

BABERGH DISTRICT COUNCIL

From: Professional Lead – Growth and Sustainable Planning	Report Number: S16
To: Planning Committee	Date of meeting: 1 June 2016

NOTIFICATION UNDER PART 3 OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015 - PRIOR APPROVAL UNDER CLASS Q(A & B) CHANGE OF USE FROM AGRICULTURAL BUILDING TO 2 NO. DWELLINGS AND FOR OPERATIONAL DEVELOPMENT (C3) AT LODGE FARM, KERSEY ROAD, LINDSEY (REFERENCE B/16/00386/AGDW)

1. Purpose of Report

- 1.1 To determine whether prior approval of details is required as to -
- (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 (dwellinghouses) of the Schedule to the Use Classes Order,
 - (f) the design or external appearance of the building.
- 1.2 The matter is referred to the Planning Committee as the Notification is a development proposal which has been submitted by a close family member of a member of staff.

2. Recommendations

- 2.1 That prior approval is required and is given, subject to conditions.
- The Committee is able to resolve this matter.

3. Financial Implications

- 3.1 The development would be subject to the Community Infrastructure Levy.

4. Legal Implications

- 4.1 Whilst there are no direct legal implications arising from this report, the Deputy Monitoring Officer has reviewed the application file and is satisfied that the application has been processed properly and correctly.

5. Risk Management

5.1 There are no significant risks arising directly from this report.

6. Consultations

6.1 Consultations were carried out with the following consultees;

- **Lindsey Parish Council** (no response received at time of writing this report)
- **SCC Archaeological Service** (no response received at time of writing this report)
- **Suffolk Wildlife Trust** (no response received at time of writing this report)
- **LHA** – recommends a condition regarding parking and manoeuvring on site
- **Corporate Manager – Sustainable Environment** – No objections

6.2 Any further responses received will be the subject of a verbal update at the meeting.

7. Equality Analysis

7.1 There are no Equality and Diversity Implications arising directly from this report.

8. Shared Service / Partnership Implications

8.1 There are no shared service or partnership implications arising from this report.

9. Links to Joint Strategic Plan

9.1 Development of this character links up to the strategic objectives of housing delivery and agreeing where growth goes.

10. Key Information

Legislative Background

10.1 Development consisting of a change of use of an agricultural building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) is permitted development under Article 3, Schedule 2, Part 3 Class Q to The Town and Country (General Permitted Development) Order 2015. This allows development consisting of a) change of use from agricultural to residential and b) building operations reasonably necessary to convert the building.

10.2 As part of their assessment, the Local Planning Authority (LPA) is required to determine whether the proposed development complies with any conditions, limitations or restrictions specified within the relevant regulations as being applicable to the development in question

- 10.3 The prior notification has been assessed against the criteria set out within Class Q, and is considered to accord with those criteria such that the proposed development would be deemed to be permitted development. This application can only assess whether prior approval of details is required, as set out in paragraph 1.1 of this report, will be required by the LPA. The LPA has no control over the principle of the development and cannot consider other issues and impacts outside the scope of this listed at paragraph 1.1.
- 10.4 As such, this report will consider those matters in turn.

Transport and Highways Impacts

- 10.5 The site is accessed from Kersey Road utilising the existing access to the agricultural barns and buildings associated with Lodge Farm. The access track is in a reasonable state and is of a good width. No objections have been received from the County Highway Authority regarding the proposed change of use subject to conditioning the parking and turning area provided in drawing number 16/011/05 for the purposes of loading, unloading, manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Noise Impacts

- 10.6 Given the degree of separation between the buildings and nearby properties, the noise impacts associated with the proposal are not considered to be significant. The building is located close to the agricultural fields but this is not considered to be close enough to cause noise disturbance.

Contamination Risks

- 10.7 The National Planning Policy Framework (NPPF) states that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner (paragraph 120).
- 10.8 The NPPF states that planning policies and decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (paragraph 121).

