

## Delegated Report

**Planning Ref: 23/01180/P3CQ**  
**Applicant: Mr Paul Morris**  
**Ward: Ambien**



Hinckley & Bosworth  
Borough Council

**Site: Little Mulberry Upton Lane Stoke Golding**

**Proposal: Proposed conversion of barn to dwellinghouse (C3)**

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### **1. Recommendations**

- 1.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.

### **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 an existing agricultural building into a two-storey, three-bedroom dwellinghouse (Use Class C3) at Little Mulberry, Upton Lane, Stoke Golding. The existing roof is retained within this conversion.
- 2.2. The western elevation of the conversion is almost entirely glazed, whereas two windows are proposed on the first floor and a three-bay door is proposed on the ground floor of the eastern elevation, and a window is proposed on the first floor and double doors are proposed on the ground floor of the southern side elevation. No alterations are proposed to the northern side elevation.

### **3. Description of the Site and the Surrounding Area**

- 3.1. The application site is located outside of, and to the west of, the identified settlement boundary of Stoke Golding in the designated open countryside. Stoke Golding is classified as a Stand Alone Key Rural Centre within the Core Strategy. The site itself is identified as featuring a Great Crested Newt breeding pond and is within the impact zone of a nearby Site of Special Scientific Interest (SSSI).
- 3.2. The application site comprises a rectangular open agricultural field that features the structure subject to this prior approval application, and an agricultural barn that is currently under construction, which was approved via planning application 22/00368/FUL. Within planning application 22/00368/FUL, the Applicant claimed that the application site was used for grazing livestock, and for harvesting silage and hay.
- 3.3. The site is bounded by, and accessed from, Upton Lane to the north of the site. Upton Lane is an adopted, but unclassified, highway that is subject to the National Speed Limit. The entrance to the site via Upton Lane is in between two bridges and meets Upton Lane at an unusual angle. Beyond Upton Lane is a designated employment site (STG14), and the identified boundary of the Bosworth Battlefield Conservation Area.
- 3.4. The east of the site is bounded by the Ashby de la Zouch Canal, and Public Right of Way (PRoW) Footpath T54, which are both within the Ashby de la Zouch Canal Conservation Area. Beyond the Canal features largely linear and ribbon residential development along Station Road that leads into the centre of Stoke Golding. To the south of the site is open countryside. To the west of the application site is a dismantled railway, an existing farm, and further open countryside.

**4. Relevant Planning History**

**4.1 22/00368/FUL**

- Erection of agricultural building for housing livestock, hay, straw, fodder and agricultural equipment.
- Permitted
- 04.09.2022

**5. Publicity**

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2. No responses have been received.

**6. Consultation**

6.1. Higham on the Hill Parish Council objected to the development for the following reasons:

- It is not a suitable structure for a dwelling.
- Such a development is out of place in this rural location.
- The application site is outside of the identified settlement boundary of Stoke Golding.
- Permission for such a development is likely to set a precedent for the conversion of further inappropriate agricultural buildings into residential dwellings.

6.2. No objections have been received from the following:

- Environment Agency
- Hinckley and Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- HBBC Waste Management Officer (subject to conditions)
- Leicestershire County Council (LCC)'s Archaeology Department
- LCC's Ecology Department (subject to conditions)

6.3. The Borough Council's Arboricultural Officer did not comment on the planning application.

6.4. The Local Highway Authority (LHA) referred to their current standing advice.

Archaeology

6.5. The County Council's Archaeological Department confirmed that the proposal is unlikely to result in significant direct or indirect impacts upon the archaeological interest of any known potential heritage asset and therefore the application warrants no further archaeological action.

Drainage

6.6. The Environment Agency confirmed that they would not be making any formal comment on this application because the development falls within Flood Zone 1 and therefore they have no fluvial flood risk concerns associated with the site.

Ecology

6.7. The County Council's Ecology Department confirmed that the application site is within a great crested newt 'impact buffer zone' due to the presence of water bodies and historic records of this species within close proximity to the site. However, the conversion of a single dwelling is not anticipated to impact upon this species and therefore no further consideration is deemed necessary.

