

**Case Officer:** Sarfaraz Khan

**Recommendation:**

**Applicant:** Corckwell Farm LLP

**Proposal:** Change of Use of an agricultural barn to a single dwelling-house (Use Class C3)

**Expiry Date:** 19 October 2021

**Extension of Time:**

## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The site is located to the north of the village of Great Bourton, at the outer limit of the village at the end of Manor Road. Crockwell Farm is located on the North East edge of Great Bourton which is three miles North of Banbury and is accessed off Manor Road at the junction where it changes into Stanwell Lane. The site is currently occupied by a number of dilapidated farmyard buildings and barns. The buildings would previously have been used as part of a working farm in relation to Crockwell House to the east; however, the farm is no longer a working enterprise.
- 1.2. The site is located in close proximity to a Grade II Listed Building which is a farmhouse called Crockwell House and which dates back to the seventeenth century. This building is of more modern construction, in corrugated sheeting and blockwork, whilst the former agricultural buildings further to the south are constructed in stone and brick. The Farmhouse forms the Eastern Edge of a loosely formed yard, with a crooked southern edge being formed by a previously approved barn conversion (application no. 20/01726/REM).

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The current application seeks permission under Part 3 (Class Q) of the GPDO 2015 (as amended) for (a) the Change of use from agricultural building to residential dwelling (Class C3) and (b) building operations reasonably necessary to convert the said building to the said use. The current application relates to the modern steel-framed barn North of the Farmstead.
- 2.2. The submitted drawings show a proposal for one 5-bedroom dwelling, with accommodation split over ground floor and first floor level. The proposals include a snug, open-plan kitchen and dining area, home office, boot room, pantry, garage and bedroom to the ground floor. The proposals also include four bedrooms of which one has its own en-suite and a family bathroom.
- 2.3. Documents submitted in support of this application: "LOCATION PLAN – at a 1:2500 Scale (Drawing number: 21.03.03.100), Proposed Site Plan (Drawing number: 21.02.03.10), Existing Site Plan (Drawing number: 21.02.03.105), Proposed Floor Plans & Elevations (Drawing number: 21.02.03.13), and a Structural Survey dated June 2020, a Statement of Truth dated 6<sup>th</sup> August 2021 and a Design & Access Statement dated August 2021.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. The following planning history is considered relevant to the current proposal:

**Application:** 17 November 2015  
**15/00234/PREAPP**

Residential Development

**Application: 16/00609/OUT** Permitted 11 July 2016

Proposed residential development of 3 no. dwellings

**Application:** Detailed Pre-App 11 September 2017  
**17/00218/PREAPP** response sent

3 houses, differing from the original proposal

**Application:** 17 July 2019  
**19/00173/PREAPP**

Pre-Application Enquiry - Proposed 2no. Two storey dwellings

**Application: 19/00250/OUT** Permitted 5 April 2019

OUTLINE - Residential development of 3no dwellings (Re-submission of approved application 16/00609/OUT)

**Application: 20/01523/DISC** Permitted 6 August 2020

Discharge of Conditions 5 (Means of Access) and 6 (Construction Traffic Management Plan) of 19/00250/OUT

**Application: 20/01726/REM** Permitted 21 October 2020

Reserved matters to 19/00250/OUT - Phase 1 of the outline permission - approval of reserved matters for conversion of the curtilage listed barn.

**Application: 20/01730/LB** Permitted 21 October 2020

Alterations to facilitate the conversion of the existing building into a residential dwelling. Works to include repair of the existing walls (to be internally insulated), creation of minor openings within the building, and to insert a new window. Existing openings are to be enclosed with glazing.

**Application: 20/01902/Q56** Appeal Allowed 10 September 2020  
(Against Refusal)

Change of use of existing farm buildings into a single residential dwelling (use class C3)

**Application: 21/01254/REM**

Reserved matters application to 19/00250/OUT - application for approval of matters reserved by Condition 1 of 19/00250/OUT

**Application: 21/02824/LB**

Demolition of curtilage listed building to facilitate the 2 no four bedroom

dwelling approved under 19/00250/OUT

#### **4. PRE-APPLICATION DISCUSSIONS**

4.1. No pre-application discussions have taken place with regard to this proposal.

#### **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **19 October 2021**, by advertisement in the local newspaper expiring and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **19 October 2021**.

