

Proposed Barn Conversion, Hawksbill Hall CW5 8HT





EXISTING BLOCK PLAN

PROPOSED BLOCK PLAN

REV	DATE	DETAILS
A	20.10.21	Drawing revised to show remaining area of building to be demolished
Copyright©Bratley Architectural Ltd 2021 Written dimensions to be taken in preference to scaled; all dimensions to be checked on site. Report suspected discrepancies or omissions.		

PROJECT
PROPOSED BARN CONVERSION
Hawksbill Hall
Hollyhurst Road
Wrenbury
Cheshire CW5 8HT

CLIENT
Mr & Mrs D Goodyear

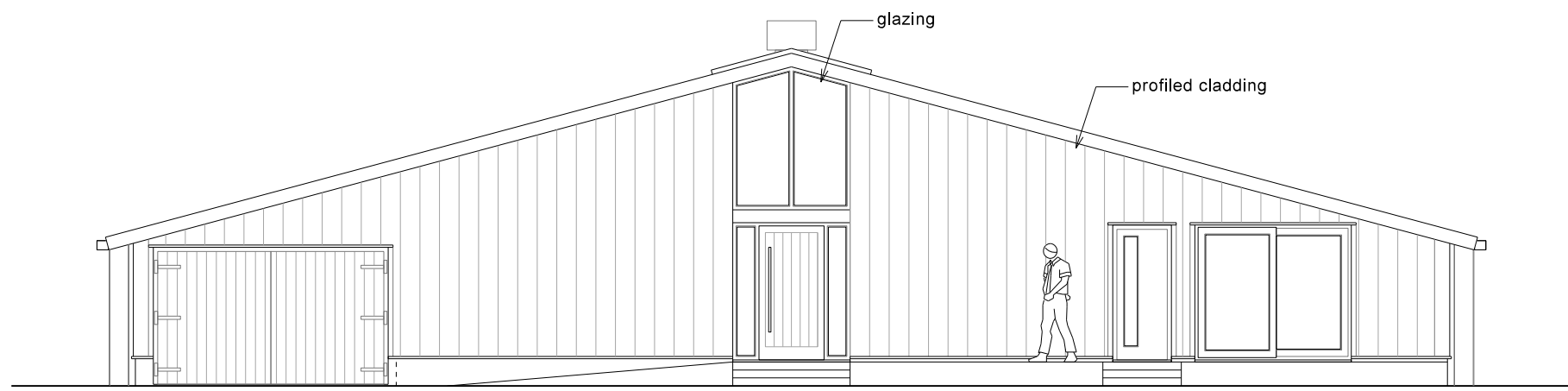
DRAWING TITLE
Existing and proposed
block plans

DATE
13 August 2021

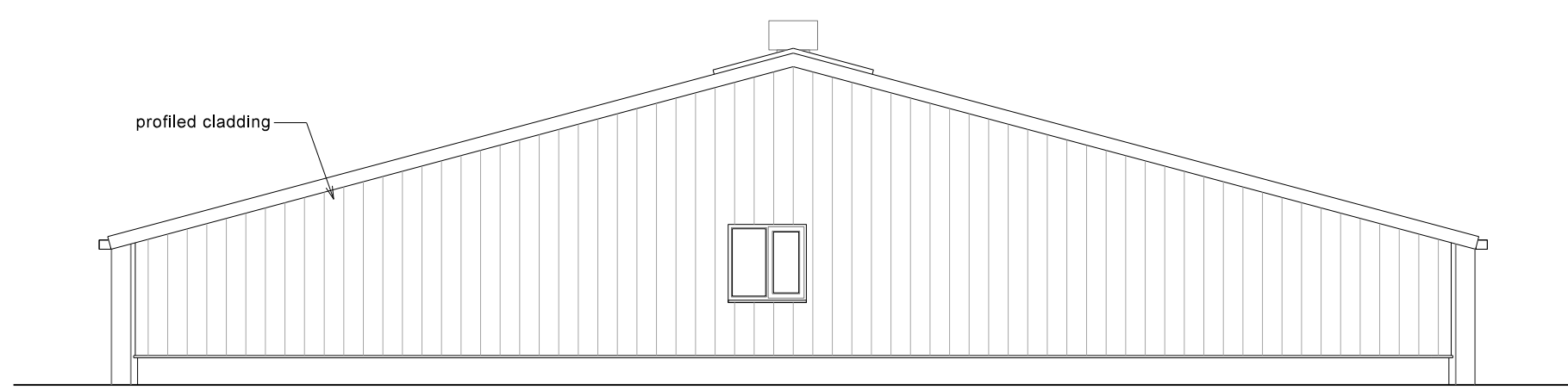
DRAWING REF
1517/02

SCALE @ A1
1:500

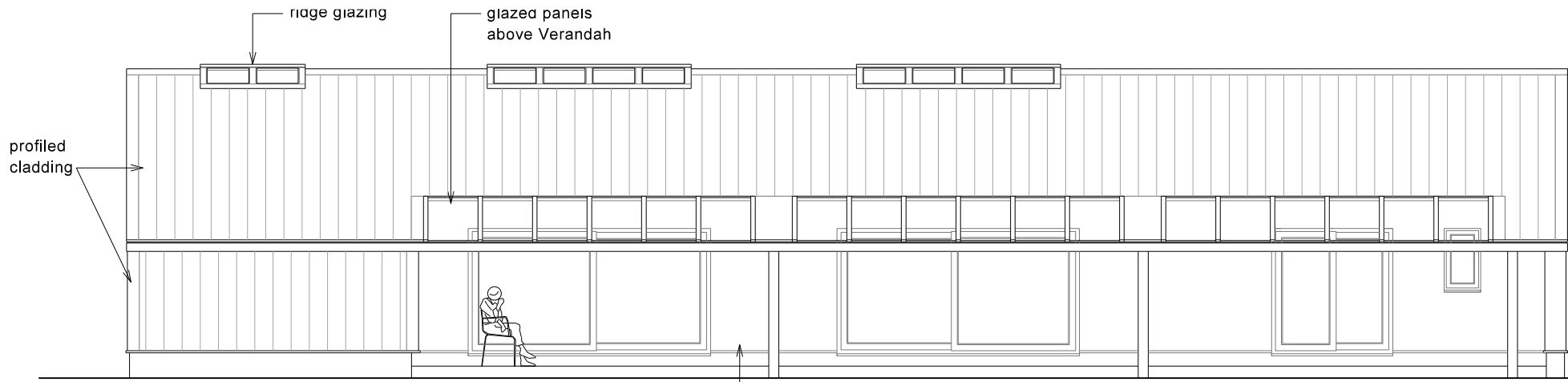
REV
A



PROPOSED WEST ELEVATION



PROPOSED EAST ELEVATION (CONVERSION)

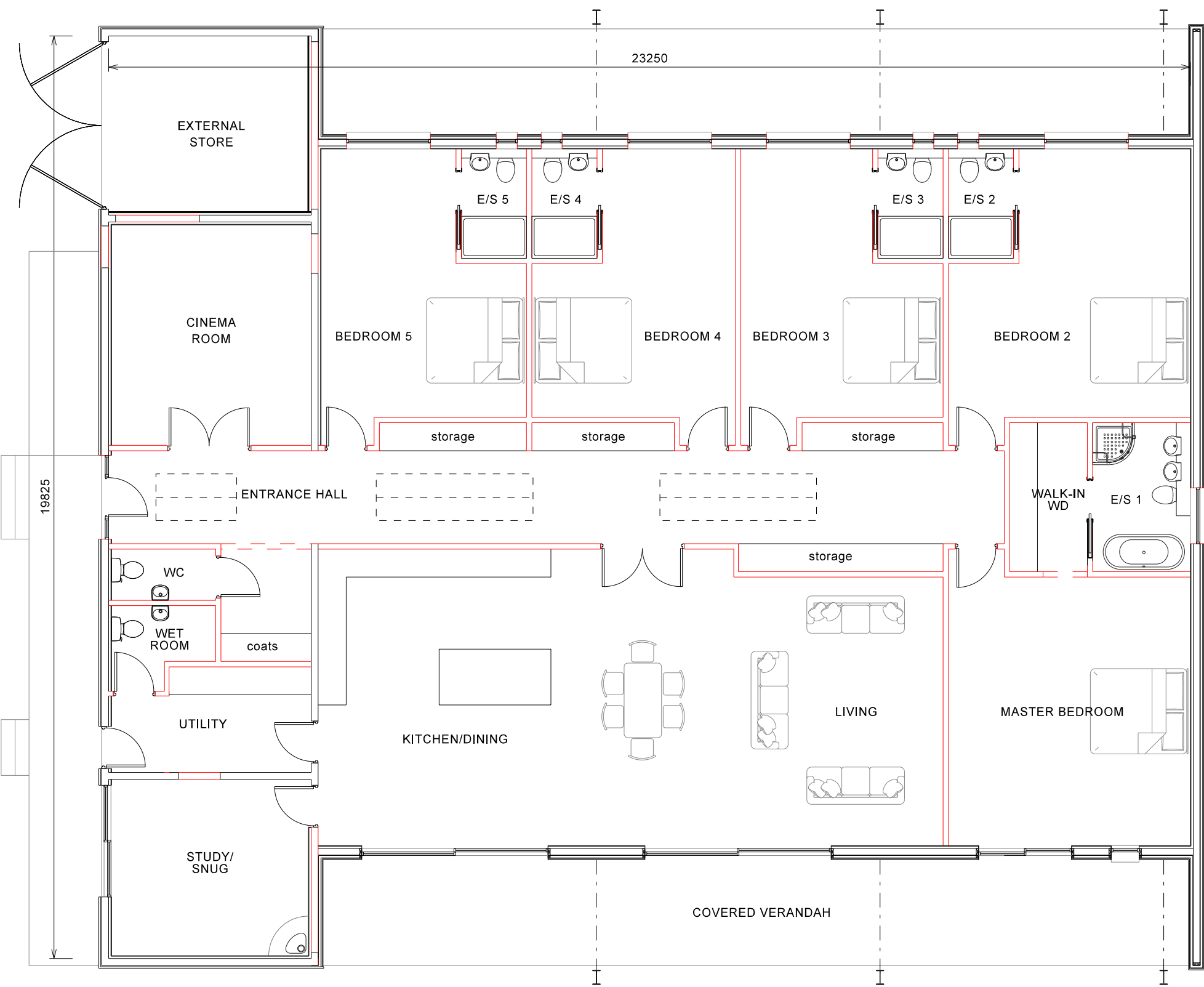


PROPOSED SOUTH ELEVATION

REMAINDER OF BUILDING
TO BE DEMOLISHED



PROPOSED NORTH ELEVATION



PROPOSED FLOOR PLAN

REMAINDER OF BUILDING
TO BE REMOVED

REV	DATE	DETAILS
A	20.10.21	Drawings revised to show remaining area of building to be demolished
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PROJECT
PROPOSED BARN CONVERSION
Hawksbill Hall
Hollyhurst Road
Wrenbury
Cheshire CW5 8HT

CLIENT
Mr & Mrs D Goodyear

DRAWING TITLE
Proposed plan and elevations

DATE
13 August 2021

SCALE @ A1
1:100

DRAWING REF
1517/04 A

REV

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An application to determine if prior approval is required for a proposed:

Change of Use of Agricultural Buildings to Dwellinghouses (Class C3), and for building operations reasonably necessary for the conversion.

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class Q

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

1. Site Address

Number	
Suffix	
Property name	Hawksbill Hall
Address line 1	Hollyhurst Road
Address line 2	
Address line 3	
Town/city	Wrenbury
Postcode	CW5 8HT
Description of site location must be completed if postcode is not known:	
Easting (x)	358772
Northing (y)	345248
Description	

2. Applicant Details

Title	Mr
First name	David
Surname	Goodyear
Company name	
Address line 1	Hawksbill Hall, Hollyhurst Road
Address line 2	

2. Applicant Details

Address line 3	
Town/city	Wrenbury
Country	
Postcode	CW5 8HT

Are you an agent acting on behalf of the applicant?

☒ Yes ☐ No

Primary number	
Secondary number	
Fax number	
Email address	

3. Agent Details

Title	
First name	Endaf
Surname	Roberts
Company name	Civitas Planning Limited
Address line 1	Civitas Planning Ltd
Address line 2	c/o Bradshaws 2 Well House Barns
Address line 3	Chester Road, Bretton
Town/city	Chester
Country	United Kingdom
Postcode	CH4 0DH
Primary number	
Secondary number	
Fax number	
Email	

4. Eligibility

Was the use of the site on 20 March 2013 (or the last use before that date) solely for an agricultural use as part of an established agricultural unit?

