

DELEGATED DECISION REPORT

DET/2023/0010
Valid 25/04/2023

BARN AT
BIRCH HOUSE
SPINNERBOTTOM
BIRCH VALE

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR A
PROPOSED: CHANGE OF USE
OF
AGRICULTURAL BUILDINGS
TO ONE DWELLINGHOUSES
(USE CLASS C3), AND FOR
BUILDING OPERATIONS
REASONABLY NECESSARY
FOR THE CONVERSION

(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

The application relates to a detached building that is situated within close proximity to a former abattoir / knackers yard that lies in a relatively secluded and isolated location, accessed via a steep single private access track from the public highway Spinnerbottom, that lies approximately 300m to the south-west.

The wider site is within the control of the applicant, but not within the red edge, has been subject to three relatively recent planning applications for residential development. Outline applications were refused in 2011 and 2012, with the latter subject to an appeal that was dismissed. Full planning permission was subsequently refused in 2015, which was also subsequently dismissed in December 2016.

The building described as a 'barn' referred to within the appeal documents sat within the red edge of the 2012 application/appeal is subject to this application. It should be noted that it does not automatically follow that a simple description or reference to this building subject to this application as a 'barn' within the LPA appeal submission in 2012 means that it is accepted that the building is directly associated with an agricultural unit as defined within the GPDO.

The 'barn' building has a simple rectangular form orientated with its gable ends facing west and east, with the former fronting the private access track. An area of hard standing is situated immediately adjacent to the northern elevation. The building has walls that are constructed in a combination of breeze blocks, red brick at a lower level, with the upper portions of the walls clad in timber. The building is not enclosed on all sides, most notably with large openings in the western and southern elevations. The dual pitched roof is finished in corrugated sheeting.

The barn spans a length of approximately 8m and width of 5m, reaching an eaves height of 3.5m and overall ridge height of 4.8m.

At the request of Officers, to clarify the applicants position with regards to compliance with the relevant parts of Part 3, Class Q, a short Planning Statement has been submitted by the agent. The Statement submits that the buildings are situated within an agricultural holding that extends to 8.9 hectares (22 acres) which includes the buildings associated with the former abattoir / knackers yard and has an Agricultural County Parish Holding (CPH) Number (09/150/0353).

However, in the absence of specific details, it is unclear whether this Holding Number relates to the former abattoir / knackers yard, which, it would be reasonable to conclude would require a CPH for the keeping of livestock that were to be slaughtered.

PROPOSAL

This Prior Notification application has been submitted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended for the conversion of the existing detached building to a two bedroom residential dwellinghouse.

The Floor Plans show the ground floor to comprise a large Lounge, a Kitchen, small WC and Utility Room, with a flight of stairs leading to a first floor which comprises two bedrooms, and a shared bathroom.

New large glazed windows are shown to be located in the western and eastern elevations. On the northern elevation two new doors would be introduced, one

replacing an existing smaller opening, whilst the two existing first floor openings on the southern elevation would be utilised.

At the request of Officers, further information has been submitted. For the avoidance of doubt, the application has been assessed having regard to the following plans and documentation:

Plans

- Existing Floor Plans and End Elevations (01)
- Existing Side Elevations and Sections (02)
- Proposed Floor Plans and End Elevations (03A)
- Proposed Side Elevations and Sections (04A)
- Location Plan (05A)
- Site Plan (06)

Documents

- Application Form
- Structural Survey
- Planning Statement
- Schedule of Works for Conversion

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

The following history predominantly relates to the wider site which whilst not within the red edge, is shown to be included within the blue edge (land within the control of the applicant):

HPK/0002/7942	5no.new dwellings, rebuilding of existing chalet bungalow and details of site access (Withdrawn 24/06/1989)
HPK/0002/7968	7no. detached houses with garages and roadways (Refused 30/06/1989)
HPK/0003/2338	Carcass Processing Centre (Approved 19/04/1994)
HPK/0003/3337	Change of Use of Existing Incinerator Facility to include Clinical Wastes and Associated Wastes (Refused 29/04/1994)
HPK/2010/0350	Outline Application for Proposed Residential Redevelopment of 6no. detached dwellings (Withdrawn 22/09/2010)
HPK/2011/0101	Resubmission of HPK/2010/0350, Outline application for proposed residential development (Refused 23/05/2011)
HPK/2012/0292	Outline permission for proposed residential development (Refused 19/09/2012)

Appeal Dismissed – H1033/A/13/2193485

HPK/2015/0283 Demolition of existing dwellings and replacement with 3no.
detached dwellings (Refused 29/09/2015)
Appeal Dismissed – H0133/W/16/3147202

CONSULTATIONS

Publicity

Site Notice expiry date: N/A
Neighbour consultation period ends: N/A
Press Advert: N/A

Public Comments

None

New Mills Town Council Comments

No comment

Environmental Health

Initial Comments

Recommended that Prior Approval is required in relation to Land Contamination.