5.2. No comments or objections have been received.

#### **6. RESPONSE TO CONSULTATION**

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

##### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. BOURTONS PARISH COUNCIL: No response at time of writing, this will be forwarded once received.

##### OTHER CONSULTEES

6.3. Building Control (CDC) – No response at time of writing.

6.4. Local Highway Authority (OCC) – No objection - The proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view.

6.5. Health Protection (CDC) – No response at time of writing.

6.6. Land Drainage (CDC) - No comments on drainage/flood risk..

6.7. Environmental Health (CDC) - Comments

6.8. **Contaminated Land:** Due to the size and sensitive nature of the development (residential) the full contaminated land conditions (J12 - J16) will need to be applied to any approved permission

6.9. **Air Quality:** Measures should be in place to encourage the uptake of low emission transport including the provision of Electric Vehicle (EV) charging infrastructure. Ideally we would like to see EV charging points in place to allow for the uptake of EV's by visitors and residents to maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

#### **7. RELEVANT PLANNING POLICY AND GUIDANCE**

7.1. As this is a Prior Notification application (as per above), the provisions of Part 3 of Schedule 2 of the General Permitted Development Order 2018 ("GPDO") are considered most relevant.

- 7.2. Under Part 3 Class Q of the GPDO, 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, does not require Prior Approval, provided that the following criteria are met.

*Criteria One - The Tests under Class Q*

- 7.3. The change of use must satisfy the following tests of Class Q:

- a) The site was used solely for an agricultural use, as part of an established agricultural unit —
  - I. on 20th March 2013;
  - 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 ten years before the date the development under Class Q begins;
- b) in the case of —
  - I. a larger dwellinghouse, within an established agricultural unit —
    - a. the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
    - b. 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;
- c) in the case of —
  - I. a smaller dwellinghouse, within an established agricultural unit —
    - a. the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or
    - b. 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.
- 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—
  - II. 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;
  - III. the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;
- e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- 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;
- 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;
- 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;”
- i) The development under Class Q(b) would not consist of any building operations other than —
- I. the installation or replacement of —
    - a. windows, doors, roofs, or exterior walls, or
    - b. water, drainage, electricity, gas or other services, to the extent
  - II. reasonably necessary for the building to function as a dwelling house; and
  - III. partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);
- j) The site is not on article 2(3) land;
- k) The site is not or does not form part of:
- I. a site of special scientific interest;
  - II. a safety hazard area;
  - III. a military explosives storage area;
- l) The site is not, or does not contain, a scheduled monument;
- m) The building is not a listed building.

*Criteria Two - Developer must apply to local Authority to determine whether Prior Approval is required if development falls under class Q(a) and class Q(b)*

7.4. If the development proposed constitutes 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 impact of the development;
  - b) noise impacts of the development.
  - c) contamination risks on the site;
  - d) flooding risks on the site
  - e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and
  - f) the design or external appearance of the building
- and the provisions of paragraph W shall apply in relation to any such application.

*Criteria Three - Developer must apply to local Authority to determine whether Prior Approval is required if development falls under class Q(a) only*

7.5. If development proposed constitutes development under Class Q(a) only, 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

the items referred to in sub-paragraphs (1)(a) to (e.) and the provisions of paragraph W of this Part shall apply in relation to that application.

*Criteria Four – Time limit in which development must commence*

- 7.6. The development shall begin within a period of three years beginning with the date on which
- a) any prior approval is granted for that development, or
  - b) the period of days referred to in paragraph W(11)
  - c) of this Part expires without the local planning authority notifying the developer as to whether prior approval for that development is given or refused whichever is the earlier.
- 7.7. Under paragraph W.(3) the local planning authority may refuse an application where, in the opinion of the authority —
- a) the proposed development does not comply with, or
  - b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.
- 7.8. Section W(9)(as amended) of Schedule 2 Part 3 to the GPDO states that, *“the local planning authority [LPA] may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include —*
- a) *assessments of impacts or risks;*
  - b) *statements setting out how impacts or risks are to be mitigated; or*
  - c) *details of proposed building or other operations.*
- 7.9. Section W(10)(as amended) of the same Regulations states that, *“the local planning authority [LPA] must, when determining an application:*
- a) *take into account any representations made to them as a result of any consultation under paragraphs (5) or (6) and any notice given under sub-paragraph (8):*
  - b) *have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012, so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and*
  - c) *in relation to the contamination risks on the site —*
    - i. *determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and*
    - ii. *if they determine that the site will be contaminated land, refuse to give prior approval.”*

## **8. APPRAISAL**

- 8.1 The key issue for consideration in this application is whether or not the Class Q criteria are satisfied.
- 8.2 The ‘blue-line’ ownership area is contained around the application building and the site to the south which has been approved for residential development. The applicant has submitted information with this application (the Sales Brochure that

formed part of the appeal) to demonstrate the extent of the 'established agricultural unit'. Officers can therefore conclude that criteria (b), (d) and (g) of Q.1 are satisfied.

