DELEGATED REPORT

Application Reference: PL/2023/06516

LEGISLATION AND POLICY

Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

NPPF & Planning Practice Guide

PROPOSAL AND BACKGROUND

Notification for Prior Approval Under Class Q for the change of use from 1 No. agricultural building to 1 No. residential dwelling (Class C3) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) to include operational development.

The application site Church Farm is located within the open countryside, to the south of the hamlet of Lower Seagry. The proposal relates to two farm buildings.

PLANNING HISTORY

- PL/2022/05837 - Erection of entrance gates and associated railings – Approved with Conditions
- 13/04632/FUL - Installation of 16 Solar Panels on Farm Shed - Approved with Conditions

CONSULTATION

Seagry Parish Council: Comments:

> "*The Council is mindful of the fact that this substantial proposal is a legal determination for your own Council and is not a planning application.*
>
> *In considering the proposals the Council would ask you to note the close proximity of St Mary's Church and the Tithe Bam, both of historic importance, and the importance of this area of the Parish within the adopted Seagry Neighbourhood Plan.*
>
> *Areas of concern relate to site boundaries and the fact that Church Farm has a significant land holding, not shown on the site location plan, whereas the site and block indicates a red line site curtilage and a small area of associated land within the blue line.*
>
> *To meet the Prior Notification requirements the red line curtilage is restricted and indicates the provision of two parking spaces. To gain access to the spaces and the dwelling itself it appears that there will be a need to cross the blue line associated land. As this is a necessity then this area should be included within the proposed curtilage.*
>
> *In addition another area of concern relates to the future intentions for the associated blue lined land. Should this be retained as agricultural land then there is no concern. However,*

should the intention be to increase the size of the residential curtilage in the northern and eastern directions then the Council would not be supportive.

It is noticeable that the layout and elevation plans show door openings leading to the north which suggests that the long term aim is to expand the curtilage in the northern direction."

Highways Engineer: No objection

Public Protection: Comments:

"I do not have any adverse comments to make concerning the application.

We would want to make sure due to the agricultural use that there are no contaminated land issues. I would therefore recommend that if possible the following condition is attached:

Former agricultural buildings/yards
Former agricultural use of the site/building may have given rise to potential sources of land contamination e.g. fuel oil, vehicles, asbestos, pesticides or herbicides. As it is now intended to use the site for residential purposes a statement/letter report must be provided which confirms the historical uses of the site/building and how development works will address any potential for land contamination which may exist.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable."

REPRESENTATIONS

1 in support and 1 in objection. The objection relates to concerns in respect of the design, amount of new openings, fenestration design.

ISSUES

Whether the proposal accords with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

ASSESSMENT

This is a prior approval application. The development is first required to be considered whether it is permitted development for the purposes of Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. This should be assessed before it is considered whether prior approval is required.

Class Q allows for the change of use of agricultural buildings together with building operations reasonably necessary to convert the building.

As required by paragraph Q.1 (a) the Local Planning Authority (LPA) will have to be convinced that the former agricultural building was used solely for agriculture, as part of an established agricultural

unit on 20th March 2013. Included within the procedure notes for prior approvals under Part 3 is the definition of an agricultural building. Such a definition sets out that an “agricultural building means a building used for agriculture and which is so used for the purpose of a trade or business, and excludes any dwelling house”. The applicant states the building was in use for agricultural purposes on that date and continues to be used as such. As such, it is appears the buildings would benefit from Class Q provisions.

The order at paragraphs (b) and (c) relate to the floor areas for both larger and smaller dwellings. The proposal is for a single dwellinghouse with a floorspace of 227m2. This would be defined as a larger dwellinghouse within the order. In respect of Paragraph Q.1 (b), (c) and (d), the proposed dwelling size and number of dwellings would be within the allowed limits. No other dwellings have been created under Class Q.

The supporting statement confirms that the site is not subject of an agricultural tenancy. The applicant is understood to be working in partnership with a local farmer who is using the building for agricultural purposes but they do not consider that the farmer is a “tenant” as defined in the GPDO. Under this assumption there is no conflict with paragraph Q.1 (e) or (f) of the amended Class Q.

The applicant confirms that no new agricultural development as cited in paragraph Q.1 (g) has been carried out within the stated timeframe.

Paragraph Q.1 (h) states that the development would not be permitted development should the development result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The proposals do not extend beyond the existing building.

Paragraph Q.1 (i) states that development consisting of building operations reasonably necessary for the building to function as a dwellinghouse are acceptable as listed in the regulations. In considering what works are reasonably necessary, it has been established in case law, namely in the Hibbit Case that there are three important considerations. These are:

1. The building must be capable of functioning as a dwelling;
2. The proposed development should not include new structural elements
3. The existing building should be significantly strong to bear the loading from external works

A structural statement accompanies the prior approval application dated June 2023. This states that both buildings appear to be performing satisfactorily, and in structural terms, there is no apparent reason why the buildings shouldn’t be converted to habitable use. The buildings appear adequate in terms of condition for conversion.

This section states that the installation of windows are allowed to the extent reasonably necessary for the building to function as a dwellinghouse. There is extensive new fenestration proposed and it is considered this goes over and above that which is reasonably necessary.

The site is not on article 2(3) land nor is it subject to any restrictions set out in paragraphs (j) to (m). The Tithe Barn and the Church of St Mary (and associated monuments) to the south west are Grade II listed. However, the buildings subject to this Class Q appear to have been constructed between 1952 and 1992. They do not appear to be curtilage listed. The only instance where this could be the case is that the structures were built off previous historic field boundaries or enclosures (pre-1948 structures). If the buildings were attached to a pre-1948 structure it would be curtilage listed. If the buildings were listed buildings Class Q would not be applicable.