The site has been previously utilised as an animal incineration facility and knacker's yard. Previous site investigation indicates the need for further intrusive investigation and assessment to protect public health and the wider environment

Further Comments

Thank you for the clarification on the lawful use of the site.

Yes, I object on noise and odour grounds. We regularly got odour complaints from the site when it was operating.

Derbyshire County Council Highways

No objection.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Paragraph W sets out the procedure for any prior approval application under Schedule 2, Part 3 of the GPDO. Paragraph (10) states that the local planning authority must, when determining an application have regard to the National

Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

Revised National Planning Policy Framework 2021

Achieving Sustainable Development	Chapter 2
Delivering a Sufficient Supply of Homes	Chapter 5
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12
Climate Change and Flooding	Chapter 14
Conserving and enhancing the Natural Environment	Chapter 15

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) 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
- (a) 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 criterion 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;***

Paragraph X contains the interpretations for Part 3 of the GPDO. An “established agricultural unit” means agricultural land occupied for the purposes of agriculture and “agricultural building” means a building used for agriculture and which is so used for the purposes of a trade or business; “agricultural use” refers to such uses.

The building in question lies a short distance from the former abattoir and knackers yard which whilst not part of the application site, is included within the land edged blue on the Location Plan (Ref: 05A) and within the wider parcel of land that is shown within the supporting Planning Statement as being the agricultural unit.

The following passage is taken from the Planning Statement:

“The original date of construction of the barn is unknown, but it can be confirmed by the current owner and the previous owner of the land that the building has always been utilised for agricultural purposes including for the storage of machinery and livestock on the ground floor with hay and other foodstuffs on the upper floor.”

“It is further noted that the Council’s appeal statement for application HPK/2015/0283 states at paragraph 2.3 that there is ‘a barn and existing rural structures including stables adjacent to that appeal site, with the red edged location plan excluding the barn from the adjacent abattoir land which was the subject of the appeal. As the barn stands adjacent to the stables to the south, it is evident that the Council recognised the current application building as being agricultural nature when presenting their appeal case in 2016.’”

In further email submission dated 15/06/2023, the agent states the following:

“I should further clarify that the holding number was applied for by my client due to him having purchased the land relatively recently, but that it has always been utilised for agricultural purposes and does not form part of the adjacent abattoir complex.”

Whilst the Council do not dispute the fact that the building has the hallmarks and characteristics of an agricultural building, and are satisfied that the last use of the building was for agricultural purposes Officers must be satisfied that the building relates to an “established agricultural unit”, having regard to the definition under Paragraph X, in order to accord with Paragraph Q.1(a).

The applicant has provided an agricultural County Parish Holding (CPH) number of 09/150/0353. It is Officers’ understanding that a CPH number can be attached to an abattoir and knackers yard which is considered to be Sui Generis, with regards to its use. With this in mind, it does not automatically follow that the CPH number that relates to the wider parcel of land shown on the Location Plan refers to an established agricultural unit.

In the majority of cases, a building subject of an application under Part 3, Class Q of the GPDO will relate to a farm complex, and it will be relatively simply to ascertain that the building is associated with an established agricultural unit (i.e. a trade or business). However, in this case, no information has been provided with regards to the nature and history of the agricultural unit, and that this has been well established (i.e. been ongoing for a significant period). In the absence of such information, Officers are unable to conclude that the building, which is accepted was previously in agricultural use, formed part of an established agricultural unit, and are of the view that it is simply a stand alone building that has no connection with any farmstead or agricultural unit. Indeed on examination of the planning history of the site the building

appears to have been associated within the boundary of the abattoir, which would be a sui generis use.

As such, it is concluded that the application is not permitted by virtue of the fact that the applicant has failed to satisfactorily demonstrate that the building forms part of an established agricultural unit having regard to the definition under Paragraph X.

(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 application would result in a single dwellinghouse that has a floor area of approximately 90 sqm and thus Paragraph Q.1(b) is not relevant in this case.

