by Class Q of Part 3 of Schedule 2 of the GPDO. Development that is not permitted is highlighted at Paragraph Q.1 of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.10 The site was solely use for an agricultural use as part of an established agricultural unit for a period of at least 10 years before the date development under Class Q is expected to begin. The site is not occupied by an agricultural tenancy, nor has an agricultural tenancy been terminated within less than a year before the date the development is expected to begin. Furthermore, no development under Class A(a) or Class B(a) of Part 6 of Schedule 2 of the GPDO has been carried out on the established agricultural unit ten years prior to the date that development is expected to begin. Therefore, the proposal complies with Paragraph Q.1(a), (e), (f) and (g) of Class Q of Part 3 of Schedule 2 of the GPDO.

- 7.11 The site is not on Article 2(3) Land, and it is not a Listed Building. The site does not contain a scheduled monument, nor does the site form part of a Site of Special Scientific Interest, a Safety Hazard Area, or a military explosives storage area. Therefore, the proposal complies with Paragraphs Q.1(j), (k), (l), and (m) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.12 The proposal is for one larger dwellinghouse (Dwelling 01) and for two smaller dwellinghouses (Dwellings 02 and 03). The cumulative number of separate dwellinghouses created through Permitted Development shall not exceed three within the established agricultural unit. The larger dwellinghouse does not exceed 465 square metres and the two smaller properties do not exceed 100 square metres. In addition, the development does not result in the external dimensions of the building extend beyond the external dimensions of the existing building at any given point and no demolition is proposed. Therefore, the scheme complies with Paragraphs Q.1(b), (c), (d), (h) and (i)(ii) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.13 Paragraph Q.1(i)(i) of Class Q of Part 3 of Schedule 2 of the GPDO states that development under Class Q(b) would consist of building operations other than the installation or replacement of windows, doors, roof and exterior walls, or water, drainage, electricity, gas or other services to the extent reasonably necessary to carry out building operations for the building to function as a dwellinghouse.
- 7.14 As confirmed at Paragraph 27 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'), a, "Conversion," is conceptually different to a, "Rebuild."
- 7.15 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."*
- 7.16 Prior approval application 24/01121/P3CQ was refused because the Applicant failed to demonstrate that the existing structure can be appropriately converted into a residential use.
- 7.17 Paragraph 3.1 of the Structural Statement submitted as part of the previous prior approval application concluded that:
- "All barns will need to be assessed for strength due to the change of use and the addition of new roofing material, which will necessitate current structural codes of best practice to be used. These codes will most likely show all structures to be insufficient in their current capacity, and a number of remedial details will then need to be designed. Once these are installed the steel frames should be adequate as a loadbearing structure for barn conversions."*
- 7.18 On 03 February 2025, it was confirmed that a structural analysis by a structural engineer was required in the form of a measured survey to ascertain the precise design of remedial works.

- 7.19 However, the remedial details for this specific agricultural barn were likely to consist of:
- *“Eaves haunch plating welded on site*
 - *Apex haunch plating welded on site*
 - *Damaged columns to have additional steel sections bolted to them*
 - *Horizontal cladding rails and wall head-restraints bolted to existing columns*
 - *Windposts to front and rear elevations, supported by new horizontal rails.*
 - *Vertical cross-bracing bolted to existing columns in several bays*
 - *Roof bracing may be necessary, bolted to existing*
 - *If purlins are inadequate (especially due to snow drift in the valley) they will need new sections bolting to existing*
 - *Horizontal eaves beams bolted to the top of columns to provide torsional restraint*
 - *Various rafter stays clamped or bolted to existing rafters and purlins, depending on results of the analysis*
 - *Alternatively to the stays, some steel sections could be bolted to the columns and rafters to mitigate the need for them*
 - *Blockwork walls may need replacing and new strip footings put in”*
- 7.20 To support the new proposal, the Applicant has submitted a Structural Report, which was undertaken on 14 March 2025.
- 7.21 It is noted that the new Structural Report only based on a visual inspection of the site and does not refer to the previous Structural Report, nor the measured survey and structural analysis that was required. Furthermore, it is noted that the new Structural Report does not mention any of the 12 remedial details advised by the previous Structural Report.
- 7.22 Ultimately, the comments and conclusions within Section 5 of the Structural Report state that, *“At present no repairs are needed to maintain the building in good structural condition,”* and that, *“The roof structure is adequately sized for the current loadings.”*
- 7.23 However, the adequacy of the existing loadings and the maintenance of the existing structural condition of the agricultural building is not the test to determine the scheme’s acceptability for the structure’s conversion into a residential use.
- 7.24 Page 8 of the new Structural Report confirms that to facilitate the conversion of the agricultural building, the structural shall require new cladding and glazed areas, new insulation and ceiling finishes to the roof, insulation and finishes to the external walls, new concrete floor slabs, new floor finishes, and a new first floor structure, amongst others. This is supported by the table on Page 4 of the Planning Statement.
- 7.25 Whilst the new Structural Report includes structural calculations, the Report is not clear how these calculations have been made, nor how they demonstrate that the

