DELEGATED DECISION REPORT

DET/2018/0025 **Valid 20/08/2018**	**COCKINGS FARM SANDY LANE** **CAVERSWALL**	**PRIOR APPROVAL FOR PROPOSED CHANGE OF USE OF AGRICULTURAL BUILDING TO ONE DWELLINGHOUSE** **(NOTIFICATION - CHANGE OF USE PRIOR APPROVAL)**

MAIN ISSUES

The key issue is whether or not the proposal constitutes permitted development and whether or not prior approval is required from the Local Planning Authority in respect of any details required as outlined in the GPDO.

DESCRIPTION OF SITE/CONTEXT

The site comprises a modest two-storey building situated within the wider curtilage of Cockings Farm. The building is sited amongst other agricultural buildings on the site. The existing farmhouse is located north of the application building sited on ground that it at a higher level. The building has been used for animal winter storage, feed and hat store above.

The site is located within the Green Belt, Low Risk Development Area, Mineral Safeguarding Area (Bedrock Sand) and there are PROWs passing the eastern and southern site boundaries, as defined in the Development Plan.

PROPOSAL

Prior approval for proposed change of use of agricultural building to one dwellinghouse.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None specifically relevant.

CONSULTATIONS

Publicity

Site Notice expiry date: 02.10.2018
Neighbour consultation period ends: 19.09.2018
Press Advert: N/A

Representations

No comments received.

DCC Highway Authority

No objections on highways grounds. It is noted for the Planning Officer that a) the red line does not connect to the public highway, b) Sandy Lane is a private/unadopted road and c) the lane would benefit from maintenance.

Environmental Health

Potential Areas of Environmental Concern

1. Construction timings
2. Noise (Farm)
3. Fuel Oil
4. Foul Drainage
5. Unexpected Contamination
6. Asbestos (Advisory)

General Comments

Asbestos: Any redundant on site buildings may well have asbestos containing materials (ACM) in their fabric (e.g. asbestos roof) To ensure no future asbestos contamination, as a result of demolition a "Demolition or refurbishment asbestos survey" and risk assessment should be carried out prior to the demolition of these buildings. The enforcing authority for this type of work is the Health and Safety Executive (HSE) and it is recommended that you contact them directly to discuss their requirements: http://www.hse.gov.uk/. This is included as an advisory.

Nuisance: The proposed development is close to existing properties so care needs to be taken during the construction phase to ensure these activities do not cause unreasonable disruption to the neighbour's enjoyment of their properties.

Noise/Sound insulation: The proposed dwelling is set in a working farm. There is likely to be significant noise and farm smells. This does not cause us a concern if the dwelling is to be occupied by people directly involved in the farm. If this property was to be occupied by residents not involved in the farm then the operation of the farm could be compromised due to complaints about amenity impacts. It is our understanding the farm is to be occupied by a member of the family working the farm. It would be advised that this dwelling should not be sold to a third party not involved in the farm.

Recommendation and Conditions

The Environmental Health Department have no objection subject to the dwelling being occupied by farm employees or directly linked to farm activity. The conditions below might be applied as advisory comments where conditions are not applicable.

1. Construction / refitting works: Time of operations Operation

Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy construction activities shall be restricted to the following times of operations.

- 08:00 - 18:00 hours (Monday to Friday);
- 08:00 - 13:00 hours (Saturday)
- No working is permitted on Sundays or Bank Holidays.

In this instance a noisy construction activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

Reason: *To avoid the risk of disturbance to neighbouring dwellings from noise during unsocial hours.*

2. Report of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development should not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not re-commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, and is subject to the approval in writing of the Local Planning Authority.

3. Importation of Soil/Material

No top soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development, a suitable methodology for testing this material should be submitted to and agreed by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by the Local Planning Authority.

Reason (common to 2 & 3): To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

4. Waste

Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment.

Reason: To protect the amenities of the area.

5. Foul Drainage

The foul drainage from the proposed development shall be discharged to a system which meets the requirements of British Standard (BS) 6297:2007+A1:2008 Code of practice for the design and installation of drainage fields for use in wastewater treatment

a) There is no connection to any watercourse or land drainage system and no part of the soak away system is situated within 10 metres of any ditch or watercourse.

b) Porosity tests are carried out to the satisfaction of the Local Planning Authority to demonstrate their suitable subsoil and adequate land area is available.

Reason: To prevent pollution of the water environment.

6. Fuel Tanks

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. If there are multiple tankages, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

7. Sound Insulation

The scheme for construction of the proposed residential dwelling shall have due regard to the British Standard BS8233:2014 Guidance on Sound Insulation for Buildings and be designed to achieve noise levels of less than 35 dB LAeq in bedrooms, less than 40 dBLAeq in living areas and 55dB LAeq in outside living areas.

Reason: To protect occupiers from noise and safeguard their residential amenities.

Advisory Notes/ Informatives

Please be aware that the responsibility for safe development and secure occupancy of the site rests with the developer.

- A Demolition or refurbishment asbestos survey and risk assessment should be carried out prior to the demolition of the existing buildings. The enforcing authority for this type of work is the Health and Safety Executive (HSE) and it is recommended that you contact them directly to discuss their requirements: http://www.hse.gov.uk/

- Any approved foul drainage system should meet the British Standard 6297:2007+A1:2008: Code of practice for the design and installation of drainage fields for use in wastewater treatment http://www.bsigroup.com

- Advice on controlling flies and light can be found in: Statutory Nuisance from Insects and Artificial Light (defra 2005) available as a free download http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/statnuisance.pdf

- During any demolition and construction activities (including landscaping) the contractor shall take all reasonable steps to prevent dust formation and prevent any dust formed from leaving the site boundary.

