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Planning, Design and Access Statement

Change of Use of an Agricultural Building to form a Dwelling under Class Q of the General Permitted Development Order

Mill Farm off Gratton Lane, Endon, ST9 9AG

June 2023

Document Control Sheet

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1 INTRODUCTION

1.1 Planning & Design Practice is a town planning and architectural consultancy with chartered town planners and an architect-led architectural design team. The practice operates across the country and has an excellent record of success.

1.2 This application is submitted in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 No. 632 (as amended) for the change of use of an agricultural building to a dwelling at Mill Farm, Gratton Lane, Endon, ST9 9AG.

1.3 Class Q (a) of the above Order grants permitted development rights for the change of use of agricultural buildings and any land within their curtilage to dwellinghouses falling within Class C3 of the Use Classes Order. Class Q (b) allows any building operations reasonably necessary to convert agricultural buildings to dwellings.

1.4 This report has been structured to provide an introduction to the site and discuss its planning history. Details of the proposed development and the rationale for it; and an examination of the key planning issues to be considered. This report should be read in conjunction with the following documents;

- Plans & Elevations Existing
- Plans & Elevations Proposed
- Topographical Survey
- Flood Risk Assessment

1.5 Class Q requires that for proposals relating to the change of use of an agricultural building and its curtilage to a dwellinghouse, a determination should be made as to whether the prior approval of the local planning authority will be required, for the following:

a) transport and highway impacts of the development;
b) noise impacts of the development;
c) risk of contamination;
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 dwellinghouse;
f) the design or external appearance of the building, and;
g) The provision of adequate natural light in all habitable rooms.

2 SITE DESCRIPTION AND PLANNING HISTORY

2.1 The site is located within the Green Belt, approximately 1 mile north east of the small village of Endon and 3.5 miles west of Leek. Access to the site is provided via a gated access off Gratton Lane.

2.2 The agricultural building is located to the north of the access track into the site. The barn is a green, metal sheet building with 2 roller shutter entrances facing the access track. There are 2 larger buildings of similar style to the east of the subject building. Access to the site is shared with the existing business on the site, which provides plant operating training and is operated by the family of the applicant.

2.3 To the north of the building is a small steep-sided brook running from east to west. The site is located in flood zone 1. The accompanying flood risk assessment concluded that the site is at low risk of both surface water and fluvial flooding, and the proposals will not contribute further to flood risk.

2.4 The proposed barn currently stores machinery relating to the agricultural business that is situated at Mill Farm. This includes tractors and farming equipment. The building was last in agricultural use and has been so since before 20th March 2013. The building was granted prior approval through application SMD/2011/0905 in 2011.

Relevant Planning History

2.5 2022/1314/PAA - Prior Approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development - Prior Approval Refused

2.6 2021/2377/FUL - Cladding of building on all sides, installation of concrete pad and improvements to trackway – Approved

2.7 *SMD/2011/0905 - Erection of implement storage shed - Approved*

2.8 SMD/2003/1306 - Change of use from agricultural storage building to use as training centre and use of adjoining land for excavator training purposes – Approved

2.9 SMD/2003/0970 - Change of use from agricultural building to training centre and use of adjoining land for excavator training purposes - Refused



Figure 1 *- Location of site*



Figure 2 – *Photo of agricultural building*

3 THE PROPOSED DEVELOPMENT

3.1 The proposal is for the change of use of an existing agricultural building to provide a residential dwelling with associated building operations reasonably necessary for the building to function as a dwelling.

3.2 The proposed plans show a minimalist design that makes use of the existing cladding features of the building. The existing metal cladding will be retained, the existing roller shutter entrances will be replaced with floor to ceiling glazing, that will allow natural light to enter the open plan living space. Additional windows will be added to the rear and side elevations. The existing cladding will provide the external cladding for the conversion and the roof will be retained. The door to the rear will be repositioned in order to provide more usable internal space.

3.3 The footprint of the existing building will remain unchanged at 80m^2 in compliance with Class Q requirements of the permitted development legislation.

3.4 The site is not occupied under an agricultural tenancy and is not affected by any of the constraints set out in criteria (j) to (m) of Paragraph Q.1.

3.5 Details of the existing and proposed site layout are included with this submission. Within the existing footprint of the building, the proposed plans ensure that habitable spaces adhere to nationally described space standards in accordance with updates to the GDPO.

3.6 The proposals, therefore, satisfy all relevant criteria set out in Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 No. 596.

