

DELEGATED DECISION REPORT

DET/2021/0002
Valid 10/02/2021

GOW HOLE FARM GOW
HOLE
FURNESS VALE

4 PROPOSED HOUSES
CREATED BY CONVERTING
BARNs.

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- Whether the proposed change of use satisfies the criteria set out under paragraph Q.1 to Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2018 (As Amended)
- Whether Prior Approval is required and if so, is the proposed change of use acceptable with regards to the issues set out within Paragraph Q.2:
 1. Transport and Highways
 2. Noise impacts
 3. Contamination risks
 4. Flooding risks
 5. Whether the location of 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
 6. Design or external appearance of the building
- Other matters to consider under the provisions of Paragraph W

DESCRIPTION OF SITE

PROPOSAL

This application seek prior approval for the conversion of two existing agricultural buildings into four dwellings comprising two, two bedroom units and two one bedroom units.

Since the initial submission, a revised flood risk assessment, a bat emergence assessment and a revised car parking layout has been received.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

S 1 Sustainable Development Principles
S 1a Presumption in Favour of Sustainable Development
EQ 6 Design and Place Making
CF 6 Accessibility and Transport

National Planning Policy Framework

Paragraph(s) 11
Section(s)*

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2015/0336 – Proposed conversion of outbuilding/bars to 5 dwellings – Approved
NMA/2018/0006 – NMA in relation to repositioning of building 2 – Refused.
HPK/2011/0291 – New site access – Approved.

CONSULTATIONS

Publicity

Site Notice expiry date:
Neighbour consultation period ends:
Press Advert: N/A (*Add date if applicable)

Public Comments

None received.

Town / Parish Comments

No comments received.

Environmental Health

Revised comments:
The submitted contaminated land desk study (PES, ref: 41694R1 Iss Rev A, dated December 2014) recommends that the assessment is progressed to a Phase 2 intrusive investigation. Because of this and to protect the health of the public a number of conditions are recommended.

AES Waste Services

No issues regarding waste collections. Note bin collection should be from Marsh Lane.

Derbyshire County Council Highways

It would appear that there is considerable history associated with this site, not least application 2011/0291 for a new site access and 2015/0336 for conversion of barn/outbuildings to 5 No. dwellings.

In respect of the latter, the Highway Authority raised no objections to the proposal following speed readings, in lieu of alterations to the access to improve visibility and recommended conditions and notes being included in any planning consent. Comments on this application are given on the basis that the alterations to the access have been implemented and visibility should be maximised over controlled land/highway from a 2.4m set-back distance.

It would appear from the information provided, that there would be an under provision of off-street parking given that two/three bedroom dwellings should be provided with two off-street parking spaces of minimum dimensions 2.4m x 5.5m clear of any shared/manoeuvring area and vehicles should be able to enter and exit the site in a forward gear. The Highway Authority would also wish to ensure that existing off-street parking for the existing dwelling is maintained. Any under provision of off-street parking could negate manoeuvring provision and the Highway Authority would not wish to see vehicles reversing to or from Gow Hole. The less off-street parking that is provided, the more the above concerns are likely to be exacerbated.

It is noted that there seems to be a discrepancy between the site and location plan and the drawing named 2583-2 Gow Hole Farm, Gow Hole, Furness Vale on your Authority's website in that the latter apparently demonstrates two less parking spaces. Any under provision of off-street parking could negate manoeuvring provision and the Highway Authority would not wish to see vehicles reversing to or from Gow Hole. Given the distance the proposed properties would be from the publicly maintainable highway manoeuvring should also accommodate smaller service/delivery vehicles e.g. supermarket delivery.

A bin dwell area for refuse/recycling collection days would also be required to the rear of the highway and clear of the access. You will appreciate the potential residents will be required to take their bins some considerable distance. This area should be of sufficient dimensions to accommodate the maximum number of bins on any one collection day.

Derbyshire Wildlife Trust

Revised comments:

Updated bat surveys and a building inspection have now been undertaken at the above site (Rachel Hacking Ecology, June 2021). The building inspection identified bat droppings in both barns and feeding remains in the roof void of Barn 2 (note - the barns are not numbered on the report figures). The barns were considered to have 'moderate' potential to support roosting bats and two nocturnal surveys were undertaken. However these did not identify any bats emerging from the buildings. Consequently the report recommends that no further survey or mitigation is required.