☒ Yes
☐ No

Has any work under the permitted development rights for the erection, extension or alteration of a building reasonably necessary for the purposes of agriculture been carried out on the agricultural unit since 20 March 2013?

☐ Yes ☒ No

Will the external dimensions of the resulting building(s) extend beyond the existing building(s) at any point?

☐ Yes ☒ No

4. Eligibility

Is any part of the land, site or building:

☐ Yes ☒ No

- in a conservation area;
- in an area of outstanding natural beauty;
- in an area specified by the Secretary of State for the purposes of enhancement and protection of the natural beauty and amenity of the countryside;
- in the Broads;
- in a National Park;
- in a World Heritage Site;
- in a site of special scientific interest;
- in a safety hazard area;
- in a military explosives storage area;
- a scheduled monument (or the site contains one)
- a listed building (or within the curtilage of a listed building)

5. Agricultural tenants

Is the site currently occupied under any agricultural tenancy agreements?

☐ Yes ☒ No

Have any agricultural tenancy agreements been terminated in the year before development is proposed to begin for the purpose of carrying out the proposed change of use?

☐ Yes ☒ No

6. Dwellinghouses and floor space

How many smaller dwellinghouses will be created by this proposal?

0

How many larger dwellinghouses will be created by this proposal?

1

What will be the net increase in dwellinghouses?

1

This figure should be the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development.

Previous Development

How many smaller dwellinghouses have previously been created under this permitted development right on this established agricultural unit?

0

How many larger dwellinghouses have previously been created under this permitted development right on this established agricultural unit?

0

TOTAL DWELLINGHOUSES

1

TOTAL LARGER DWELLINGHOUSES

1

Floor space of larger dwellinghouse(s)

Will the total combined floor space (previously and in this proposal) changed to Larger Dwellinghouses under this permitted development right on this established agricultural unit exceed 465 square metres? (Select 'No' if no larger dwellinghouses have been or will be created).

☐ Yes ☒ No

7. Description of Proposed Works, Impacts and Risks

Please describe the proposed development, including:

- The siting and location of the building(s); and
- From 1 August 2020, details on the provision of adequate natural light in all habitable rooms of the dwellinghouses

Please see attached plans and supporting statement

Are any associated building works or other operations required to make this change?

☒ Yes ☐ No

Note that such works are restricted to those listed below that are reasonably necessary to convert the building(s) for use as a dwellinghouse:

- the installation or replacement of windows, doors, roofs, or exterior walls;
- the installation or replacement of water, drainage, electricity, gas or other services;
- partial demolition to the extent reasonably necessary to carry out the works listed above.

If yes, please provide details of the design and external appearance of the building(s) in regard to these building works or other operations:

7. Description of Proposed Works, Impacts and Risks

Please attached plans

Please provide details of any transport and highways impacts and how these will be mitigated:

Please see attached statement

Please provide details of any noise impacts and how these will be mitigated:

Please see attached statement

Please provide details of any contamination risks and how these will be mitigated:

No contamination risks.

Please provide details of any flooding risks and how these will be mitigated.

A flood risk assessment should accompany the application where the site:

- is in Flood Zones 2 or 3; or
- is in an area with critical drainage problems (such areas will have been notified to the Local Planning Authority by the Environment Agency).

Check if your site location is in Flood Zone 2 or 3 online

Check with your Local Planning Authority to see if your site is in an area with critical drainage problems.

Not in a flood risk zone

8. Declaration

I/we hereby apply for prior approval as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them. ☒

Date (cannot be pre-application)

26/10/2021

**Prior Approval for a Proposed Change of Use of Agricultural Building
to a Dwellinghouse (Class C3), and for Associated Operational
Development (Resubmission of 21/4409N)**

Provision of one dwelling.

Hawksbill Hall, Hollyhurst Road, Wrenbury, Cheshire, CW5 8HT

Supporting Planning Statement

Prepared by:

Civitas Planning Limited

Tel: 01244 682 509

1 Introduction and Addressing previous reasons for refusal.

1.1 This supporting statement has been drafted by Civitas Planning Limited in support of this application which seeks Prior Approval for a Proposed Change of Use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development.

1.2 This application is a resubmission of APP REF: 21/4409N. The previous application was refused for the following reason:

‘The scope of the proposed building operations proposed goes beyond that which is considered reasonable to facilitate the conversion of the building into a dwellinghouse. In addition, the proposal is located in a potentially undesirable and impractical location, in terms of future amenity of the occupants in regards to noise. As such, the proposed development would not comply with the principle of Class Q in terms of both paragraphs Q(a) and Q(b) and, therefore, does not constitute Permitted Development by virtue of that Class.

1.3 Therefore the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO with regard to whether or not the proposed development would comprise building operations reasonably necessary for the building to function as a dwellinghouse.

1.4 Paragraph Q.1.(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.

1.5 The Planning Practice Guidance (PPG) also provides advice on the extent of building works which may be carried out in accordance with the permitted development right under this Part. In this regard, it makes clear that the right

assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and which would otherwise require planning permission.

- 1.6 The works proposed as part of the change of use do not go beyond anything other than ***‘the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.’*** – There is an aspect of demolition, but this is also allowable by virtue of Paragraph Q.1.(ii) which states that reasonable partial demolition is acceptable.
- 1.7 As has already been mentioned, PPG (REF: Paragraph: 105 Reference ID: 13-105-20180615) is clear that ***‘where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.’***
- 1.8 Whilst the LPA may have previously felt that extent of the above works are extensive, they are clearly matters which expressly fall within the scope of works permitted under paragraph Q.1.(i)
- 1.9 Lastly, we draw attention to the Appeal Decisions at Appendix A, which are similar cases to the above, one within Cheshire East and the other relates to another building on this same site. These appeal decisions related to a very similar development to what is proposed here, and the works were considered to be part of the rights allowed by Class Q. It is clear from these appeal decisions that the LPA have a misunderstanding of what is and isn’t allowed under Class Q. This application and its appendices clearly address the reason for refusal, supported with relevant appeal decisions.
- 1.10 The LPA stated in their report for the previous app that the building is structurally sound based on external viewing, an internal viewing would undoubtedly confirm this. The building is of solid construction and is a relatively modern agricultural building.

- 1.11 With regards to the amenity reasoning of the reason for refusal, this amended proposal now removes the remainder of the building, thus removing that reason for refusal.

2 Site Description and Application Background.

- 2.1 The application site is a building on part of the wider agricultural holding at Hawksbill Hall.
- 2.2 The building itself is access off Hollyhurst Road and has the benefit of its own access track and is surrounded by a large area of hardstanding.
- 2.3 The building in question is an agricultural building. The applicant is therefore proposed to utilise part of the footprint to deliver one dwellinghouse by virtue Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).
- 2.4 It is of note that this site has had one extant permission for a similar application on another agricultural building for two dwellings, but the amendments to this part of GPDO means that up to five dwellings can be created through this mechanism on one agricultural holding.
- 2.5 The current proposal therefore also meets all requirements of the GPDO and this application should be permitted without delay.

3 Proposal

- 3.1 The proposal entails the change part of the agricultural building into residential use, comprising one dwelling. Building operations are proposed in the form of the replacement windows and doors, creation of verandah and the insertion of rooflights. Other internal works are proposed but these do not amount to development requiring planning permission and thus do not fall under the scope of the Permitted Development regime. There is also some demolition, as shown on the attached plans.

4 Legislative Context

- 4.1 The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 allow for development consisting of the change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. It also allows for building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses). The legislation states that development is not permitted where:

‘the site was not used solely for an agricultural use, as part of an established agricultural unit—

(i) on 20th March 2013; or

(ii) in the case of a building which was in use before that date was not in use on that date, when it was last in use, or

(ii) 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 of development under Class Q begins;’

- 4.2 It is evident from an internal inspection of the building that it has historically been used for agricultural purposes. It is also clear from its architectural design that the building is agricultural in nature. The building has not been used for any other purposes, and as such is considered to accord with criterion 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;

(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;

- 4.3 The cumulative floor space of the building changing use is 465 sq metres, and as such is considered in accord with the above criterion. The proposal entails the creation of one larger dwellinghouse on top of the two already permitted, and as a consequence the proposal is considered to accord with the above criterion.

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

- 4.4 The site is not occupied under an agricultural tenancy and as a consequence the proposal is considered to accord with criterion (d).

‘(f) less than one 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;’***

- 4.5 The site was not occupied under an agricultural tenancy in the period of 12 months leading up to the date of this submission, and as a consequence the proposal is considered to accord with the above criterion.

‘(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’

- 4.6 No development under the provisions of Classes A(a) or B(a) of Part 6 has been carried out on site since the 20th March 2013. The proposal is therefore considered to accord with the above criterion.

‘(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;’

- 4.7 The proposed development encompasses building operations to facilitate the conversion of the buildings to residential use, but these do not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The proposal is therefore considered to accord with the above criterion.

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

the installation or replacement of—

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

(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

(iii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);’

- 4.8 The building operations proposed within the application amount to the installation of replacement windows and doors. The development also

involves the insertion of windows and doors. There are some insertion of walls internally and the inclusion of a verandah, but not to the point where the works are in breach of the above criterion. There is also some demolition, also allowed by the above.

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

- 4.9 The site does not lie on article 2(3) land and as a consequence the proposal is considered to accord with the above criterion.

‘(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;’

- 4.10 The site does is not, and does not form part of a site of special scientific interest, a safety hazard area, or a military explosives storage area, and as a consequence the proposal is considered to accord with criterion (k).

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

- 4.11 The site does not comprise or contain a schedule monument and the proposal is therefore considered to accord with criterion (l).

‘(m) the building is a listed building.’

- 4.12 The building proposed for conversion is not a listed building. The proposal is therefore considered to accord with criterion (m).

- 4.13 As a consequence of the above considerations it is submitted that the proposed development accords with all of the relevant provisions of Class Q. However, Class Q.2(1) also requires that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the following —

‘(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, or
(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 and external appearance of the building'***

- 4.14 This prior approval submission has been made in response to the aforementioned requirements, and this Statement will now consider the proposal in the context of the above matters. In doing so consideration has been given to the provisions of the Planning Practice Guidance and salient appeal decisions.

Transport & Highways Impacts

- 4.15 The proposed dwellings will utilise the existing vehicular access serving the building, as well as existing hardstanding for parking. The highway and leading up to the site is suitable for the proposed residential use. As such the proposal is considered to be acceptable in the context of criterion Q.2(1)(a) above.

Noise Impacts

- 4.16 The proposed conversion of the barn to a residential use will not derive any adverse noise impacts and there are no surrounding uses that would likely give rise to harm to future occupants of the buildings by reason of noise disturbance. The proposal is therefore considered to be acceptable in the context of criterion Q.2(1)(b) above.

Contamination

- 4.17 Land can only be declared contaminated if it either contains a source of pollution, that a pollutant could affect a receptor, and that the pollution can get to the receptor. The site has historically been used for agricultural purposes and is not considered to have been subject to any previous uses that may have resulted in concerns about contamination. Furthermore, there are no uses in the immediate vicinity of the site which may give rise to pollutants.

The proposal is therefore considered to be acceptable in the context of criterion Q.2(1)(c) above.

Flood Risks

- 4.18 The site does not lie within Flood Zones 2 or 3 as confirmed by the Environment Agency's Flood Map, nor is the site at potential risk of flooding by surface water. The proposal is therefore considered to be acceptable in the context of criterion Q.2(1)(d) above.

Impractical or Undesirable?

- 4.19 The Planning Practice Guidance (updated 5th March 2015) confirms 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. 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”

REF:Paragraph: 108 Reference ID: 13-108-20150305

- 4.20 The guidance goes on to state that 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. That an agricultural building is in 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.
- 4.21 The guidance goes on to state that 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 not compatible with residential use. There are no uses nearby incompatible with the proposed residential use.

- 4.22 To compare with the examples cited in the Planning Practice guidance this site is not isolated in terms of it being away from existing development, and it further benefits from an established vehicular access. There are, furthermore, no surrounding land uses that would result in detrimental harm to the amenity of future occupiers. The remainder of the building will be removed.

Design & External Appearance

- 4.23 The alterations to the building, in the main, involve the effective reuse of the host building. It is also proposed to create openings in the form of windows and doors, as shown on the enclosed plans. These works are not considered to be harmful to the character of the building and will in fact improve it. The design and external appearance of the proposal is therefore considered to be acceptable in the context of criterion Q.2(1)(f) above.

5 Conclusion

- 5.1 Having regard to the aforementioned commentary I consider that the proposed development will fully accord with the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) and invite the Local Authority to confirm that their prior approval is not required.