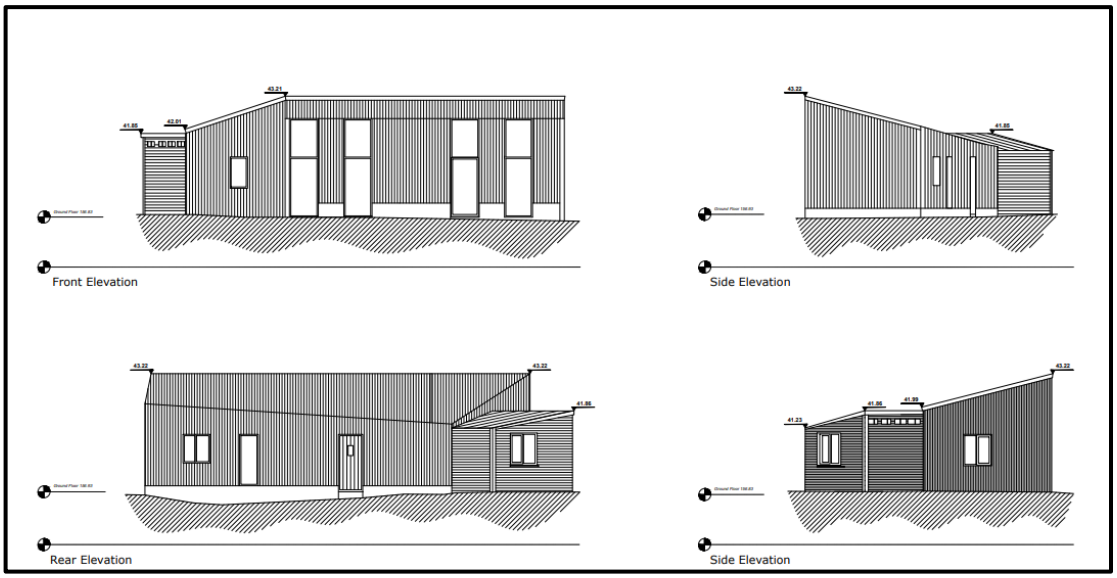

Figure 3 – Proposed Elevations

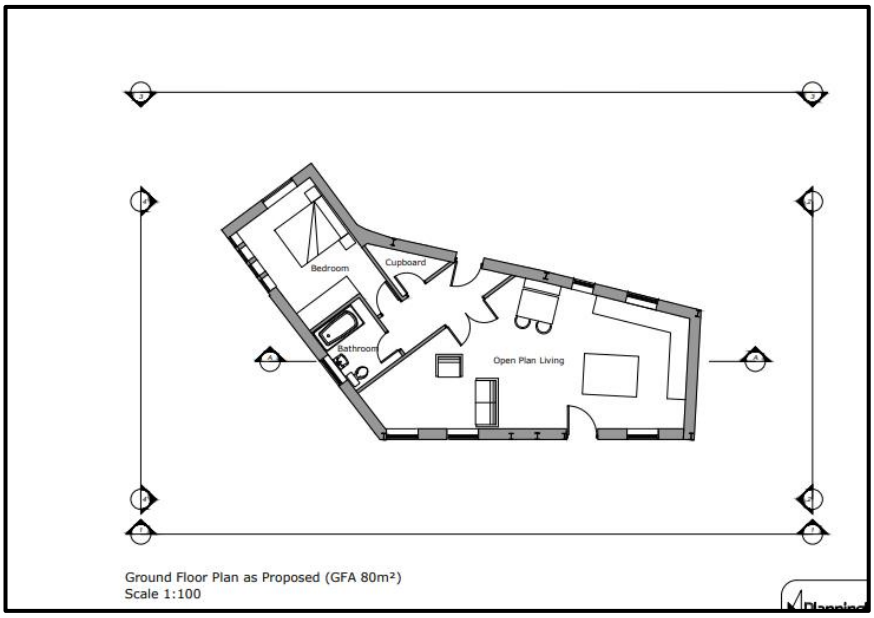

Figure 4 – Proposed Floor Plans

4 ASSESSMENT AGAINST CLASS Q CRITERIA

4.1 The notification in question for this application is Class Q (a) and (b) of the General Permitted Development Order 2015 (as amended) which establishes the principle of the change of use of an agricultural building to a dwelling as well as dealing with the operational development matters.

4.2 In accordance with Class Q (a) planning permission is deemed to exist for the change of use of a building and any land within its curtilage from use as an agricultural building to a use within C3 as a dwellinghouse and (b) those building operations are reasonably necessary to convert the building other than in the following circumstances;

4.3 ***(a) the site was not used solely for an agricultural use, as part of an established agricultural unit on 20th March 2013, when it was last in use*;**

The building was used for the storage of agricultural machinery. The building has been used for agricultural purposes for many years and was part of an established agricultural holding on the 20th March 2013.

4.4 ***(b) in the case of a larger dwellinghouse, within an established agricultural unit the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or 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;***

Not applicable in this case.

4.5 ***(c) in the case of a smaller dwellinghouse, within an established agricultural unit the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or 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;***

1 no. smaller residential dwellinghouse is proposed as part of this application with a total floor space of 80m^2, which is within the 5 no. smaller dwelling house and 500m^2 cumulative floor space limits.

4.6 ***(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—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; or 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 site has not previously benefited from other Class Q approvals. 1 no. smaller residential dwellinghouse is proposed as part of this application with a total a combined floor space of 80m^2, well within the 5 no. dwelling house and 500m^2 cumulative floor space limit.

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

The site is not occupied under an agricultural tenancy agreement.

4.8 ***(f) less than 1 year before the date development begin an agricultural tenancy over the site has been terminated, and 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;***

This is not the case.

4.9 ***(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 since 20th March 2013; or 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;***

This is not the case.

4.10 ***(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 proposed works would not extend beyond the existing parameters of the existing building at any given point, detailed on the plans which form part of this application. The proposed

development retains the existing external cladding materials and a detailed section showing how this will be achieved has also been submitted.