We have concerns that a third nocturnal bat survey was not undertaken when evidence of bats was found yet no bats were recorded during the two surveys. Guidance (Collins, 2016) advises that in this situation further survey visits would be advantageous to be confident in a negative result.

In addition, the spread of surveyors would appear not to cover all elevations of the buildings and therefore there is a risk that emerging bats could have been missed. Also, no DNA analysis of the droppings was undertaken to identify the species of bat which has previously used the barns.

To increase the confidence that bats will not be adversely impacted by proposals, we advise that to provide greater coverage with the same number of surveyors or b) a method statement and watching brief is conditioned for works. The preferred approach should be confirmed by the applicant/their ecologists and secured through an appropriately worded condition.

It should also be clarified whether any roosting features could be retained in situ i.e. any gaps in stonework and whether either roof void could be retained for use by bats (I am not clear whether both voids will be fully converted). Additional features, such as bat boxes, would also help to retain some roosting opportunity on site as recommended in Section 5.4 of the report. Retention of existing features and provision of new features should be secured through an appropriately worded condition.

Lead Local Flood Authority

Revised FRA:

No comments to make.

Initial comments:

Derbyshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the 9th information submitted for this application, which was received on February 2021. The LLFA recommends an objection for the reasons set out below.

The Flood Risk Assessment supplied is no longer suitable and needs to be updated as it pre-dates NPPF guidance from 2015 onwards. Please also note, the proposed application is located within Flood Zone 3 and the LLFA anticipate that the Environment Agency should be consulted.

Tree Officer

No objection.

OFFICER COMMENTS

- 1. Whether the proposed change of use satisfies the criteria set out under paragraph Q.1 to Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2018 (As Amended)**

Class Q allows for –

- (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 (dwellinghouse) of the Schedule to the Use Classes Order; and
- (b) development referred to in paragraph (a) together with building, operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouse) of that Schedule.

To be permitted, the development must not conflict with any of the criteria under Paragraph Q.1. An assessment of the proposal against this criteria is undertaken below:

Q.1 Development is not permitted by Class Q if –

- (a) ***the site was not solely used for an 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;***

I am satisfied that the buildings have historically been used for the purposes of agriculture. There is no evidence to suggest that the building has been used for any other purpose and as such the proposal accords with criterion (a).

(b) ***in the case of –***

- (i) ***a larger dwellinghouse, within an established agricultural unit***
 - (aa) ***the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or***
 - (bb) ***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;***

The proposed larger dwellinghouse developed would have a floor space of 120 square metres. As such the development complies with Q.1(b).

The proposed change of use would result in the current agricultural building being 'converted' to a single dwellinghouse which has a floor area of 120 square metres; and thereby complies with Q.1(b).

(c) ***in the case of –***

- (i) ***a smaller dwellinghouse, within an established agricultural unit –***

- (aa) the cumulative number of separate small dwellinghouses developed under Class Q exceeds 5; or**
- (bb) the floor space of any separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;**

Paragraph Q.3 provides the definition for a “smaller dwellinghouse” as meaning a dwellinghouse developed under Class Q which has a floor space of 100 square metres or less.

The proposed change of use for the remaining three units would have a floor area of would between 50 – 61 and thereby complies with Q.1(c).

- (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 –**
 - (i) 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;**
 - (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;**

The larger dwellinghouse has a maximum floor area of 120 sqm and the cumulative number of smaller dwellinghouses would amount to 3. Therefore the development complies with Q.3 (d) (i) and(ii).

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

Section 5 of the Application Form confirms that the site is not currently occupied under an agricultural tenancy agreement and that there has been no previous tenancy agreement in the year before the proposed development. The application is therefore compliant with paragraph Q.1(e).

- (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.**

There has been no previous tenancy agreement in the year before the proposed development. The application is therefore compliant with paragraph Q.1(f).