APPENDIX A – Appeal Decisions



Appeal Decision

Site visit made on 9 March 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/R0660/W/19/3236843

Agricultural Building, Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO').
 - The appeal is made by Mr David Goodyear against the decision of Cheshire East Council.
 - The application Ref 19/3283N, dated 10 July 2019, was refused by notice dated 4 September 2019.
 - The development proposed is for the change of use of an agricultural building to two dwellings and associated building operations.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the GPDO for the change of use of an agricultural building to two dwellings and associated building operations at Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT, in accordance with the details submitted via application Ref 19/3283N, dated 10 July 2019, subject to the schedule of conditions below.

Preliminary matters

2. The description of development in the banner heading above succinctly describes the proposal based on the appellant's planning statement and the Council's decision notice. I note that the Council determined that prior approval was not required for the erection of another, as yet unbuilt, agricultural building within the same holding in August 2017.¹
3. Revised plans 1438/01D, 1438/02 Rev E, and 1438/04 Rev D supersede those originally submitted. However those plans, reviewed by the Council, do not significantly alter the proposal. Instead they remove from the appeal site buildings not in the same use,² illustrate amended outside space by consequence, and accurately represent the proposed roof relative to the existing building. There is no reason to discount those plans from my assessment of the scheme.

Legislative context

4. The proposal relates to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO. Those classes allow for the change of use of a building and any land within its

¹ Ref 17/3949N.

² Including a mobile home related to unsuccessful application Ref 16/4314N.

curtilage from use as an agricultural building to a C3 use, and also reasonably necessary building operations to achieve that conversion (subject to certain limitations in paragraph Q.1, and conditions in paragraph Q.2).

5. Whilst in the open countryside, the Planning Practice Guidance ('PPG') explains that there is no 'test' in respect of sustainability of location as regards Class Q.³ The right to change use is established, in principle, via legislation as opposed to falling for consideration in line with the statutory development plan unless material considerations indicate otherwise.

Main issue

6. The Council's associated officer report explains that the scheme entails 'new walls, new roof and new floor... This would be beyond what could be a conversion scheme, and the LPA has taken this view on similar cases for the creation of dwellings from steel sheds.' The Council therefore contend that the proposal would not comply with the limitations on building operations specified under GPDO Schedule 2, Part 3, Class Q, Q.1(i).
7. Reflecting those provisions, the PPG sets out how 'it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the [Class Q] permitted development right'.⁴ The judgement in *Hibbitt & Anor v SSCLG & Ors* ('Hibbitt') is relevant in that context, concerning the extent of permissible building operations.⁵ Paragraph 27 of that judgement distinguishes between a conversion and development so fundamental as to effectively amount to a rebuilding; the line between the two ultimately being a matter of case-specific planning judgement.
8. In that context the main issue, and sole matter in dispute between the main parties, is whether or not the proposal would represent a permissible conversion with regard to the nature of the building operations proposed.

Reasons

9. The existing building is a substantial steel portal barn of standardised construction. It comprises six bays and is enclosed by corrugated metal sheeting of varying ages, aside from a small open section above barn doors. In part, the floor is solid slab. At the time of my site visit the barn was used for the storage of hay, and also miscellaneous items apparently associated with the maintenance and running of the surrounding land and buildings.
10. The proposal is to demolish two of the six bays and create two 'larger' dwellinghouses using the remaining building. Each unit would have a floor area of 199.2sqm (plan 1438/02) and have accommodation arranged over two floors.⁶ A slightly different combined gross internal floorspace of 397.6sqm is stated elsewhere by the appellant, and 432sqm is given in the Council's officer report.⁷ Plan 1438/04 Rev D shows that new roofing would be installed, cladding put in place, along with the creation of various new openings for

³ Reference ID: 13-108-20150305.

⁴ Reference ID: 13-105-20180615.

⁵ EWHC (Admin), 9 November 2016.

⁶ PPG reference ID: 13-105-20180615 indicates the insertion of upper floors are not inherently prohibited.

⁷ Any figure being less than 465sqm as set out in GPDO paragraph Q.1(b)(bb).

windows and doors. Collectively, I acknowledge the Council's position that the proposal would change the existing building significantly.

11. However the installation or replacement of 'windows, doors, roofs or exterior walls' is permissible (GPDO paragraph Q.1(i)(i)(aa)). Whilst significant, the proposed works do not go beyond those categories. In my view such building operations are reasonably necessary in order to convert an uninsulated utilitarian building into dwellinghouses with appropriate levels of amenity (natural light by virtue of the creation of new openings in particular). Partial demolition, to the extent reasonably necessary to carry out building operations allowed under paragraph Q.1(i)(i), is also permitted under Class Q.
12. It could be argued that the demolition proposed is a choice rather than a necessity. Nevertheless, given the scale and form of the existing building, there are conceivably many potential options that could reasonably have been advanced under Class Q. The legislation does not require that demolition must be absolutely necessary, i.e. to achieve the only practical option for conversion. Moreover the GPDO defines 'building' as including 'any part thereof',⁸ and consequently there is no requirement that the entirety of a building must be used where conversion under Class Q is advanced. To achieve the floorspace and layout proposed, two bays are superfluous, and the demolition proposed is accordingly reasonably necessary.⁹
13. I have not been provided with specifics of the 'similar cases' referred to in paragraph 6 of this decision, and in any event each proposal must be considered on its particular merits. There is nothing in the GPDO or PPG limiting the application of Class Q permitted development to certain forms or designs of buildings. Additionally, in this instance the proposal is accompanied by an Inspection Report prepared by a Structural Engineer.¹⁰ That Report sets out that, although the building is about 30 years old and there is some superficial rust, it has nevertheless been well maintained and is structurally sound. Consistent with my observations also, the Inspection Report explains how there is no visual indication of corrosion at the foot of columns which, if present, might have indicated structural defects.¹¹
14. The Inspection Report summarises that, without structural alteration or reinforcement, the building could 'easily be re-used as the main frame of any future building', provided the design employs similar structural loading as present. Whilst there are no technical drawings before me as to how the proposed finishes or internal arrangements would tie in with the existing structure, on the balance of the evidence before me the proposal would nevertheless make use of an existing structurally sound building. Works would not go beyond the categories in GPDO paragraph Q.1(i)(i), and partial demolition would accord with the requirements of paragraph Q.1(i)(ii).
15. With regard to the context set out in paragraph 7, I therefore conclude that the proposal would represent a permissible conversion with regard to the nature

⁸ With regard to the judgement in *Mansell v Tonbridge & Malling Borough Council* [2016] EWHC 2832.

⁹ No case is made that the partial demolition of a standard utilitarian agricultural building would otherwise be unacceptable (for example with regard to paragraph Q.2(f), or given the operational needs of the wider holding noting my reasoning in paragraph 2 of this decision).

¹⁰ prepared by Haltec, Consulting Civil and Structural Engineers Ltd., Ref GN0875/JDH/R01.0, dated August 2019

¹¹ As shown at image 17 in particular.

and extent of the building operations proposed, compliant with the relevant elements of the GPDO and PPG.

Conclusion

16. For the above reasons, and having taken account of all other relevant matters, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

17. Prior approval may be granted unconditionally or subject to reasonably related conditions, noting the matters set out in GPDO paragraphs Q.2(1)(a) to (f) in particular. In that context it is necessary to limit the life of the consent, in line with paragraph Q.2(3), and also to impose a condition requiring adherence to the relevant plans for certainty (and so as to ensure the development is implemented as assessed above).
18. I have taken account of GPDO paragraph W(10)(c) of the GPDO in respect of contamination. Paragraph 3.5(e) of the Government's Statutory Guidance related to Part 2A of the Environmental Protection Act 1990 as amended refers to agricultural land, with the PPG indicating that contamination may be present in the countryside associated with certain agricultural practices.¹² In that context, mindful of the need for proportionality, as a precautionary approach I have imposed a condition necessary to ensure any contamination is addressed.
19. I am statutorily required to take reasonable steps to conserve and enhance the natural features of SSSI and to conserve biodiversity.¹³ NPPF paragraph 170 d) sets out how decisions should seek to minimise impacts on biodiversity and provide net gains. Nearby to the south is a site of local importance for nature conservation tracking along the Comber Mere Site of Special Scientific Interest, the latter designated on account of its wetland habitat and ornithological value. In that context I have imposed conditions requiring that construction avoids disturbance to birds, and that suitable enhancements are put in place.
20. In imposing conditions I have had regard to the tests in the NPPF, to relevant elements of the PPG and of statute. I have accordingly amended the wording of certain conditions proposed by the Council without altering their aims. That is particularly so to ensure that conditions three and four are precise and reasonable, noting that parallel provisions exist in section 1 of the Wildlife and Countryside Act 1981 as amended in respect of the latter.

Thomas Bristow

INSPECTOR

¹² Reference ID: 33-003-20190722.

¹³ Section 28(G) of the Wildlife and Countryside Act 1981, section 40 of the Natural Environment and Rural Communities Act 2000 as amended.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within a period of three years from the date of this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
- 2) The development hereby permitted shall be carried out in accordance with approved plans 1438/01D, 1438/02 Rev E, and 1438/04 Rev D.
- 3) Any contamination that is identified in the course of undertaking the development hereby permitted, whether on site or via the importation of materials, shall be reported immediately to the local planning authority and development at that part of the site affected shall be suspended.

Before any further development at that part of the site affected continues, a risk assessment and remediation measures shall be submitted to, and approved in writing by, the local planning authority. The risk assessment and remediation measures should accord with British Standard BS 10175: Investigation of potentially contaminated sites- Code of Practice, and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standards and Model Procedures if replaced). Development shall thereafter be carried out in accordance with the agreed risk assessment and remediation measures.

In addition, before either dwelling hereby permitted is first occupied, a verification report prepared by a suitably qualified person shall be submitted to and approved in writing by the local planning authority, establishing that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 as amended (in line with the standards and model procedures as set out above).

- 4) No development hereby permitted shall take place during the bird breeding season of 1 March to 31 August in any year, unless a survey of the site for nesting birds has been undertaken immediately beforehand. A four metre exclusion zone shall be maintained around any nest identified in the survey, within which no development shall take place other than outside of the bird breeding season. In addition, before either dwelling hereby permitted is first occupied, a scheme for incorporating bird-breeding features on site shall have been submitted to the local planning authority, approved in writing by the local planning authority, and implemented. Approved bird-breeding features shall thereafter be retained.



Appeal Decision

Site visit made on 22 January 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2019

Appeal Ref: APP/R0660/W/18/3211093

Barn at Houghton Farm, Badcocks Lane, Spurstow, Cheshire, CW6 9RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Adam Wadlow against the decision of Cheshire East Borough Council.
 - The application Ref 18/3074N, dated 20 June 2018, was refused by notice dated 16 August 2018.
 - The development proposed is prior approval for the change of use of existing barns to two dwellings.
-

Decision

1. The appeal is allowed and approval granted under the provisions of Article 3(1) Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use of existing barn to two dwellings at Houghton Farm, Badcocks Lane, Spurstow, Cheshire, CW6 9RR in accordance with the application Ref: 18/3074N dated 20 June 2018, and the details submitted with it pursuant to Schedule 2, Part 3, Class Q(b) of the GPDO. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the 2015 GPDO and subject to the following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PL01, PL13, PL15, PL16, PL17.
 - 2) (a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.
b) Prior to occupation, evidence and verification information (for example, laboratory certificates) in respect of any such soil or materials shall be submitted to, and approved in writing by, the local planning authority.
 - 3) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). If such contamination is found, proposals for remedial measures shall be submitted to and approved in

writing by the local planning authority. Such approved measures shall be implemented prior to first occupation of the development.

Procedural Matters and Main Issue

2. Class Q(b) of the GPDO permits 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) subject to a number of criteria.
3. Paragraph Q.1 of the Order sets out the situations whereby development would not be permitted. Class Q.1(d) (i) states that development is not permitted if the development would result in a larger dwellinghouse or larger dwellinghouses having more than 465sqm of floorspace having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
4. The Council considers that the internal floorspace of the proposed dwellinghouses is 470sqm and externally 500sqm and therefore the development does not comply with this criteria and is not permitted. As set out in the Inspector's decision referred to by the appellant, it was affirmed by the Court of Appeal that the floor space restriction set out under Q.1(b) *'is stated to be a restriction on the change of use, not on the size of the building or buildings in which the change of use occurs'*¹. The appellant provided a plan as part of the appeal which shows the internal floorspace at 456sqm. The Council have provided no comments and I have no reason to question the validity of the measurements. As such, I am content to consider the appeal on the basis of this plan and the proposed floorspace at 456sqm complies with Q.1(d) (i).
5. Therefore the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO with regard to whether or not the proposed development would comprise building operations reasonably necessary for the building to function as a dwellinghouse.

Reasons

6. Paragraph Q.1.(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
7. The Planning Practice Guidance (PPG) also provides advice on the extent of building works which may be carried out in accordance with the permitted development right under this Part. In this regard, it makes clear that the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and which would otherwise require planning permission.