4.11 ***(i) the development under Class Q 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 and partial demolition to the extent reasonably necessary to carry out building operations;***

> *"The right allows either the change of use (a), or the change of use together with reasonably necessary building operations (b). Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, 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 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.*

4.12 For a discussion of the difference between conversions and rebuilding, see for instance the case of Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

> *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."*

4.13 The application is accompanied by detailed elevation plans setting out the associated building operations which are considered to be reasonably necessary for the building to function as a dwelling house, in accordance with Class Q limitations. The proposed development consists of the following building operations:

- Insertion of new window
- Repositioning of door opening;

4.14 The conversion of the building to form a single dwelling will require internal works including insulation and plaster-boarding to meet building regulations for energy efficiency. The updated guidance referred to above explicitly clarifies that internal works are not prohibited by Class Q.

4.15 As set out above, the existing agricultural building will remain intact with all of the existing exterior cladding and roofing material to be retained and treated where necessary. The application does not propose any rebuilding as part of the application. The proposed scheme does not require any demolition. There are many examples of appeal decisions post the Hibbitt & Anor v Secretary of State which discuss the amount of works undertaken but the following paragraph taken from appeal decision Ref. APP/N1025/W/21/3277013 is helpful in understanding where the 'line' between fresh build and conversion lies;

5. From the evidence before me, and my observations on site, I find that the building, including its framework, are structurally sound. Whilst the appellant's structural report suggests that some strengthening may be needed, this relates to the wall and roof cladding, and not the structural integrity of the building itself. Therefore, and mindful of Paragraph 105 of the Planning Practice Guidance (the PPG), I find that the building would be capable of functioning as three dwellings.

Paragraph 5. appeal decision Ref. APP/N1025/W/21/3277013 (Appendix A)

4.16 Q.1(i) permits 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 and partial demolition to the extent reasonably necessary to carry out building operations.

"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."

Paragraph: 105 Reference ID: 13-105-20180615
Revision date: 15 06 2018 See previous version

4.17 When having regard to the extent of building operations that are proposed it is considered that the works associated with the change of use would amount to conversion and not rebuild, as examined by High Court decision (case Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors (2016)) and are therefore considered to be reasonably necessary for the building to function as a dwellinghouse, in accordance with the aims of Class Q.

4.18 Appendix B is a recent Class Q appeal decision in Staffordshire Moorlands, where the Inspector granted the appeal after the Council had originally refused it.

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

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

4.20 ***(k) the site is or forms part of a site of special scientific interest, a safety hazard area, or military explosives storage area*;**

The site does not form part of a site of special scientific interest, a safety hazard area, or military explosives storage area.

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

There is not a scheduled monument on site.

4.22 ***(m) the building is a listed building;***

4.23 The building is not listed.

4.24 When having regard to the above, it is considered that the proposed development would constitute permitted development in respect of conditions Q.1 set within (a) of Class Q.

4.25 Notwithstanding the above, Paragraph Q.2 of the GPDO requires the local planning authority to assess the proposal solely on the basis of its impact in terms of transport and highways, noise, contamination, flooding, whether the location or siting of the building make it otherwise

impractical or undesirable for the change of use and the design, the external appearance of the building and whether there is adequate natural light in all habitable rooms.

Transport and Highway Impacts

4.26 Paragraph 32 of the NPPF states that "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*".

4.27 Gratton Lane is a C-classified road and is subject to the national speed limit.

4.28 Current access to the site is a gravel track off the main road, with the gated access into the site measuring approximately 6m wide. This track is bordered by low wooden fencing on either side of the track. The access is located on the outside of a slight bend, providing good visibility upon entering and exiting the site.

4.29 The proposed dwelling will generate a similar number of traffic movements as the existing permitted use of the site. It will also replace agricultural vehicles with smaller cars, which can be seen as a benefit to the public highway and surrounding environment.

Noise Impacts

4.30 The application site and buildings are situated in a relatively tranquil area remote from noise generating uses. The proposed dwelling is sufficiently distant from other residential properties and the existing business on site, which only operates during the day, avoiding any unacceptable impacts upon the amenities enjoyed by their occupiers.

4.31 For the above reasons, the use of the buildings for residential purposes would not impact adversely on any other nearby properties and the amenity of any future occupants would not be compromised.

Contamination Risks

4.32 There are no records of contaminated land within the vicinity of the site and as such there appears to be no potential contamination risks to future occupants of the building.

4.33 The building is used for the storage of agricultural machinery and has been used for agricultural purposes for many years.

4.34 It is therefore unlikely that there have been any contaminants which would pose any risk to a sensitive end-use such as residential, as they would still be evident on the surface.

Flood Risk

4.35 The Environment Agency's flood maps show the site as being within Flood Zone 1 where there are no significant or unacceptable risks to residential development from river flooding. Given the site is in close proximity to a small brook, a Flood Risk Assessment was commissioned to reaffirm this idea.