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

- (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or**
- (bb) 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;**

The application would result in a single dwellinghouse that has a floor area of approximately 90 sqm and thus the application is compliant with Paragraph 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;**

Not applicable.

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

The completed 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 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;***

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. The parcel of land stated to form the agricultural holding is said to amount to 8.9 hectares. A review of the planning history shows that the area in question has not been subject to any Prior Notification applications under Part 6 of the GPDO, and as such, is compliant with Paragraph Q.1(g).

- (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;

In assessing whether these works fall within the parameters it is necessary to have regard to a High Court Judgement *Hibbit and Another v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin) made by Mr Justice Green. This Judgement was a landmark case for this type of application and is considered to be an important material consideration in the determination of this application; the key points of this judgement are discussed below.

This judgement provides firm clarity on the meaning of the word “conversion” and where a proposed “conversion” amounts to a “re-build”. Paragraph 26 of the judgement states:

“First, the concept of “conversion” is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that ***if a development does not amount to a “conversion” then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1.***” (My Emphasis)

Paragraph 27 goes on to explore the concepts of “conversion” and rebuild, as presented below:

“A “conversion” is conceptually different to a “rebuild” with the latter starting where the former finishes”

“Whilst I accept that a development following a demolition is a rebuild, I do not accept that this is where the divide lies. It is a matter of legitimate planning judgement as to where the line is drawn. The test is one of substance, and not form based upon a supposed but ultimately artificial clear bright line drawn at the point of demolition. Nor is it inherent in “agricultural building””

“There will be numerous instances where the starting point (the “agricultural building”) might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. In fact a more apt term than “rebuild”, which also encapsulates what the Inspector had in mind, might be “fresh build” since rebuild seems to assume that the existing building is being “re” built in some way. ***In any event the nub of the point being made by the Inspector, in my view correctly was that the works went a very long way beyond what might sensibly or reasonably be described as a conversion. The development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building.***” (My Emphasis)

At the request of Officers, the applicant has submitted a detailed Schedule of Works that details all elements of work that need to be carried out to facilitate the conversion. The application has also been accompanied by a Structural Survey.

A review of these documents, when having regard to recent appeal decisions in the Borough, are considered to amount to works which do not go beyond what is permitted under Paragraph Q.1(i) having regard to the Hibitt Judgement. As such, notwithstanding other aspects of the development which result in the proposal not being permitted, the development is considered to accord with Paragraph Q.1(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 Q.1(j)

(k) the site is, or forms part of –

- (i) a site of special scientific interest;**
- (ii) a safety hazard area;**
- (iii) 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 Q.1(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 Q.1(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 Q.1(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;

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

An assessment of this prior notification application has concluded, based on all information submitted by the applicant and other material considerations, that whilst the building was previously used for agricultural purposes, the applicant has categorically failed to demonstrate that the building in question forms part of an “established agricultural unit” having regard to the definition contained under Paragraph X. As such, the application is not permitted as it fails to comply with Paragraph Q.1(a).

However, if without prejudice to the above, one were to take a different view in this regard, it is considered that the application requires Prior Approval in order to assess the suitability and quality of the proposal, and any potential impacts, in line with the procedure set out at Paragraph W, having regard to relevant policies within the National Planning Policy Framework.

(a) Transport and Highways

Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can 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 site benefits from a private access from the public highway and includes a generous area of hard standing adjacent to the northern elevation that is shown to provide 2no. parking spaces which aligns with the Council’s Parking Guidelines. The Highways Authority have not raised any objection to the proposals.

For these reasons, matters of transport and highway safety is not considered to require Prior Approval.

(b) Noise Impacts

Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution and health. This includes mitigating and reducing to a minimum potential adverse impacts resulting from noise.

The site lies within close proximity to a former abattoir / knackers yard which although redundant continues to retain its lawful use, and could thus re-commence at any time. On this basis, Officers re-consulted Environmental Health to clarify whether Prior Approval would be required in relation to potential noise impacts.

Further comments from the Environmental Health Officer acknowledges the point relating to the lawful use of the site and has confirmed his objection on grounds of noise (as well as odour).

In light of further comments from Environmental Health and the fact that the resultant dwelling would be situated in close proximity to a site that, retains its lawful use as an

abattoir / knackers yard, and could re-commence at any time without planning permission, which due to its heavy industrial use, has the potential to harm the amenity of future occupiers due to significant noise impacts. It is concluded that Prior Approval is required and refused on grounds of noise impacts. No information has been submitted to address this matter.

