

OFFICERS REPORT

Application No: Y17/0008/PA

Location: Nobbs Hall Old House Lane Brookland Romney Marsh Kent TN29 9RH

Proposal Determination as to whether prior approval is required under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use and conversion of 3 agricultural buildings to 3 No. dwellinghouses (Class C3).

ASSESSMENT

Performance data:-

Date application valid: 16.03.17

Applicable 8/13/16 week target date: 11.05.17

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) ? N

If Yes, revised 8/13/16 week target date:

Is the application being determined after 26 weeks without a PPA or a PEA? N

DESCRIPTION OF SITE & SURROUNDINGS

The site is located on Old House Lane within the area of Brookland. The site is located outside the settlement boundary of Brookland as defined in the Councils Local Plan.

A site visit was carried out on 13/03/17 to the area outlined in red on the submitted site location plan which is adjacent to Nobbs Hall, a residential dwelling on the corner of Old House Lane and Rectory Lane. Three detached buildings are subject to this application, two which front Old House Lane, and the third which is at perpendicular to Old House Lane.

PROPOSED DEVELOPMENT

The application is a prior notification for the change of use of three buildings from agriculture to Use Class C3 (residential). The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 which forms the basis of the assessment.

The three buildings are referred to as N1 and N2 which are two Nissan huts, and the third building is referred to as a barn/cow shed.

It is proposed to replace the roof to both N1 and N2 which currently have corrugated roofs. The roof would be replaced with a pitched roof with slate roof tiles. The floor would be raised by 150mm to accommodation insulation and screed. Non-load partitions would be installed.

The barn/cow shed would be insulated and the roof timbers would be replaced and re-roofed with slates. The floor would be insulated with timber floors. Non-load partitions would be installed.

PLANNING HISTORY

Relevant planning history:

Y07/1278/SH - Change of use of agricultural land for keeping of horses together with the erection of stables and store rooms and formation of sand menage. Approved with conditions. This does not appear to have been implemented.

PLANNING POLICY BACKGROUND

The Planning Policy Guidance published March 2015 clarifies the permitted development position regarding the change of use from an agricultural building to a dwellinghouse under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Class Q assumes that the agricultural buildings are capable of functioning as dwellings. However, it recognises that for the buildings to function as dwellings some building operations which would affect the external appearance of the buildings, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs or 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. The Planning Policy Guidance is clear that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing buildings are structurally strong enough to take the loading which comes with the external works to provide for residential use that the buildings would be considered to have the permitted development rights. Works that amount to substantial demolition and reconstruction or replacement of the existing fabric of these dwellings would go beyond what is permitted.

CONSULTATION RESPONSES

Technical Reps:

Kent Highway Services - No comments to make.

Environment Agency - No objection

Contamination Consultant - No contaminated land documents submitted. Apply a standard land contamination condition given the previous use of the buildings.

Brookland Parish Council - Raise concern regarding neighbouring amenity/ lack of infrastructure/ outside settlement boundary

KCC Ecology - No objection, raise potential for bats to be roosting

KCC LLFA - No comment outside their remit

OFFICER ASSESSMENT

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 relates to: "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; and building operations reasonably necessary to convert the building referred to in above to a use falling within Class C3 (dwellinghouses) of that Schedule".

PERMITTED DEVELOPMENT

Class Q. Development consisting of -

- (a) 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
- (b) Building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of the Schedule.

DEVELOPMENT NOT PERMITTED

Q.1 Development is not permitted if:

- a) the site is not used solely for agricultural use as part of an established agricultural unit -
 - (i) on 20th March 2013, or
 - (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 10 years before the date development under Class Q begins;

The applicant has provided a Supporting Statement which states that the buildings are set within a 15 acre agricultural unit and the buildings subject to this application consist of a barn/cowshed, and two detached buildings (N1 and N2). The applicant states that the historic use of the buildings has been for the rearing and sheltering of livestock and were in use on 20th March 2013 and were last for agricultural use as as part of an agricultural unit.

- b) the cumulative floor space of the building or buildings changing use under Class Q within an established agricultural unit exceeds 450sqm;

This is not exceeded.

- c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;

Three dwellings are proposed.

- d) the site is occupied under an agricultural tenancy, unless the consent of both the landlord and tenant has been obtained;

The buildings are not occupied under agricultural tenancy according to the applicant.

- e) 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;

According to the applicant the buildings have not recently been rented to an agricultural tenant.