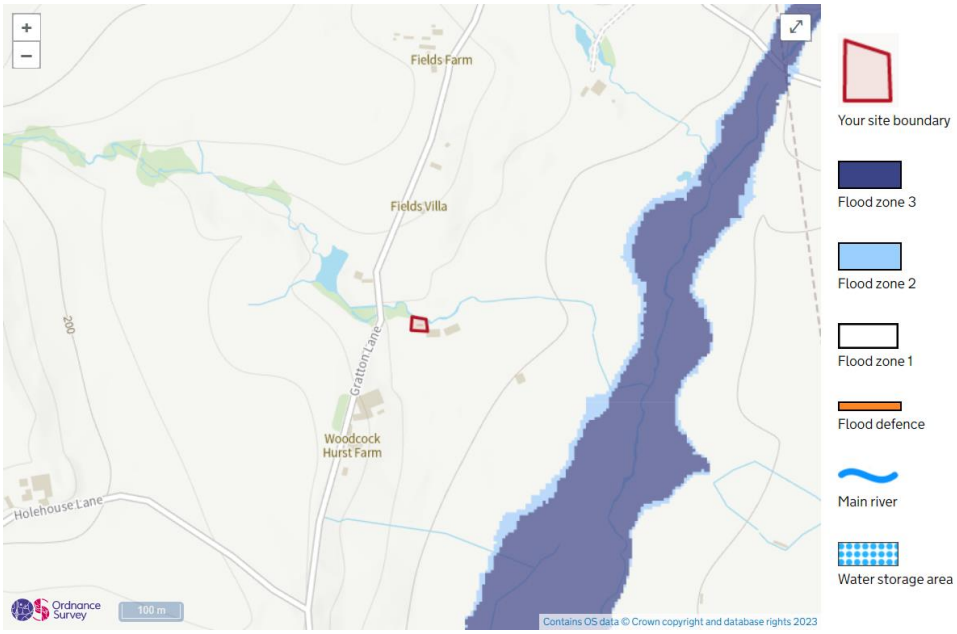

Figure 5 – *Flood Risk map showing site is situated in Flood Zone 1*

4.36 The Flood Risk Assessment will be submitted alongside this statement. It concluded that the site was at low risk of both surface water and fluvial flooding.

Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse

4.37 The application site is located within the Green Belt. There is a degree of inevitability that agricultural buildings across the country will not usually be located in or immediately adjacent to existing settlements, hence they will rarely meet the normal locational sustainability tests.

4.38 This is acknowledged by Paragraph 108 (ID 13-108-20150305) of the National Planning Practice Guidance, which states *"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".*

4.39 Paragraph 109 (ID 13-109-20150305) provides an interpretation of what constitutes impractical or undesirable circumstances for a residential change of use. It confirms that;

> *"….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.

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

4.40 As set out above, the dwellinghouse would be accessed via an existing agricultural access directly off Gratton Lane. It is considered that the track is of a suitable standard and is used by customers visiting the operator training business.

4.41 It is considered that the character and appearance of the countryside would not be harmed by the proposed development. The building is hidden amongst dense tree coverage that follows the brook to Gratton Lane. There is also consistent tree coverage on the east side of Gratton Lane.

4.42 When having regard to the above the proposed development does not make it impractical or undesirable for it to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Use Classes Order.

Design and External Appearance

4.43 The design and external appearance of the building has been kept to the minimum to retain the character of the building, making use of the existing structure for conversion and maintains existing openings. The General Permitted Development Order is explicit in listing the external alterations that are permitted under Class Q (b) provided they are reasonably necessary for the conversion of the building into a dwelling. The proposed external works have been designed in accordance with this criteria, to retain the original fabric in its current position, whilst inserting new windows to the exterior walls to support functionality of the building as a dwelling.

4.44 The application site lies within a rural location. It is not in a position where the local planning authority would normally grant permission for a new dwelling. Paragraph 108 of the NPPG makes it clear that location is not a sufficient reason to refuse prior approval. The site has a safe access to the public highway. The building is remote from any uses incompatible with residential development. There are no hazardous or noisy activities operating on site.

4.45 For the reasons outlined above, the location or siting of the building does not make it impractical or undesirable for it to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Use Classes Order.

The provision of adequate natural light in all habitable rooms

4.46 As part of the application a number of new windows and doors are proposed with each habitable room benefitting from at least one glazed opening. As such it is considered that there would be an adequate amount of natural light provided for each habitable room within the dwelling house not to adversely impact on the amenity of future occupants.

5 CONCLUSIONS

5.1 Prior Approval is sought for the change of use and conversion of the steel framed agricultural building to form 1 no. dwellinghouse (Use Class C3) at Mill Farm, Endon.

5.2 The application is submitted in accordance Class Q, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 that permits the change of use and conversion of an agricultural building to a dwellinghouse or dwellinghouses (Use Class C3).

5.3 The proposal satisfies the relevant criteria set out in Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 No. 596. The conversion to residential use does not therefore require planning permission.

5.4 The building was last in agricultural use and has been so since before 20th March 2013. The building is structurally sound and capable of accommodating the alterations required to facilitate residential conversion. The proposal satisfies the relevant criteria set out in Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England). The conversion to residential use does not therefore require planning permission.

5.5 The proposed conversion would not unacceptably impact upon the safe or efficient use of the highway network, would not give rise to any unacceptable noise impacts, would not increase flood risk and is not at risk from contamination. Residential use is not therefore impractical or undesirable in this location.

5.6 The external alterations to the buildings in this scheme have been sensitively designed to respect the agricultural character of the existing building and its rural surroundings and consist of the insertion of new windows and doors to provide a functional but attractive internal living environment. They are reasonably necessary for the building to function as a dwelling.

