

DELEGATED DECISION REPORT

DET/2021/0020
Valid 30/11/2021

STUBBINS FARM
UNNAMED ROAD FROM
STUBBINS LANE TO TITHE
BARN FARM
CHINLEY

CHANGE OF USE OF
AGRICULTURAL BUILDINGS
TO DWELLINGHOUSE(C3)

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- Whether the proposed change of use satisfies the criteria set out under paragraph Q.1 to Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2018 (As Amended)
- Whether Prior Approval is required and if so, is the proposed change of use acceptable with regards to the issues set out within Paragraph Q.2:
 1. Transport and Highways
 2. Noise impacts
 3. Contamination risks
 4. Flooding risks
 5. Whether the location of 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
 6. Design or external appearance of the building
- Other matters to consider under the provisions of Paragraph W

DESCRIPTION OF SITE

The application site comprises a parcel of land north of Stubbins Lane; a single track that is also a public footpath. The site contains a former stone barn building that adjoins the footpath that benefited from a Prior Notification approval under Part 3, Class Q of the General Permitted Development Order (GPDO) under DET/2017/0010, that was renewed under DET/2021/0003.

Beyond this traditional building lies two larger agricultural buildings that are constructed from a combination of concrete breeze blocks and timber cladding, with a profiled cement roof. Both buildings contain a number of large openings and are separated from the former barn by a lean-to structure.

The site lies in the open countryside outside of the built up area boundary in a prominent and visible location, given the proximity of the nearby public footpath.

A prior notification application submitted under Part 3, Class Q of the General Permitted Development Order to convert both of these larger agricultural buildings to residential dwellings, in addition to renewing the prior approval granted under DET/2017/0010 was refused under DET/2020/0012 for the following reasons:

1. *The proposed change of use would amount to a “re-build” as opposed to a “conversion” within the context of the ‘Hibbit’ High Court Judgement (2016) and as such does not constitute a form of permitted development under Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended)*
2. *Notwithstanding the fact that the proposal does not comply with Part 3, Class Q, Paragraph A.1 of the GPDO, the proposed change of use would result in a poor and unacceptable form of design, by virtue of the use of materials, odd and contrived openings, and overall visual appearance, resulting in significant harm to the rural character and appearance of the area, contrary to Local Plan Policies S1, EQ2, EQ3 and EQ6, the High Peak Landscape Character Assessment SPD, High Peak Design Guide SPD, and contrary to paragraphs 124, 127 and 130 of the NPPF; thus resulting in an unsustainable form of development, contrary to Local Plan Policy S1a and paragraph 11 of the NPPF.*

The paragraphs referenced within the second reason for refusal have since been superseded by an updated version of the NPPF.

PROPOSAL

This prior approval application submitted under Part 3, Class Q of the GPDO seeks permission for the conversion of one of the existing larger agricultural buildings labelled Building ‘B’ to a 3no. bedroom single storey dwelling. The resultant dwelling would continue to adjoin the adjacent agricultural building (Buildings ‘C’).

Forward of the building subject to this application is a former stone barn which has benefited from a prior approval consent under Part 3, Class Q of the GPDO which has partially been implemented.

The site benefits from an existing field access to the south west of the building on to Stubbins Lane, which is also a public footpath.

The building has a rectangular form which is partially open on its western and northern elevations, which has a footprint of 239sqm and is constructed from a combination of block work and concrete profile sheeting – the latter forming the external walls and the roof.

For the purposes of the Local Development Plan the site lies outside of the built-up area boundary in the open countryside and in the Green Belt.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0003/7353	Refurbishment of existing Stubbins Farm House to 3 bed dwelling (Refused 1998)
DET/2017/0010	Conversion to agricultural building to dwelling (Prior Approval not required)
DET/2020/0012	The conversion of agricultural units to form 3no. dwellings under Part 3, Class Q of the Permitted Development Order. The renewal of DET/2017/0010 and conversion of additional agricultural units to form 3no. dwellings (Refused 20/11/2020)
DET/2021/0003	Change of use of agricultural building to 1no. dwelling under Part 3, Class Q of the Permitted Development Order (Prior Approval Required and Approved 09/04/2021)