- 8.3 Upon my site visit (18th October 2021), at least part of the building within the application site was not being used for agricultural purposes, with a (non-agricultural) Mini Cooper motor vehicle being stored within the grounds of the farm. Other paraphernalia suggested that restoration works were taking place to this vehicle. All buildings and structures upon site which were structurally sound and accessible did not appear to be used for the storage of any agricultural machinery, apparatus or equipment and appeared to be undergoing demolition and refurbishment and restoration work with building materials scattered throughout the site. Large areas of the site were overgrown and appear to have been neglected for some time. In any case, it was clear that the building as a whole did not constitute an ongoing agricultural use at this time.
- 8.4 Nevertheless, the Planning Inspector in allowing the appeal under Q(a) was satisfied from the evidence then before him that the use in March 2013 was agriculture or, prior to that, when it was last in use.
- 8.5 There is a section of this barn building which is proposed to be demolished (also approved under application 19/00250/OUT, with the reserved matters application determined under application reference 20/01726/REM). Whilst the section of the barn considered under this Class Q application is outside of the live applications 'red-line' site area, they cannot be considered independent of one another because of their relationship and shared functionality and access. The Planning Statement of the reserved matters application has provided a description of the use of the buildings, stating, "the current buildings are in an advanced state of decay and are never going to be used for agricultural purposes again".
- 8.6 Nevertheless, the Planning Inspector in allowing the appeal under Q(a) was satisfied from the evidence then before him that the proposal was compliant with Class Q in this respect.
- 8.7 The dwelling's proposed floor space (in the region of 453 sq m) would define it as a larger dwellinghouse. Criterion (c.) is therefore not relevant in this instance.
- 8.8 The application form states that the site is not under an agricultural tenancy agreement and nor had one been terminated in that last year. There is no evidence to suggest that this is not the case and therefore criteria (e) and (f) are taken to be satisfied.
- 8.9 Criterion (h) requires the decision maker to assess whether the works would extend beyond the external dimensions of the existing building at any given point. A comparison between the submitted existing and proposed site plan would indicate that this criterion has been largely satisfied. The exception being a wood burner flue which is proposed to the north roof slope. The proposals conflict with criterion (h).
- 8.10 Criterion (i) requires the decision maker to assess on building operations, including whether works proposed are reasonably necessary for the building to function as a dwelling house:
- 8.11 Government guidance on the matter states:

"...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. 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).”

8.12 The structural survey states that the existing building is in fair condition and is structurally suitable for conversion to residential use without any strengthening of the building envelope. However, what the structural survey fails to account for is the fundamental change to the structure of building that would occur through the partial demolition.

8.13 The Planning Inspector notes that the building is a “modern, modular steel framed building with walls of corrugated sheeting above a concrete block plinth and with a concrete floor. One main elevation has been finished off with open vertical timber boards with a gap between each, while both end walls are partly open to the elements. The roof is also clad in corrugated sheeting.”

8.14 In allowing the appeal for the change of use of the building under Q(a), the Planning Inspector noted the Council’s concern with regard to the level of rebuilding works that would be necessary for the building to be used as a dwelling: “I understand the Council’s concern. The building would not be fit for human habitation without significant changes to the form of the structure to make it, at least, weatherproof.”

8.15 The Council has had detailed regard to the submitted Structural Survey and the Addendum to that report which sets out in blue and red where existing fabric/structure is used and new is proposed, etc.

8.16 In the Council’s view, the works proposed are considerable. New pad footings are proposed in several places. There is a new upright/support proposed on the western elevation. All proposed walls are new and it would appear from the submitted drawings together with observation of the state of the existing building that a new roof is proposed.

