DELEGATED REPORT

Application Reference: PL/2023/10825

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

Prior notification of a 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/2023/06516 - Prior notification of a 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 - Refused
- 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:

"*The Council is mindful that this application is a resubmission of application PL/2023/06516, refused by your Council, and is a legal determination not a planning application.*

The Council commented on application PL/2023/06516 and they are pleased to see that several of the concerns raised have been reconsidered and the Council can now give their support in principle to the proposal and find the design details more appropriate to the area.

Areas of concern remaining relate again 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.

The Council notes that the red line curtilage is restricted and indicates the provision of two parking spaces. But again 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.

The main area of concern relates again to the future intentions for the associated blue lined land. This is agricultural 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/domestic curtilage the Council would not be supportive.

As before it is noticeable that the layout and elevations show door openings leading to the north with a narrow pathway around the perimeter of the proposed dwelling which suggests that the long term aim could be to expand the curtilage in the northern direction. It is acknowledged that this might not be the intention of the existing owner but there needs to be an enforceable planning condition restricting curtilage expansion."

Highways Engineer:

"The site is located in Lower Seagry, on an unclassified section of public highway subject to a speed limit of 60mph, which leads to the private track where the existing access is located.

There are no proposals to alter the access with the public highway, the proposals would not be considered of detriment to highway safety or capacity, provision has been indicated within the curtilage for the required 2 spaces for a 3-bedroom dwelling with access off a private driveway. Therefore, I would not wish to raise an objection with regard to highways."

Conservation: No objection

"Policy: From the point of view of the historic environment the main statutory tests are set out within the Planning (Listed Building and Conservation Areas) Act 1990. Sections 16 (LBC) and 66 (PP) require that special regard be given to the desirability of preserving listed buildings, their settings or any features of special architectural or historic interest which they possess.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 also requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

The NPPF outlines government policy, including its policy in respect of the historic environment. Section 16 of the NPPF 'Conserving and enhancing the historic environment' sets out the Government's high-level policies concerning heritage and sustainable development. Paragraphs 206-8 of the NPPF require a balanced approach with any harm which would be caused being weighed against the potential public benefits which might be achieved. Paragraph 203 requires local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and of new development making a positive contribution to local character and distinctiveness.

National Planning Practice Guidance provides guidance on interpreting the NPPF.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that "designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance."

Wiltshire Council's Core Strategy Policy CP57 'Ensuring high quality design and place shaping': A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality.

Historic England Advice Note 2 – Making changes to Heritage Assets illustrates the application of policies set out in the NPPF in determining applications for PP and LBC.

Paragraph 200 requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. This should include sufficient information to provide a clear understanding of the significance of the heritage asset and its setting and the potential impact of any proposals on that significance. In this case, the applications are accompanied by a "Design and Heritage Statement" which provides sufficient information to understand the impact of the proposals and is proportionate to their scope. The requirements of the NPPF are therefore met in this respect.

However, paragraph 201 also provides for the local planning authority to make its own assessment of impact and the following heritage recommendations are offered on this basis.

Given the development would be confined to the shell of the existing buildings I observe that there would be not significance change to the setting of either the Tithe Barn or Church. There the significance of these assets would not affected provided the works do not protrude beyond the existing built envelop.

The impact of the proposals on heritage assets will be neutral and the requirements of current conservation legislation, policy or guidance are considered to be met and there is therefore no objection to the approval of the application."

Drainage Engineer: "*The FRA has demonstrated that the proposed development will be sited within Fluvial Flood Zone 1, and that based on assessment of the existing topography and land drainage features, that the proposed dwelling is at low risk of pluvial flooding.*

Given that the proposed dwelling will have a finished floor level no lower than existing, there will be no increase in groundwater flood risk to the dwelling from the current scenario. The topographical plateau described in the submission, in conjunction with the land drainage network will likely control groundwater and help reduce the risk of groundwater flooding to the proposed dwelling.

It is noted that the impermeable area of the site will be reduced when compared to the existing scenario (and therefore will not result in an increase in local pluvial flood risk). A detailed surface water drainage strategy has not been provided at this stage, however given the site is already drained, and that there will be no increase in runoff as a result of the development, this would not be of concern to us.

From a drainage perspective, we would therefore recommend a "no objection" response to this application as currently submitted to us."

REPRESENTATIONS

No representations

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 Planning Statement confirms that the site is not subject of an agricultural tenancy. 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 December 2023. This states that both buildings appear to be performing satisfactorily, roof structures and walls are adequate. In structural terms, conversion to habitable use appears to be acceptable, providing re-cladding replicates the existing. 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. Having reviewed the elevations and floor plans, there is a reasonable level of fenestration proposed.

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.

The site is not on article 2(3) land nor is it subject to any restrictions set out in paragraphs (j) to (m).

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

Given the former agricultural use of the site and buildings, these may have given rise to potential sources of land contamination e.g. oil storage, pesticides or herbicides. A statement/letter report would need to be provided which confirms the historical uses of the site/buildings and how any development works would address the potential risk of land contamination which may exist. This matter could be controlled by a suitably worded condition.

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%). A Flood Risk Assessment has been submitted in support of the proposal. This concludes that the proposed development is achievable in a sustainable manner, without increasing flood risk on Church Farm or within the greater catchment area and would be in accordance with both National Planning Policy Framework and Local Policies. The Council's Drainage Engineer has reviewed this and has no objection.

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. The applicant states that this building is purely used for agricultural storage. The Site Plan shows a 2m high hit and miss timber fence to provide screening between the courtyard and building to the south of the site. Whilst the amenity space is relatively small in size, it is considered this is adequate for a modest 2 bedroom property. It's location within the courtyard means it would not adversely impact on the character of the wider area or setting of heritage assets. A larger curtilage and associated paraphernalia may have a greater impact.

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. A Heritage Assessment accompanies the proposed conversion. Having reviewed the Assessment and proposed plans, it is considered that the proposed conversion is sensitive to the character of the agricultural building and the setting of heritage assets. The previous Class Q proposal comprised a significant number of new windows in the northern elevation (visible from the approach to the heritage assets) which was considered harmful, but the number of new windows now proposed is much more modest. The Council's Conservation Officer has no objection to the proposals and states that the significance of these assets would not affected provided the works do not protrude beyond the existing built envelop.

Design and appearance

The design of the converted building is considered acceptable. Given the proposal is visible within the setting of the heritage assets, the appearance of the building is important. Prior approval is required in relation to this and approved. It is considered that it is necessary to remove permitted development rights for further extensions and external alterations, so that any further changes could be considered under a planning application, given the sensitive environment in terms of heritage.

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 accord with the provisions of Class Q.

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 is required in relation to (d) flooding risks on the site, and following submission of a Flood Risk Assessment, is approved.

Prior approval is also required and refused in relation to: (f) the design or external appearance of the building, given the sensitive location in close proximity to heritage assets. The proposed conversion is considered acceptable in design and heritage terms, and is approved.

RECOMMENDATION: Prior approval is required and approved subject to the following conditions:

1. The development shall be carried out in accordance with the following plans received by the Local Planning Authority:

   Location Plan 650/E/00
   Existing Floor Plans 650-E-01
   Existing Elevations 650-E-02
   Existing Block Plan 650-E-03
   Proposed Floor Plans 650-P-01 C
   Proposed Elevations 650-P-02 E
   Proposed Block Plan 650-P-03 B

   REASON: For the avoidance of doubt and in the interests of proper planning.

2. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

   Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether it is likely that contamination may be present on the site.

   Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

   Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re- enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.