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Prior Notification

Change Of Use Of An Agricultural Building To 2no. Dwellings At
Gryphon Lodge Farm (Building 5)

Prepared for:
Mr M Bryant

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1. INTRODUCTION

- 1.1 We act on behalf of Mr M Bryant (the Applicant) in respect of a prior determination notification made to Wiltshire Council in relation to the potential change of use of a building on the agricultural unit at Gryphon Lodge Farm, Leigh, Swindon, SN6 6RQ into 2no. dwellings.
- 1.2 Planning permission is not deemed necessary for the proposed development on the basis that the proposal conforms with the provisions set out formally in Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. PLANNING POLICY BACKGROUND

- 2.1 In the 2013 Budget Statement the Government announced its intention to consult on allowing further flexibilities between use classes to support the change of use. Building on the changes introduced in May 2013, a consultation was undertaken on 'Greater flexibilities for change of use' and this included options for amending the Town and County Planning (General Permitted Development) Order 1995 (as amended) to grant permitted development rights for various situations including rights to assist change of use and the associated physical works from existing buildings used for agricultural purposes to residential use (C3).
- 2.2 The proposals were put forward to further enhance the Government's primary objective of supporting economic growth. The proposals strongly support key Government priorities for making better use of existing buildings, supporting the high street and rural communities and providing new housing.
- 2.3 December 2024 saw the publication of the Government's Revised National Planning Policy Framework (NPPF) and this document replaces all Planning Policy Statements. The document states that there is a presumption in favour of sustainable development.
- 2.4 Given the Permitted Development Rights which have come into effect on the 6th April 2018, and as amended by legislation which came into force on 21st May 2024, the Government clearly believe that the change of use of agricultural buildings to dwellings is in line with the NPPF and therefore the development it allows is sustainable.
- 2.5 The changes allowed under the permitted development will make a strong contribution towards the provision of new homes, reducing some of the pressure for new green field development and allowing under-utilised buildings to be brought back into productive use.

- 2.6 Planning permission is not deemed necessary for the proposed development on the basis that the proposal conforms with the provisions set out formally in The Town and Country Planning (General Permitted Development) Order 1995 as amended by The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 and now reflected in the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended by The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024.
- 2.7 Class Q allows for Development consisting of:
- a) a change of use of—
 - i. a building that is part of an established agricultural unit and any land within that building's curtilage, or
 - ii. a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,
 - (b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or
 - (c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.
- 2.8 The permitted development provisions do not differentiate between the age, type or condition of any buildings which might be suitable for conversion. It is also noted that under Class Q a(i) there is no longer a requirement for the building to be solely in agricultural use.
- 2.9 Given the variance in decisions being made by both LPAs and Inspectors historically, the Department for Communities and Local Government (DCLG) has published further guidance on the Planning Practice Guidance confirming that:
- LPAs are to consider the NPPF only where it is relevant to the matter on which Prior Approval is sought e.g. Transport/Highways and Noise etc.
 - Confirmation that Permitted Development Rights do not apply a test in relation to sustainability of location. DCLG note this is deliberate as it is recognised many agricultural buildings are outside village settlements and may not be able to rely on public transport.
 - LPAs can consider whether location and siting of the building would make it impractical or undesirable to change the use. However, they should apply a reasonable definition in making judgement. Impractical could reflect a location and siting that would not be 'sensible or realistic' and undesirable may reflect a position that is deemed 'harmful or objectionable'.

- LPAs should work on the premise that Permitted Development grants permission subject to Prior Approval and the fact that a building may be in a location where planning permission would not normally be granted is not sufficient reason for refusing Prior Approval.
 - Consideration of location and siting should not require any tests within the NPPF to be applied. Factors such as whether the property is for a rural worker are unlikely to be relevant.
 - It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
 - Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.
- 2.10 The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024 introduced the provision that up to 10 dwellings could be created on a holding, however the maximum floorspace per dwelling is 150m².

