

Delegated Report

Planning Ref: 24/01162/P3CQ
Applicant: Singular Homes Ltd
Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Glebe Farm Barn, Orton Lane, Sheepy Magna, Atherstone

Proposal: Notification to determine if Prior Approval is required for the change of use of an agricultural building to a dwellinghouse (Class C3)

1. Recommendations

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

2. Planning application description

- 2.1. The application proposes the conversion of two agricultural buildings into one dwelling through the prior approval process, with additional adjoining buildings being demolished to make way for garden space for the proposed dwelling. The buildings consist of two portal framed buildings, a Dutch Barn, and a mono pitch side extension.
- 2.2. The two buildings be retained comprise of a steel portal framed building with a dual pitched roof, measuring 16m in width, and 15m in length, consisting of 3 bays. The roof is corrugated fibre cement supported on purlins spanning between the main frames. The walls comprise mid-height blockwork, and above is corrugated fibre cement sheets supported on timber rails. Portal frame 2 is an extension on the western side and spans the full length of the existing buildings, and has a similar build specification to portal frame 1.

3. Description of the site and surrounding area

- 3.1. The application site covers an area of approximately 1 acre and consists of a series of barns in various states of disrepair and an access track.
- 3.2. The site slopes gently from north to south. It is bound to the southeast by existing residential properties, formerly converted agricultural buildings and a private residence, which are also accessed from the access track leading onto Orton Lane. The Site benefits from clearly defined boundaries to the East and the South with the Northern and Western boundaries open onto agricultural land. The Site lies outside the Limits to Development for Orton-on-the-Hill and is, therefore designated as open countryside.
- 3.3. The application site is not subject to any statutory designations. Orton-on-the-Hill does have a designated Conservation Area; however, the application site is not located within the boundary. There are no designated heritage assets situated within or close to the application site. The nearest designated feature is the Grade II Listed Lower Farm, Orton-on-the-Hill, which is located approximately 1 mile to the west of the site and is separated by a number of obstructions.
- 3.4. The Site is located within Flood Zone 1 of the Flood Map for Planning and is therefore assessed as having a low risk of flooding (less than 1 in 1000 annual probability of river flooding).
- 3.5. Relevant planning history

04/00986/FUL

- **CONVERSION OF GARAGE TO BEDROOM**

- PER
- 15.10.2004

06/00513/FUL

- REBUILDING OF SECTION OF ROOF INCORPORATING FOUR ROOFLIGHTS
- REF
- 21.06.2006

06/00963/FUL

- PROPOSED NEW ROOFLIGHTS AND CONVERSION OF GARAGE TO BEDROOM
- PER
- 24.10.2006

14/01011/HOU

- Erection of detached outbuilding.
- PER
- 17.12.2014

22/00403/P3CQ –

- Change of use of agricultural buildings to 2 no. dwelling houses with associated amenity space
- GRANT PRIOR APPROVAL
- 21.06.2022

4. 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.

5. Consultation

- 6.1. No objections from:

- LCC Highways
- HBBC Pollution
- Twycross Parish Council

6. 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)

7. 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 until May 20, 2025, 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.
- 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 agricultural buildings were constructed pre 1999 and have been used for agricultural purposes since their construction.***
- 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 (460 sqm). No other larger dwellinghouses have been developed within the agricultural unit.***
- 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 larger dwellinghouse total. No smaller dwellinghouses have been developed within the agricultural unit.

- 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;
 - (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;

As above only one larger dwellinghouse would be created within the unit which would have a floorspace under 465 square meters.

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.

- 8.11. (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.

- 8.12. (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.

- 8.13. (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

- 8.14. (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.

- 8.15. (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 submitted Structural Report prepared by DWS Consulting Engineers, confirms that Portal frame building one and Portal frame building two are capable of conversion, with part of building 2, the mono pitch building and Dutch barn to be demolished. It is confirmed that the removal of the sections suitable for conversion will not adversely affect the structural stability or integrity of the remaining sections. Whilst some internal works are proposed, it is considered that these are not to an extent which would constitute a rebuild.

The previous application 22/00403/P3CQ accepted that the buildings to be converted to form the dwelling is almost fully enclosed on all four sides such that the proposed works constitute a conversion rather than a rebuild in line with the decision of the High Court in Hibbitt v Secretary of State for Communities and Local Government. Additionally, the new window and door openings are considered reasonably necessary for the buildings to function as a dwellinghouse.

The addition of any significant structural elements is not necessary according to the Structural 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. 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.

- 7.16 (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.

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

The site is not associated with a scheduled ancient monument.

- 7.18 (m) the building is a listed building

The building is not listed.

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

- 7.20 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.

- 7.21 ***In this case whilst an indicative plan has been provided which suggests this criteria is met no detailed plans showing the extent of the curtilage have been submitted, a condition is reasonable in this case to ensure this is provided prior to first occupation.***

- 7.22 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.

- 7.23 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

- 7.24 The site would be accessed off an existing access serving Glebe Farm off Orton Lane. Visibility is acceptable and the Local Highway Authority have made no objections. 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

- 7.25 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

- 7.26 The Environmental Health officer expressed no concerns and no objections to the proposal subject to conditions.

Flooding risks on the site

- 7.27 The Environment Agency flood maps indicate that the application site is located within Flood Zone 1 and as being at very low risk from flooding from groundwater. No comments have been received from the HBBC Drainage Officer however a note to applicant is to be included for the use of sustainable drainage techniques.

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

- 7.28 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”.
- 7.29 In this instance the building is located 1.5km north of Sheepy Magna 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

- 7.30 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

- 7.31 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.

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 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. Recommendation

- 10.1 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 – (received: 24.12.24)

- Revised Proposed Floor Plans, Elevations and Layout – Drawing No. HMD/PD/0579/01A (received: 09.01.25)
- Existing Floor Plans, Elevations and Layout – Drawing No. HMD/SV/0579/01 (submitted 12.12.24)

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 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).

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 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).

4. Prior to first occupation of the dwelling hereby approved, details of the residential curtilage and its means of enclosure shall be submitted to the Local Planning Authority for approval. The extent of the curtilage shall comply with the definition of curtilage as set out in Paragraph X of part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Thereafter the development shall be carried out in accordance with the approved details.

Reason: To confirm the extent of the residential curtilage, and to ensure that any associated domestic use closely relates to the dwelling hereby approved and does not encroach into the wider site, in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Class Q, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

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.

4. In relation to Condition 2 and 3, 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.