¹ Mansell v Tonbridge and Malling BC & Others [2017] EWCA Civ 1314.

8. Both parties have referred to the judgement in *Hibbitt v SSCLG* [2016] EWHC 2853² which pre-dates the updates to the PPG, but which established that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. It was held that the distinction between a conversion and a rebuild is a matter of legitimate planning judgement.
9. The barn is a relatively modern portal steel framed agricultural building which is divided into three sections, consisting of an enclosed central section and two open fronted lean-to sections on either side under a concrete asbestos sheet roof. The walls of the building predominantly consist of blockwork to the lower sections with timber cladding above, with the exception of the central section which has metal sheeting to the upper section at the rear and large metal clad sliding doors to the front. The floor consists of concrete ground bearing slabs.
10. I have had regard to the submitted Structural Report which states that the existing building does not require any additional structural elements to accommodate the new walls and that the existing floor slab has been tested to a higher level of loading than that for domestic use and is adequate. The report concludes that the building is in good condition and that it is entirely feasible from a structural viewpoint to convert the building to domestic use. Based on my observations I have no reason to doubt this conclusion.
11. The proposal includes the formation of an internal timber frame structure to sub-divide the existing building and insulated framing boards to insulate the existing walls. The proposed glazing will be self-supporting and it is evident from the Structural Report that the timber rails will not be affected by the addition of windows which are placed so as not to affect the existing structural integrity. The alterations to the original building include the removal of one of the lean-tos, the insertion of windows and doors into existing openings, the formation of a number of new openings, the repair of the timber cladding as necessary and the replacement of the roof.
12. Whilst the extent of the above works is fairly extensive, I am nonetheless mindful that they are matters which expressly fall within the scope of works permitted under paragraph Q.1.(i). I appreciate that the Hibbitt judgement related to an appeal case that also involved a structurally sound building and that Inspector concluded that the extent of works went beyond what was reasonably necessary. However, on the basis of this judgement and associated appeal decision, it appears to me that the barn in that case required more substantial building works including the construction of all four exterior walls.
13. Given the structural integrity of the appeal building and the extent to which it would be retained in the development, I find in this case that the extent of the building operations would not go beyond what would be reasonably necessary for the conversion of the building to residential use. Accordingly, I find the proposed development is permitted by Class Q(b).

Prior approval

14. For permitted development under Class Q(a) and Q(b), namely a change of use from an agricultural building to a Class C3 dwellinghouse with the building

² *Hibbitt and Anor v Secretary of State for Communities and Local Government & Rushcliffe Borough Council* [2016] EWHC 2853 (Admin).

operations reasonably necessary to convert the building, paragraph Q.2(1) of the GPDO requires prior approval of the following matters. These are: (a) the transport and highway 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); and (f) the design or external appearance of the building.

15. The Council did not consider those matters for which prior approval is required. However, based on the consultation responses, I note that there is no objection in respect of the transport and highway impacts of the development or contamination subject to conditions. In respect of flood risk I am aware from the original application form that the site is not within Flood Zones 2 or 3 and I have no evidence before me to suggest the site is at risk from flooding.
16. There are neighbouring farm buildings in relatively close proximity however, they are largely open sided and were not all in use at the time of my visit. I noted large bales of straw or hay were stored in one. On the basis of the nature of the buildings it seems unlikely to me that their use would result in unacceptable noise or other impacts such as to make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses). The Council have raised no issue in relation to the proposed design and I have no reason to take a different view.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.
18. Any planning permission granted under Article 3(1) and Schedule 2, Part 3, Class Q is subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. I have also imposed a condition requiring compliance with the approved plans in the interests of certainty and two conditions in respect of contamination in the interests of public safety.

Felicity Thompson

INSPECTOR

INTERNAL CONSULTATION RESPONSE

Regulatory Services and Health

Cheshire East Council

Tel: 0300 123 5015 / E-mail: environmentalprotection@cheshireeast.gov.uk

SITE LOCATION	Hawksbill Hall, Hollyhurst Road, Wrenbury, Cheshire East, CW5 8HT
APPLICATION No.:	21/5545N
PROPOSAL:	Prior approval for a change of Use of Agricultural Buildings to Dwellinghouses (Class C3),
TO:	Cheshire East Planning
PLANNING OFFICER:	
DATE:	11 th November 2021
OUR REF:	073929

Regulatory Services and Health has considered this application and would make the following comments with regards to **AMENITY**, **AIR QUALITY** and **CONTAMINATED LAND**. The recommendations are intended to provide sufficient information to guide planning officers to adequately word conditions. Where the planning officer considers that the recommendations should be substantially altered, or not included in the decision notice, it is requested that he/she discusses the matter with the relevant officer in this Service.

AMENITY COMMENTS

Mark Vyse

PRIOR APPROVAL - PERMITTED DEVELOPMENT RIGHTS – CHANGE OF USE

Permitted Development Rights allow developments of this type; however only Noise can be considered as a material consideration under current guidance for Prior Approvals.

No Comments

AIR QUALITY COMMENTS

Martin Brown

Dr. Adobi Okam

Niall Martin

PRIOR APPROVAL - PERMITTED DEVELOPMENT RIGHTS – CHANGE OF USE

Permitted Development Rights allow developments of this type; however, Air Quality is not considered a material consideration under current guidance for Prior Approvals.

As such the Council is unable to assess and apply where necessary air quality mitigation measures to these types of permitted change of uses.

CONTAMINATED LAND COMMENTS

Sally Shaw

Email: sally.shaw@cheshireeast.gov.uk

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- Residential developments are a sensitive end use and could be affected by any contamination present or brought onto the site.
- The application area has a history of agricultural use and therefore the land may be contaminated.
- A pre-determination questionnaire for land contamination was sent to the planning agent for completion for the previous application (**21/4409N**), however this was not returned within the timeframe requested. Furthermore, no information with regards contaminated land has been submitted to support the current application.
- It is unclear from the proposed plans whether any garden areas are to be created as part of the development. If so, these areas should be suitable for their proposed use – there may be made ground present on site which may not be suitable for retention in future garden areas.
- Should any soil be imported to site for use in areas of garden/landscaping, this should be demonstrated to be chemically suitable for its proposed use in line with our [Developer's Guide](#), in the absence of any other agreement for the site.

As such, and in accordance with paragraphs 174, 183 and 184 of the NPPF 2021, this section recommends that the following conditions, reasons and notes be attached should planning permission be granted:

CONDITION 1

- (a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.
- (b) Prior to occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the LPA.

CONDITION 2

If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority. Prior to first occupation/use of the development, confirmation should be provided to the LPA that no such contamination was found, and if so what remedial measures were agreed and implemented.

REASON RCLC1

-To ensure the development is suitable for its end use and the wider environment and does not create undue risks to site users or neighbours during the course of the development.

REASON RCLC5

-The actions are considered necessary as a result of a proposed change of use to a more sensitive land use.

REASON RCLC6

-The actions are considered necessary as currently there is insufficient information available for the site.

INFORMATIVE NCLC1

-The applicant is advised that they have a duty to adhere to the regulations of Part 2A of the Environmental Protection Act 1990, the National Planning Policy Framework 2021 and the current Building Control Regulations with regards to contaminated land. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

This section has used all reasonable endeavours to recommend the most appropriate measures regarding potential contamination risks. However, this recommendation should not be taken to imply that the land is safe or otherwise suitable for this or any other development.

Town & Country Planning Act, 1990; Development Management Procedure Order 2015
Strategic Transport
Cheshire East Council, Floor 7, Delamere House, Delamere Street, Crewe, CW1 2LL.

INTERNAL CONSULTATION RESPONSE

FROM: HEAD OF STRATEGIC TRANSPORT
TO: HEAD OF PLANNING - DEVELOPMENT MANAGEMENT (Gemma Horton)
FOR: CHESHIRE EAST COUNCIL L.P.A.
REGARDING: A FORMAL PLANNING APPLICATION CONSULTATION

SITE LOCATION: HAWKSBILL HALL, HOLLYHURST ROAD, WRENBURY, CHESHIRE, CW5 8HT
PLANNING APP No: 21/5545N
PROPOSAL: Prior approval for a change of Use of Agricultural Buildings to Dwellinghouses (Class C3),
THE HEAD OF STRATEGIC TRANSPORT RECOMMENDS: Approval

Site description and current application proposal

This proposal reflects a previous one not objected to by Highways and not refused on highways grounds.

As before, the proposal is to convert the barn to a residential dwelling whilst utilising the existing access onto Hollyhurst Rd.

The location is poor and will be a car dominated one, nevertheless the highways impact will be minimal. The access has operated safely and a level of visibility is available, and the net increase in vehicle numbers will be minimal, and the access is sufficient to cater for the limited increase.

The proposal is acceptable and no objection is raised

Signed: Andrew Goligher FOR HEAD OF STRATEGIC TRANSPORT

Date: 19/11/21

Endaf Roberts
Civitas Planning Ltd
c/o Bradshaws 2 Well House Barns,
Chester Road,
Bretton,
Chester,
CH4 0DH

Development Management
PO Box 606
Municipal Buildings
Earle Street
Crewe
CW1 9HP

email: planning@cheshireeast.gov.uk

DECISION NOTICE

Application No: **21/5545N**

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
ORDER 2015 (AS AMENDED)

Particulars of Development

Prior approval for a change of use from agricultural to dwellinghouses

Location

HAWKSBILL HALL, HOLLYHURST ROAD, WRENBURY, CHESHIRE, CW5 8HT

For

Mr D Goodyear

I am writing to advise you that the application is **REFUSED**.

The proposed development does not comply with the conditions, limitations or restrictions applicable to development permitted by Part 3 Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the following reason/s:

1. The scope of the proposed building operations proposed goes beyond that which is considered reasonable to facilitate the conversion of the building into a dwellinghouse. As such, the proposed development would not comply with the principle of Class Q in terms of both paragraphs Q(a) and Q(b) and, therefore, does not constitute Permitted Development by virtue of that Class.

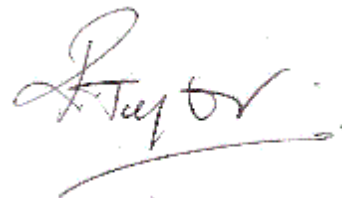
Informative:

1. Community Infrastructure Levy (CIL)

This application may be liable for a payment under the Community Infrastructure Levy Regulations (as Amended) 2010 if planning permission had been granted. If an appeal is lodged and subsequently allowed, the CIL liability may be applied.

For further information you can contact the Council's CIL Team on cil@cheshireeast.gov.uk or Tel: 0300 123 5014.

Dated: 14 January 2022



Signed:

Authorised Officer for
Cheshire East Borough Council

We enclose our decision notice in respect of the application you recently submitted to us.

You should read the notice carefully. It is your responsibility to ensure that you comply with the terms of any conditions which are attached to it. Where conditions require you to submit further information to us you will need to pay a fee and submit a separate application. The notice doesn't convey or grant consent for anything other than the application you made under the terms of the Town and Country Planning Act 1990.

If you are aggrieved by our decision to refuse planning permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990. You must submit your appeal within:

- 12 weeks of the date of this notice in the case of householder applications
- 8 weeks of the date of this notice for advertisement applications or
- 6 months of the date of this notice in all other cases

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](https://www.gov.uk/planning-inspectorate)

Appeals can be made online at <https://www.gov.uk/planning-inspectorate> If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on 03034445000. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

DELEGATED REPORT

Application Number	21/5545N
Proposal	Prior approval for a change of Use of Agricultural Buildings to Dwellinghouses (Class C3),
Location	HAWKSBILL HALL, HOLLYHURST ROAD, WRENBURY, CHESHIRE, CW5 8HT
LDFC	24-Nov-2021
Expiry Date	14-Jan-2022
Constraints	Crewe and Nantwich Local Plan

Main issues

- Whether the proposal complies with the conditions and limitations of Class Q.
- Whether prior approval is required for the transport and highways impacts of the development, contamination risks on the site or flood risks on the site and the site is impractical/ undesirable.
- Whether it constitutes new build or conversion and the guidance contained with the National Planning Policy Guidance (NPPG)

Recommendation

Refuse

DESCRIPTION OF SITE AND CONTEXT

The application site relates to a large poultry building constructed out of block, and metal profile cladding. The application relates to a section of the existing building, to be separated from the existing building. The applicant has confirmed that the poultry business would end, and the remaining building demolished.

The development is located within the Open Countryside as defined in the Local Plan Policies Map.

Within the same ownership there is another agricultural building with permission for change of use to residential, and a stable and menage. There is also an agricultural workers dwelling on the site.