- structure can, *“Safety carry the additional loads referred to above, and that the frames are stable under wind loading.”*
- 7.26 The Design Criteria on Page 17 of this Structural Report, which informs the Report’s calculations, only refers to roof sheets, insulation, purlins, lining and services. Therefore, the Structural Report fails to mention the new ceiling finishes, the glazing, the finishes to the external walls, or the new first floor structure.
- 7.27 Whilst it is acknowledged that Paragraph 105 of the NPPG confirms that internal works are not generally development, if new internal structures are required to strengthen the property to enable it to be converted into a residential use, then the agricultural building is not already suitable for conversion.
- 7.28 This can be seen by the fact that Page 6 of the Planning Statement states that the proposed works do not include the addition of structural strengthening works to the existing frame. However, this is not what the new Structural Report states.
- 7.29 Page 9 of the new Structural Report suggests that the existing barn can be converted, *“With the existing structural elements in place and without significant re-construction of these elements.”*
- 7.30 Therefore, whilst the existing external walls and roofs are retained, this does not mean that the structure does not require additional strengthening elements, such as supplementary walls.
- 7.31 It is noted that the Proposed Floor Plans submitted as part of the previously refused prior approval application 24/01121/P3CQ highlighted new proposed supplementary walls on all four elevations of the structure. The new Proposed Floor Plan within this submission also features new supplementary walls on all four elevations of the structure, but it is noted that these are not highlighted as clearly as within the previous submission. Therefore, the same amount of proposed work is required within the new application and the Applicant has failed to demonstrate that the existing structure is currently suitable for conversion.
- 7.32 To summarise, the Structural Report within the previous prior approval application concluded that the existing agricultural building was likely to be insufficient in its current capacity to support its conversion into a residential dwelling, and therefore a number of remedial details were required. The discussions within the previous prior approval application highlighted that there were 12 likely remedial details, which would be required to facilitate the conversion of the structure, but the design of these needed to be informed by a measured survey that included structural analysis of the building.
- 7.33 The new Structural Report submitted as part of this application is only a visual inspection and therefore the structural calculations within this new Report were not informed by a measured survey. Furthermore, the new Report fails to refer to the previous Structural Report, and does not contain any similar findings, nor remedial recommendations.

- 7.34 Although the new Structural Report suggests that the existing building can be converted without significant re-construction, these conclusions are based on structural calculations that aren't clear and do not refer to all the proposed works required to facilitate the conversion of the structure.
- 7.35 In addition, the retention of the existing external materials, does not suggest that the property does not require additional internal strengthening works to facilitate its conversion. This is important due to the provision of new internal supplementary walls, which have less prominently displayed in this submission than in the plans within the previously refused application. Whilst it is acknowledged that Paragraph 105 of the NPPG confirms that internal works are not generally development, if new internal structures are required to strengthen the property to enable it to be converted into a residential use, then the agricultural building is not already suitable for conversion.
- 7.36 Given the above, the Applicant has failed to demonstrate that the existing structure is already suitable for its conversion into a residential use. It is therefore considered that the works needed to alter the structure into a use 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.
- 7.37 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 an existing structure. Therefore, the proposal does not comply with the limitations of Paragraph Q.1(i)(i) of Class Q of Part 3 of Schedule 2 of the GPDO.

Conditions of Class Q of Part 3 of Schedule 2 of the GPDO

- 7.38 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 for the following.