CONSULTATIONS

Publicity

Site Notice expiry date: N/A

Neighbour consultation period ends: 22nd December 2021

Press Advert: N/A

Public Comments

None

Chinley, Buxworth & Brownside Parish Council Comments

Objects to the proposal on the grounds that the scale, roof pitch, construction materials (breeze block and cement sheeting), design and overall appearance of the agricultural buildings are inappropriate for conversion to a domestic dwelling here and would be harmful to the character and appearance of the local area, particularly as the development would be very visible from public viewpoints

AES Waste

No objections

Environmental Health

No objections subject to conditions

Derbyshire County Council Highways

No comments to make

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Paragraph W sets out the procedure for any prior approval application under Schedule 2, Part 3 of the GPDO. Paragraph (10) states that the local planning authority must, when determining an application have regard to the National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

Revised National Planning Policy Framework 2021

Achieving Sustainable Development	Chapter 2
Delivering a sufficient supply of homes	Chapter 5
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12
Conserving and enhancing the Natural Environment	Chapter 15

OFFICER COMMENTS

- 1. Whether the proposed change of use satisfies the criteria set out under paragraph Q.1 to Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2018 (As Amended).**

Class Q allows for –

(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 (dwellinghouse) of the Schedule to the Use Classes Order; and

- (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 (dwellinghouse) of that Schedule.

To be permitted, the development must not conflict with any of the criteria under Paragraph Q.1. An assessment of the proposal against this criterion is undertaken below:

Q.1 Development is not permitted by Class Q if –

- (a) **the site was not solely used for an agricultural use as part of an established agricultural unit –**
- on 20th March 2013, or***
 - in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or***
 - in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;***

Paragraph X contains the interpretations for Part 3 of the GPDO. An “established agricultural unit” means agricultural land occupied for the purposes of agriculture and “agricultural building” means a building used for agriculture and which is so used for the purposes of a trade or business; “agricultural use” refers to such uses.

No information has been submitted with the application which provides clear and substantive evidence that the site lies within an established agricultural unit. However, a site inspection has confirmed that the larger building are clearly associated with agricultural use, and given that the previous Prior Notification application concluded that the site is in agricultural use, it is considered that the application is compliant with Paragraph Q.1(a)

(b) in the case of—

(i) a larger dwellinghouse, within an established agricultural unit—

- (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or**
- (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;**

Paragraph Q.3 provides the definition for a “larger dwellinghouse” as meaning a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres, having a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order.

The application seeks conversion of a building to a single dwellinghouse which has a total floor area of 239sqm. The application is thus compliant with Paragraph Q.1(b).

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

- (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or**
- (bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;**

Not applicable.

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

- (i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
- (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

Not applicable.

- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

Section 5 of the Application Form confirms that the site is not currently occupied under an agricultural tenancy agreement and that there has been no previous tenancy agreement in the year before the proposed development. The application is therefore compliant with paragraph Q.1(e)

- (f) less than 1 year before the date development begins—
 - (i) an agricultural tenancy over the site has been terminated, and
 - (ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;

There has been no previous tenancy agreement in the year before the proposed development. The application is therefore compliant with paragraph Q.1(f)

- (g) *development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit—*

- (i) *since 20th March 2013; or*
- (ii) *where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;*

Part 6 of the GPDO relates to Agricultural and forestry. Class A relates to agricultural development on units of 5 hectares or more, with Class B relating to units of less than 5 hectares. A review of the planning history associated with Stubbins Farm has found that there is no record of any development that has been carried out under Class A(a) or Class B(b) of Part 6 of the GPDO since 20th March 2013.

- (h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

The plans submitted with the application shows that there would be no increase in the footprint of the building or any additions to the building which would protrude beyond the existing external dimensions at any point. As such, the proposal is considered to comply with paragraph Q.1(h)

(i) **the development under Class Q(b) would consist of building operations other than –**

(i) **the installation of –**

(aa) **windows, doors, roofs or exterior walls, or**

(bb) **water, drainage, electricity, gas and other services**

To the extent reasonably necessary for the building to function as a dwellinghouse;

The application seeks prior approval consent for the conversion of one of the two larger agricultural buildings (Building B) which has a series of openings constructed from a combination of breeze block walls and clad with cement sheeting.

An updated Structural Survey and Schedule of Works prepared by DAE Design dated 11th November 2021 accompanies the application, which was subsequently updated during the consultation process due to inconsistencies with the submitted plans. Such information is frequently requested by Officers in order to demonstrate that the building is worthy of conversion and to allow the Local Planning Authority to assess whether the proposal complied with Paragraph Q.1(i).

