

Delegated Report

Planning Reference 25/00535/P3CQ
Applicant Mr Mark Wye
Ward Ratby, Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Application Site Woodside Farm, Heath Road,
Bagworth Heath

Proposal Notification to determine if Prior Approval is required for the change of use of an existing agricultural building into one single dwelling (Class C3)

Case Officer Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. **Refuse prior approval** for reasons detailed at the end of this report.

2. 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 a two-storey, five-bedroom dwelling (Use Class C3) at Woodside Farm, Heath Road, Bagworth Heath via Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended ('GPDO')).

3. Description of the Site and the Surrounding Area

3.1. The application site is in an isolated location approximately 1.6km southeast of, and outside of the identified settlement boundary of, the Key Rural Centre, Bagworth, in the identified boundaries of the National Forest and the designated open countryside.

3.2. The application site features a rural barn and forms part of the wider Woodside Farm, which is outside of the red line boundary of this application. Woodside Farm consists of the barn within this development proposal as well as an existing dwelling, garage and dog kennels. The barn, the dwelling and the kennels were approved via planning permissions 88/00700/4 and 88/01137/4.

3.3. The existing dwelling has been modified via planning permissions 10/00371/FUL and 15/00094/HOU and is now a two-storey, five-bedroom, brick-built dwelling that is accompanied by an attached triple garage with accommodation in its roof space and a detached outbuilding that also features first floor accommodation.

- 3.4. Woodside Farm is surrounded by woodland, including beyond Heath Road to the west, and Bagworth Heath Woods adjoins the northern and eastern boundaries of the site. The site utilises an existing access onto Heath Road, which is an adopted and classified 'C' road that is subject to the National Speed Limit. Heath Road is bounded by existing mature vegetation. Public Right of Way R70 runs 112m to the north of the site.

4. Relevant Planning History

- 4.1 Pre-application advice was sought via 24/10145/PREHMO for the conversion of the barn within this current application into a dwelling. The Local Planning Authority advised that the proposal was unlikely to be acceptable to the Council and any forthcoming planning application was required to demonstrate the development complied with the requirements of Policy DM15 of the SADMP.

4.2 **88/01137/4**

- Erection of a bungalow and dog kennels
- Permitted
- 25.10.1988

4.3 **88/00700/4**

- Erection of a bungalow and dog kennels and barn (Outline)
- Permitted
- 20.09.1988

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. There are no adjoining properties to the application site and therefore, the application has been publicised by posting a site notice 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) and the Lead Local Flood Authority (LLFA). 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 Class Q of Part 3 of Schedule 2 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 under the transitional arrangements detailed at Article 10 of the Town and Country (General Permitted Development etc). (England) (Amendment) Order 2024 ('Transitional Arrangements'). Article 10(4) of the Transitional Arrangements confirms that development proposals can be determined via Permitted Development Rights as they stood prior to 21 May 2024 provided that the application is received by the Local Planning Authority by 20 May 2025.

7.6 The Application Form states that the Applicant wishes for the development to be determined via Permitted Development Rights as they stood prior to 21 May 2024. However, it is noted that the Application Form was signed and submitted to the Local Planning Authority on 29 May 2025. Therefore, the proposal is not eligible to be determined under the Transitional Arrangements, and the scheme should be

determined in accordance with The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) (as amended).

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

- 7.7 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.
- 7.8 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(k), (l), (m), and (n) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.9 The development proposal does not result in the cumulative number of 10 separate dwellinghouses having a use falling within Class C3, nor a cumulative floorspace of Use Class C3 uses that exceeds 1,000 square metres. Therefore, the proposal is compliant with Paragraph Q.1(d) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.10 Notwithstanding this, the existing barn was approved alongside the provision of a bungalow and dog kennels by planning permission 88/0700/4. No details submitted as part of the application, nor within the planning history of the site suggest that the structure proposed for conversion has never been part of an established agricultural unit. In light of this, the proposal is not considered to comply with the limitations of Paragraphs Q.1(a) and Q.1(b) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.11 As the proposal does not comply with Paragraphs Q.1(a) and Q.1(b) of Class Q of Part 3 of Schedule 2 of the GPDO, the limitations of Paragraph Q.1(e), (f), and (g) of Class Q of Part 3 of Schedule 2 are not applicable
- 7.12 Based on the submitted Floor Plans, the proposed floor space of the ground floor of the development has a total size of 208 square metres. This exceeds the limitations of, and is contrary to the requirements of, Paragraph Q.1(c) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.13 Paragraph 4.41 of the Planning Statement confirms that the development does not include any extensions to the existing building and therefore Paragraphs Q.1(h) and (i) of Class Q of Part 3 of Schedule 2 of the GPDO are not applicable.
- 7.14 However, 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."*
- 7.15 There is a discrepancy between the submitted plans and the plans submitted as part of pre-application enquiry 24/10145/PREHMO. Within the previously submitted

plans as part of 24/10145/PREHMO, the existing structure externally measured 12.7 metres in width by 18.9 metres in depth and had a ridge height of 6.3 metres.