DETAILS OF PROPOSAL

This application is for prior approval of change of use from an alleged agricultural building to Class C3 (dwellinghouses). The application is assessed against Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

RELEVANT HISTORY

There is a number of planning permission on the site, the first group relate to the building itself and the second group relate to the wider holding.

Proposal building

21/4409N - Prior approval for a change of use from agricultural to dwellinghouses – Determination – Refusal (Stage 2) 8th October 2021

17/3949N – Prior notification of agricultural building for hay barn and agricultural implement store for current commercial free range egg business and stud farm. – Determination Approval not required (stage 1) – 30th August 2017 (not implemented)

11/2610N – Erection of Free Range Poultry Building and Two Feed Silos – approved with conditions 2nd March 2012

11/2627N – Erection and Siting of a Temporary Agricultural Dwelling Unit – Refused 30th March 2012

09/2246N – Steel Framed Building to House Farm Equipment and Packaging & Machinery for Free Range Egg Unit & Egg Storage – approved with conditions 30th September 2009

P03/0568 – Two Free Range Egg Layer Units and Temporary Siting of Mobile Home – Refused 11th November 2003

Wider site

21/0093N – Prior approval for a proposed change of use of an agricultural building to two dwellings – Approval not required (stage 1) 2nd March 2021

19/3283N – Prior approval for a proposed change of use of an agricultural building to a dwelling – Determination Refused (Stage 2) 4th September 2019 – Allowed at appeal 26th March 2020

21/1987N – Certificate of lawful existing use as equine stud farm/stables – not determined

21/4689N – Certificate of lawful existing use of twin unit mobile home used for permanent residential accommodation – not determined

17/1742N – Erection of Cattery (Replacement of Previously Demolished Building) – approved with conditions 26th May 2017

16/4134N – Certificate of Lawful Existing Use with regards to twin unit mobile home used for permanent residential accommodation – Refused 19th October 2016

13/0093N – Four bay open fronted garage attached to existing house – refused 8th March 2013

09/4184N – NMA for New Property - Agricultural Workers Dwelling – approved 13th January 2010

09/4184N – non material amendment to New Property - Agricultural Workers Dwelling – approved 13th January 2010

09/1377N – Erection of Agricultural Workers Dwelling – Approved with conditions 28th August 2009

P08/1335 – Steel Frame Farm Building – Determination – approved Stage 1 12th January 2009

P08/1060 – Outline Application for the Erection of Agricultural Workers Dwelling – approved with conditions 11th February 2009

P06/0181 – Change of Use to Stud Farm & Relaxation of Condition 1 on P05/0583 to Allow Commercial Use of the Existing Stables – approved with conditions 28th April 2009

P05/0583 – Erection of Stable Block – approved with conditions 29th June 2005

CONSULTATIONS (External to Planning)

CEC Head of Strategic Infrastructure – No Objection is raised

CEC Environmental Heath – No objections subject to conditions relating to contaminated land

CEC Flood Risk – None received at time of writing this report.

VIEWS OF THE PARISH / TOWN COUNCIL – None received at time of writing this report.

OTHER REPRESENTATIONS - None received at time of writing this report.

OFFICER APPRAISAL

The application is effectively assessed in 2 parts and these are set out below.

Assessment against criteria

This is not a planning application but a prior notification of a proposed change of use of alleged agricultural building to a dwellinghouse which will be assessed against the relevant criteria contained within the GPDO as amended.

Class Q of the GPDO confirms that the conversion of an agricultural building is permitted development where it is 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.

The recent High Court judgement, *Hibbitt and Another vs SOS and Rushcliffe BC* (25/10/16), provides greater clarification on developments proposed under Class Q, particularly with respect of whether a development under this Class represents a "conversion" in the first instance. The decision states that if the development does not amount to a "conversion" then it fails at the first hurdle, which is a free standing requirement which must be met irrespective of anything in Q.1. There is no definitive point of what constitutes a conversion and this is therefore a matter of planning judgement.

The NPPG (para 105 – ID 13-105-20180615) states that

The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

A recent additional to paragraph 105 now states that,

'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'.

The application building is constructed in block and profile metal. The application now includes a visual based structural survey which sets out that the building is only 16 years old designed to modern codes of practice and in good condition. The building can easily be re-used as the main frame on any future building type. The concrete slab could also be re-used with suitable checks on the damp proof membrane and insulation. Any upgrades could be incorporated into a new finished screed. The roof and wall cladding were in good condition and could be retained. If the roof requires re-roofing then cladding was required, similar weight, profiled metal cladding with insulation or similar lightweight material. The new wall and floor construction would be tied into the existing structure to provide further stability to the existing portal frame. The rear section of the building is noted as being removed and should the wall or roof bracing be located in the rear section, the bracing must be reallocated to the retained, front section of the building to provide stability. The wall bracing will require modification to suit the new openings.

The report confirms that from a visual inspection of the building is in good condition, however does not consider if the works required to 'convert' the building would affect the structural integrity of the building. There is no evidence that the proposal is capable of conversion with demolition, and the creation of three new external walls.

The proposal would require a new elevation wall to be constructed to create the proposed dwelling, to enable the footprint which does not exceed the upper limit of 465sqm. The building layout has been contrived to enable the accommodation to fit within the building, by creating veranda areas internally on two further elevations. The construction will require the

removal of two existing walls and the creation of two new ones. The applicant states that this is required to enable suitable head space and windows on the elevations. However, this in itself goes to show that the building is not suitable or conversion without works which are beyond 'reasonably necessary'. It is therefore considered that the works required go beyond what is reasonably necessary to convert the building to residential.

The number of opening proposed within the single retained elevation is considered to be acceptable and the insertion of roof lights are also considered to be acceptable.

Nevertheless, it is considered that the amount of building operations to be carried out to enable to conversion goes well beyond reasonably necessary.

The works proposed are considered to in their totality to represent a significant alteration and would exceed what could reasonably be described as a "conversion". As the development proposals are considered to go above and beyond what can reasonably and sensibly be considered to be a "conversion" the threshold of Class Q(b) would not be met.

Paragraph W.(3) of Part 3 details that a Local Planning Authority may refuse an application where the proposed development does not comply with the conditions, limitations or restrictions specified. If an application is refused under sub paragraph 3, it is not then necessary to assess the representations made or consider whether further prior approval is required.

Assessment against limitations and conditions of GPDO

While the LPA has found that the works would not benefit from Class Q Permitted Development rights in the first instance, an assessment has been carried out on whether the development would satisfy the limitations and conditions of the GPDO:

Paragraph Q.1 sets out where development is not permitted by Class Q:

(a) the site was not used solely for an agricultural use as part of an established agricultural unit—

- (i) on 20th March 2013, or*
- (ii) 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*
- (iii) 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;*

The application indicates that on the 20th March 2013, the building was used solely for an agricultural use as part of an established agricultural unit. The building was permitted in 2009, as a poultry building.

At the time of the officers site visit there was no obvious signs of Poultry use still being carried out, eg no poultry birds were seen outside and none heard, but the applicant has confirmed that the use is still being carried out.

(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;

The existing building has a floor area of over 1,300 sqm. The proposed floor plan shows part of the building separated from the larger unit to accommodate around 465 sqm of residential accommodation, with the rest of the building demolished.

Prior approval has been approved for two other dwellings on the wider holding which would in total amount to 3 if this is accepted. Therefore, the proposal accords with this criteria.

(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;

The proposal is for 1 dwelling and will not exceed 465sqm.

(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;

The proposal is for a larger dwellinghouse

(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;

The proposal is for 1 larger dwellinghouse under 465 sqm, there are 2 other larger dwellings permitted withing the holding and therefore the number of dwellinghouses will not exceed 5.

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

The application form states that the site is not occupied under an agricultural tenancy.

(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;

N/A

(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;

No agricultural development under Part 6 has taken place. Permission was granted in 2017 for a building which has not been implemented.

(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 proposal does not exceed the external dimensions of the existing buildings.

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

(i) the installation or replacement of—

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

(bb) water, drainage, electricity, gas or other services,

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

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

The proposal will include the demolition of part of the building and two existing walls. Only 1 wall will remain from the original building, with three new external wall being constructed to enable the floor space to be achieved.

It would appear that the roof will be retained with roof lights inserted and the windows to be inserted in the remaining wall are considered to be acceptable.

Nevertheless, as stated above it is considered that the works go beyond what is considered to be reasonably necessary for the conversion of the building.

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

The site is not on Article 2(3) land.

(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 site does not form part of any of these designations.

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

The site is not and does not contain a scheduled monument.

(m) the building is a listed building.

The building is not a Listed Building.

Determination to whether Prior Approval is required

Paragraph Q.2 notes that, where the development proposed is development under Class Q(a) together with development under Class Q(b), 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 –

The Strategic Highways Officer has considered the application and notes that the location is poor and will be car dominated nevertheless the highway impact will be minimal. The access has operated safely, and a level of visibility is available and the net increase in vehicle numbers will be minimal, and the access is sufficient to cater for the limited increase. Therefore, no concerns are raised from a highway safety aspect.

(b)noise impacts of the development

The site forms part of a building currently used for Poultry rearing. The site is still in use as such. The applicant has confirmed that the use of the building will end if permission is granted, and the remaining building removed. The demolition of the building may need permission in itself. Subject to the removal of the use on the site, the development should not cause noise impacts.

The Environmental Protection Team have raised no concerns in this regard.

(c)contamination risks on the site

The contaminated Land Officer has considered the development and notes that, residential developments are a sensitive end use and could be affected by any contamination present or brought onto the site. A pre-determination questionnaire for land contamination was sent to the planning agent for completion, however this was not returned within the timeframe requested. It is unclear from the proposed plans whether any garden areas are to be created as part of the development. If so, these areas should be suitable for their proposed use – there may be made ground present on site which may not be suitable for retention in future garden areas. Should any soil be imported to site for use in areas of garden/landscaping, this should be demonstrated to be chemically suitable for its proposed use in line with our [Developer's Guide](#), in the absence of any other agreement for the site. As such, and in accordance with paragraphs 174, 183 and 184 of the NPPF 2021, conditions are recommended for soil importation and unexpected contaminated land.

(d)flood risk on the site

Site is not within a flood risk zone.

(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

The NPPG – paragraph 109 states that, 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. That an agricultural building is in 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.

Although it is unknown if the poultry business is intensive, it has the potential to be an undesirable location adjacent to a dwellinghouse. The agent has confirmed that the Poultry use will end if permission is granted and the rest of the building removed. As noted earlier, subject to the removal of the building/use the location would be acceptable and not considered to be undesirable location.

(f) the design or external appearance of the building

As noted above it is considered that there are a number of alterations required to facilitate the change of use, including the creation of east elevation and two new external walls under the created veranda on both side elevations, which is beyond reasonably necessary. The fenestration proposed is generally in keeping with the existing openings and is generally in keeping with the character with the existing building.

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses

The plans show windows/doors to all habitable and non-habitable rooms of the proposed dwelling house.

Furthermore; paragraph X, defines curtilage as:

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or

(b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser;

In this case, the building has no clear curtilage in real terms. The plans do not indicate how the curtilage will be set out as a garden. Nevertheless, it appears to be reasonably sized.

Other Matters

Ecology

It is the responsibility of the Local Authority under the Conservation of Habitats and Species Regulations 2010 to consider any nature conservation impact of a development. The application does not include an Ecological Survey however the Councils Ecologist has considered the proposal and have raised no objections to the proposal subject to conditions for safeguarding nesting birds and the use of nesting bird features in the development.

Recommendation

Prior approval required and refused

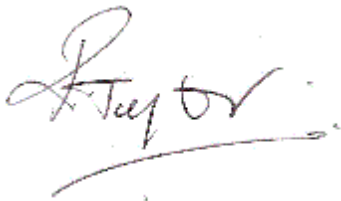
Recommendation: **Refuse for the following reasons**

Case officer: Gemma Horton

Date: 13-Jan-2022

Noted and agreed

14 January 2022

A handwritten signature in black ink, appearing to read 'Gemma Horton', with a long horizontal flourish extending to the right.



**Appeal Against Cheshire East Council's Decision to Refuse APP REF:
21/5545N - Prior approval for a change of Use of Agricultural Buildings to
Dwellinghouses (Class C3),**

Hawksbill Hall, Hollyhurst Road, Wrenbury, Cheshire, CW5 8HT

Grounds of Appeal/Appeal Statement

Prepared by:

Civitas Planning Limited

Tel: 01244 682 509

1 Introduction

- 1.1 This appeal is made against the decision of Cheshire East to refuse a Prior Approval application.
- 1.2 The application was made for prior approval of a change of use from an agricultural building to Class C3 (dwellinghouses). The application was assessed against Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.3 The details of the application are shown within the supporting statement and plans submitted with the application.
- 1.4 The application was refused for the following reason:

‘The scope of the proposed building operations proposed goes beyond that which is considered reasonable to facilitate the conversion of the building into a dwellinghouse. As such, the proposed development would not comply with the principle of Class Q in terms of both paragraphs Q(a) and Q(b) and, therefore, does not constitute Permitted Development by virtue of that Class.’