The Structural Survey prepared by DAE Design dated 11th November is limited by its own admission, stating on page 1 that “the inspection was purely of a visual nature carried out only from ground level”.

The survey makes the following assessment of Building ‘B’ as shown on the Proposed Plans:

“Building B is a single storey open barn steelwork structure being currently used for housing livestock and general farm equipment”

*“The building **appears** to be structurally sound in its present form of construction. However, it was found to **only have bracing in one end of the roof** presumably being there to aid the initial erection of the structure... Although the building is currently stable.. I feel that it would be prudent to install additional bracing as part of the conversion works” (My Emphasis)*

The survey conclusions and recommendations in relation to Building ‘B’ contains the following noticeable statements:

*“The results of this inspection confirm that the portal structure appears to be in a sound condition and currently not requiring any specific treatment or repairs. **However, I would recommend that additional bracing is installed in order to***

ensure that the building will remain stable for the remainder of its life as previously highlighted. (My Emphasis).

“Trial holes were not examined as part of the investigation to inspect foundations. However as no structural movement was evident in the structure I would not anticipate there being issues with the load capacity of the existing foundations with regard to the proposed future use. However it will be deemed necessary to install suitably designed foundations to all new load bearing masonry walls.” (My Emphasis).

The report concludes with a Schedule of Demolition and Construction Works that would be needed to facilitate the proposed residential dwellings which are as follows:

Demolition

- Partial removal of sections of existing cement board cladding to external walls and roof to provide openings for windows and doors

Construction

- Infill openings on external walls on south elevation with profile cement sheet to match materials
- Form external window and door openings on elevations and roof bracing to roof
- Internal insulation to walls and roof
- New internal timber walls (insulated) and timber partitions to form internal layouts

In assessing whether these works fall within the parameters it is necessary to have regard to a High Court Judgement *Hibbit and Another v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin) made by Mr Justice Green. This Judgement was a landmark case for this type of application and is considered to be an important material consideration in the determination of this application; the key points of this judgement are discussed below.

This judgement provides firm clarity on the meaning of the word “conversion” and where a proposed “conversion” amounts to a “re-build”.

Paragraph 26 of the judgement states:

“First, the concept of “conversion” is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that **if a development does not amount to a “conversion” then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1.**” (My Emphasis)

Paragraph 27 goes on to explore the concepts of “conversion” and rebuild, as presented below:

“A “conversion” is conceptually different to a “rebuild” with the latter starting where the former finishes”

“Whilst I accept that a development following a demolition is a rebuild, I do not accept that this is where the divide lies. It is a matter of legitimate planning judgement as to where the line is drawn. The test is one of substance, and not form based upon a supposed but ultimately artificial clear bright line drawn at the point of demolition. Nor is it inherent in “agricultural building””

“There will be numerous instances where the starting point (the “agricultural building”) might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. In fact a more apt term than “rebuild”, which also encapsulates what the Inspector had in mind, might be “fresh build” since rebuild seems to assume that the existing building is being “re” built in some way. In any event the nub of the point being made by the Inspector, in my view correctly was that the works went a very long way beyond what might sensibly or reasonably be described as a conversion. The development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building.” (My Emphasis)

A review of the Structural Survey finds that the survey was based on visual assumptions with no evaluations or calculations of the foundations being undertaken, concluding that “it will be deemed necessary to install suitably designed foundations to **all new load bearing masonry walls**”. Based on the submitted information, the issue as to whether the foundations and existing structural condition of the building could support the proposed single dwelling is considered to continue to remain un-answered.

Notwithstanding the above, if it was considered that the structural qualities of the agricultural building could support and facilitate the necessary works to change it to a single dwelling, the proposed works set out within the Structural Report, when taking into account the analysis of Mr Justice Green in the Hibbitt Judgement (2016), quite clearly amount to a “re-build” and not a conversion. It is therefore considered that the application does not meet the requirements of Paragraph Q.1(i) and therefore does not constitute permitted development.

(j) the site is on article 2(3) land;

Article 2(3) land is defined as an area within a Conservation Area; an area of outstanding natural beauty; an area specified under the Wildlife and Countryside Act 1981; the Broads; a National Park; or a World Heritage Site.

