

**Case Officer:** Daisy Kay-Taylor

**Recommendation:** Approve

**Applicant:** Mr Stephen Hopkins

**Proposal:** Prior Approval application for Change of Use from agricultural to residential by temporary transitional provisions that, until 20 May 2025, allow applicants to use rights as they stood prior to May 2024

**Expiry Date:** 16 August 2024

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

1.1. The application relates to an existing building currently used for general agricultural purposes at Austin Grounds Farm in a rural location approx. 380m south of the edge of the village of Sibford Ferris. Access to the site is from the Sibford Road via an existing gated track which runs west-east through the site to the building. Views from the west, north and south are largely restricted by mature hedgerows and trees along the highway and surrounding agricultural fields. The site looks out onto open countryside to the east.

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

2.1. The current application seeks permission by temporary transitional provisions that, until 20 May 2025, allow applicants to use rights as they stood prior to May 2024 under Part 3 (Class Q) of the Town and Country Planning (General Permitted Development) (England) Order 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.

2.2. The proposals would involve the conversion of an existing agricultural building and an equal area of land to residential use. The external appearance of the building will remain as existing with the addition of and replacement of window openings. There would be new ceiling joists and insulation, and a new floor and insulation on top of the existing concrete floor slab. There would be no new access/entrance(s) to the site and no demolition.

2.3. The application follows several previous applications for the same/similar development; the two most recent (15/00936/Q56 and 17/010587/Q56) were permitted but the permissions have lapsed.

## **3. RELEVANT PLANNING HISTORY**

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

3.2. **CHN.630/88** Erection of farmhouse. Permitted 22 September 1988

3.3. **03/00060/F** Relaxation of condition 2 of CHN.630/88 to allow the dwelling to be occupied by persons other than those solely or mainly employed in the locality in agriculture. Application withdrawn

- 3.4. **04/00409/F** Retrospective - Removal of condition 3 of CHN.630/88 to allow any person to occupy the dwelling. Application withdrawn
- 3.5. **05/00011/F** Retrospective – Resubmission of 04/00409/F – Removal of condition 2 of CHN.630/88 to allow any person to occupy the dwelling. Permitted 29 April 2005
- 3.6. **07/02062/F** Erection of 2 no. outbuildings to land in front of existing house to form garages, workshops, stores, etc. Permitted 04 December 2007
- 3.7. **10/01115/AGN** Agricultural store. Prior Approval not required. 02 September 2009
- 3.8. **11/01218/F** Erection of 2 no. outbuildings to land in front of existing house to form garages, workshops, stores, etc. Permitted 23 September 2011
- 3.9. **15/00188/PAMB** Prior Approval – Conversion of existing agricultural building and an equal area of land to residential use. Application withdrawn.
- 3.10. **15/00936/Q56** Prior Approval – Conversion of existing agricultural building and an equal area of land to residential use. Permitted 17 July 2015
- 3.11. **17/01087/Q56** Conversion of the existing agricultural building and an equal area of land to residential use. Permitted 11 July 2017

#### **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 **22 July 2024** 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 **22 July 2024**.
- 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.
- 6.2. **Sibford Ferris Parish Council:** no comments or objections received at time of writing
- 6.3. **Ward Councillor Cropredy, Sibfords and Wroxton:** no comments or objections received at time of writing
- 6.4. **Local Highway Authority:** no objection
- 6.5. **Thames Water:** no comments or objections received at time of writing
- 6.6. **CDC Environmental Protection Officer:** Commented as follows in respect of contaminated land: *Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development of the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks*

*are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.*

No comments in respect of noise, air quality, odour, or light.

6.7. **CDC Building Control:** no comments or objections received at time of writing

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

7.1. As this is a Prior Notification application (as per above), the provisions of Part 3, Class Q of Schedule 2 of the General Permitted Development Order 2015 (as amended) ('the GPDO') are considered most relevant.

7.2. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **8. APPRAISAL**

8.1. The key issues for consideration in this case is whether or not the proposal would meet the requirements of Schedule 2, Part 3, Class Q of the GPDO. With regard to the criteria, assessment of the proposal is as follows:

### Q.1.

8.2. The red line on drawing no HOP/03 is drawn around the building and associated curtilage, turning and parking area. The blue line on drawing no. HOP/03 indicates the agricultural holding to which the barn relates.

8.3. The supporting note dated 20 June 2024 submitted with the application states that the barn '*has been in constant agricultural use since its construction over forty years ago*'. As part of the previous application 17/01087/Q56, it was confirmed that the building was in agricultural use, and the case officer for the two 2015 applications previous to that had reached the same conclusion. It is therefore concluded on the balance of probabilities that the building was in agricultural use on 20 March 2013 and forms part of an established agricultural unit.

8.4. As the floorspace of the dwelling would exceed 100 square metres it is considered to be a larger dwellinghouse for the purposes of Class Q. The cumulative floor space of the existing building(s) changing use under Class Q within the established agricultural unit does not exceed 450 square metres, and the cumulative number of separate dwellinghouses development under Class Q within the established agricultural unit does not exceed three. (b) and (ba).

8.5. As the dwelling would constitute a larger dwellinghouse, (c) is not relevant to this case.

8.6. The total development at the agricultural unit under Class Q would not result in a building or buildings having more than 450 square metres of Class C floor space and the cumulative number of separate dwellinghouses would not exceed five. (d)

8.7. The site is not occupied under an agricultural tenancy (e) and an agricultural tenancy over the site has not been terminated in the last year (f), as confirmed in the application form and the accompanying supporting note dated 20 June 2024.