- (g) development under Class A(a) or Class B(a) of Part 6 of this schedule (agricultural buildings and operations) has been carried out in 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 of development under Class Q begins;**

Part 6 of the GPDO relates to Agricultural and forestry. Class A relates to agricultural development on units of 5 hectares or more, with Class B relating to units of less than 5 hectares. A review of the site planning history has found that there is no record of any development that has been carried out under Class A(a) or Class B(b) of Part 6 of the GPDO since 20th March 2013.

- (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;**

The plans submitted with the application shows that there would be no increase in the footprint of the building or any additions to the building which would protrude beyond the existing external dimensions at any point. As such, the proposal is considered to comply with paragraph Q.1(h).

- (i) the development under Class Q(b) would consist of building operations other than –**
 - (i) the installation of –**
 - (aa) windows, doors, roofs or exterior walls, or**
 - (bb) water, drainage, electricity, gas and other services**

To the extent reasonably necessary for the building to function as a dwellinghouse;

The submitted drawings illustrate the proposed layout and elevations, and annotations which identify the proposed works to facilitate the conversion.

In the context of Q.1, the judgement in the case of *Hibbit & Anor v Secretary of State for Communities & Local Government & Ors* (the Hibbitt judgement) is relevant. The Hibbitt judgement addresses the extent to which buildings operations to facilitate residential use may be considered to amount to ‘conversion’ of the relevant agricultural building. Briefly summarised, it explains that where the nature of works proposed would be is fundamental as to effectively result in a rebuilding of the relevant building based on planning judgement, this is not permissible.’

Following the Hibbit judgement, the Planning Practice Guidance (the PPG) was amended. It sets out at paragraph 105 that it is not the intention of the permitted development right to include the construction of new structural elements of the

building and it is only in circumstances where the existing building is ready for conversion to residential uses that the building would be considered to have the permitted development rights.

The plans do not indicate that any structural works would be necessary, and that only external works relate to the insertion of windows, doors, roof lights and flues. Therefore the development complies with Q.3 (i).

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

Article 2(3) land is defined as an area within a Conservation Area; an area of outstanding natural beauty; an area specified under the Wildlife and Countryside Act 1981; the Broads; a National Park; or a World Heritage Site. None of the above applies to this site and therefore the proposal is compliant with paragraph (j).

(k) the site is, or forms part of –

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iv) a military explosives storage area;

The application site is neither a site of special scientific interest; a safety hazard area; or a military explosives storage area; and therefore the application is compliant with paragraph (k)

(l) the site is, or contains, a scheduled monument;

The site does not contain a scheduled monument and as such the application is compliant with paragraph (l)

(m) the building is a listed building

The building subject to the application is not a listed building and is therefore compliant with paragraph (m).

2. Whether Prior Approval is required and if so, is the proposed change of use acceptable with regards to the issues set out within Paragraph Q.2:

- (a) Transport and Highways**
- (b) Noise impacts**
- (c) Contamination risks**
- (d) Flooding risks**
- (e) Whether the location of 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**
- (f) Design or external appearance of the building;**
- (g) The provision of adequate natural light in all habitable rooms of the dwellinghouse**

and the provisions of paragraph W (prior approval) of this Part apply

The matters of Prior Approval are discussed as follows below:

Transport and Highways Impacts

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network and provides suitable off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan.

Paragraph 110 of the NPPF states that in assessing applications for development, safe should be achieved for all users. Paragraph 111 goes on to state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed dwellings will utilise the existing access that has been installed pursuant to HPK/2011/0291 from Marsh Lane. This new access provides suitable visibility splays. Revised plans have been submitted which show a total of 9 off parking spaces, with two spaces allocated to Barns 1 and 3 (two bedrooms), three spaces for both of the one bedroom units, and two spaces to serve the existing farmhouse. This would accord with the Council adopted parking guidance as set out in Appendix 1 of the Local Plan. The revised plans also show the provision of a effuse bin collection area towards the entrance into the site, set behind the visibility splays.

In light of comments received by the Highways Authority, it is considered that Prior Approval is not required with regard to matters relating to Transport and Highways impacts, as all matters relating to highway safety, were addressed under the earlier consent in 2011 and sufficient off road parking provision can be provided within the site.

Subject to requiring the parking to be provided before occupation, the application is considered to comply with LP Policy CF6 and paragraph 110 of the NPPF.