- 1.5 When read in conjunction with the delegated report, the Council are essentially of the view that the works required for the conversion go beyond what they consider to be reasonably necessary due to the new walls proposed.
- 1.6 This statement sets out the Appellant’s Grounds of Appeal against this refusal.

2 Amendments made during the application process

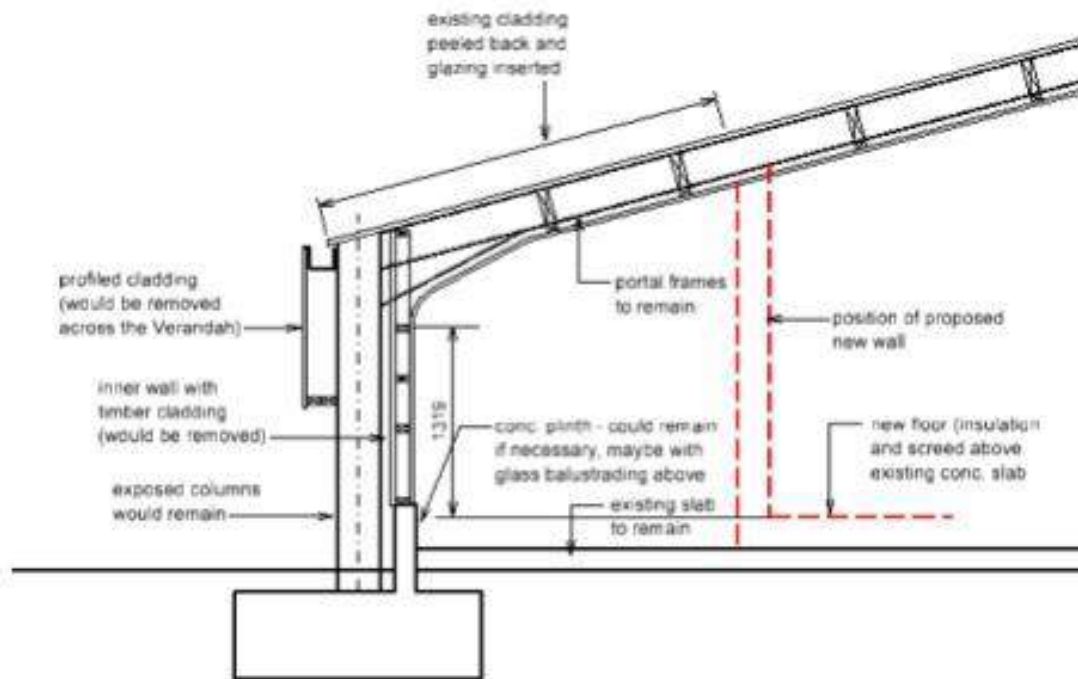
- 2.1 Changes were made to the proposals during the application process. These changes are set out below.

- 2.2 A structural survey was provided. (See Appendix A). This survey is referred to in the Council's delegated report.

3 Grounds of Appeal

- 3.1 As mentioned above, the only reason the change of use proposed was refused, was due to the judgement of the LPA that the works required went beyond what they deemed to be reasonable.
- 3.2 The Officer report associated with the application is clear that the proposals meet all other requirements.
- 3.3 It is the Appellant's case that the works proposed do not go beyond what is considered reasonable to facilitate the use of the building for residential use. Therefore the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO with regard to whether or not the proposed development would comprise building operations reasonably necessary for the building to function as a dwellinghouse.
- 3.4 Paragraph Q.1.(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
- 3.5 The Planning Practice Guidance (PPG) also provides advice on the extent of building works which may be carried out in accordance with the permitted development right under this Part. In this regard, it makes clear that the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and which would otherwise require planning permission.

- 3.6 The works proposed as part of the change of use do not go beyond anything other than ***‘the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.’*** – There is an aspect of demolition, but this is also allowable by virtue of Paragraph Q.1.(ii) which states that reasonable partial demolition is acceptable.
- 3.7 A structural report was provided to the LPA to demonstrate that works proposed to the building can be carried out as a conversion, using the main frame of the building, without any works that go beyond what is allowed by Class Q.
- 3.8 As has already been mentioned, PPG is clear that ***‘where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.’***
– The structural report provided clearly demonstrates that the building is suitable for conversion and the structural report states that ***‘The farm building steel structure is relatively recent construction, 16 years old which would be designed to modern codes of practice and is in good condition and can easily be re-used as the main frame of any future building type.’***
- 3.9 The Council have mentioned in their report that they do not consider the creation of the verandas to be ‘reasonably necessary’. However, as explained to the Officer during the application process, the outer non-loadbearing timber framed walls in their current position means that the headroom at their junction with the curve in the roof at eaves level would not be sufficient (this dimension is approximately 1319mm) once the existing concrete floor is raised with insulation and screed to meet building regulations requirements. This restricted height meant that there could be no external doors in the living areas; the amount of natural day-light would also be compromised due to the low head height of any windows. Please see diagram below for further details:



- 3.10 Whilst the LPA may feel that extent of the above works are extensive, they are clearly matters which expressly fall within the scope of works permitted under paragraph Q.1.(i)
- 3.11 The Council did not consider those matters for which prior approval is required. However, based on the statutory consultation responses, there are no objections subject to appropriate conditions. For further information on those matters for which prior approval is required, please see paras 4.13 to 4.23 of the Appellant's Original Planning statement.
- 3.12 Lastly, the Appellant would like to draw the Inspector's attention to the Appeal Decisions at Appendix B, which is a similar case to the above, within the same LPA area, and another appeal decision on the same wider site subject of this appeal.

4 Conclusion

- 4.1 Having regard to the aforementioned commentary, it is considered that the proposed development fully accords with the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England)

Order 2015 (As amended) and it is therefore formally requested that this appeal is upheld and confirmed that prior approval is not required.

Appendix A



**REPORT ON VISUAL INSPECTION
OF
EXISTING POULTRY BARN
HAWKSBILL HALL
HOLLYHURST ROAD
WRENBURY
CHESHIRE
CW5 8HT**

for

**MR D GOODYEAR
HAWKSBILL HALL
HOLLYHURST ROAD
PINSLEY GREEN
WRENBURY
CHESHIRE
CW5 8HT**

by

HALTEC
CONSULTING CIVIL AND STRUCTURAL ENGINEERS

**Date. DECEMBER 2021
Reference GN0922/JDH/R01.0**

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Prepared By:	John Halliwell	Date:	28.12.21
Checked By:	Lynne Halliwell	Date:	28.12.21
Approved for issue:	JH	Date:	31.12.21
Status	Final	Revision	1

Written by:

SignedJ. Halliwell.....

**J. D. Halliwell. BSc. (Hons) C.Eng.
MICE., MStructE**

CONTENTS.

- 1.0 Executive Summary**
- 2.0 Introduction.**
- 3.0 Observations.**
- 4.0 Conclusions.**
- 5.0 Photographs.**
- 6.0 Standard terms of reference.**

1.0 EXECUTIVE SUMMARY

- 1.1 The farm building is a modern, steel framed building, 16 years old and constructed to a good standard which forms a sound structure for conversion into a habitable building. The proposed drawings by Bradley Architectural Limited utilise the existing steel frame grid lines for the new walls and the replacement roof cladding is a profiled metal sheet to replicate the existing profiled sheeting and would be of a similar weight hence not altering the external loading to the frame.

2.0 INTRODUCTION

- 2.1 We were instructed by Mr David Goodyear to inspect the existing steel framed building in the grounds to Hawksbill Hall. Our brief was to inspect the building and assess its potential for conversion into a habitable building.
- 2.2 The following report has been based upon visual observations only, made on 28th December 2021. No opening up or trial pits were made to inspect the structure in greater detail.
- 2.3 All observations are made based upon viewing from the front elevation, which was treated for the purposes of this report as being the gable elevation with the large access door that faces the access road and parking area, at the end of the road.
- 2.4 The contents of this report are for the sole use of Mr D Goodyear. No responsibility will be accepted whatsoever for the contents of this report to any other person. This report can only be issued to other parties with the written permission of both Mr D Goodyear and ourselves.

3.0 GENERAL OBSERVATIONS

- 3.0.1 The property is a single storey building constructed in 2005, 16 years ago and was being utilised for housing poultry at the time of our inspection. The building structure is a galvanised steel portal frame supporting timber purlins. The roof covering is a profiled steel sheet with a plastic/polyester coating. The walls are clad with corrugated steel sheets to all elevations and the front and rear gable elevation contains the steel access doors. The floor slab is a concrete slab with a raised central area and perimeter upstand which acts as a weatherproofing and cladding detail. The building is relatively recent construction and as in very good condition as would be expected for a building 16 years old. The main observations are shown in the annotated photographs in section 5.
- 3.0.2 The building specification has been provided by Mr Goodyear and it was supplied by Morspan Limited based in Usk, Monmouthshire who provide various farm buildings. Their drawings are in the rear of the report for reference.
- 3.0.3 The structural form is a steel portal frame which has been galvanised for durability and supported on concrete pad foundations. The gable ends have been formed with steel posts to provide framing around the various access doors. The ground floor is a concrete slab with a perimeter concrete upstand.

- 3.0.4 The portal frames were indicated at 6069mm centres with an overall length of 65.532m and a width of 20.126m. The roof covering had an upper sheet and an internal liner sheet fixed to the underside of the timber purlins with insulation between the sheets.
- 3.0.5 The exposed, galvanised steelwork was in good condition where it was visible and exposed and other internal steelwork would be expected to be in a similar condition.
- 3.0.6 The building had full rainwater drainage and foul water to the production area sinks and toilets which was not inspected but would be expected to be fully functional.

4.0 CONCLUSIONS

- 4.1 The farm building steel structure is relatively recent construction, 16 years old which would have been designed to modern codes of practice and is in good condition and can easily be re-used as the main frame of any future building type.
- 4.2 The concrete slab could also be re-used with suitable checks on the damp proof membrane and insulation. If any upgrades were required these could be incorporated into a new finishing screed.
- 4.3 The roof and wall cladding were in good condition and could be retained. If a replacement roof cladding was required, we would recommend it should be replaced with a similar weight, profiled metal cladding with insulation or similar lightweight material. The new wall and floor construction would be tied into the existing structure to provide further stability to the existing portal frame.
- 4.4 The rear section of the building is noted as being removed and should the wall or roof bracing be located in the rear section, the bracing must be relocated to the retained, front section of the building to provide stability. The wall bracing will require modification to suit the new openings.
- 4.5 The existing foul and surface water drainage would be expected to service the smaller building subject to a typical maintenance inspection.

5.0 PHOTOGRAPHS.



1. Front elevation facing car parking area and the entrance road.



2. Front elevation and various entrance doors are present along the elevation.



3. View of the front elevation, concrete yard and coated, profiled metal cladding to all elevations and roof, in good condition.



4. Left side elevation with overhang detail for vents and low-level openings.



5. Left elevation, again corrugated cladding sheets, all in good condition.



6. Left elevation, galvanised steel columns and concrete upstand to the base of the walls.



7. View of the profiled, coated metal cladding, all in good condition.



8. Galvanised steel columns in good condition.



9. Roof overhang detail, the gutter is supported on steel brackets and the low-level hatch opening are operated by the bars and tubular steel running along the building sides.



10. Internal view steel column, Morris stiffeners plates at the haunch connection.



11. Rear, left corner.



12. Rear gable wall, door openings in the gable wall.



13. Galvanised steel brackets supporting the gutters, all cladding in good condition.



14. Rear gable and door openings, concrete upstand around the full perimeter of the building.



15. Rear, right corner.



16. General view of the right-side structure, as the left side and cladding, all in good condition.



17. View of the base of the galvanised column on the right elevation, all in good condition.



18. Right wall overhang, all in good condition.



19. View of the right wall, haunch connection, Morris steel stiffener plates, galvanised in good condition.



20. General view of the right side.



21. View of the front, right corner, all in good condition.



22. General view of the service production room, concrete floor slab.



23. General view of the service production room, concrete floor slab.



24. General view of the main barn room area, concrete floor slab.

Bay Centre Grid

450mm Front Wall
 1063mm Partition Wall
 1673mm Steel centre
 2282mm Steel centre
 2892mm Steel centre
 3508mm Steel centre
 4116mm Steel centre
 4720mm Steel centre
 5330mm Steel centre
 5940mm Steel centre
 6552mm Back wall

Service Area Layout

Plan View: 4504mm x 12024mm. Labels include: New Access Door (20m x 2.5m high), Drive-through Egg Store, Controls, Tank Stand, Feed Chute, New Access Door (20m x 2.5m high), Drive-through Storage Area, and various dimensions.