5.7 The proposed development therefore constitutes permitted development under Class Q of the General Permitted Development Order.

6 APPENDIX A

The Planning Inspectorate

Appeal Decision

Site visit made on 7 December 2021

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 24 January 2022

Appeal Ref: APP/N1025/W/21/3277013
Flourish Farm, Spondon Road, Dale Abbey DE7 4PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval requires under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Ms Joyce White against the decision of Erewash Borough Council.
- The application Ref ERE/0421/0067, dated 20 April 2021, was refused by notice dated 25 May 2021.
- The development proposed is the change of use of an agricultural building to 3 dwellings under Class Q of the General Permitted Development Order.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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 an agricultural building to 3 dwellings under Class Q of the General Permitted Development Order, at Flourish Farm, Spondon Road, Dale Abbey DE7 4PQ, in accordance with the terms of the application ERE/0421/0067, dated 20 April 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.

Preliminary Matters

2. I have taken the description of development in the heading above from the planning application form but I have removed the reference to the appeal site address as it is superfluous.

Main Issues

3. The main issues are whether the appeal building is capable of functioning as a dwelling and whether the proposed development would fall within the definition of development permitted by Schedule 2, Part 3, Class Q of the GPDO.

Reasons

4. The appeal building is a simple structure formed of a metal framework with walls in a mixture of concrete blockwork and metal and timber cladding. The front elevation of the barn is open up to a point just below the eaves, above which the gable has been filled in. There are two further openings on a side

and rear elevation, although these are significantly smaller than that on the front.

5. From the evidence before me, and my observations on site, I find that the building, including its framework, are structurally sound. Whilst the appellant's structural report suggests that some strengthening may be needed, this relates to the wall and roof cladding, and not the structural integrity of the building itself. Therefore, and mindful of Paragraph 105 of the Planning Practice Guidance (the PPG), I find that the building would be capable of functioning as three dwellings.

6. As part of such a change of use, Class Q.1(i)(i)(aa) allows for the installation or replacement of exterior walls, to the extent reasonably necessary for the building to function as a dwellinghouse. In this case the proposal includes the installation of new external walls to the front, one side and the rear elevations to close up the openings outlined above. Whilst these openings may appear large in themselves, they make up only a relatively small proportion of the building as a whole. As such I do not find that closing these openings, or the proposed works cumulatively, would be so significant that the scheme should be considered tantamount to a rebuilding of the barn. Therefore, and as the building is capable of functioning as a residential use, these works would be reasonably necessary.

7. Based on the evidence provided, I am satisfied that the structural integrity of the building is sound and would form an integral part of the new dwellings. The building operations would also be reasonably necessary in this instance and would not exceed the limitations set out in Paragraph Q.1(i) of the GPDO.

Other Matters

8. It appears from an extract from the Council's Definitive Map and Statement that a public right of way runs through the appeal building. Any grant of planning permission for development, including any permission granted under Article 3 and Schedule 2 of the GPDO, does not authorise any obstruction to a public right of way. The impact of the proposed change of use on the public right of way identified here is outside of my remit to decide whether prior approval ought to be granted in accordance with condition Q.2, and success in this appeal would not enable the developer to stop up or divert the right of way.

9. Under s257 of the Town and Country Planning Act 1990, the local planning authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission granted under Part III of the Act – which would include a planning permission granted by the GPDO.

Conclusion

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

Samuel Watson

INSPECTOR

7 APPENDIX B

The Planning Inspectorate

Appeal Decision

Site visit made on 18 September 2018

by Kevin Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2018

Appeal Ref: APP/B3438/W/18/3202031
Hayes Gate Farm, Star Bank, Oakamoor, Staffordshire ST10 3BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant prior 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 and Mrs Mellor against the decision of Staffordshire Moorlands District Council.
- The application Ref DET/2018/0002, dated 19 January 2018, was refused by notice dated 15 March 2018.
- The development proposed is change of use of an agricultural building into one dwelling under class Q.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for change of use of an agricultural building into one dwelling, at Hayes Gate Farm, Star Bank, Oakamoor, Staffordshire ST10 3BN, in accordance with the terms of the application Ref DET/2018/0002, dated 19 January 2018, and subject to the conditions listed in the attached schedule.

Procedural Matters

2. Since the Council's decision the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 came into force on 6 April 2018. I have taken this into account along with the subsequent amendments made to the Government's on-line Planning Practice Guidance (PPG), including in respect of Paragraph 105.

3. The Council has confirmed a discrepancy on its decision notice, which refers to drawing 001, whereas it was actually drawing 001 Rev A which was considered as part of the application, and which I have had regard to in considering the appeal.

Main Issues

4. The main issues in this case are whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO; and if so, whether the effects of the development are such as to require refusal of prior approval under paragraphs Q.2.(1) and W.(3).

https://www.gov.uk/planning-inspectorate

Reasons

Whether permitted development under Class Q

5. Class Q permits development consisting of a 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[1] and any building operations reasonably necessary to convert the building.

6. Paragraph Q.1 sets out restrictions to the permitted development right. The Council found no conflict with any of these restrictions, with the exception of Q.1.(i).

7. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it 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.

