CASE OFFICER'S REPORT

Application Reference:	PL/2023/09594
Application Type:	Full planning permission
Site Inspection:	
Consultation ends:	13 December 2023
Case officer:	Callan Powers

Site Address:	Chestnut Farm, Church Lane, Dauntsey, Chippenham, SN15 4HW
Proposal:	Change of use and alterations to 3 no. agricultural buildings to form 4 no. dwellings and associated works.
Recommendation:	Approve with Conditions

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POLICIES
National Planning Policy Framework December 2023 Paras 2, 11, 38, 47, 123, 131 & 157
Wiltshire Core Strategy Jan 2015 CP1 CP2 CP13 CP50 CP51 CP57
ISSUES
Principle of development
Impact on the character and appearance of the area
Landscape impact
Impact on residential amenity
Highways
Ecology
Drainage
REPRESENTATIONS
Neighbour Representations – None received.

Dauntsey Parish Council – No objection.

Drainage – No objection, subject to conditions.

Highways – No objection.

Ecology – No objection, subject to conditions.

Public Protection – No objection, subject to conditions.

Archaeology – No comment.

SITE DESCRIPTION
The application site comprises land accommodating a group of three agricultural buildings on low lying land in the Vale of Dauntsey. The site is in the countryside and forms part of an agricultural landscape.

Building A comprises two parts, a metal-sheet constructed section with a curved roof, and a substantial lean-to roofed section to the side of that. The lean-to section has timber cladding above a blockwork wall and below a cement sheet roof.

Building B is a blockwork wall structure below a sheet metal roof and is understood to have previously been a cattle barn. It is gable ended, with a small lean-to element located to the north western side.

Building C is clad and roofed in black profile metal sheeting. It has two sections, one with an arched roof and, adjacent and below this, a gently sloping roofed section.

The group of buildings is accessed from Church Lane in the north. This is a single carriageway road set at the national speed limit. To the south east of the site lies a group of much larger agricultural buildings in use in support of the ongoing cattle farming enterprise at Union Farm. Directly north of the site and in the same grouping are some dilapidated buildings, these are no longer in use and appear structurally unsound.

There are no designated heritage assets affected by the proposal, nor is the site crossed by any public rights of way. The site is partially within Flood Zone 2, where flood risk from rivers at the sea is higher than in some areas.

Relevant planning history
Of relevance to this application is the recent history of this site, as the following grants of Prior Approval remain extant:

Building A – PL/2022/09634: NOTIFICATION FOR PRIOR APPROVAL UNDER CLASS Q FOR A CHANGE OF USE OF AGRICULTURAL BUILDING TO C3 2 DWELLING HOUSES (1 LARGE AND 1 SMALL) AND ASSOCIATED OPERATIONAL DEVELOPMENT. Prior Approval required and granted 08 February 2023

Building B – PL/2022/09635: NOTIFICATION FOR PRIOR APPROVAL UNDER CLASS Q FOR A CHANGE OF USE OF AGRICULTURAL BUILDING TO C3 DWELLING HOUSE (1 LARGE) AND ASSOCIATED OPERATIONAL DEVELOPMENT. Prior Approval required and granted 07 February 2023

Building C – PL/2022/09636: NOTIFICATION FOR PRIOR APPROVAL UNDER CLASS Q FOR A CHANGE OF USE OF AGRICULTURAL BUILDING TO C3 DWELLING HOUSE (1 LARGE) AND ASSOCIATED OPERATIONAL DEVELOPMENT. Prior Approval required and granted 08 February 2023

THE PROPOSAL
This application seeks planning permission to remove the existing buildings from the site and replace them with buildings, similar in appearance, and in residential use providing four dwellings. In effect this can be considered replacing the conversion schemes, taken together, with a rebuild scheme. In terms of the appearance of the buildings, the materials to be used are largely similar although there are some differences to the elevations of the buildings.

The proposal also includes the addition of first floors allowing for an uplift in the number of bedrooms: 1x 1 bed, 1x 3 bed and 2x 4 bed dwellings are proposed. Outdoors, the immediate surroundings of the buildings are to be laid with gravel, with private amenity space beyond allocated to each of the dwellings.

ASSESSMENT:
Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006); the Wiltshire Housing Site Allocations Plan (WHSAP) (adopted February 2020).