Section View: 4504mm x 12024mm. Labels include: New Access Door (20m x 2.5m high), Drive-through Egg Store, Controls, Tank Stand, Feed Chute, New Access Door (20m x 2.5m high), Drive-through Storage Area, and various dimensions.

Notes:

- Concrete footings required for water tank, plant room (1.2m) Allow for weight on each post of 1.2m (Extra-order steel post footings) Footings are 50mm below base level.
- From Foundation Slab: 150mm x 150mm x 1.0m.
- 200mm x 400mm x 5mm (to match 75mm floor level) Assuring concrete weight = 2000 kg/m³ Minimum Ground Bearing Capacity of 100kN/m².
- 200mm x 400mm x 5mm (to match 75mm floor level) Assuring concrete weight = 2000 kg/m³ Minimum Ground Bearing Capacity of 100kN/m².



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6.0 STANDARD TERMS OF REFERENCE

- 1 This report is the copyright of Haltec (Chester) Ltd, and is solely for the benefit of the client for whom it was prepared. Haltec (Chester) Ltd cannot accept any responsibility to any Third Party for any information or opinion in this report.
- 2 In accordance with the brief, our inspection and the content of this report are confined solely to the consideration of the structural defects described herein and all other matters are excluded. This is not a full or comprehensive report on the property and is based on a visual inspection only. No opening up works were undertaken, and no voids or under floor areas etc. were inspected, unless specifically described in this Report. Woodwork or other parts of the structure that were covered, unexposed or inaccessible, have not been inspected and it is not, therefore, possible to report that any such part of the property is free from defect.
- 3 This report is not a structural survey in the meaning used by the Royal Institute of Chartered Surveyors. A RICS report would generally include the deterioration of the building fabric and other non-structural items, and should such a report be required, a Chartered Building Surveyor should be appointed to provide this service. Where advice is required on the condition of the building fabric, dampness or rot, specialist reports should also be obtained, since this Report takes no cognisance of such matters.
- 4 No examination or tests have been carried out to ascertain whether high alumina cement, calcium chloride, wood wool formers, calcium silicate bricks, asbestos or other deleterious products or materials have been incorporated in the construction, unless specifically noted herein.
- 5 This report does not include searches or enquiries regarding underground mains, abnormal ground conditions or mining unless specifically stated here.
- 6 Unless specifically noted in this report, no examination of the foundations or ground conditions has been carried out nor has the loading of the building been analysed.
- 7 Haltec (Chester) Ltd shall have no liability whatsoever for any claim loss or damage arising as a consequence of information contained within, or appended to, this Report which has been obtained from a Third Party e.g. a specialist contractor or the building occupiers. Similarly, no liability can be accepted for any inaccuracy or faulty workmanship in the original construction.
- 8 Where samples of building materials or soils have been taken for testing with the intent of obtaining representative results, it must be recognised that such results may not reflect the full range of any variations in the original material.

- 9 Haltec (Chester) Ltd have not examined or tested any existing services, or any other such items, within or surrounding the property. Haltec (Chester) Ltd shall have no liability whatsoever for any claim loss or damage arising as a consequence of a lack of suitable searches with Utilities providers, unless expressly instructed to undertake such a search.

Haltec (Chester) Ltd
Mollington Grange
Parkgate Road
Chester.
CH1 6NP

Hawksbill Hall Barn, Wrenbury.
Project: GN0992 December 2021



Appendix B



Appeal Decision

Site visit made on 22 January 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2019

Appeal Ref: APP/R0660/W/18/3211093

Barn at Houghton Farm, Badcocks Lane, Spurstow, Cheshire, CW6 9RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Adam Wadlow against the decision of Cheshire East Borough Council.
 - The application Ref 18/3074N, dated 20 June 2018, was refused by notice dated 16 August 2018.
 - The development proposed is prior approval for the change of use of existing barns to two dwellings.
-

Decision

1. The appeal is allowed and approval granted under the provisions of Article 3(1) Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use of existing barn to two dwellings at Houghton Farm, Badcocks Lane, Spurstow, Cheshire, CW6 9RR in accordance with the application Ref: 18/3074N dated 20 June 2018, and the details submitted with it pursuant to Schedule 2, Part 3, Class Q(b) of the GPDO. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the 2015 GPDO and subject to the following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PL01, PL13, PL15, PL16, PL17.
 - 2) (a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.
b) Prior to occupation, evidence and verification information (for example, laboratory certificates) in respect of any such soil or materials shall be submitted to, and approved in writing by, the local planning authority.
 - 3) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). If such contamination is found, proposals for remedial measures shall be submitted to and approved in

writing by the local planning authority. Such approved measures shall be implemented prior to first occupation of the development.

Procedural Matters and Main Issue

2. Class Q(b) of the GPDO permits 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) subject to a number of criteria.
3. Paragraph Q.1 of the Order sets out the situations whereby development would not be permitted. Class Q.1(d) (i) states that development is not permitted if the development would result in a larger dwellinghouse or larger dwellinghouses having more than 465sqm of floorspace having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
4. The Council considers that the internal floorspace of the proposed dwellinghouses is 470sqm and externally 500sqm and therefore the development does not comply with this criteria and is not permitted. As set out in the Inspector's decision referred to by the appellant, it was affirmed by the Court of Appeal that the floor space restriction set out under Q.1(b) *'is stated to be a restriction on the change of use, not on the size of the building or buildings in which the change of use occurs'*¹. The appellant provided a plan as part of the appeal which shows the internal floorspace at 456sqm. The Council have provided no comments and I have no reason to question the validity of the measurements. As such, I am content to consider the appeal on the basis of this plan and the proposed floorspace at 456sqm complies with Q.1(d) (i).
5. Therefore the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO with regard to whether or not the proposed development would comprise building operations reasonably necessary for the building to function as a dwellinghouse.

Reasons

6. Paragraph Q.1.(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
7. The Planning Practice Guidance (PPG) also provides advice on the extent of building works which may be carried out in accordance with the permitted development right under this Part. In this regard, it makes clear that the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and which would otherwise require planning permission.

¹ Mansell v Tonbridge and Malling BC & Others [2017] EWCA Civ 1314.

8. Both parties have referred to the judgement in *Hibbitt v SSCLG* [2016] EWHC 2853² which pre-dates the updates to the PPG, but which established that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. It was held that the distinction between a conversion and a rebuild is a matter of legitimate planning judgement.
9. The barn is a relatively modern portal steel framed agricultural building which is divided into three sections, consisting of an enclosed central section and two open fronted lean-to sections on either side under a concrete asbestos sheet roof. The walls of the building predominantly consist of blockwork to the lower sections with timber cladding above, with the exception of the central section which has metal sheeting to the upper section at the rear and large metal clad sliding doors to the front. The floor consists of concrete ground bearing slabs.
10. I have had regard to the submitted Structural Report which states that the existing building does not require any additional structural elements to accommodate the new walls and that the existing floor slab has been tested to a higher level of loading than that for domestic use and is adequate. The report concludes that the building is in good condition and that it is entirely feasible from a structural viewpoint to convert the building to domestic use. Based on my observations I have no reason to doubt this conclusion.
11. The proposal includes the formation of an internal timber frame structure to sub-divide the existing building and insulated framing boards to insulate the existing walls. The proposed glazing will be self-supporting and it is evident from the Structural Report that the timber rails will not be affected by the addition of windows which are placed so as not to affect the existing structural integrity. The alterations to the original building include the removal of one of the lean-tos, the insertion of windows and doors into existing openings, the formation of a number of new openings, the repair of the timber cladding as necessary and the replacement of the roof.
12. Whilst the extent of the above works is fairly extensive, I am nonetheless mindful that they are matters which expressly fall within the scope of works permitted under paragraph Q.1.(i). I appreciate that the Hibbitt judgement related to an appeal case that also involved a structurally sound building and that Inspector concluded that the extent of works went beyond what was reasonably necessary. However, on the basis of this judgement and associated appeal decision, it appears to me that the barn in that case required more substantial building works including the construction of all four exterior walls.
13. Given the structural integrity of the appeal building and the extent to which it would be retained in the development, I find in this case that the extent of the building operations would not go beyond what would be reasonably necessary for the conversion of the building to residential use. Accordingly, I find the proposed development is permitted by Class Q(b).

Prior approval

14. For permitted development under Class Q(a) and Q(b), namely a change of use from an agricultural building to a Class C3 dwellinghouse with the building

² *Hibbitt and Anor v Secretary of State for Communities and Local Government & Rushcliffe Borough Council* [2016] EWHC 2853 (Admin).

operations reasonably necessary to convert the building, paragraph Q.2(1) of the GPDO requires prior approval of the following matters. These are: (a) the transport and highway 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); and (f) the design or external appearance of the building.

15. The Council did not consider those matters for which prior approval is required. However, based on the consultation responses, I note that there is no objection in respect of the transport and highway impacts of the development or contamination subject to conditions. In respect of flood risk I am aware from the original application form that the site is not within Flood Zones 2 or 3 and I have no evidence before me to suggest the site is at risk from flooding.
16. There are neighbouring farm buildings in relatively close proximity however, they are largely open sided and were not all in use at the time of my visit. I noted large bales of straw or hay were stored in one. On the basis of the nature of the buildings it seems unlikely to me that their use would result in unacceptable noise or other impacts such as to make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses). The Council have raised no issue in relation to the proposed design and I have no reason to take a different view.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.
18. Any planning permission granted under Article 3(1) and Schedule 2, Part 3, Class Q is subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. I have also imposed a condition requiring compliance with the approved plans in the interests of certainty and two conditions in respect of contamination in the interests of public safety.

Felicity Thompson

INSPECTOR



Appeal Decision

Site visit made on 9 March 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/R0660/W/19/3236843

Agricultural Building, Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO').
 - The appeal is made by Mr David Goodyear against the decision of Cheshire East Council.
 - The application Ref 19/3283N, dated 10 July 2019, was refused by notice dated 4 September 2019.
 - The development proposed is for the change of use of an agricultural building to two dwellings and associated building operations.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the GPDO for the change of use of an agricultural building to two dwellings and associated building operations at Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT, in accordance with the details submitted via application Ref 19/3283N, dated 10 July 2019, subject to the schedule of conditions below.

Preliminary matters

2. The description of development in the banner heading above succinctly describes the proposal based on the appellant's planning statement and the Council's decision notice. I note that the Council determined that prior approval was not required for the erection of another, as yet unbuilt, agricultural building within the same holding in August 2017.¹
3. Revised plans 1438/01D, 1438/02 Rev E, and 1438/04 Rev D supersede those originally submitted. However those plans, reviewed by the Council, do not significantly alter the proposal. Instead they remove from the appeal site buildings not in the same use,² illustrate amended outside space by consequence, and accurately represent the proposed roof relative to the existing building. There is no reason to discount those plans from my assessment of the scheme.

Legislative context

4. The proposal relates to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO. Those classes allow for the change of use of a building and any land within its

¹ Ref 17/3949N.

² Including a mobile home related to unsuccessful application Ref 16/4314N.

curtilage from use as an agricultural building to a C3 use, and also reasonably necessary building operations to achieve that conversion (subject to certain limitations in paragraph Q.1, and conditions in paragraph Q.2).

5. Whilst in the open countryside, the Planning Practice Guidance ('PPG') explains that there is no 'test' in respect of sustainability of location as regards Class Q.³ The right to change use is established, in principle, via legislation as opposed to falling for consideration in line with the statutory development plan unless material considerations indicate otherwise.

Main issue

6. The Council's associated officer report explains that the scheme entails 'new walls, new roof and new floor... This would be beyond what could be a conversion scheme, and the LPA has taken this view on similar cases for the creation of dwellings from steel sheds.' The Council therefore contend that the proposal would not comply with the limitations on building operations specified under GPDO Schedule 2, Part 3, Class Q, Q.1(i).
7. Reflecting those provisions, the PPG sets out how 'it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the [Class Q] permitted development right'.⁴ The judgement in *Hibbitt & Anor v SSCLG & Ors* ('Hibbitt') is relevant in that context, concerning the extent of permissible building operations.⁵ Paragraph 27 of that judgement distinguishes between a conversion and development so fundamental as to effectively amount to a rebuilding; the line between the two ultimately being a matter of case-specific planning judgement.
8. In that context the main issue, and sole matter in dispute between the main parties, is whether or not the proposal would represent a permissible conversion with regard to the nature of the building operations proposed.

