

Delegated Report

Planning Ref: 26/00342/P3CQ

Applicant: Mr Carl Tranter

Ward: Newbold Verdon with Desford and Peckleton



Hinckley & Bosworth
Borough Council

Site: Craigmores Farm, Merrylees Road, Newbold Heath

Proposal: Notification to determine if Prior Approval is required for the change of use of an agricultural building to one dwelling house (Use Class C3) and associated works

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 one existing agricultural building to form 1no. 3 bedroom dwelling and associated residential curtilage.

3. Description of the Site and the Surrounding Area

3.1. The application site is situated in an area of countryside, surrounded by open fields approximately 1.5km from Newbold Verdon. The site is accessed via Merrylees Road, which is an adopted, unclassified road subject to a 60mph speed limit. The access to the site is on the northwest side of Merrylees Road opposite Chater House Farm.

3.2. Craigmores Farm comprises of an area of concrete hardstanding, the brick foundations of the original farmhouse and a small number of buildings which were used for stabling and for storage. There is also a ménage, a vegetable garden and a small orchard. Horses and sheep graze the adjoining fields. The boundaries to the site are a mix of field hedgerows including trees within the south east and south west boundaries and post and rail fencing.

4. Relevant Planning History

22/01128/CLE

Change of use of block stables from equestrian and stores to agricultural (rearing and husbandry of sheep since 3rd Nov 2012) including the storage of feed, hay, straw bedding, equipment associated with that use

Certificate of Lawful Existing Use

23.01.2023

14/00944/FUL

Erection of one new dwelling and detached garage with associated access

Refused – Appeal Dismissed

01.12.2014

11/00370/CLU

Certificate of lawful proposed development of a replacement dwelling

Refused

02.11.2011

5. Publicity

- 5.1. The application has been publicised. A site notice was also posted within the vicinity of the site.
- 5.2. No comments have been received.

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 (Highways):
- No objection, standing advice, notes to applicant included at the end of this report.
- 6.4. Newbold Verdon Parish Council:
- No comments received.

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. 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,

The development will not exceed a floorspace of 146sqm.

It is noted that an existing external store is attached to the proposed dwelling, however, given its existing nature and that it would not form part of the floor space for the proposed dwelling, this has not formed part of this assessment.

(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 1. The cumulative floor space is stated to be 146 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 is considered to be of a sufficient structural integrity to cater for a conversion without the requirement for a full rebuild. It is noted that the development would include some new features, alongside replacement materials. Such as the new window openings to allow for additional natural light, some additional masonry infills, and replacement cladding to retain the visual appearance of the site but replace damaged sections.

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 to the proposal, and has offered standing advice following a consultation. Notes to applicant have been included at the end of this report.

It is therefore considered that the development would not have any detrimental impacts on the highway network, and would be acceptable

(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.

(c) contamination risks on the site,

Due to the past agricultural use of the site, a condition is required requiring that a full contaminated land assessment is carried out prior to commencement of development. The recommended conditions would also ensure an mitigation would be carried out prior to first occupation. The Council's Pollution Officer has no objections to the scheme, subject to above conditions. Subject to these conditions prior approval would be granted with regards to this matter.

(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,*

Given the very nature of a Class Q conversion, the sites unsustainable location within the countryside is not considered to be impractical or undesirable for the buildings to change from agricultural to C3 use. There are no other factors in the immediate area which would make the conversion impractical or undesirable. 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 main external elements of the site will remain intact, with replacement cladding where required and new openings.

A condition is recommended requiring hard and soft landscaping, including boundary treatments, are submitted to the LPA for further consideration. This will ensure that such domestic alterations would respect the agrarian character of the site, subject to this condition prior approval is granted.

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

The habitable rooms within the proposed dwelling have sufficient natural light through the inclusion of windows and doors.

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 the dwelling would not amount to an area larger than the land occupied by the building – the applicant has provided a site plan indicating the location and scale of the proposed residential curtilage.

(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.

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). Subject to the conditions below, prior approval is granted.

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 Plan, Drg No.TQRQM26102213035677
 - Block Plan, Drg No.TQRQM26102220024943
 - Existing, Proposed Floor Plan, Elevations, Drg No. 342 10

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

2. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the 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 to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

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

4. Prior to first occupation of any of the dwellings hereby approved, a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or are seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified by the Local Planning Authority.

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. In relation to conditions 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.
3. 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 development in low flood risk areas is acceptable. The EA Surface Water mapping also indicates that the application site is located in an area at very low risk of flooding from surface water.
4. Surfacing which in accordance with Table 13 of the Leicestershire Highway Design Guide (LHDG) available at:

<https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/developments-served-private-drives-and-areas> .

Gates should be set back a minimum of 5m from the highway boundary. Where an access is to be gated, the gates should be set back 5m where they open inward and 6m where they open outwards. This is to ensure that the public highway (particularly areas used by pedestrians) is not obstructed if a vehicle is waiting at the access in front of the gates.

<https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/developments-served-private-drives-and-areas>