3. THE SITE AND BUILDING

- 3.1 The proposal relates to the change of use of a building and the land within the curtilage to form 2no. dwellings.
- 3.2 The subject building is situated within the Applicants established agricultural unit and was part of this unit on 24th July 2023 and was an existing unit on 13th March 2013. The Applicant operates an agricultural business which includes grazing of livestock and the cutting of silage.
- 3.3 The subject building takes the form of a traditional barn, constructed with a steel frame and profile cladding to the walls. The roof is clad with corrugated steel sheeting. This building has been used a part of the farm dairy business and is now largely redundant.
- 3.4 The change of use proposal relates to the conversion of the subject building to provide 2no. dwellings, with a total internal floorspace amounting to 258.5m² (128.5m² and 130m² respectively) therefore they are under the 150m² limit set out in legislation.
- 3.5 The curtilages for the dwellings will not exceed the footprint area of the building.



4. PERMITTED DEVELOPMENT CRITERIA

4.1 It is confirmed that the following criteria is satisfied:

- the building is on a site that was an agricultural unit on 24th July 2023 (note that the legislation no longer requires the building to be solely in agricultural use),
- the floor space of any dwelling house does not exceed the 150m² and cumulatively the dwelling houses do not exceed 1,000m²
- the site is not occupied under an agricultural tenancy, nor has one been terminated within the last 12 months.
- no development utilising other agricultural PD rights has been undertaken on the unit in the period which is ten years before the date the Class Q development begins.
- No development under Class Q(b) is proposed in this instance
- the development would not result in the external dimensions extending beyond the external dimensions of the existing building at any given point other than in compliance with the legislation allowances;
- the building is not on article 2(3) land;
- the site does not form part of a safety hazard area or military explosives storage area;
- the building is not a listed building or scheduled monument;

Q.1(i) Building operations

- 4.3 Under the GPDO, permitted development is development consisting of building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses).
- 4.4 Included with this submission are further details including a Schedule of Works, enabling a detailed appraisal of the proposal to be considered, particularly in relation to the works proposed to the building.
- 4.5 The building appears to be structurally sound and capable of conversion. The majority of the existing structure will remain, with building operations undertaken considered reasonably necessary to bring the building up to the required Building Regulation standards.

Agricultural Unit

- 4.6 The Applicant's agricultural holding extends to approximately 69.6 acres (28.2 hectares), the majority of the holding has been used for grazing or cut for silage. The building forms part of the Applicant's agricultural holding and therefore is compliant with the legislation.

5. PRIOR DETERMINATION

5.1 Given that permitted development rights apply, in accordance with the Order, we request a determination as to whether the prior approval of the LPA is required for the Class Q development in this instance in regard to:

- **Transport** and highways impacts of the development and **Suitable Access to the Public Highway**
- **Noise** impacts of the development
- **Contamination** risks on the site
- **Flood risks** on the site
- 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 (dwelling houses) of the Schedule to the Use Classes Order.
- **Design and External Appearance.**
- **Adequate provision of natural light**

5.2 Transport and Access

The site is situated with an existing 650m access track off the public highway, the B4696, and the visibility at the junction is considered as being acceptable and providing clear visibility in both directions. The road provides a good access which when considering the typical nature of many rural roads in the district, can easily accommodate any additional traffic created.

The B4696 gives access to the surrounding villages and the site is approximately 6.5 miles from Royal Wootton Bassett.

It is proposed that the existing access into the site off the main highway, will be utilised to serve the dwelling. Considering an average of 4 trips per day per dwelling, it is considered that the highways impact of the proposal will be minimal, and that the local highways network is capable of supporting the minimal increase in traffic movements.

Therefore, there is unlikely to be a significant detrimental impact following the proposed change of use.

5.3 Noise and Contamination

It is considered that there will be no adverse impact on residential amenity to any existing dwellings or the proposed dwelling, given each will have its own private curtilage area.