- 7.16 In comparison to this, the currently submitted plans suggest that the existing structure externally 12.2 metres in width by 18.7 metres in depth, with a ridge height of 5.2 metres. It is noted that both sets of plans were produced by the same Architect, yet there is a half a metre disparity in the width of the existing structure.
- 7.17 The concern regarding the disparity between the submitted plans was also raised within the Council's response to the pre-application enquiry 24/10145/PREHMO. In light of this, the Council stated within the response to the pre-application enquiry 24/10145/PREHMO that the Applicant has failed to demonstrate that the existing building is structurally sound.
- 7.18 The Applicant has not submitted any supporting information within this application to demonstrate that the building is structurally sound. Given the above, the requirements of Paragraph 105 of the NPPG, and the significant discrepancies within the submitted plans, it is considered that the Applicant has failed to demonstrate that the existing structure is already suitable for its conversion into a residential use, nor that the proposed development would only consist of the building operations detailed at Paragraph Q.1(j) of Class Q of Part 3 of Schedule 2 of the GPDO. Therefore, the scheme is contrary to the requirements of Paragraph Q.1(j) of Class Q of Part 3 of the GPDO.
- 7.19 The site utilises an existing and unamended access onto Heath Road. The Local Highway Authority raised no concerns with the development proposal and referred to standing advice. Ultimately, it is not considered that the provision of a new independent dwelling in this location significantly intensifies the use of the site's access in comparison to the existing use of the site. By virtue of these factors, the proposal is considered to have a suitable existing access to the public highway in these site-specific circumstances in accordance with Paragraph Q.1(p) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.20 It is also considered that the proposal can comply with the minimum requirements of the National Described Space Standards (2015) in accordance with Paragraph Q.1(o) of Class Q of Part 3 of Schedule 2 of the GPDO.
- 7.21 To summarise, the scheme is not considered to represent the conversion of an existing agricultural building that has ever formed part of an established agricultural unit, and the size and scale of the development exceed the limitations of, Paragraph Q.1(c) of Class Q of Part 3 of Schedule 3 of the GPDO. Furthermore, the Applicant has failed to demonstrate that the existing structure is already suitable for its conversion into a residential use, nor that the proposed development would only consist of the building operations detailed at Paragraph Q.1(j) of Class Q of Part 3 of Schedule 2 of the GPDO. By virtue of these factors, the proposed development does not meet the limitations 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

- 7.22 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 for the following.

Transport and Highways Impacts of the Development

- 7.23 As detailed above, the site utilises an existing and unamended access onto Heath Road, and the Local Highway Authority raised no concerns with the development proposal and referred to standing advice. Ultimately, it is not considered that the provision of a new independent dwelling in this location significantly intensifies the use of the site's access in comparison to the existing use of the site. By virtue of these factors, 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.

Noise Impacts of the Development

- 7.24 No concerns have been raised by the Council's Environmental Services Department in relation to any noise impacts of the development. Whilst there are dog kennels within the wider site, the submitted details state that this structure is redundant. Furthermore, a planning condition could ensure that the existing structure remained ancillary to the current development to prevent any significant adverse noise impacts affecting the future occupiers of the proposed scheme. Therefore, it 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

- 7.25 The Council's Environmental Services Department confirmed that the development was acceptable, subject to a planning condition in relation to the investigation of contaminated land within the site to protect the residential amenity of the future occupiers of the scheme.

Flooding Risks of the Site

- 7.26 The Lead Local Flood Authority did not comment on the application. According to the Environment Agency's website, the application site is within Flood Zone 1, which is designated as at low probability of flooding rivers and seas, and is at very low risk of flooding from surface water. Therefore, the principle of residential development in this location in relation to its risk of flooding is acceptable. This position is supported by the Council's Drainage Department.

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

- 7.27 Although the application site is outside of defined settlement boundaries in an isolated location, there is an existing dwelling within the site.
- 7.28 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

- 7.29 No extensions are proposed to the existing building and the scheme is timber cladded and features metal cladding roof panels. Therefore, 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

- 7.30 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.

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. The proposal does not comply with the limitations of Paragraphs Q.1(a), (b), (c), and (j) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

10. Recommendation

10.1 Refuse prior approval for:

- 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. The proposal does not comply with the limitations of Paragraphs Q.1(a), (b), (c), and (j) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

a. Notes to Applicant

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 30.05.2025)
 - Existing Floor Plan and Elevations (101C) (submitted: 30.05.2025)
 - Planning, Design and Access Statement (submitted: 30.05.2025)
 - Proposed Floor Plans & Elevations (102B) (submitted: 30.05.2025)
 - Proposed Visuals Sheet 1 (submitted: 30.05.2025)
 - Proposed Visuals Sheet 2 (submitted: 30.05.2025)
 - Proposed Visuals Sheet 3 (submitted: 30.05.2025)
 - Site Plan, Block Plan & Location Plan (100D) (submitted: 30.05.2025)