Transport and Highways Impacts of the Development

- 7.39 The proposal utilises an existing access onto Crow Lane. Leicestershire County Council as the Local Highway Authority (LHA) are satisfied that these existing access arrangements accord with Table 13 of the Leicestershire Highway Design Guide.
- 7.40 There have been no recorded Personal Injury Collisions within 500m of the site within the previous five-year period. Therefore, the LHA are satisfied that there are no patterns in the data which could be exacerbated by the proposals.

- 7.41 The LHA is satisfied that the proposed, small-scale development would usually create only a limited increase in vehicle movements to and from the site. However, this could involve a variety of trades people who may be unfamiliar with the location and may not expect any members of the public to be within the vicinity of the site walking along Public Footpath T19.
- 7.42 Therefore, in the interests of maintaining the safe and continued use of Public Footpath T19, the LHA have recommended a planning condition to secure measures are undertaken prior to the construction of the development to ensure that users of the Public Footpath are not exposed to any elements of danger associated with construction works.
- 7.43 The LHA have noted that the parking spaces for proposed dwellings one and two are substandard in size, and that there is a shortfall in one parking space for proposed dwellings two and three respectively.
- 7.44 However, the LHA are satisfied that there is sufficient space within the red line boundary of the development to accommodate the shortfall in parking spaces and parking dimensions detailed within the submitted plans. The LHA have also acknowledged that the development is on private land so this would be the responsibility of the Applicant to manage, and therefore the LHA would not seek to resist the development proposal.
- 7.45 In light of the above, the impacts of the development on highway safety are not considered to be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe, subject to two planning conditions as advised by the Local Highway Authority.

Noise Impacts of the Development

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

Contamination Risks of the Site

- 7.47 The Council's Environmental Services Department confirmed that the development was acceptable, subject to three planning conditions in relation to the investigation of contaminated land within the site, and the details as to how the future occupants of the scheme shall not be subject to the noise and odours of the agricultural use of the wider site to the extent that are detrimental to their residential amenity.

Flooding Risks of the Site

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

Whether the Location or Siting of the Development makes it otherwise Impractical or Undesirable for the Building to Change from Agricultural Use to a Use Class C3 Use

- 7.49 Although the application site is outside of defined settlement boundaries in an isolated location, there is an existing dwelling within the site.
- 7.50 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.

The Design and External Appearance of the Building

- 7.51 The proposed design and external appearance of the building is not considered to have a significant adverse impact on the character of the building or the surrounding area.

The Provision of Adequate Natural light in All Proposed Habitable Rooms

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

Summary

- 7.53 Given the above, the Applicant has failed to demonstrate that the existing structure is already suitable for its conversion into a residential use. It is therefore considered that the works needed to alter the structure into a use 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. Therefore, the proposal does not comply with the limitations of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

8. Equality Implications

- 8.1 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.

8.2 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.

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

8.4 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).

9. Conclusion

9.1 In conclusion, the Applicant has failed to demonstrate that the proposal benefits from permitted development rights and that the proposal represents a conversion of an existing structure. Therefore, the proposal does not comply with the limitations of Paragraph Q.1(i)(i) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

10. Recommendation

10.1 **Refuse prior approval** subject to:

- Planning reasons detailed at the end of this report.

10.2 Conditions and Reasons

1. The Applicant has failed to demonstrate that the proposal benefits from permitted development rights and that the proposal represents a conversion of an existing structure. Therefore, the proposal does not comply with the limitations of Paragraph Q.1(i)(i) 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 Applicant

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 20.05.2025)
 - Ecological Survey (submitted: 20.05.2025)

- Existing Elevations (2568 0013A) (submitted: 20.05.2025)
- Existing Floor & Roof Plans (2568 0012A) (submitted: 20.05.2025)
- Existing Site Plan (2568 001A) (submitted: 20.05.2025)
- Planning Statement (submitted: 20.05.2025)
- Proposed Elevations (2568 1104B) (submitted: 20.05.2025)
- Proposed Floor Plans (2568 1101C) (submitted: 20.05.2025)
- Proposed Roof Plan (2568 1103B) (submitted: 20.05.2025)
- Proposed Site Plan (2568 1101C) (submitted: 20.05.2025)
- Site Location Plan (2568 1100C) (submitted: 20.05.2025)
- Supplementary Form (submitted: 20.05.2025)
- Structural Report (submitted: 20.05.2025)