- 8.8. There is no record of any other development having been carried out under Class A(a) or Class B(a) of Part 6 of the GPDO since 20 March 2013. (g).
- 8.9. The external dimensions of the building would not extend beyond those of the existing building at any given point (h).
- 8.10. A structural survey has been submitted with the application that confirms that the barn is structurally sound. The extent of alterations proposed are the same as those subject of the last application (17/01087/Q56), which was determined positively. It is noted that the intention is to place no additional structural load on the structural frame of the existing barn.
- 8.11. It is therefore considered that this building is capable of being converted.
- 8.12. The proposed external alterations would consist of the retention and installation of windows and doors, and the installation of non-structural infill insulation. The existing steel portal frame, its lateral bracing and the roof structure would all be retained and the proposed alterations would not undermine the structural integrity of the existing building. The proposed dwelling is single storey only.
- 8.13. A new roof covering is proposed, replacing the existing fibre cement roof sheets with composite panels. A new ceiling is also proposed (i.e. between concrete slab and roof structure) and this has previously been adjudged to be a necessary alteration for the building to function as a dwellinghouse and I have no reason to believe otherwise in this instance. Notably it would not be a new structural element and would not itself take a structural load.
- 8.14. The proposed alterations are the same as those assessed under 17/01087/Q56 and which were adjudged reasonably necessary for the building to function as a dwellinghouse and I have no reason to take a different view in this instance. (i)
- 8.15. Retention of the structural portal frame alone would not be sufficient for the proposals to constitute permitted development or for the building to have the permitted development right, and irrespective of a positive determination of this or any future application the developer would need to ensure their proposals were permitted development under Class Q (or its successors).
- 8.16. The site is not on Article 2(3) land. (j)
- 8.17. The site is not, and does not form a part of, a site of special scientific interest, a safety hazard area or military explosives storage area. (k)
- 8.18. The is not, and does not contain, a scheduled ancient monument (l), and the building is not a listed building (m).

## Q.2.

- 8.19. Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the following:
  - a. Transport and highways impacts of the development
  - b. Noise impacts of the development
  - c. Contamination risks on the site
  - d. Flooding risks on the site

- 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 of the Schedule to the Use Classes Order
- f. The design or external appearance of the building
- g. The provision of adequate natural light in all habitable rooms of the dwellinghouse

8.20. And the provisions of paragraph W (prior approval) shall apply in relation to that application.

#### Highway safety

8.21. The plans remain unchanged from those approved under permission 17/01087/Q56 and the local highway authority (LHA) has commented that they do not object. The development would make use of the existing access track to the highway, which already serves the barn. The LHA confirmed that there was no justification to upgrade the access track. The development would involve the creation of two off-street parking spaces and a manoeuvring area to the south of the barn, and the transport and highways impacts of the development are considered acceptable subject to conditions.

#### Noise impacts

8.22. CDC's Environmental Protection Team has raised no concerns regarding the proposal in terms of noise impacts. Given the isolated nature of the site I see no reason to disagree with this assessment.

#### Land contamination

8.23. The site has been within agricultural use and is therefore potentially contaminated. CDC's Environmental Protection Team has no objections subject to conditions and this is considered reasonable to ensure that potential risk to future residents from contamination is avoided by imposition of a condition for contaminants that have been currently undetected.

#### Flood risk

8.24. The site is not within flood zones 2 or 3, and the site is therefore at the lowest risk of flooding. Based on the information submitted the proposal is considered acceptable in this regard.

#### Impractical or undesirable location or siting

8.25. 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.

8.26. The PPG guides that local planning authorities (LPAs) should start from the premise that the permitted development right grants planning permission, subject to prior approval requirements. Further, 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.

8.27. Impractical or undesirable are not defined in the regulations, and the LPA should apply a reasonable ordinary dictionary meaning in making any judgement. 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 – in other words, uses that would be incompatible with and in close proximity to residential uses for safety and amenity reasons.

- 8.28. Although not ideal, the proposed location is not considered so harmful as to conflict with Q.2(e) and the same conclusion was reached in the last two applications (17/01087/Q56 and 17/01087/Q56).

Natural light

- 8.29. All habitable rooms would benefit from natural light and the proposal is therefore considered to be acceptable in this regard.

## 9. PLANNING BALANCE AND CONCLUSION

- 9.1. The proposal is considered to be in accordance with Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). No further information is considered necessary in relation to the criteria and issues set out in Class Q.2 and there would be no significant detrimental impacts as a result of the proposed development on the issues raised in this class. As the issues that need to be addressed as part of the prior approval process have not identified any concerns that would bring the development into question, it is concluded that the prior approval should be issued.

## 10. RECOMMENDATION

Prior Approval is granted, subject to the following conditions

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents: HOP/01, HOP/02, and HOP/03 and the residential curtilage of the dwelling shall be restrict to that area within and defined by the red line on drawing HOP/03; the supporting note dated 20 June 2024; the structural assessment report dated May 2015 and accompanying letter dated May 2017.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

2. Full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the local planning authority before the first occupation of the dwelling hereby approved and such means of enclosure shall be erected prior to the first occupation of the dwelling and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

3. Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the site plan (HOP/03) and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety and to comply with Government

guidance contained within the National Planning Policy Framework.

4. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development of the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Daisy Kay-Taylor

DATE: 15 August 2024

Checked By: Paul Ihringer

DATE: 16/8/24

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