None of the above applies to this site and therefore the proposal is compliant with Paragraph Q.1(j)

(k) the site is, or forms part of –

- (i) a site of special scientific interest;**
- (ii) a safety hazard area;**

(iii) a military explosives storage area;

The application site is neither a site of special scientific interest; a safety hazard area; or a military explosives storage area; and therefore the application is compliant with Paragraph Q.1(k)

(l) the site is, or contains, a scheduled monument;

The site does not contain a scheduled monument and as such the application is compliant with Paragraph Q.1(l)

(m) the building is a listed building

The building subject to the application is not a listed building and is therefore compliant with Paragraph Q.1(m)

2. Whether Prior Approval is required and if so, is the proposed change of use acceptable with regards to the issues set out within Paragraph Q.2:

- (a) Transport and Highways**
- (b) Noise impacts**
- (c) Contamination risks**
- (d) Flooding risks**
- (e) Whether the location of 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**
- (f) Design or external appearance of the building;**

and the provisions of paragraph W (prior approval) of this Part apply

An assessment of this prior notification application has concluded, based on all information submitted by the applicant and other material considerations, including a landmark High Court Judgement which provides clarity on the meaning of the term “conversion”, that the proposed change of use amounts to a re-build, not a conversion, and as such does not constitute permitted development under the provisions of Schedule 2, Part 3, Class Q of the GPDO.

However, if without prejudice to the above, one were to take a different view in this regard, it is considered that the application requires Prior Approval in order to assess the suitability and quality of the proposal, and any potential impacts, in line with the procedure set out at Paragraph W, having regard to relevant policies within the National Planning Policy Framework.

(a) Transport and Highways

Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 goes on to state that development should only be prevented or

refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The site benefits from a small existing vehicular farm access which serves Stubbins Lane which is also a public right of way. The Proposed Site Plan shows that the 3no. bedroom dwelling would be allocated two off-street parking spaces. In connection with the previous scheme which was refused under DET/2020/0012, the Highways Authority had previously raised concerns in relation to provision of parking, turning and manoeuvring spaces, and exit visibility.

However, when commenting on these latest proposals for the conversion of an existing building to a single 3no. bedroom dwelling, the Highways Authority have raised no objections to the proposed access or layout of parking provision. It is therefore considered that the proposed development would not result in any adverse impacts relating to highway safety.

(b) Noise Impacts

Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution and health. This includes mitigating and reducing to a minimum potential adverse impacts resulting from noise.

The site is relatively isolated and not immediately surrounded by any residential properties or any other use that would be adversely affected by a residential property. As stated within the Application Form, it is arguable that the proposed use would result in a lesser noise impact than the existing agricultural use.

Environmental Health have not raised any objections to the proposal and not raised any issues with regards to noise and as such it is concluded that the application would be compliant with Paragraph Q.2(b)

(c) Contamination Risks

Paragraph 178 of the NPPF states that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land stability and contamination, including risks arising from former activities.

The Environmental Health response has recommended a suitably worded condition that addresses any potential concerns relating to land contamination. It is considered that subject to this condition, the application would be consistent with paragraph 183 of the NPPF and thus compliant with Paragraph Q.2(c)

(d) Flooding Risk

Chapter 14 of the NPPF sets out the relevant national planning policies for climate change and flooding, requiring proposals to be located where it would not result in any increase in flooding on site or elsewhere in the locality.

The site is not situated within a Flood Zone as defined on the Environment Agency's Flood Risk Map and as such the proposal would not result in any harm with regards to an increase in flood risk, either on site or elsewhere in the District, thereby demonstrating compliance with Paragraph Q.2(d)

(e) Whether the location of 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

The existing agricultural building is located fairly centrally within an existing agricultural unit.

The site lies approximately 0.5 miles from the centre of Chinley village, which is defined as a 'Larger Village' under the settlement hierarchy set out within Policy S2 in the High Peak Local Plan. It is considered that this represents a sustainable location with regards to access to everyday services, facilities and public transport links and is thus compliant with Paragraph Q.2(e)

(f) Design and external appearance of the building

Chapter 12 of the NPPF contains national planning policies which aim to achieve well designed places.

Paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.