- 10.9 The application is supported by a Homecheck Report and Land Contamination Questionnaire. Babergh District Council's Environmental Health team are satisfied the proposal will be of low risk and, therefore, no further details are required in this regard.

Flooding Risks

- 10.10 The application is supported by a Homecheck Report, which has also assessed potential flood risks on site. The site is not located within flood zone 2 or 3, however has shown possible risk of surface water flooding. A condition is, therefore, proposed to seek a surface water drainage strategy to identify how surface water will be dealt with, to safeguard the ground water environment and minimise the risk of flooding.

Whether the Location or Siting of the Building Makes it Otherwise Impractical or Undesirable for the Change of Use

- 10.11 Consideration must be given to the National Planning Policy Guidance which was updated in March 2015 in regards to the issue as to whether the locational 'sustainability' of the proposed development is intended to be a material consideration in determining an application for the prior approval for a change to residential use. This clarification arises from a number of Authorities as well as the Planning Inspectorate, interpreting that such a test was within the provisions of the regulations. The revised ministerial guidance makes it clear that the permitted development right does not apply a test in relation to sustainability of location.
- 10.12 The Government revised the guidance supporting these regulations on 5th March 2015. The revised guidance states as follows:

"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.

Impractical or undesirable are not defined in the regulations, and the local planning authority 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".

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”.

- 10.13 The existing barn benefits from vehicular access and would be situated adjacent to residential properties. Whilst the access track is outside of the defined curtilage and the area that is the subject of the change of use, the access track is also already associated with the existing residential use. This is indicated by Lodge Farm's access to the site and associated surrounding buildings.
- 10.14 There are no neighbouring properties in the vicinity which would have their residential amenity, (privacy, light or outlook) unacceptably affected by the development.
- 10.15 The application is accompanied by a protected species survey undertaken by a qualified Ecologist. It concludes that the barn does not presently represent a suitable habitat for protected species and that protected species would not be harmed as a result of the proposal; no further surveys are necessary. Officers consider the report provided to be sound and accurate, therefore consider that the proposal would not be harmful to protected species and that development would not be undesirable in this context.
- 10.16 As such, in light of the PPG guidance, it is not considered impractical or undesirable for the change of use of the barn to occur in this instance.

The design or external appearance of the building.

- 10.17 The barn is judged to be structurally sound and therefore it is only proposed to alter the fenestration of the barn by creating openings to facilitate the conversion to residential use, adding light to the interior. The character of the barn would change as a result; having a more domestic appearance. The particular windows proposed are quite striking in their design, and there is a level of uncertainty as to how traditional or sympathetic they would appear, however, as modern interventions into the building it is not considered that their design would adversely affect the appearance of the building to such an extent as to warrant refusal of the prior notification. The building is not judged to have any particular historic merit and therefore can adsorb the level of intervention proposed. A condition is recommended regarding the materials and finish of the fenestration to be agreed at a later date.

Conclusion

- 10.18 Having regard to the above assessment, the information that has been provided in support of the application and the responses from consultees, it is considered that prior approval is required and that prior approval is given subject to the following conditions:

- Development to be implemented in accordance with the approved plans
- No development shall commence until a surface water drainage scheme have been submitted to and approved, in writing, by the Local Planning Authority. Such details shall demonstrate a sequential approach to the scheme chosen, whereby a preference will be given for Sustainable Drainage Systems (SuDS). The agreed surface water drainage scheme shall be completed in accordance with those details approved prior to the first occupation of the dwellings and thereafter maintained as agreed.
- No development shall commence until large scale details of the fenestration (windows and doors) together with their materials and finish have been submitted to and approved in writing with the Local Planning Authority. Only the approved details shall be implemented.
- Parking Condition - The use shall not commence until the area(s) within the site shown on 16/011/05 for the purposes of loading, unloading, manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

11. Appendices

None.

12. Background Documents

12.1 Relevant papers of Planning File B/16/00386/AGDW

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