Noise Impacts

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

Chapter 15 of the NPPF contains relevant paragraphs relating to the conservation and enhancement of the natural environment. Paragraph 185 states that development should ensure that impacts upon public amenity including noise should be avoided and where necessary mitigated.

The applying site located in a relatively isolated location with the nearest residential property includes Ivy Cottage to the south east which is over 100m from the application site. Commercial premises lie to the west but again are over 100m from the site.

Taking account of the nature of the works proposed it is not considered that the development would cause or experience any impacts of noise. Furthermore, there are no surrounding uses that would give rise to any adverse noise impacts to future occupants. As such Prior Approval is not required in this regard.

Contamination Risks

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

Chapter 15 of the NPPF contains relevant paragraphs relating to the conservation and enhancement of the natural environment. Paragraphs 183-185 of the NPPF relate specifically to matters of land contamination and the need for appropriate mitigation to be secured in the interests of public amenity.

The application is accompanied by a Phase 1 contamination report, which recommends that further investigations are undertaken through the submission of a Phase 2 report. The Environmental Health Officer has reviewed the report, concluding that a Phase 2 report should be submitted, and recommended a number of other conditions to control the works.

It is considered that Prior Approval is required with regards to matters relating to land contamination and that subject to conditions as requested by Environmental Health relating to contamination and asbestos, the application is in accordance with LP Policy EQ10 and relevant policies under Chapter 15 of the NPPF.

Flooding

LP Policy EQ11 refers to Flood Risk Management and requires all applications to demonstrate that the proposed development will not give rise to any unacceptable increase in flood risk either onsite or elsewhere in the Borough. Chapter 14 of the NPPF contains the relevant policies relating to meeting the challenge of climate change including flood risk.

The application site is located within a Flood Zone 1,2 and 3. However the buildings themselves lie within flood zone 1 and partially within flood zone 2. The revised FRA identifies that flooding from fluvial flooding is high and recommends a number of measures to address this, including signing up to the Environment Agencys flood warning service, the production of a flood management/evacuation plan for each dwellings, the inclusion of flood resilient measures and repairs to an existing wall next to the tributary and works to culvert. Accordingly subject to compliance with a condition to secure these works, it is not considered that the development would be at threat from flooding or cause flooding elsewhere.

Siting, Design and Appearance

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ2 seeks to protect, enhance and restore the landscape character of the Plan Area by requiring development to have particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, and that are sympathetic to and are informed by the distinctive landscape character areas as identified in the Landscape Character Supplementary Planning Document.

LP Policy EQ3 refers to rural development proposals which lie outside of the defined built-up area boundaries and seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

The High Peak Design Guide SPD provides useful guidance for new development in the rural open countryside and the conversion of non-residential buildings.

Chapter 5 of the Design Guide SPD relates to Extensions, Alterations and Conversion. With regards to conversions, paragraph 5.15 states that the guiding principle behind the design of any conversion should be that the character of the original building and its setting should be respected and retained, meaning that in most cases, the barn, mill or chapel should afterwards look like a converted barn, mill or chapel, and not like a new house.

Chapter 12 of the NPPF contains national planning policies which aim to achieve well designed places. Paragraph 130 states that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

The conversion works would involve the reuse of existing openings and would therefore be consistent with the existing character of the buildings. No details have been provided in respect of window details, the final finish of the elevations and boundary treatments which will need to be secured by an appropriate condition.

Subject to such conditions, it is considered that the application would comply with all relevant local and national policies and supplementary design guidance relating to design.

The provision of adequate natural light in all habitable rooms of the

dwellinghouse

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

A review of the proposed floor and elevation plans associated with the proposed change of use confirms that each habitable room is well served by windows to allow an adequate amount of natural light in all habitable rooms. Prior Approval is thus not required in this regard.

Other matters

The application has also been accompanied by an updated bat assessment. Derbyshire Wildlife Trust confirm they have no objection to the development proposals, provided that conditions imposed requiring that a third dawn survey is undertaken and measures to provide bats boxes are secured.

CONCLUSION / PLANNING BALANCE

Overall the development complies with Class Q.1. On consideration of whether prior approval is required for the matters considered under Q.2 (1), it is considered that prior approval is required.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Faye Plant/Jane Colley

Recommendation Date: 12/10/2022

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council