8. The PPG advises[2] that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, and that for the building to function as a dwelling, some building operations which would affect the external appearance of the building and which would otherwise require planning permission would need to be undertaken and should be permitted. The PPG goes on to state that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.

9. The appeal relates to a single storey barn, which at the time of my visit was vacant, but contained various livestock pens capable of use, and the wider farm was evidently in agricultural use. The barn is a steel portal framed structure, with walls composed of block work to the lower parts, with a combination of timber slats and metal sheeting to upper parts. The building is not weather tight, being open above the height of the pens on the inner side, and various gaps elsewhere in the external materials. An open sided lean-to structure to the side of the barn would be demolished as part of the proposal.

10. The appellant indicates that the existing structural elements of the barn, and external materials, would be retained, with proposed installation of new windows, doors and installation of the necessary utilities for domestic use. Internally, the walls and roof would be lined with a membrane used as a vapour retarder and airtight barrier, and the roof insulated. The concrete floor would be covered in a damp-proof membrane, insulation, heating and flooring. Structural calculations have been submitted in respect of the existing structure.

11. The Council asserts that the appellants' structural calculations[3] are insufficient to demonstrate that the building is structurally sound, and that the extent and

[1] SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.
[2] Paragraph: 105 Reference ID: 13-105-20180615
[3] Structural Calculations for the Existing Portal-Frame Agricultural Building at Hayes Gate Farm, dated June 2017

strength of the foundations has not been established. In the absence of this information, the Council considers the appellants have not demonstrated that the building is suitable for conversion to residential use. The calculations are prepared by a structural engineer, and conclude that the building is suitable for conversion to domestic use, and do not indicate concern with respect to the foundations. For my own part, I observed the steel frame appeared to be set into concrete, and noted the depth of the blockwork below the floor level on the south-western side where the ground level falls away considerably. I also observed what appeared to be recently installed steel supports and new timbers within the roof towards the rear end of the building.

12. I am referred by the Council to an appeal decision[4] wherein the Inspector had concern over the lack of a structural survey. As pointed out by that Inspector, such cases will depend on their individual circumstances. It is the case here, however, that details have been submitted with respect to the strength of the existing structure, and its suitability for conversion to residential use. The Council casts doubt on this information, and speculates that the additional steel supports demonstrate a lack of structural integrity, but it does not offer substantive evidence to counter the conclusions of a qualified structural engineer. The fact that some additional supports have been added internally to the building would not, in my view, amount to development within the meaning of Sections 55(1) of the Act, having regard to Section 55(2)(a) which explains that certain operations shall not be taken to involve development, including (a) the carrying out for the maintenance, improvement or other alteration of any building of works which: (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building. Therefore, on my reading of the evidence, and observations on site, I find that the building is structurally capable of conversion for the purposes of Class Q.

13. The Council further contends that the application does not demonstrate the building is capable of functioning as a residential conversion and that significant and extensive demolition and new elements would be required. The Council points to uncertainty in the appellants' submissions regarding whether the existing elements could be retained, including the roof, and that all of the walls would have to be, at least partly, built up.

14. The building is not weather tight at present, and would require additional elements to make it so, principally the addition of Yorkshire boarding to the north-eastern elevation. The plans submitted show the use of the existing blockwork and section of brickwork to the south-eastern elevation. The resulting appearance, therefore, would be not dissimilar to the existing building, which features timber panelling above the blockwork to the south-western side. Where blockwork is incomplete, as on the south-western side, the existing opening would be utilised as part of the proposed fenestration. On their face, none of the proposed works would fall outside of those building operations permitted under Paragraph Q.1, and would be reasonably necessary for the building to function as a dwelling.

15. The Council further refers to the response of its Environmental Health department which raised concern that 'any redundant on site buildings may well have asbestos containing materials (ACM) in their fabric (e.g. asbestos roof)', and should that be the case, more of the existing fabric would need to

[4] Appeal Decision APP/U2370/W/15/3137151 – Dismissed 8 November 2016

be removed than is proposed. These are general and slightly speculative comments, in my view, and do not appear to be based on a site visit. The proposal does not include the replacement of the roof, but rather its upgrading internally to provide insulation and weather proofing, works which would be reasonably necessary in my view. Should asbestos containing materials be identified, separate legislation exists to address this. Moreover, even if this proved to be the case, the replacement of the roof materials, provided they are not structural elements, would fall within the scope of works permissible under Paragraph Q.1(i).

16. That the building would require some building up or replacement of external fabric would not, in this particular case, go beyond the scope of works permissible under paragraph Q.1.(i), which explicitly includes 'installation and replacement' of windows, doors, roofs, or exterior walls. The nature of agricultural buildings will invariably mean that they will not have all of the necessary elements of a residential dwelling, or have them to the necessary standard or condition, hence the provisions of paragraph Q.1.(i). Moreover, whilst the PPG and the notable judgement in the *Hibbitt*[5] case make it clear that the development should not be so extensive as to amount to a 're-build' or 'fresh build', by, for example, reducing the building to a skeletal structure before reconstructing, there is nothing substantive in evidence before me to indicate that is what would occur here. The works proposed by the appellant would retain the majority of the existing structural elements. The replacement and/or upgrading of the roof, walls and floor internally to insulate and waterproof the building, and externally for weatherproofing, would, in my view, fall within the category of reasonably necessary for the building to function as a dwellinghouse.

