
From:
Sent: 10 June 2024 10:10
To: Planning (SMDC)
Subject: FW: Application SMD/2024/0227 - Change of use of an agricultural building to a dwelling with a basement extension - Barn off, Heath House Lane, Lower Tean

Please find below Checkley Parish Councils response to the application.

Subject: Re: Application SMD/2024/0227 - Change of use of an agricultural building to a dwelling with a basement extension - Barn off, Heath House Lane, Lower Tean

Applicant is applying as per Class Q for A change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and Building operations reasonably necessary to convert the building referred to a use falling within Class C3 (dwellinghouses) of that Schedule.

The Applicant has Previously made Applications as follows:

Application DET/2022/0044 for Prior Approval for Change of Use of Agricultural Building to one Dwellinghouse (Use Class C3), and for building operations reasonably necessary for the conversion. Prior Approval was Granted by Planning Committee on 10/03/2023

Application DET/2020/0053 for Prior Approval for Change of Use for Conversion of agricultural building to a dwelling under Class Q of the General Permitted Development Order. Prior Approval was Refused by Planning Officer on 14/12/2020

Application DET/2020/0018 for Prior approval for change of use of agricultural building to a dwelling house including alterations to front elevation. Prior Approval was Refused by Planning Officer on 13/08/2020

Application DET/2015/0022 for Prior approval for change of use of agricultural building to a dwelling house (Use Class C3). Application was withdrawn as the then building was larger than the earlier consents had allowed so was not authorised

Application SMD/2011/0282 For Full Planning Permission for Construction of barn/sheep shelter including new access. Planning Permission Approved by Planning Officer on 28/07/2011

Application SMD/2011/0185 For Full Planning Permission for Construction of Barn/Sheep Shelter including New Access. Planning Permission Refused by Planning Officer on 14/04/2011

Application SMD/2010/0571 For Full Planning Permission for Construction of Barn/Sheep Shelter including New Access. Planning Permission Refused by Planning Officer on 12/11/2010

SME/2015/0082 – Enforcement Notice: without planning permission, the erection of a steel framed shed [to the extent that it exceeded the earlier consent] 23rd June 2016 – enforcement appeal decision – the appeal is dismissed

and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s.177(5) of the 1990 Act as amended.

Checkley Parish are concerned that the Applicant has not provided sufficient and satisfactory evidence of use of the building solely for an agricultural use on 20 March 2013 or for a period of at least 10 years. Many Neighbours in making an Objection have clearly indicated that this building has never been used for agricultural purposes.

The principal qualifying criteria is that the building was in agricultural use on 20 March 2013. If the building was brought into agricultural use after that date, a period of 10 years must pass before development under Class Q begins. A key point here is that the building was in use as part of "an established agricultural unit" on the relevant date. Paragraph X of Part 3 of the GPDO defines an "established agricultural unit" as "agricultural land occupied as a unit for the purposes of agriculture (and which was in use for that purpose on or before the relevant qualifying date under Class Q)".

On the Application form the Applicant describes the Existing use of the site as Agricultural Building, However, under the section 'Ownership Certificates and Agricultural Land Declaration' in response to the question "Is any of the land to which the application relates part of an Agricultural Holding?"

" The Response is No. If the land is not part of an agricultural holding then the existing use of the site cannot be as an Agricultural Building and permission cannot be granted.

Checkley Parish are also concerned that the proposed works and incorporation of a new basement go well beyond what could reasonably be described as conversion". Therefore the change of use and incorporation of a new basement would amount to a "re-build" as opposed to a "conversion" within the context of the 'Hibbitt' High Court Judgement (2016) and as such does not constitute a form of permitted development under Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended 2018).

Paragraph 105 of the Government's online Planning Practice Guidance (or PPG) seeks to clarify the scope of Class Q: "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"

The domestic curtilage of this development is restricted in amount to that allowed under the terms of GPDO 2015 Schedule 2 Part 3 Class Q and shall be no greater in area than an amount equivalent to the plan area of the building hereby approved to be converted namely 67.5m². Reason: Paragraph X to GPDO 2015 Schedule 2 Part 3 defines "curtilage" as meaning for the purposes of Class Q 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.

Checkley Parish Council are also concerned that there is no real mention of the surrounding heritage assets, their significance, landscape assessment or consideration of setting in this scheme. There are 9 listed structures in this vicinity that are relevant to the proposed development and the site is also closely associated with Checkley Neighbourhood Development Plan Local Green space LGS9: The Tumulus, Heath House Lane. Therefore NPPF guidance notably paragraph 194 has not been adhered to. The scheme shows a structure that is seen to fragment the context of this vicinity and doesn't look to become subservient or well-integrated. This in heritage terms is seen as harm imposed and therefore I cannot support this project.

Staffordshire Moorlands Local Plan Policy DC2 The Historic Environment seeks to ensure that sites and areas of particular heritage value are both safeguarded for the future and, where possible, enhanced both for their own heritage merits and as part of wider heritage regeneration proposals. The policy requirements apply to all types of development.

Checkley Parish Council are also concerned with the Applicants continued submission of repeat applications as per the details of previously made Applications above and consider that the Applicant is attempting to wear down

opposition to this plan with other aims for future development. We would therefore remind SMDC Planning of action that they can take as follows:-

"A local planning authority may also decline to determine an application for planning permission if it has refused more than one similar application within the last 2 years and there has been no appeal to the Secretary of State. In declining to determine an application, a local planning authority must be of the view that there has been no significant change in the development plan (so far as relevant to the application) and any other material considerations since the similar application was refused, or dismissed on appeal.

Where a local planning authority declines to determine an application, it should notify the applicant that it has exercised its power under section 70A of the Town and Country Planning Act 1990, or section 81A of the Planning (Listed Buildings and Conservation Areas) Act 1990, to decline to determine the application and should return the application to the applicant. (GOV. UK Making an Application Guidance Paragraph: 056 Reference ID: 14-056-20140306 Revision date: 06 03 2014)

Section 70A(8) of the Town and Country Planning Act 1990 defines applications for planning permission as 'similar' if (and only if) the local planning authority thinks that the development and the land to which the applications relate are the same or substantially the same. (GOV. UK Making an Application Guidance Paragraph: 057 Reference ID: 14-057-20140306 Revision date: 06 03 2014)

The purpose of these powers is to inhibit the use of 'repeat' applications that the local planning authority believes are submitted with the intention of, over time, wearing down opposition to proposed developments. (GOV. UK Making an Application Guidance Paragraph: 058 Reference ID: 14-058-20140306 Revision date: 06 03 2014) "

In light of the aforementioned Checkley Parish Council strongly object to this proposed change of use and are therefore of the opinion that this Application should be refused.

Cllr Steven Buckley
Planning Coordinator