Reasons

9. The existing building is a substantial steel portal barn of standardised construction. It comprises six bays and is enclosed by corrugated metal sheeting of varying ages, aside from a small open section above barn doors. In part, the floor is solid slab. At the time of my site visit the barn was used for the storage of hay, and also miscellaneous items apparently associated with the maintenance and running of the surrounding land and buildings.
10. The proposal is to demolish two of the six bays and create two 'larger' dwellinghouses using the remaining building. Each unit would have a floor area of 199.2sqm (plan 1438/02) and have accommodation arranged over two floors.⁶ A slightly different combined gross internal floorspace of 397.6sqm is stated elsewhere by the appellant, and 432sqm is given in the Council's officer report.⁷ Plan 1438/04 Rev D shows that new roofing would be installed, cladding put in place, along with the creation of various new openings for

³ Reference ID: 13-108-20150305.

⁴ Reference ID: 13-105-20180615.

⁵ EWHC (Admin), 9 November 2016.

⁶ PPG reference ID: 13-105-20180615 indicates the insertion of upper floors are not inherently prohibited.

⁷ Any figure being less than 465sqm as set out in GPDO paragraph Q.1(b)(bb).

windows and doors. Collectively, I acknowledge the Council's position that the proposal would change the existing building significantly.

11. However the installation or replacement of 'windows, doors, roofs or exterior walls' is permissible (GPDO paragraph Q.1(i)(i)(aa)). Whilst significant, the proposed works do not go beyond those categories. In my view such building operations are reasonably necessary in order to convert an uninsulated utilitarian building into dwellinghouses with appropriate levels of amenity (natural light by virtue of the creation of new openings in particular). Partial demolition, to the extent reasonably necessary to carry out building operations allowed under paragraph Q.1(i)(i), is also permitted under Class Q.
12. It could be argued that the demolition proposed is a choice rather than a necessity. Nevertheless, given the scale and form of the existing building, there are conceivably many potential options that could reasonably have been advanced under Class Q. The legislation does not require that demolition must be absolutely necessary, i.e. to achieve the only practical option for conversion. Moreover the GPDO defines 'building' as including 'any part thereof',⁸ and consequently there is no requirement that the entirety of a building must be used where conversion under Class Q is advanced. To achieve the floorspace and layout proposed, two bays are superfluous, and the demolition proposed is accordingly reasonably necessary.⁹
13. I have not been provided with specifics of the 'similar cases' referred to in paragraph 6 of this decision, and in any event each proposal must be considered on its particular merits. There is nothing in the GPDO or PPG limiting the application of Class Q permitted development to certain forms or designs of buildings. Additionally, in this instance the proposal is accompanied by an Inspection Report prepared by a Structural Engineer.¹⁰ That Report sets out that, although the building is about 30 years old and there is some superficial rust, it has nevertheless been well maintained and is structurally sound. Consistent with my observations also, the Inspection Report explains how there is no visual indication of corrosion at the foot of columns which, if present, might have indicated structural defects.¹¹
14. The Inspection Report summarises that, without structural alteration or reinforcement, the building could 'easily be re-used as the main frame of any future building', provided the design employs similar structural loading as present. Whilst there are no technical drawings before me as to how the proposed finishes or internal arrangements would tie in with the existing structure, on the balance of the evidence before me the proposal would nevertheless make use of an existing structurally sound building. Works would not go beyond the categories in GPDO paragraph Q.1(i)(i), and partial demolition would accord with the requirements of paragraph Q.1(i)(ii).
15. With regard to the context set out in paragraph 7, I therefore conclude that the proposal would represent a permissible conversion with regard to the nature

⁸ With regard to the judgement in *Mansell v Tonbridge & Malling Borough Council* [2016] EWHC 2832.

⁹ No case is made that the partial demolition of a standard utilitarian agricultural building would otherwise be unacceptable (for example with regard to paragraph Q.2(f), or given the operational needs of the wider holding noting my reasoning in paragraph 2 of this decision).

¹⁰ prepared by Haltec, Consulting Civil and Structural Engineers Ltd., Ref GN0875/JDH/R01.0, dated August 2019

¹¹ As shown at image 17 in particular.

and extent of the building operations proposed, compliant with the relevant elements of the GPDO and PPG.

Conclusion

16. For the above reasons, and having taken account of all other relevant matters, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

17. Prior approval may be granted unconditionally or subject to reasonably related conditions, noting the matters set out in GPDO paragraphs Q.2(1)(a) to (f) in particular. In that context it is necessary to limit the life of the consent, in line with paragraph Q.2(3), and also to impose a condition requiring adherence to the relevant plans for certainty (and so as to ensure the development is implemented as assessed above).
18. I have taken account of GPDO paragraph W(10)(c) of the GPDO in respect of contamination. Paragraph 3.5(e) of the Government's Statutory Guidance related to Part 2A of the Environmental Protection Act 1990 as amended refers to agricultural land, with the PPG indicating that contamination may be present in the countryside associated with certain agricultural practices.¹² In that context, mindful of the need for proportionality, as a precautionary approach I have imposed a condition necessary to ensure any contamination is addressed.
19. I am statutorily required to take reasonable steps to conserve and enhance the natural features of SSSI and to conserve biodiversity.¹³ NPPF paragraph 170 d) sets out how decisions should seek to minimise impacts on biodiversity and provide net gains. Nearby to the south is a site of local importance for nature conservation tracking along the Comber Mere Site of Special Scientific Interest, the latter designated on account of its wetland habitat and ornithological value. In that context I have imposed conditions requiring that construction avoids disturbance to birds, and that suitable enhancements are put in place.
20. In imposing conditions I have had regard to the tests in the NPPF, to relevant elements of the PPG and of statute. I have accordingly amended the wording of certain conditions proposed by the Council without altering their aims. That is particularly so to ensure that conditions three and four are precise and reasonable, noting that parallel provisions exist in section 1 of the Wildlife and Countryside Act 1981 as amended in respect of the latter.

Thomas Bristow

INSPECTOR

¹² Reference ID: 33-003-20190722.

¹³ Section 28(G) of the Wildlife and Countryside Act 1981, section 40 of the Natural Environment and Rural Communities Act 2000 as amended.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within a period of three years from the date of this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
- 2) The development hereby permitted shall be carried out in accordance with approved plans 1438/01D, 1438/02 Rev E, and 1438/04 Rev D.
- 3) Any contamination that is identified in the course of undertaking the development hereby permitted, whether on site or via the importation of materials, shall be reported immediately to the local planning authority and development at that part of the site affected shall be suspended.

Before any further development at that part of the site affected continues, a risk assessment and remediation measures shall be submitted to, and approved in writing by, the local planning authority. The risk assessment and remediation measures should accord with British Standard BS 10175: Investigation of potentially contaminated sites- Code of Practice, and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standards and Model Procedures if replaced). Development shall thereafter be carried out in accordance with the agreed risk assessment and remediation measures.

In addition, before either dwelling hereby permitted is first occupied, a verification report prepared by a suitably qualified person shall be submitted to and approved in writing by the local planning authority, establishing that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 as amended (in line with the standards and model procedures as set out above).

- 4) No development hereby permitted shall take place during the bird breeding season of 1 March to 31 August in any year, unless a survey of the site for nesting birds has been undertaken immediately beforehand. A four metre exclusion zone shall be maintained around any nest identified in the survey, within which no development shall take place other than outside of the bird breeding season. In addition, before either dwelling hereby permitted is first occupied, a scheme for incorporating bird-breeding features on site shall have been submitted to the local planning authority, approved in writing by the local planning authority, and implemented. Approved bird-breeding features shall thereafter be retained.

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Subject: Notification of Appeal APP/R0660/W/22/3291004

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[Online Appeals Service]
Appeals Casework Portal

A Planning appeal has been received by the Planning Inspectorate. Details of the appeal are shown below:

Appeal Details
Appeal Reference: APP/R0660/W/22/3291004
Appeal Receipt Date/Time: 19/01/2022 10:24
Appeal By: David Goodyear
Site Address: Hawksbill Hall Hollyhurst Road CW5 8HT
Local Planning Authority: Cheshire East Council

Attached is a copy of the appeal form.

Important Information: An email has been sent to the appellant/agent advising them that they must send a copy of the completed appeal form and any relevant supporting documents not previously sent to you. If you have not received them within a few working days, you should contact the appellant to request them.

****Please do not reply to this message. - It is an automatically generated response from the mail delivery system.****

From: Endaf Roberts <endaf.roberts@civitasplanning.com>

Sent: 11 April 2022 14:12

To: West 3 <West3@planninginspectorate.gov.uk>

Subject: Re: Planning Inspectorate APP/R0660/W/22/3291004: Hawksbill Hall Hollyhurst Road, CW5 8HT

Dear All,

With relation to the attached letter provided by the Council in response to this appeal, the Appellant would make the following comments.

The Council state within their letter:

‘As you will note the Councils decision on this appeal (21/5545N) was made prior to the recent appeal decision; APP/R0660/W/21/3285405 being issued and therefore was not a material consideration when determining the application. The application decision 21/5545N is clearly consistent with the previous Council decision on the site and therefore has been dealt with in a reasonable manner. The Council’s opinion is that the works proposed which require three external walls to be removed and rebuilt go beyond what is reasonably necessary to enable the conversion of the building, as permitted by the GPDO. The appeal should be judged on its own merits, and it is for the Inspector to make a judgement on this appeal accordingly.’

Whilst it is accepted that the Council’s decision was made prior to APP/R0660/W/21/3285405 being issued, the Council were made aware of the appeal decisions which make up Appendix B of the Appellant’s Appeal statement which are cover very similar if not identical issues. These appeal decisions were drawn to the attention of the Council throughout the process, and one of them is literally on the same wider site. This is all set out within the Appellant’s original planning statement and appeal statement respectively. We would therefore contend that the Council have therefore not acted in a ‘reasonable manner’ as they claim within their letter.

It is clear from the decision related to APP/R0660/W/21/3285405 that this appeal should now be upheld and that the development is acceptable.

Regards,

Endaf

Endaf Roberts

MPlan MRTPI

Senior Consultant

Civitas Planning Limited

Civitas Planning c/o Bradshaws

2 Well House Barns

Chester Road

Bretton

Chester

CH4 0DH

Tel: [01244 682509](tel:01244682509)



Appeal Decision

Site visit made on 4 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 23 May 2022

Appeal Ref: APP/R0660/W/22/3291004

Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr David Goodyear against the decision of Cheshire East Council.
 - The application Ref 21/5545N, dated 26 October 2021, was refused by notice dated 14 January 2022.
 - The development proposed is for prior approval for a change of use of agricultural buildings to dwellinghouses (Class C3).
-

Decision

1. The appeal is allowed, and prior approved is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use of agricultural buildings to dwellinghouses (Class C3) at Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT, in accordance with the terms of the application 21/5545N, dated 26 October 2021. The application is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO.

Main Issue

2. The main issue in this case is whether the proposed development would fall within the definition of development permitted by Schedule 2, Part 3, Class Q of the GPDO with specific regard to the extent of the proposed building operations.

Reasons

3. The barn is a long linear building with a low slung dual-pitched roof. From the evidence before me and my observations on site I find that it is structurally sound, and I noted that it was in use at the time of my site visit. Although I was unable to enter parts of the building due to current bird flu measures, I was able to see enough to suitably understand the building.
4. Although the internal height of the barn's eaves was relatively low, this was not to such an extent, given the pitch of the roof, that it significantly affected the usability of the barn as a whole. Notably, myself and the workers within the barn were able to stand upright, with the vast majority of the barn significantly above head height. I do not find that the low eaves preclude the building from functioning as a dwelling and therefore, mindful of the above and Paragraph

105 of the Planning Practice Guidance (PPG), I find that the building would be suitable for conversion to a residential use.

5. Paragraph Q.1 (i) (i-ii) sets out the building operations allowed where a building is found to be suitable for conversion. These operations include the installation or replacement of windows, doors, roofs, exterior walls or services to the extent reasonably necessary for the building to function as a dwellinghouse. Partial demolition is also allowed where it would be to the extent reasonably necessary to carry out the building operations outlined above.
6. The works proposed as part of this scheme are covered by those listed above, this would include those operations needed to create the verandas. Whilst the verandas stem from the low eaves and increased floor height, this does not mean the works are not reasonably necessary as I have concluded that the building could function as a dwellinghouse.
7. As such, whilst the works would cumulatively be significant, this would not be to such an extent that they could be said to be tantamount to a rebuilding or new build. Therefore, as the building is suitable for conversion, I find that the works would be reasonably necessary.
8. Mindful of the PPG, I am satisfied that the structural integrity and internal dimensions of the barn are suitable and that the existing barn would form an integral part of the new dwelling. The building operations, while significant would be reasonably necessary in this instance and would not exceed the limitations set out in Paragraph Q.1 (i) of the GPDO.

Conclusion

9. For the reasons given above, I conclude that the appeal should be allowed, and approval granted.

Samuel Watson

INSPECTOR