Paragraph 127 of the NPPF states that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way in functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

The High Peak Design Guide SPD provides useful guidance for new development in the rural open countryside and the conversion of non-residential buildings.

Chapter 5 of the Design Guide SPD relates to Extensions, Alterations and Conversion. With regards to conversions, paragraph 5.15 states that the guiding principle behind the design of any conversion should be that the character of the original building and its setting should be respected and retained, meaning that in most cases, the barn, mill or chapel should afterwards look like a converted barn, mill or chapel, and not like a new house.

In refusing the previous prior notification application for the conversion of agricultural buildings to 3no. dwellings, the delegated report contained the following analysis in relation to the design and external appearance of the building:

“The existing stone barn that was subject to a previous consent under the Prior Notification procedure involved minor alterations to facilitate a residential dwelling, working with existing openings to allow the resultant house to appear as a high quality renovated stone barn conversion. As such, the Council would be happy to support a re-submission of an application that sought conversion of this traditional building.

The two larger agricultural buildings are functional practical buildings that, as referenced by the Conservation Officer, were not designed to be a permanent feature in the landscape. Having regard to local and national policy, the buildings would not be considered appropriate for conversion, as it is would not be desirable to see dwellinghouses appear as agricultural buildings.

The proposed plans show that the dwellings would be finished in a lightly coloured larch timber cladding that is alien to the character and appearance of the local landscape, and is not a traditional material used in the construction of residential properties either historically or in more recent times in the Borough. The choice of materials, including metal sheeting, together with the sheer size, scale and massing of the two larger properties, and the multitude of new glazed opening created, would result in significant harm to the character and appearance of the immediate and wider landscape, contrary to the High Peak Design Guide SPD, paragraph 127 and thus fails to comply with Paragraph Q.2(f).”

The plans submitted with this application are shown to differ from the previous scheme in the fact that Building ‘B’ subject of the proposed ‘conversion’ is set to retain the current cement profile sheeting and concrete blocks that form the existing building.

Fenestration is shown to be installed that straddles the concrete sheeting and block work with extensive bi-fold doors on the northern elevation and a smaller set of bi-fold doors on the western elevation.

The application is accompanied by a letter from the agent dated 12th January 2022 that makes the following submissions with regards to the Prior Approval matter of Design and External Appearance:

“..When assessing the design (of a prior approval) this should be limited to the consideration of new window openings, doors etc, and where relevant, the use of ‘new materials. To extend the consideration further than this would be considered irrelevant to the subject matter and contrary to the legislation.”

The letter then goes on to highlight that Section 55 of the Town and Country Planning Act 1990 is clear that internal works are not generally development before referring online Planning Practice Guidance (PPG) associated with Class Q development which states:

“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.”

Further to the above, the letter submits:

“The threshold between conversion and rebuild has been made clear through the Hibbitt case. The legislation allows only for the conversion of the building and those necessary alterations to be completed in order for the barn to act as a dwellinghouse. It does not permit building operations that go beyond the scope of conversion, as the Hibbit case highlights. The existing materials or age of the barn are not decisive factors, only whether the works needed to make it hospitable can be contained to a renovation rather than rebuild.”

In response to the above, and having regard to the proposed plans, the Council’s position is unchanged in so far as the building is question is not considered to be **appropriate for conversion**, as it would not be desirable to see dwellinghouses - particularly those in the more sensitive prominent areas in the open countryside – to appear as agricultural buildings.

The proposed resultant dwelling would have the appearance of a large agricultural building finished in cement profile sheeting. Agricultural buildings are designed in a practical manner appropriate for its agricultural use and not designed to be a permanent feature in the landscape.

The Council’s position for assessing Prior Notification Change of Use applications is that the Prior Approval procedure under Paragraph W (sub para 10b) states that the local authority must, when determining an application, have regard to the NPPF, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. As such, all policies within Chapter 12 relating to Design, particularly paragraph 134, which specifically alludes to local design guidance and supplementary documents.

Officers reject the submissions from the agent with regards to restricting or limiting the assessment of design and external appearance of the resultant dwelling solely to fenestration, and that this matter of prior approval should consider the scheme as a whole and its overall impact on the immediate and wider landscape character, considering its proposed use and relevant design guidance associated with residential development.