Principle of development – planning policy
The application site is in the countryside, where development will not normally be permitted other than in accordance with exception policies set out within the development plan. The exceptions, other than any that may come forward through the neighbourhood planning process, are identified at Paragraph 4.25 of the WCS.

In this case, the proposed development would not meet any of the policy exceptions to the general policy of restraint in the countryside and is in conflict with the strategic aims of the development plan set out at Core Policies 1 and 2 of the WCS, as well as the Spatial Strategy for the Malmesbury Community Area set out at Core Policy 13.

The proposal is therefore not policy compliant. Nevertheless the determination process for planning applications requires the consideration of other material considerations, which may indicate that diverging from development plan policy would be appropriate. In this case there are extant grants of Prior Approval for the conversion of each of the affected barns under Part 3, Class Q General Permitted Development ('PD') rights.

Principle of development – fallback position
The importance of extant Prior Approvals of PD as a fallback position and a material consideration in the planning balance has been the subject of case law (most significantly and relevantly at the Court of Appeal in *Mansell v Tonbridge and Malling Borough Council* [2017], as well as a number of appeal decisions for similar proposals within Wiltshire. The presence of a fallback position has weight on the basis that it remains achievable and is greater than a theoretical possibility – that is to say, that there is a likelihood that the fallback position would be carried out if the prospective application were not approved.

The original applications seeking Prior Approval were submitted with structural information indicating that each of the subject buildings are structurally sound and capable of conversion and the extant Prior Approval was demonstrated to represent conversion rather than a rebuild of the buildings. The current application has been supported by a statement that the conversions remain *"feasible"*, and that the proposed rebuild offers advantages to the applicants in terms of increased flexibility and the longevity of the materials, while also provided greater logistical ease in the course of the works. The Council has no reason to consider that the extant Class Q Prior

Approvals cannot now be implemented, nor that they would not be if this application were ultimately to be refused. The extant approvals are therefore material considerations to be afforded weight in the decision-making process.

The weight to be attached to a fallback position established by virtue of Class Q in consideration of a proposal to rebuild, rather than convert, the building or buildings is depended, among other matters, on the degree to which the proposal differs from the extant approval. Inherent in this consideration is the fact to be acknowledged that demolition in favour of rebuild is at the outset a less sustainable form of development than that envisaged by the government when extending general PD rights for the conversion of agricultural buildings; this relates not only to the embodied carbon within the existing buildings but also the carbon associated with initial construction phase as well as the sourcing of the materials, and also the non-renewable materials themselves. Nevertheless the increased flexibility involved in a rebuild can offer improved opportunities for sustainable approaches to building design that can at least go some way to reducing the inherent sustainability deficit arising from the rebuild over the lifetime of the resulting building. Ultimately, as a result, decisions have tended to reflect that a fallback of this kind is of significant weight if the other impacts associated with the development are broadly the same.

In this instance, the proposed development is designed to produce replacement buildings that largely reflect those currently existing, and substantially similar to the conversions previously approved. Where the proposed development differs somewhat more substantially in planning terms is the degree to which the proposal intensifies the residential use of the site when compared to the collective fallback. Whilst the number of dwellings is altered between the two schemes at four units, three of these see an increase in the number of bedrooms proposed by one, with 1x1 bed, 1x3 bed, and 2x4 bed units now proposed.

The intensification of the residential use is material in terms of the highway impact of the development; this will be considered later in this report. In terms of the principle, however, the increase is not considered to be particularly significant. The housing mix in terms of a small development site cannot easily reflect the general needs of the area, however it is clear that the proposal offers a degree of variation though none of the units, including the single bedroom unit, could readily be described as a small home. The effect in respect of the housing mix can therefore only be considered modest.

The proposal also involves modifications to the respective plot boundaries and the overall landscaping of the site. The landscape impact of the development is considered later in this report, but does not significantly affect the consideration of the principle of development.

Taken as a whole, the proposed development is considered to be supported by the collective fallback position that is to be afforded sufficient weight to overcome the policy objection to development at this site. The development is therefore acceptable in principle, subject to site specific matters.

