

**Case Officer:** Imogen Hopkin

**Recommendation:**

**Applicant:** Crockwell Farm LLP

**Proposal:** Prior Approval Notification under Class Q (b) for development referred to in paragraph (a) of Class Q for the 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) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses)

**Expiry Date:** 12 July 2023

**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 for Crockwell Barn to function as a single dwellinghouse (Use Class C3). The current application relates to the modern steel-framed barn north of the Farmstead.
- 2.2. The application is a revised scheme of 21/04201/Q56, which was refused on the basis that the proposal would go beyond the dimensions of the original building and that the works would exceed those permissible under Class Q. A subsequent appeal against this refusal was dismissed (see Section 3 immediately below).

## **3. RELEVANT PLANNING HISTORY**

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

<b>Application: 21/04201/Q56</b>	Appeal Dismissed (Against Refusal)	8 March 2022
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Building operations (Class Qb) reasonably necessary for Crockwell Barn to function as a single dwellinghouse (Use Class C3) at Crockwell House Farm, Manor Road, Great Bourton		
<b>Application: 20/01902/Q56</b>	Appeal Allowed (Against Refusal)	10 September 2020
Change of use of existing farm buildings into a single residential dwelling (use class C3)		

#### 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 **14 June 2023**, 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 **14 June 2023**.
- 5.2. No comments have been raised by third parties.

#### 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. The Bourtons Parish Council: **Comment**, on the over-development of the site, the existing access is in poor condition, visual impact of the proposal.

##### OTHER CONSULTEES

- 6.3. Building Control: Building Regulations application required.
- 6.4. Land Drainage: No objections or comments.
- 6.5. Environmental Health: No objections, subject to contaminated land conditions.
- 6.6. OCC Highway Authority: No objections.

#### 7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO)
- 7.2. Planning Practice Guidance (PPG)
- 7.3. 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.

- 7.4. 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*

- 7.5. 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 reasonably necessary for the building to function as a dwelling house; and
  - II. 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)*

7.6. 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 (dwelling houses) of the Schedule to the Use Classes Order,
- f) the design or external appearance of the building and the provisions of paragraph W shall apply in relation to any such application, and
- g) the provision of adequate natural light in all habitable rooms of the dwellinghouses.

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

7.7. 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*

- 7.8. 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.
- 7.9. 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.
- 7.10. 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.*
- 7.11. 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 issues 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. 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 originally allowed appeal (our ref: 20/01902/Q56, PINS ref: 3264358) established the previous use of the building was solely used for an agricultural use within an agricultural unit. Upon a site visit, the building did not appear to be in any particular use, although the new residential properties suggest the site is no longer used as an agricultural unit. Whether or not the site is in current use as an agricultural unit does not preclude the grant of permission. Therefore, the Council has no reason to dispute the Inspector's assessment, and the application complies with criterion (a) of Q.1.
- 8.4. The proposal is a larger dwellinghouse, as it has a floor area of 256 sq m. From our assessment (and as indicated by the agent) this is the only 'larger dwellinghouse' proposed on the unit and does not exceed 465 sq m. As such, criteria (b) and (d) of Q.1 are satisfied.
- 8.5. Criterion (c) of Q. 1 relates to smaller dwellinghouses, so is not relevant to this proposal.
- 8.6. The site is not occupied under an agricultural tenancy, and no agricultural tenancy has been terminated in the last year, therefore criteria (e) and (f) of Q.1 are satisfied.
- 8.7. No development has taken place under Class A(a) or Class B(a) of Part 6 of Schedule 2 of the GPDO on the established agricultural unit since 20<sup>th</sup> March 2013. As such, criterion (g) is satisfied.
- 8.8. Criterion (h) appears satisfied as the proposed construction does not appear to extend beyond the external dimensions of the existing building. This was a reason for refusal for the previous application (our ref: 21/04201/Q56, PINS ref: 3306638), as the building was due to be re-clad and an air source heat pump installed. The current application has resolved these issues, and now complies with criterion (h).
- 8.9. Like the last application, this application seeks approval under Class Q(b), which requires an assessment of the level of building operations. Class Q(b) permits "building operations reasonably necessary to convert the building..."
- 8.10. In determining the first appeal at the site (our ref. 20/01902/Q56, PINS ref. 20/3264358), the Planning Inspector stated.  
  
*"The Council says... that the building does not benefit from any 'permitted development' rights under Class Q. Having seen the building... 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."*
- 8.11. The Inspector allowed that appeal because that proposal was limited to a change of use of the building and land within its curtilage under Class Q(a) and because he was not required to assess the proposal under Class Q(b).
- 8.12. In the last application, ref. 21/04201/Q56, the applicant sought approval under Class Q(b). The applicant proposed alterations to the building to enable its conversion to residential use. The Council refused the application on the grounds that the works proposed were not "reasonably necessary for the building to function as a dwellinghouse" and because the works were considered so extensive as to

constitute a rebuilding of the existing building, and also because the works proposed in that application exceeded the dimensions of the original building.