- 6.8. LCC Ecology confirmed that the Applicant's Preliminary Roost Assessment (PRA) is satisfactory, which also identified that the structure to be converted does not provide bat roosting opportunities. However, the survey did not the presence of nesting birds internally through the discovery of inactive nests. Therefore, the conversion works should be completed outside of the nesting bird season. To provide biodiversity enhancements in line with the National Planning Policy Framework (NPPF), a planning condition should secure the provision of two bat boxes and two bird boxes and details of which should be approved by the Local Planning Authority.

#### Pollution

- 6.9. The Council's Pollution Officer required further information on the potential impact of land contamination on the development, particularly in the proposed garden area, because it is unclear how the site and the barn have been used historically and if that could have led to land contamination. Therefore, the Pollution Officer has requested two planning conditions relating to a scheme of investigation into any potential land contamination within the application site.

#### Waste

- 6.10. The Council's Waste Management Officer has requested a planning condition to ensure that the scheme makes adequate provision for the storage and collection of waste and recycling containers across the site.
- 6.11. No further comments have been received.

### **7. Policy**

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q.
- 7.2. National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (December 2023)
  - 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, which relates to development consisting of a change of use of a building and any land within its curtilage from a use of an agricultural building to a use falling within Class C3 (dwellinghouses) of Part 3 of Schedule 2 of that Order.
- 8.2. 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. 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.

**Q.1. – (1) Development is not permitted by Class Q if –**

- (a) *the site was not used solely for an agricultural use as part of an established agricultural unit*
- (i) *on 20<sup>th</sup> 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 time 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 building has been regarded as an agricultural building since, and prior to, 20<sup>th</sup> March 2013.**

- (b) *In the case of –*
  - (i) *A larger dwellinghouse, within an established agricultural unit*
    - (aa) *the cumulative number of separate larger dwellinghouses 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;*
  - (ba) *the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;*

**Only one dwellinghouse is developed within this scheme with a footprint of 93.7sqm.**

- (c) *In the case of –*
  - (i) *A smaller dwellinghouse within an established agricultural unit –*
    - (aa) *the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; 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.*

**Only one dwellinghouse is developed within this scheme with a footprint of 93.7sqm.**

- (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 Classes Order exceeding 5;*

**No previous development under Class Q is established within the site and the building subject to the Class Q development has a floorspace of 93.7sqm and only converts the structure into one dwellinghouse.**

- (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.**

- (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*

**An agricultural tenancy over the site has not been terminated less than 1 year before the date development begins.**

- (g) *Development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have been carried out on the established agricultural unit*
  - (i) *Since 20<sup>th</sup> March 2013; or*
  - (ii) *Where development under Class Q begins after 20<sup>th</sup> March 2023, during the period which is 10 years before the date development under Class Q begins*

**No development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have been carried out on the established unit since 20<sup>th</sup> March 2013.**

- (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 scheme does not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.**

- (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*

**The scheme only consists of the building operations identified within Q.1(i).**

- (ii) *Partial demolition to the extent reasonably necessary to carry out building operations allowed by Paragraph Q.1(i)(i);*

**The proposal does not involve any demolition of the existing building.**

- (j) *The site is on article 2(3) land;*
- (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*
- (l) *The site is, or contains, a scheduled monument; or*

(m) *The building is a listed building*

**The application site is not on article 2(3) land, it does not form a site of special scientific interest, a safety hazard area or a military explosives storage area and the site does not contain a scheduled monument, nor is the building a Listed Building.**

*Conditions*

**Q.2. –(1)** *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 as to—*

(a) *transport and highways impact of the development,*

**The Applicant propose no changes to the existing access on to Upton Lane. It is noted that the access meets the public highway at an irregular angle. However, it is also acknowledged that the site access is located between two bridges and is opposite a designated employment site (STG14). In light of the above and following discussion with the Local Highway Authority, it is considered that the development of one dwelling is not likely to have a severe, unacceptable impact on highway safety or the road network.**