The pollution and contamination risk is deemed to be low given the history of the building.

Therefore, in light of this, prior approval in relation to noise and land contamination should be granted or deemed not to be required.

5.4 Flood Risk

Reference to the Flood Map for Planning confirms the site is not within an identified flood risk zone and there is no history of flooding issues on the site.

New foul drainage facilities will be installed during any change of use. Any newly created drainage for surface water will ensure that any discharge will not increase the chance of flooding elsewhere.

Prior approval should not be required in relation to flood risk.

5.5 Location and Siting

The very nature of agricultural holdings, and therefore the buildings within the holding, generally leads to their siting within a countryside location. Whilst this may be the case, the Government have recognised this when considering the sustainability and suitability of introducing these permitted development rights.

The location and siting of the building does not make it undesirable or impractical to change the use.

The small-scale nature of the proposal, i.e. the creation of a single dwelling through the conversion of the existing building, will not have an adverse effect through any significant increase in traffic generation or impacts on existing or future residential amenity. The existing access from the public highway will be utilised to service the proposed dwelling.

The principle of development is accepted under permitted development.

The prior approval process is required to ensure that the change of use and any associated works do not create unacceptable impacts.

In this instance, the location and siting of the building does not make it undesirable or impractical to change the use. The proposal will not create unacceptable impacts.

The Government Guidance issued on 5th March 2015 clearly states that *the permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs.*

It goes on to say however that... *Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.*

Therefore, in looking at what is meant by 'impractical' or 'undesirable' it confirms the following:

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”.

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements.....a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical.

Additionally, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval.

So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.

In light of the above guidance and in applying the ‘reasonableness’ test, it is considered that the siting or location is both sensible and not objectionable and therefore the criterion is satisfied.

5.6 Design and External Appearance

The legislation requires that the developer seeks a determination as to whether the prior approval of the authority is required as to the external and internal design.

Enclosed with the submission are planning drawings that detail the design and external appearance of the existing building and the proposed dwelling.

The finished external materials will reflect the existing materials and materials appropriate to the rural nature and location of the building – existing blockwork and roof materials will be retained and repaired where necessary.

The installation/replacement of the roof covering, walls, windows, doors and detailing will take place only where necessary, therefore the proposal relates to conversion of the existing building rather than a rebuild.

In seeking to convert the existing building and utilise existing materials as much as possible, it is considered that the extent of the building operations are well within the allowed building operations reasonably necessary to convert the building to a use falling within Class C3 (dwelling houses) in line with the GPDO 2015 Class Q.

A Schedule of Works is likewise provided which further details the works proposed, along with a material retention plan indicating the extent of the new materials.

5.7 Adequate Provision of Natural Light

Legislation, which came into force as of 1st August 2020, introduces a new prior approval consideration relating to the provision of natural light. The amendments to the GPDO now require consideration/confirmation as to whether all habitable rooms have adequate natural light.

It is considered that all the rooms created within the dwelling, that are main habitable rooms (in accordance with the definition provided in the legislation), have natural light through the use of glazed windows or doors, as shown on the accompanying proposal drawings.

Prior approval should therefore not be required in relation to this issue.

6. CONCLUSION

- 6.1 It is deemed that the proposal for the change of use of the subject building to 2no. dwellings shall be considered permitted development, under Class Q of the Town and County (General Permitted Development) (England) Order 2015.
- 6.2 The proposed change of use will not lead to any detrimental adverse effects on traffic, flood risk, noise or contamination. The siting and location of the building are deemed to be acceptable for the proposed use, given the confirmation in government guidance that no sustainability test is required.
- 6.3 In terms of design and external appearance, the proposal in this instance is deemed to meet the limitations of the legislation and therefore should be acceptable.
- 6.4 We trust this proposal can be fully supported and that the LPA confirm that the development is acceptable.
- 6.5 If further information is required to enable the LPA to make a determination, then Acorus will be willing to provide further details upon request.



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