Impact on the character and appearance of the area

The proposed development has been designed, in the main, to re-create the general appearance of the existing buildings. There is some level of divergence in terms of the amount and size of proposed openings, but these are not considered to dramatically change the overall visual effect. The proposal includes material selection intended to closely resemble the existing, while the

extent of the built form does not go beyond the established envelope. It is likely that, initially, the novelty of the materials will be easily read to the point of rendering the development an incongruity in its landscape but over the lifetime of the development, and likely after a short proportion of that lifetime, these materials will weather in to a degree that allows the development to sit more comfortably in its setting.

The development site is somewhat separated from having a roadside presence and the development would not be prominent. Given the above it is therefore not considered that there would be a significant impact in terms of the local character and appearance.

Landscape impact
The development involves greater provision of residential garden than is possible under Class Q provision, which allows for the change of use of no more curtilage than an area equal to the footprint of the building. As a result of this revised scheme, a greater area of land will now be put to residential use in support of the resulting dwellings. Although not as obviously visually impactful as the built form involved, change of use of land to residential has its own landscape impact, as the domestication of the land brings with it various sundry domestic paraphernalia; commonly this includes items such as washing lines, lawn chairs, goal posts, trampolines etc.

The proposed expansion of residential use in this instance is not excessive and is reflective of the nature of the site, the eventual plots and their location. A native hedgerow mix is proposed to deliver boundary treatments and it is considered that this will soften the impact of the built form as well as diminishing the overspill of domesticity into the countryside.

Highways
The proposed development involves use of an existing access from Church Lane, which is a single carriageway road set at the national speed limit. Visibility is somewhat restricted by vegetation that lines the road, and the access as existing is likely better suited to its established use as an agricultural access. An upgrade to this access point would be preferred and on this basis the Council's Highways Engineer initially suggested that a condition to this effect should be attached to any permission granted.

Nevertheless, as has been noted by the applicants in rebuttal, site access was considered by the Council in the course of the applications for Prior Approval that formed the collective fallback position and no concern was raised as to the safety of the access. The Council's Highways Engineer has therefore conceded that the increase in bedrooms by a total of three over the four dwelling units is not sufficient to indicate refusal without the condition originally sought.

The site is amply proportioned to ensure that adequate off-street parking will be available to meet the development's needs. Accordingly, the highways impacts of the development are ultimately considered acceptable.

Impact on residential amenity
The Prior Approvals for conversion ensured that all habitable rooms would have adequate access to daylight. This is not altered by the proposals to build new dwellings and indeed it is clear that the occupants of the resulting dwellings will enjoy a high standard of amenity internally.

The rearranged site in terms of the plots would lend each of the dwellings a greater degree of private amenity space. This is a clear uplift in amenity offered to the occupants. Subject to appropriate boundary treatments, adequate privacy can be assured for future occupants. The site is set within an agricultural landscape where residents may at times be affected by unpleasant odours, but this is inherent in choosing a home in such a location and is not exacerbated by the switch from conversions to rebuilds.

As a result, no concern is raised in respect of amenity and the development overall is considered to accord with Core Policy 57 of the WCS.

Drainage
The application has been supported, as with the previous applications at the site, with a Flood Risk Assessment that includes a drainage strategy intended to ensure that the development adequately mitigates the risk of flooding. This is necessary as part of the site falls within Flood Zone 2, where there is a heightened risk of flooding from fluvial sources.

The Flood Risk Assessment has been accepted by the Council's Drainage Consultants, who have indicated that the strategy is acceptable, subject to conditions, and suggest some conditions to be attached to any planning permission issued. Pre-commencement conditions suggested in respect of groundwater and drainage calculations are not considered to meet the relevant tests for planning conditions, in particular given the fallback position it would not be reasonable to impose onerous additional conditions without any reasoning given.

It is however considered necessary to impose pre-occupation conditions in respect of an emergency plan and an operation and maintenance plan for sustainable drainage. These will ensure that consideration is made as to how the recommendations of the Flood Risk Assessment are upheld in the long term.

Conditions
The Council's Public Protection team have put forward some suggested conditions. This includes pre-commencement conditions in respect of a Construction Method Statement and a scheme of Ultra Low Energy Vehicle (ULEV) infrastructure. Neither of these are required of the applicants in order to carry out the fallback position, and as such in both cases it is questionable whether they would meet the test as to whether they are reasonable.

There is nothing identified in the characteristics of the site or the form of development proposed that renders it particularly problematic in terms of the construction phase. It is not therefore considered that the proposed condition seeking a Construction Method Statement would be demonstrably necessary and therefore this would not meet the relevant tests for planning conditions.