**The Proposed Site Plan demonstrates two off-street vehicular parking spaces, which is in accordance with the quantum of off-street parking required by Paragraph 3.151 of Part 3 of the LHDG. Although the dimensions of these parking spaces within the Proposed Site Plan do not meet the requirements of Paragraph 3.165 of Part 3 of the LHDG, it is considered that appropriate dimensions for off-street parking spaces is achievable within the application site.**

**As a result, it is considered that the development proposal does not result in a significant adverse impact on highway safety or the road network.**

(b) *noise impacts of the development,*

**The proposal is for one three-bedroom dwelling and therefore it is not considered that the noise impacts of the development have a significant adverse impact on neighbouring residential amenity.**

(c) *contamination risks on the site,*

**The Applicant claims that the barn has not been used for the storage of any farm machinery or chemicals. Whilst no contamination risks have been immediately identified within the site, as recommended by the Council's Pollution Officer,**

**a scheme of investigation into any potential land contamination on the site is secured via planning condition.**

- (d) *flooding risks on the site,*

**The application site is within Flood Zone 1 and the Environment Agency do not consider the site to be at any risk to fluvial flooding.**

- (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,*

**Although the application site is outside of defined settlement boundaries, the application site is 57m from the identified settlement boundary of Stoke Golding, and a further residential dwellings are present on the northern side of Upton Lane. 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 in these site-specific circumstances.**

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

**The design and external appearance of the building does not have a significant adverse impact on the character of the building or the surrounding area. The incorporation of fenestration and doors are the only alteration to the building.**

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

**There are windows to every habitable room, which considered to provide adequate natural light within the dwellinghouse.**

*and the provisions of Paragraph W (prior approval) of this Part apply in relation to that application.*

**The application accords with the provisions of Paragraph W (prior approval) of this Part.**

- (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 subparagraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.*

**Note to Applicant.**

- (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.**

**9. Equality Implications**

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

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

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

**10. Conclusion**

10.1. The application meets the conditions of Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that the application is acceptable and is in accordance with the conditions and the provision of Paragraph W of the General Permitted Development Order (2015) (as amended).

**11. Recommendation**

11.1 **Prior approval required and granted** subject to:

- Conditions outlined at the end of this report.

**11.2 Conditions and Reasons**

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
  - Proposed Site Plan / Existing & Proposed Floor Plan – Drg No. 002 (submitted: 05.12.2023)
  - Site Location / Existing & Proposed Elevations – Drg No. 001 (submitted: 05.12.2023)

**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 occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed or last employed in the agricultural business associated with the land at 'Little Mulberry, Upton Lane, Stoke Golding,' as identified within the 1:1250 Site Map in the Site Location / Existing & Proposed Elevations – Drg No. 001 plan (submitted: 05.12.2023), or a widow or widower of such a person, or any resident dependant.

**Reason:** To ensure that the occupier of the dwelling hereby permitted is not subject to noise and odours, outside of their control, that would have an adverse impact on their amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

3. The development shall be carried out in full accordance with the recommendations and biodiversity enhancement opportunities outlined within Table 7 (Evaluation of the Site for Bats and Any Other Ecological Constraints) of Section 4.0 (Conclusions, Impacts, and Recommendations) within the Preliminary Roost Assessment (submitted: 05.12.2023).

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. 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 approved 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).

5. 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 site first being occupied.

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

6. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to, and approved in writing by, the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is

provided at the adopted highway boundary to store and service wheeled containers.

**Reason:** To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

a. **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 [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. In relation to Conditions 04 and 05, advice from Environmental Health should be sought via [esadmin@hinckley-bosworth.gov.uk](mailto:esadmin@hinckley-bosworth.gov.uk) to ensure that any investigation of land contamination is in accordance with their policy.
3. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway. Please refer to the policies within the Wheeled Bin and Container Policy (updated March 2018). It would be advisable to include an area near the roadside for the safe placement of the various containers on collection day. This will then keep the access clear to allow vehicular access. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point.
4. To avoid adverse impacts to nesting birds, the removal of shrubs ideally would be carried out outside the bird breeding season (which runs from March to September, inclusive). If this cannot be achieved, then pre-vegetation clearance nesting bird checks completed by an appropriately experienced ecologist would be required prior to removal works.
5. 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.
6. 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.
7. 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.
8. 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.