- The control of dust and emissions from construction and demolition Best Practice Guidance, produced by the greater London councils http://www.london.gov.uk/sites/default/files/BPGcontrolofdustandemissions.pdf

- Building Research Establishment Guidance Document 'Control of Dust from Construction and Demolition Activities' (BR456)

- If required, contamination risk assessments shall be carried out in accordance with UK policy and with the procedural guidance relating to the contaminated land regime, and should be in accordance with Planning Policy Statement 23 and the CLR Report Series 1-12.
- Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.
- The Local Planning Authority will determine the acceptability of reports on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post development, where the applicant had prior knowledge of the contamination, the applicant is likely to be liable under Part II (a) of the Environmental Protection Act 1990 and as such become and "appropriate person". In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.
- Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this, the applicant or those acting on behalf of the applicant will be liable under part II (a) of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.
- During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public property and the environment are protected against noise, dust, odour and fumes
- The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site,

the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of in an appropriately licensed landfill site.

- Staffordshire Moorlands District Council is keen to liaise with all stakeholders involved in this application. As such, we recommend that a proposed scope of works is forwarded to the Environmental Protection Department and agreed in principle prior to site investigation works being undertaken. The Environmental Protection Department is also prepared to review draft copies of reports prior to final submission to the Planning Department in order to ensure that works undertaken are sufficient to discharge the contaminated land conditions.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES & MATERIAL CONSIDERATIONS

The Town and country Planning (General Permitted Development) (England) Order 2015 (as amended)

National Planning Policy Framework

National Planning Practice Guidance

GPDO

Class Q of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows for the change of use of agricultural buildings to dwellinghouses, subject to meeting certain criteria and adhering to certain conditions.

Permitted Development Criteria

Class Q – agricultural buildings to dwellinghouses

Permitted development

Q. Development consisting of—

(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; or
(b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development is not permitted if the criteria outlined in 'Q.1' is not met.

'Q.1'

- (a) refers to the timing of the agricultural use of the building. **The timing of the use meets the criteria**

- (b) (c) and (d) refer to the cumulative number of dwellings and floor space thresholds that can be created. **The proposal meets the criteria**
- (e) and (f) refer to the change of use not being allowed if the site is occupied under an agricultural tenancy, or was less than 1 year before the start of the development unless the consent of the landlord and tenant has been obtained. **The site is not occupied under an agricultural tenancy agreement**
- (g) development under Q (a) and (b) has been carried out in the agricultural unit since 20/03/13 or where development under Class Q after 23/03/2023. **Development under Class Q has not occurred on the site**
- (h) the external dimensions of the building cannot exceed the existing external dimensions. **They do not**
- (i) development under Class Q(b) would consist of operations other than: installation or replacement of windows, doors, roofs or exterior walls; or water, drainage, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition reasonably necessary to carryout building operations as outlined within Q(b). **The proposed operations meet this criteria**
- (j) the site is on article 2(3) land. **Which it isn't**
- (k) the site is/or forms part of an SSSI, a safety hazard area, or a military explosive area. **Which it isn't/doesn't**
- (l) & (m) the site is, or contains, a scheduled ancient monument or the building is a Listed Building. **Whish it doesn't/isn't.**

'Q. 2'

(1) Where the development proposed is development under Class Q(a) together with development under Class Q(b) (**which in this instance it is**), 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 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, and
(f) the design or external appearance of the building, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

The application has been submitted and appraised to establish if prior approval is required from the LPA, as outlined above under Q.2 (1). Thus

(a) No objections are raised on the grounds of highway safety. There is an existing access into the site from the unadopted track of Sandy Lane.

Although the Highway Authority has noted that the track requires some maintenance this is a matter for the relevant parties. The proposal would create a 2 No. bedroom dwelling. Parking could be provided for at least 1 No. car adjacent to the building within the red-line boundary. Refuse bins could also be stored within the plot boundary (and collected for the existing farmhouse).

(b) No objections are raised on the grounds of noise impact of the development.

(c) Subject to appropriate conditions as outlined by the Environmental Health Dept. there are no contamination issues.

(d) The site is not within a flood-zone and the proposal does not pose any flood risks.

(e) As noted in the Environmental Health consultation comments, given the position of the building, basically within the heart of the farm yard, it is considered impractical for a dwelling to be located in this position if occupied by anyone other than someone working on the farm, due to resultant noise and smells impacting on future occupants of the dwelling. However, the applicant has stated that the dwelling is to be used by his son, who works on the farm. It is considered that a condition could be attached to a decision restricting occupancy to only someone working on the farm. Indeed, appraisals of applications for agricultural workers dwellings consider if there are existing buildings within the farm complex capable of conversion for such purposes.

(f) The proposal utilises existing openings re doors and windows and there are no significant alterations to the external appearance of the building. As such the design/external appearance of the proposal is acceptable.

(g) The details of paragraph 'W' have been adhered to.

CONCLUSION

To conclude, the proposed change of use satisfies all relevant criteria in the GPDO and therefore the proposal is lawful. Consequently, subject to conditions, it is recommended that prior approval is required and that the details submitted are approved.

OFFICER RECOMMENDATION: PRIOR APPROVE REQUIRED AND GRANTED

Case Officer: John Williamson
Recommendation Date: 05/11/2018

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council