8.17 In the Council’s considered view, the proposed works exceed those “reasonably necessary to convert the building”. The Council takes note of the Inspector’s conclusion that compliance with Q(a) and Q(b) is capable of being assessed independently, and that a determination under Q(a) “will not prejudice a subsequent assessment of any building operations proposed under Q(b)”. In light of the Inspector’s decision and remarks therein, and based on an assessment of the building itself and the information submitted with this application including subsequent clarifications submitted to officers by the agent, the Council concludes that these proposals fail to comply with criterion Q.1(i).

8.18 The site is not on article 2(3) land, is not or does not form part of a SSSI, safety hazard area or military explosives storage area, is not or does not contain a scheduled monument, and the building is not listed, and therefore criteria (j) – (m) are satisfied

**In summary;**



- 8.19 Criterion (a) is taken to be satisfied based on the Inspector's appeal decision; (c) is not relevant in this instance; criteria (b), (d), (e), (f) and (g) are taken to be satisfied. Criteria (j) – (m) are satisfied. The submitted "proposed floorplans & elevation" plans when compared to the existing site plans would indicate that Criteria (h) and (i) are not met. To cite the words of the planning practice guidance, the building subject of this application is considered not to "have the permitted development right".

### **TRANSPORT & HIGHWAY IMPACTS**

- 8.20 The local highway authority has not submitted any comments or objections to the current proposals. However, the local highway authority has raised no objections to previous similar proposals on highway safety grounds. The proposals are therefore considered acceptable in this regard.

### **NOISE IMPACTS, FLOODING RISKS & CONTAMINATION RISKS**

- 8.21 There are no particular noise concerns in relation to this application, and in relation to flooding, it is not situated in a Flood Zones 2 or 3. Although the Environmental Health Officer has not submitted any comments on the current application, they have commented on a similar previous application stating that conditions can be attached relating to noise insulation. Such conditions are considered reasonable and can be attached to any consent given.

### **CURTILAGE**

- 8.22 Paragraph X of the GPDO defines the permitted 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".
- 8.23 The red line area submitted with the application relates to land that is immediately beside the agricultural building, is closely associated with the building and serves the purpose of the agricultural building and the development would therefore comply in this regard.

### **LOCATION AND SITING**

- 8.24 The test in this criterion is 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.
- 8.25 The PPG guides that LPAs should start from the premise that the permitted development right grants planning permission, subject to prior approval requirements. Moreover, the PPG guides that a proposal for a change of use in a location where the LPA would not normally grant planning permission for a new dwelling is not sufficient reason for refusing prior approval.
- 8.26 Impractical or undesirable are not defined in the regulations, and the LPA 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". 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.

8.27 The building would be accessed from the south. It is proposed to be accessed via a track that would be created under a separate consent (relating to the residential dwellings approved at outline stage).

8.28 Having regard to the location and context of the building, adjacent to a highway and with no other buildings close at hand, it is considered that the proposal satisfies the criterion.

## **DESIGN & EXTERNAL APPEARANCE**

8.29 The submitted "proposed floorplans & elevation" plans provide extensive visual and written details about the changes, i.e. design, internal configuration and materials, which would be carried out to allow for the conversion into a residential dwelling including the use of timber cladding, glazing, painting existing surface, the use of water piping, the use of bricks in the foundations and the installation of water butts and air source heat pumps. Although the works proposed to the existing structure are considerable, the Council has no particular issues with the proposed design and external appearance, which therefore satisfies Q.2 (f).

## **9. PLANNING BALANCE AND CONCLUSION**

9.1. The proposed development accords or is likely to accord with criteria Q.1 (a), (b), (d), (e), (f), (g) and (j)-(m). Criterion (c) is not relevant. However, for the reasons set out in this report, criteria Q.1 (h) and (i) are considered not satisfied.

9.2. Therefore, on the basis of the information submitted, it is not reasonable for the LPA to give prior approval.

## **10. RECOMMENDATION**

That permission is refused, for the following reasons:

1. Alterations are proposed that would go beyond the building operations permissible under Class Q, which would result in the external dimensions of the building extending beyond the external dimensions of the existing building, and which are considered not "reasonably necessary for the building to function as a dwellinghouse" and the applicant has not demonstrated that the works required to facilitate the building's use as a dwelling would not be so extensive as to constitute a rebuilding of the existing building, which is permitted under Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposed development would therefore not comply with the provisions of Class Q.1 (h) and (i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore would require planning permission.

Case Officer: Sarfaraz Khan

DATE: 19.10.2021

Checked By: Nathanael Stock

DATE: 19.10.2021

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