Prior approval matters:

There is also a requirement for the consideration of prior approval matters. As detailed paragraph Q.2 the developer is required to 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 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 (dwellinghouses) of the Schedule to the Use Classes Order.
(f) design or external appearance of the building, and
(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses.
and the provisions of paragraph W (prior approval) of this part apply

These are assessed in detail below:

Transport and highways impacts of the development

The response from the Highways Engineer raises no objections on the basis of highway safety, and there is adequate parking.

Noise impacts of the development

The building is located on a farmstead. The buildings subject to the conversion are on the edge of the farmstead. There are no noise amenity concerns in relation to the proposals.

There are no neighbouring properties that would be impacted by the development.

Contamination risks on the site

The building has been used for agricultural storage. The applicant asserts that there is no contamination risk on the site to prejudice the use of the barn for residential purposes. The Council's Environmental Health Officer would want to make sure that there are no contaminated land issues due to the agricultural use, and consequently proposes a condition in relation to contamination.

Flooding risks on the site

The site lies in flood zone 1 but in an area identified at risk of groundwater flooding in the Wiltshire Strategic Flood Risk Assessment. Groundwater levels are either at or very near (within 0.025m of) the ground surface. Two corners of the buildings are also identified as at risk of surface water flooding 1 in 100 years + climate change (40%). No flood risk assessment accompanies the prior approval application. To comply with Paragraph 167 of the NPPF this is required to consider whether the proposal is acceptable. Prior approval would be required in relation to flood risk, and currently refused as there is a lack of information in relation to flood risk.

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

The building has a shared access to the farm, and the conversion would not cause harm to the amenity of neighbours. The conversion of the buildings is on the edge of the farmstead. The proposed outdoor amenity space for the building would comprise a small courtyard area in front of the buildings. This space is between the Class Q buildings and another agricultural building which is open sided. No information has not been provided as to the use of the adjoining building and

whether there will be any boundary treatments. On the basis of the information submitted, the outlook and quality of this amenity space appears poor and would be undesirable.

The buildings are situated at the end of the approach to Church Farm which is a sensitive location in respect of The Tithe Barn and Church of St Mary (and associated monuments) listed buildings. The buildings subject to the Class Q are visible within the setting of these heritage assets. It is considered that the change of use of the buildings to a dwellinghouse with the current design would be harmful to the sensitive heritage setting, and is therefore undesirable. Specifically, the significant introduction of fenestration is undesirable and boundary treatments need to be considered.

Prior approval would be required in respect of this matter, and is refused. It may be worth undertaking a heritage assessment to understand whether the building can be converted more sympathetically and satisfy this matter with an alternative design. Consideration could be given to whether the amenity space can be improved - perhaps through the use of landscaping and boundary treatments.

Design and appearance

As also addressed in the previous section, the design of the converted buildings is considered harmful to the setting of the listed buildings. The buildings subject to the Class Q are highly visible on the approach to these listed buildings, and therefore the appearance of these buildings impacts the setting of the heritage assets. As such prior approval is required in relation to this and refused. It is considered a less intrusive/minimal conversion may be appropriate subject to heritage assessment.

The provision of adequate natural light in all habitable rooms of the dwellinghouse

Adequate light is achieved as demonstrated by the proposed floor plans/elevations provided.

Paragraph W

The proposal complies with the provisions of Paragraph W.

CONCLUSION

The proposed development, based on the facts presented and the particular circumstances of this site and previous uses would not accord with the provisions of Class Q. The proposed works goes above what would be reasonably necessary for the buildings to function as a dwellinghouse as there is an excessive amount of fenestration proposed. The proposal would not accord with the provisions set out within Paragraph Q.1 (i).

The proposed development would require prior approval in relation to the following related matters set out in paragraph Q.2, and prior approval is refused in relation to these matters.

Prior approval would be required in relation to (d) flooding risks on the site. Whilst the site is within Flood Zone 1, Wiltshire Council's Strategic Flood Risk Assessment identifies ground water flood risk and a small amount of surface water flood risk at the site. A Flood Risk Assessment is required to assess this.

Prior approval is also required and refused in relation to: (e) the location and siting of the building within close proximity to listed buildings makes it undesirable for the building to change uses with the proposed design; and (f) the design or external appearance of the building is unacceptable in heritage terms. The current design proposes a significant amount of fenestration which changes

the nature of the building and would have an impact on the setting of the listed buildings. It is considered a more minimal conversion may have potential in this sensitive location, albeit it is recommended that a heritage assessment is undertaken to understand if an alternative, more sympathetic design would be achievable. Consideration should also be given to ensure an acceptable outdoor amenity space is provided.

RECOMMENDATION: The proposal is not permitted development. Prior approval is required and refused for the following reasons:

1. The development would consist of building operations which exceed that which would be reasonably necessary for the buildings to function as a dwellinghouse, due to the significant amount of fenestration proposed. The proposal would not accord with the provisions set out within Paragraph Q.1 (i) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

2. The application site is identified within Wiltshire Council's Strategic Flood Risk Assessment as having ground water and surface water flood risk. Prior approval is required in relation to Paragraph Q.2 (d) flooding risks on the site of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). No flood risk assessment has been submitted.

3. The development would be sited within the setting of Grade II listed buildings (Tithe Barn At Church Farm, Church Of St Mary and associated monuments). It is considered the proposed design is not compatible with the setting of the nearby listed buildings and causes harm to the setting of heritage assets. The development's design and siting makes it undesirable for the buildings to change use to a dwelling house. The proposal would not accord with the prior approval matters Paragraph Q.2 (e and f) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

4. The proposed outdoor amenity space appears to be of poor outlook and quality. For this reason the change of use of the buildings (and associated land) to a dwelling house is undesirable. The proposal would not accord with the prior approval matter Paragraph Q.2 (e) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).