A ULEV infrastructure scheme is a matter that is to be secured under other provisions including the building regulations. This would therefore likewise not be demonstrably necessary and accordingly not meet the tests for planning conditions.

The fallback position is based on Class Q, which automatically restricts the exercise of a number of permitted development rights. Given the site's countryside location and the degree of sensitivity to intensification of the site, and also given the importance of the fallback position in establishing

the principle of development, it is appropriate to restrict permitted development in a similar manner by way of planning condition in respect of extensions, including upward extensions.

Conclusions

Although the site is in a countryside location wherein development would not normally be permitted, the presence of an extant fallback from which the proposed development would not significantly deviate is a material consideration of sufficient weight to conclude that the development is acceptable in principle. Subject to appropriate use of conditions, the development would not give rise to significant impacts beyond those arising from the development previously approved. It is therefore recommended that this application be approved, and planning permission granted accordingly.

RECOMMENDATION:
Permission subject to conditions

Conditions: (8)

1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
Drawing No. P-A-03 Revision A: Building A Proposed GF Floor Plan and Elevations, dated 10.03.2024 and received 11 March 2024;
Drawing No. P-A-04 Revision A: Building A Proposed FF Floor Plan and Section, dated 10.03.2024 and received 11 March 2024;
Drawing No. P-B-03 Revision A: Building B Proposed GF Plan and Elevations, dated 01.07.2023 and received 06 November 2023;
Drawing No. P-B-04 Revision A: Building B Proposed FF Plan and Section, dated 01.07.2023 and received 06 November 2023;
Drawing No. P-C-03 Revision A: Proposed GF Plan and Elevations, dated 01.07.2023 and received 06 November 2023;
Drawing No. P-C-04 Revision A: Building C Proposed FF Plan and Section, dated 01.07.2023 and received 06 November 2023;
Drawing No. P-S-02 Revision C: Proposed Site Plan, dated 01.07.2023 and received 06 November 2023;
Flood Risk Assessment Issue 3 (including Drawing No. 7889/501: Drainage Strategy), dated October 2023 and received 06 November 2023;
Ecology Report, dated 28th April 2023 and received 06 November 2023;
Planning Statement, dated October 2023 and received 06 November 2023; and
Application Form, dated 02/11/2023 and received 06 November 2023.

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

2 The development hereby permitted shall be begun before the expiration of three years from

the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no extensions, additions or enlargements (including by way of the construction of additional storeys) 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.

4 No development shall commence on site, including vegetation removal and demolition, until a Biodiversity Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should include but not be limited to a Soft Landscape Plan which also includes the location and specification of bird and bat boxes to be installed. The approved details shall be implemented before occupation of the final works.

The installation of these features detailed with in the plan will be supervised by a professional ecologist. These features will continue to be available for wildlife for the lifetime of the development.

REASON: To mitigate for impacts to biodiversity arising from the development.

5 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
• a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
• means of enclosure;
• all hard and soft surfacing materials;
• minor artefacts and structures (e.g. furniture, refuse and other storage units, signs, lighting etc); and
• proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc).
REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features and the amenity of

the development's future occupants.

6 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

7 The development shall not be first occupied until details of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The details shall include an operation and maintenance plan confirming who is responsible for maintenance and a timetable for ongoing maintenance.

REASON: To ensure ongoing compliance with the sustainable drainage recommendations of the Flood Risk Assessment hereby approved.

8 The development shall not be first occupied until an emergency plan that details the procedure for emergency access/egress from the site during a flood event, along with confirmation from the Environment Agency that the resulting dwellings will have access to the Environment Agency's early flood warning service.

REASON: To ensure the safety of residents in the case of a flooding event and to ensure compliance with the recommendations of the Flood Risk Assessment.

Informatives: (5)

9 Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

10 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

11 The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

12 The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy.

13 Wiltshire Council is the land drainage authority under the Land Drainage Act 1991. Land drainage consent is required if a development proposes to discharge flow into an ordinary watercourse or carry out work within 8m of an ordinary watercourse.
An ordinary watercourse is a watercourse that does not form part of a main river. The term watercourse includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows.
Wiltshire Council’s land drainage bylaws, as well as the land drainage consent application form and

guidance notes can be found on the Wiltshire Council website.