- f) 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;
 - (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;

No development permitted by the above Order has been carried out since 20th March 2013.

- g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

The information submitted by the applicant indicates there would be an increase in width of two of the buildings, N1 and N2 to accommodate the pitched roof and therefore an overall enlargement of the buildings. Therefore, given the information submitted, it is considered that the proposal does not comply with Q(g) and therefore the application must fail.

- h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

The total floor-space would be less than 450sqm.

- i) the development under Class Q(b) would consist of building operations other than -
- (i) the installation or replacement of -
 - (aa) windows, doors, roofs or exterior walls, or
 - (bb) water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse;
 - and
 - (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1 (i)(i);

It is acknowledged through recent case law that some works which are "reasonably necessary" can include the replacement of roofs OR the installation of new exterior walls; however in the absence of structural surveys, it is considered that in this instance the applicant 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; specifically Q.1 (i)(i) and (i)(ii). Therefore, given the information submitted, it is considered that the proposal does not comply with Q(b) and therefore the application must fail.

- (j) the site is on article 2(3) land;

The application site is not on Article 2(3) land.

- (k) the site is, or forms part of -
- (i) a SSSI
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area

The site does not fall within any of these land use designations.

- (l) the site is, or contains a schedule monument or

The site is not/does not contain a scheduled monument.
(m) the building is a listed building.

The building is not listed.

Class Q is subject to a number of conditions under Q.2 which are considered in turn below.

TRANSPORT AND HIGHWAYS IMPACTS

In this instance it is not considered that the development would result in a material increase or a material change in the character of the traffic in the vicinity of the site.

NOISE IMPACTS OF THE DEVELOPMENT

In this instance it is not considered that the development would result in a material increase or material change in the level of noise on the site.

CONTAMINATION RISKS ON THE SITE

Agricultural/farm use can give rise to contamination both from recent use and also historic. Uses that could give rise to contamination are for example, storage/repair of farm machinery, storage/use of farm chemicals (herbicides and pesticides) etc. In this instance the Council's contamination consultant is content that any potential contamination could be dealt with by condition.

FLOOD RISKS OF THE SITE

The site is located within a Flood Zones 2 and 3 as identified by the Environment Agency Maps however the site is not located within an area at risk of flooding under the Council's Strategic Flood Risk Assessment for 2115 and therefore there is no conflict in terms of future flood risk.

LOCATION OR SITING OF THE BUILDING

The site is adjacent to a residential dwelling and the Local Authority has no reason to consider this site to be an undesirable location a change to residential use.

DESIGN OR EXTERNAL APPEARANCE OF THE BUILDING

Overall the design of the conversions proposed are reasonably sympathetic, and would still retain the appearance of agricultural buildings/barns within the countryside.

Conclusion

The prior approval procedures in paragraph W of Part 3 of Schedule 2 to the General Permitted Development Order clarifies that local planning authorities may refuse the application if the proposed development does not comply with any conditions, limitations or restrictions specified in Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Therefore, it is the Council's opinion that the proposal fails to comply with Class Q.1(i), Q.1(g) of Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 and therefore the application must fail and prior approval is refused.

Local finance consideration

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant

authority has received, or will or could receive, in payment of the Community Infrastructure Levy. New Homes Bonus payments are not considered to be a material consideration in the determination of this application. In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning obligations for infrastructure improvements in the area.

RECOMMENDATION :

The information supplied with the application fails to demonstrate that the proposed development would be permitted development as set out in the criteria of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 by virtue of:

* In the absence of a structural information, the Local Authority is unable to assess whether the buildings are capable of being converted for the buildings to function as dwellings without substantial rebuilding and/ or demolition which would be beyond what is reasonable necessary for conversion, contrary to what is permitted under Q.1 (i).

* The external dimensions of buildings N1 and N2 would be enlarged in width beyond the external dimensions of the existing buildings contrary to what is permitted under Q.1 (g).

Accordingly, the proposed development does not comply with the conditions, limitations or restrictions specified in Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Case Officer:

Report and draft decision notice completed and passed to senior officer.

Name: Louise Daniels Position: Senior Planning Officer Date: 11.05.17

Report and draft decision notice amended (if appropriate)

Name: Position: Date:

Senior Officer

Report not agreed. Details of further work required as follows:

Name: Position: Date:

Report and draft decision notice agreed and file passed to admin to issue decision.

Name: C Dethier Position: DM Team Leader Date: 11/5/17