17. In addition, the insertion of windows and doors would fall within the works permissible under paragraph Q.1.(i). I do not share the Council's view that the number of windows proposed is excessive or unnecessary. The proposed floor plans show, by and large, one window to serve each main room or area within the building, or one window to each elevation in corner rooms. The fact that the open plan lounge and dining room would be served by three windows is, to my mind, acceptable in view of its size and depth, and understandable in view of its south-westerly orientation. I shall separately consider the question of design and appearance below, however, I consider that the proposed windows and doors would be reasonably necessary for the building to function as a dwelling, and would fall within the works permissible under paragraph Q.1.(i).

18. The parties each refer me to other appeal decisions[6] in support of their cases. Whilst I have had regard to each, they involve different individual circumstances, and are not determinative in this appeal, which I have considered on its own merits.

19. Bringing matters together on this first issue, I consider that the proposed building operations would fall within the definition set out in Class Q.1 (i) and that they would not go beyond what would be reasonably necessary for the appeal building to function as a dwellinghouse.

[5] Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)
[6] Appeal Refs APP/N0410/W/17/3188794, APP/J0405/X/16/3150189, APP/P4415/W/18/3198096, APP/T4210/W/17/3182611, APP/C3240/W/17/3181573

20. As such the proposed building operations would fall within those permitted by Class Q(b) and paragraph Q.1.(i), having regard to the PPG. Therefore, the proposed change of use would satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO, having regard to the associated guidance within the PPG, and therefore is development permitted by it.

Whether or not Prior Approval should be granted

21. Paragraph Q.2.(1) lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required as to the impact of the development on: (a) transport and highways; (b) noise; (c) contamination; (d) flooding risks; (e) whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse; and (f) the design or external appearance of the building. The Council's decision notice indicates that prior approval was refused in respect of matters (e) and (f).

22. The Council argues that the building is not one which was intended to have a permanent presence on the landscape, being of utilitarian design and built for its functional use as an agricultural building. The Council contends many of the proposed openings are new and unnecessary, in that they serve the same room. The Council further criticises the regular sized appearance, full height form, and very 'domestic' appearance, which, in its view, are not characteristic of a portal framed agricultural building.

23. The very nature of a change from an agricultural building to a dwelling will invariably introduce a more domestic appearance in the form of windows and doors. The proposed fenestration has a regular and symmetrical form to the long elevations, which I consider respects the utilitarian design of the existing building. The full height form of the windows would not be uncharacteristic in my view, given the size of openings commonly found on agricultural buildings. Moreover, on the north-western and south-western elevations, which would be those visible from the road, the fall in levels means that the windows would not appear to extend to ground level from the outside. I also note that, relative to the previously refused application, the fenestration would be more ordered and proportionate to the building.

24. The re-use of the existing block work, and Yorkshire boarding above on the walls, would respect the existing form of the building and its rural setting, and would not appear overly domestic, or out of character with the surrounding agricultural buildings. The conservation rooflights proposed in the roof would not appear excessive or incongruous given their small size relative to the expanse of the roof. Overall, the building would have a simple, ordered appearance in sympathetic materials, which would not, to my mind, result in an unduly prominent or discordant building, but rather one which would maintain much of its existing agricultural character.

25. The Council further argues that the application still proposes a development which, if allowed, would extend the life of a building which was never meant to be permanent, and which would be incongruous with an area of high landscape sensitivity where development should be of a high standard and sensitive to the heritage and landscape of the area. The fact that the proposal would extend the life of the building is not, of itself, a relevant consideration under Class Q. I have no evidence before me to indicate that the building does not exist lawfully or that it should not benefit from the permitted development right

under Class Q, which as its starting point, grants permission for agricultural buildings to be converted to dwellings, and it must therefore be the government's intention that, in principle, such buildings can remain in the landscape and serve a new function as dwellings.

26. The Council refers to the site being located within the Churnet Valley Landscape Character Area, and reference is made to related documents[7]. The Council states that it is an area of high landscape sensitivity, but does not elaborate as to the specific features of the site surroundings which are considered to be important. Notwithstanding this, I have found that the design and appearance of the building would be acceptable in its context. The proposal would serve to improve the appearance of the building relative to its current form. Overall, it would have a negligible effect on the character and appearance of the wider landscape, given it would be no greater in size, would largely maintain the existing shape and materials, and the agricultural appearance already well-established in the landscape. Views of the building would be mainly from the road or the public footpaths to the west, from where the building would continue to be seen within a context of several farm buildings. It would not therefore significantly alter the wider appearance of the surrounding landscape.

27. Therefore, I conclude that the proposal would be acceptable with respect to matter (f) of Paragraph Q.2.(1) relating to the design or external appearance of the building. In reaching this view, I have had regard to the National Planning Policy Framework[8], so far as it is relevant to the subject matter of the prior approval, and find no conflict with its design related aims, set out principally in Chapter 12.

28. The Council also cites conflict with matter (e) of paragraph Q.2.(1), whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse. This is primarily related to the matters addressed above relating to its position within the landscape. The Council raises no objections to the building's location or siting from the point of view of the prospective living conditions of future occupants, or matters of access, and nothing I have seen or read leads me to have any concerns in these respects. Therefore, in view of this and my findings above, I conclude that the proposal would acceptable with respect to matter (e).