The proposal to retain the appearance of the existing agricultural building for the use as a residential dwelling results is considered to read as an alien feature in the immediate landscape character, by virtue of the fact that concrete block work and concrete profile sheeting is not a traditional material used in the construction of residential properties historically or in more recent times in the Borough.

Furthermore, there would be a odd, contrived conflict between the agricultural appearance of the outer walls and domestic fenestration, in particular the installation of bi-fold doors.

As such, notwithstanding the fact that the Council consider that the scheme is not permitted development due to the failure to comply with relevant policies under Paragraph Q.1, the proposals are considered to result in significant harm to the character and appearance of the immediate and wider landscape, contrary to the High Peak Design Guide SPD, paragraph 127 and thus fails to comply with Paragraph Q.2(f)."

3. Other matters to consider under the provisions of Paragraph W

Sub heading (9) to paragraph W states that the local planning authority may require the developer to submit such information as the authority may reasonably require in order to determination, which may include (a) "assessments of impacts or risks" and (b) "statements setting out how impacts or risks are to be mitigated"

Sub heading (10) states that when determining the application, the local authority must (a) take into account any representations made to them as a result of any consultation, and (b) have regard to the National Planning Policy Framework so far as relevant to the subject matter of prior approval.

Chapter 15 of the NPPF contains the relevant national planning policies which relate to conserving and enhancing the natural environment, which include the protection of protected species. In particular paragraph 175 states that when determining applications, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.

As part of the previously refused prior notification application under DET/2020/0012 the applicant submitted a Bat Survey prepared by Dunelm Ecology which was reviewed by Derbyshire Wildlife Trust and resulted in no objections subject to relevant appropriate conditions being applied to secure ecological enhancements.

Whilst no ecological surveys have been submitted with this application, it is considered that given the context has not materially considered from when the previous application was considered, it is reasonable to conclude that in the event that the Council were minded to grant prior approval, that appropriate conditions could be attached to ensure compliance with paragraph 175 of the NPPF.

CONCLUSION / PLANNING BALANCE

This prior notification application seeks permission for a proposed change of use of an existing agricultural building to a single dwellinghouse under the provisions of Schedule 2, Part 3, Class Q of the General Permitted Development Order (as amended 2018).

This application follows a previous application submitted under the same procedure for the conversion of three agricultural buildings to 3no. dwellings.

Based on all information submitted with the application, and all material considerations, which include comments from statutory consultees, the landmark 'Hibbitt' High Court Judgement in 2016, and further submissions from the agent

dated 12th January 2022, it has been concluded that the proposed change of use would be reduced to its minimal structural foundations, and that based on the proposed Schedule of Works, the proposed change of use would amount to a “re-build” as opposed to a “conversion”, as defined within the Hibbitt Judgement, and therefore the proposed change of use does not constitute permitted development under this part of the GPDO.

However, if the decision maker were to reach a different conclusion to the case officer, it has been judged that Prior Approval would be required in order to full assess the potential impacts of the planning issues set out at Paragraph Q.2, and under the provisions Paragraph W, which requires local planning authority to consider risks and impacts, having regard to the provisions of the NPPF.

The design and external appearance of the building is considered to be of a poor and unacceptable form of design by virtue of the choice of external materials, odd and contrived window and door openings when read against the backdrop of concrete profile sheeting and block work, and its prominence from the public right of way.

The building would essentially continue to read as an agricultural building, which is wholly undesirable for a residential dwelling having regard to relevant Supplementary Design Guidance, and thereby fails to take account of local design guidance, resulting in significant harm to the character and appearance of the rural area, contrary to paragraphs 124, 127 and 130 of the NPPF.

In light of the above, if the decision maker were to disagree with the case officer's conclusion that the proposed change of use does not comprise a form of permitted development under Schedule 2, Part 3, Class Q of the GPDO, it is concluded that the proposed change of use would result in potentially significant harm to ecological assets and significant harm to the character and appearance of the rural area by virtue of its poor design.

This harm is considered to significantly and demonstrably outweigh the negligible benefits that this single dwelling would have, and therefore constitutes an unsustainable form of development, contrary to Local Plan Policy S1a and paragraph 11 of the NPPF. The application is therefore recommended for refusal for the reasons outlined above.

OFFICER RECOMMENDATION : Prior Approval Required and Refused

Case Officer: James Stannard

Recommendation Date: 11th February 2022

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council