8.13. The Council refused that application, and a subsequent appeal against that refusal was dismissed, the Inspector agreeing with the Council on all of the above matters.

8.14. The first Inspector described the building in the following way:

*“...the building proposed for conversion 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.”*

8.15. The second Inspector said similar:

*“The subject building has a steel frame and its walls are partially clad with corrugated sheeting and vertically hung timber cladding. A short length of low blockwork wall forms part of the eastern elevation and the building has corrugated sheet roofing.”*

8.16. It is reasonable to conclude that the works proposed in the last application were those necessary for the building to function as a dwelling. The first inspector's comments, reported at para 8.10 above, are worth noting – that “significant changes to the form of the structure” would be required before it could be “fit for human habitation”.

8.17. To address the second Inspector's reasons for dismissing the last appeal, the current proposal now proposes retention of the existing cladding and roof covering, and substantial internal works including walls and horizontal and vertical battens on those walls. The works effectively amount to the construction of a structure within the existing steel frame.

8.18. The proposal also includes the insertion of windows and doors, and a small insertion of exterior wall to the east elevation.

8.19. It is considered that the application proposals are for a new structure within the barn rather than a conversion of the existing structure and that the proposed works do not rely on the existing structure. The proposal would need a considerable amount of work to be carried out to facilitate the proposed development in this instance. It is considered this work would exceed that which constitutes a conversion, and would go beyond what is reasonably necessary for the conversion of the building to residential use. The Council concludes that the existing building is not already suitable for conversion to residential use and cannot therefore be considered to have the permitted development right in this regard.

8.20. It is therefore considered that the proposals consist of building operations which go beyond those reasonably necessary for the building to function as a dwellinghouse.

8.21. For these reasons it is considered that criterion (i) is not satisfied.

8.22. 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**

- 8.1 Criteria (a), (b), (d), (g) and (h) are satisfied. Criteria (e.) and (f) are taken to be satisfied. Criterion (c.) is not relevant in this instance. For the reasons set out above, criterion (i) is not satisfied, and the existing structure is not capable of functioning as a dwelling without a significant level of alteration and rebuilding work. To cite the words of the planning practice guidance, the building subject of this application is considered not to “have the permitted development right”.
- 8.2 Despite the failure of the proposals to meet the provisions of Q.1 (as set out above), an assessment has been made regarding the conditions under Q.2 (transport, highways, noise, contaminated land, and flooding), the practicality of the site, the design and appearance of the building and the curtilage of the site.

*Transport and Highways Impacts*

- 8.23. The local highway authority has no objections to the proposals on highway safety grounds. The proposals are considered acceptable in this regard.

*Noise Impacts, Flooding Risk and Contamination Risk*

- 8.24. There are no noise or flooding concerns with the application, as the application is not situated within Flood Zones 2 or 3.
- 8.25. The Council’s Environmental Health Officer has suggested a suite of conditions relating to contaminated land, given the agricultural history of the site. The conditions are considered reasonably necessary to be applied to the application.

*Curtilage*

- 8.26. 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”.
- 8.27. The red line area submitted with the application relates to land that is immediately in front and east of 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*

- 8.28. 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.
- 8.29. 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.
- 8.30. 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.

- 8.31. The building would be accessed from the south, via a track linking the site to the other residential properties that have been approved at the site. The proposed curtilage appears to provide adequate space for parking and garden facilities, with good outlook achievable. The proposal is thus considered acceptable in this regard.

#### *Design and External Appearance*

- 8.32. The design of the building is predominantly the insertion of windows and doors to convert the building. The design maintains the agricultural history of the building, but would appear modern due to the large windows on the front elevation. The design would alter the appearance, but not detract from the agricultural history of the site, and is therefore acceptable.

#### *Provision of Natural Light*

- 8.33. Each habitable room is served by an appropriately sized window to secure an appropriate level of amenity to future occupiers of the dwelling.

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

- 9.1. The proposed development accords with criteria Q.1 (a), (b) (d) (e.), (f) (g) and (h). Criterion (c.) is not relevant in this instance. For the reasons set out above, criterion (i) is not satisfied, and the existing structure is not capable of functioning as a dwelling without a significant level of alteration. 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 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. The proposed development would therefore not comply with the provisions of Class Q.1 (i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore would require planning permission. In the absence of evidence to the contrary and based on its assessment of the application submissions and a visual appraisal of the building the Council concludes that the application building is not capable of functioning as a dwelling and does not have the permitted development right under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Case Officer: Imogen Hopkin

DATE: 11<sup>th</sup> July 2023

Checked By: Nathanael Stock

DATE: 12.07.2023

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