29. The Council did not indicate that prior approval would be required in respect of matters (a) transport and highways; (b) noise; (c) contamination or (d) flooding risks. From everything I have seen and read, including concerns of interested parties in respect of highway matters, I have no reason to conclude otherwise in these respects.

Other Matters

30. The appellant refers to the Council being unable to demonstrate a five year housing land supply. This, however, is not a relevant consideration in the context of an application under Class Q, and therefore I have not had regard to this in reaching my decision.

[7] Staffordshire Moorlands and Churnet Valley Landscape Character Assessments, Staffordshire County Council's 'Planning for Landscape Change' Supplementary Planning Document 2001
[8] Published 24 July 2018

Conditions

31. Paragraph Q.2.(3) of the GPDO stipulates that development under Class Q must be completed within a period of three years from the approved date. Paragraph W(12) requires the development to be carried out in accordance with the approved details. I shall therefore impose a condition specifying the approved plans, in the interests of certainty.

32. Paragraph W(13) of Schedule 2, Part 3 of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council has requested seven conditions, of which five are pre-commencement. As of 1 October 2018, any planning permission granted on or after that day with pre-commencement conditions imposed must have the written agreement of the applicant / appellant to the wording of those conditions[9]. I am not provided with such written agreement from the appellant, and shall therefore consider the necessity of the conditions being pre-commencement.

33. Conditions 1 and 2 seek details and samples of the external materials to be used on the building. Given the building's position on the site and the relative distances from which there would be public views of it, I am not persuaded that such levels of scrutiny by the Council of the proposed materials, which are clearly identified on the submitted plans, are necessary. I shall not therefore impose these conditions.

34. Conditions 3 and 4 relate to external walls, fences and other means of enclosure, hard and soft landscaping and planting details. These are typically matters addressed towards the end of the construction process, and I see no reason why details need to be submitted before any works commence. The details have not been submitted, but they are necessary in order to ensure a satisfactory appearance. I shall therefore impose these conditions but with the requirement that they be discharged, and the approved details implemented, prior to first occupation of the dwelling.

35. Conditions 5 and 6 relate to unexpected contamination and soil testing, and are not pre-commencement conditions. Given the existing use of the building and surrounding land for agriculture, and the more sensitive nature of the proposed use, I consider both conditions reasonable and necessary, and shall impose both, with a minor adjustment to the contamination condition to ensure it is not interpreted as being pre-commencement.

36. Finally, condition 7 seeks details of drainage to be submitted prior to the commencement of works. No commentary is made in respect of the drainage matters within the Council's delegated report or appeal statement, and Severn Trent Water states in its consultation response that it does not require a drainage condition to be applied. The need for the condition is therefore unexplained. Therefore, in the absence of a specific reason for the condition, I do not find it necessary and shall not impose it.

37. I also note, within the comments of the Council's ecology advisor and the Environmental Health department, suggestions as to conditions which might be imposed. However, the Council did not subsequently put forward such conditions to be considered. Notwithstanding this, the provisions of Class Q

[9] Section 100ZA(5), and (6) of the Act

permit me to only consider those matters set out at paragraph Q.2.(1), and matters relating to ecology are not relevant therefore to the consideration under Class Q. Whilst a restriction on construction hours would potentially relate to matter (b) noise, the scale of the works is unlikely to lead to excessive noise outside of normal working hours. I have not therefore imposed further conditions in respect of these matters.

Conclusion

38. For the reasons given, I conclude the appeal should be allowed.

Kevin Savage

INSPECTOR

Schedule – Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plans: 001 Rev A; 002; 003 Rev A; 004 Rev C; 005 Rev G and 006.

2) The development hereby permitted shall not be occupied until details of all walls, fences and other means of enclosure as well as any hard landscaping have first been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the building on the site.

3) Prior to first occupation of the development, landscaping and planting details shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall be fully implemented before the end of the first available dormant season (November to February inclusive) following first occupation of the development hereby approved. The trees and shrubs planted in accordance with this landscaping scheme shall be properly maintained for a period of 5 years following planting. Any plants which within this period are damaged, become diseased, die, are removed or otherwise fail to establish shall be replaced during the next suitable season.

4) In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. If after consultation with the Local Planning Authority the contamination is considered to pose a possible risk, to human health, buildings and other property and the natural and historical environment (receptors), development should not commence further until a site investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority. If the contamination investigation and risk assessment indicates that potential risks exists to receptors, development shall not continue until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to the receptors has been prepared, and is subject to the approval in writing of the Local Planning Authority.

5) Prior to bringing the development into first use, all soils that are intended to be used for the proposed garden/ soft landscaping areas should be tested for contamination and assessed for their suitability for the proposed use. Prior to sampling, a suitable methodology for testing the soil should be submitted to and agreed in writing by the Local Planning Authority and should include the sampling frequency, testing schedules, and criteria against which the analytical results will be assessed.

   The results of the soil tests should be submitted to and approved in writing by the Local Planning Authority. If soil results indicate that potential risks exist, development shall not continue until a detailed remediation strategy to bring the site to a condition suitable for the intended use has been prepared and subject to the approval in writing by the Local Planning Authority.

END OF SCHEDULE

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