(c) Contamination Risks

Paragraph 183 of the NPPF states that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land stability and contamination, including risks arising from former activities.

The site lies within close proximity to, and in the absence of any detailed information, may have been directly associated with the former abattoir / knackers yard. Comments received from Environmental Health states that previous site investigation indicates the need for further intrusive investigation and assessment to protect public health and the wider environment, and as such Prior Approval is required.

The application is not accompanied by any Phase I Land Contamination Report or a Phase II Remediation Strategy. In the absence of such information, it is not possible to conclude whether this matter of Prior Approval could be granted, even by way of condition, notwithstanding other issues associated with the application. In light of these comments and the absence of any relevant technical documentation, it is concluded that Prior Approval is required and refused in relation to contamination risks.

(d) Flooding Risk

Chapter 14 of the NPPF sets out the relevant national planning policies for climate change and flooding, requiring proposals to be located where it would not result in any increase in flooding on site or elsewhere in the locality.

The site is not situated within a Flood Zone as defined on the Environment Agency's Flood Risk Map and as such the proposal would not result in any harm with regards to an increase in flood risk, either on site or elsewhere in the District. As such, it is considered that prior approval is not required in relation to flood risk.

(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

The site is situated within the confines of a former abattoir / knackers yard which amounts to heavy industrial use that when operational, has the potential to generate significant levels of odour, which in turn has the potential to significantly harm the amenity of future occupiers of the property.

In light of the fact that the redundant site could re-commence the same operation lawfully without the need for planning permission, and the objection from Environmental Health, it is considered that the additional risks to public health and residential amenity relating to odour from the existing lawful use makes the location

and siting of the building undesirable for the proposed use as a dwellinghouse, and would be contrary to relevant paragraphs under Chapter 15 of the NPPF.

(f) Design and external appearance of the building

Chapter 12 of the NPPF contains national planning policies which aim to achieve well designed places, and makes clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.

Paragraph 130 of the NPPF 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.

Paragraph 133 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way in functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

The Landscape Character SPD (2006) identifies that the site lies within the 'Settled Valley Pastures' Landscape Character Area (LCA). Guidance is provided in relation to building detail within this LCA which includes "*materials, colour and textures should reflect local buildings*".

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 7 of the Design Guide SPD refers to materials and makes clear that the most traditional materials that relate to the Borough are naturally sources stone, brick and in some instances render. Paragraph 7.25 makes clear that there is no tradition of timber boarding in the High Peak.

The resultant 'conversion' would result in a dwellinghouse that is dominated by timber boarding/cladding above a low block base, which would be punctuated by domestic openings, some of which work with existing openings but some of which are newly created. An extensive amount of glazing is shown in the western and eastern elevations, which spans across ground and first floor level.

The existing building is a functional practical building that was not designed to be a permanent feature in the landscape. Having regard to local and national planning policies and relevant supplementary planning guidance, the building is not considered to be appropriate for conversion with regards to its architectural merit, as it is considered that for dwellinghouses to appear as an agricultural building amounts to poor and wholly inappropriate design.

The proposed plans show that the resultant dwelling would be dominated by and finished in a larch timber cladding that is alien to the character and appearance of the local landscape, in the context of its proposed use, and is not a traditional material used in the construction of residential properties, either historically or in more recent times. The choice of materials, and the extent of new glazed openings created, would result in significant harm to the character and appearance of the immediate rural landscape, contrary to the Landscape Character Assessment SPD, Residential Design Guide SPD, and relevant paragraphs under Chapter 12 of the NPPF. Prior Approval is thus required and refused in relation to Design and External Appearance.

3. Other matters to consider under the provisions of Paragraph W

Sub heading (9) to paragraph W states that the local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine, which may include (a) “assessments of impacts or risks” and (b) “statements setting out how impacts or risks are to be mitigated”

Sub heading (10) states that when determining the application, the local authority must (a) take into account any representations made to them as a result of any consultation, and (b) have regard to the National Planning Policy Framework so far as relevant to the subject matter of prior approval.

Chapter 15 of the NPPF contains the relevant national planning policies which relate to conserving and enhancing the natural environment, which include the protection of protected species. In particular paragraph 180 states that when determining applications, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.

The conversion of existing, typically older buildings that have had a previous agricultural use typically have the potential to accommodate protected species (bats) which are covered by the Wildlife and Countryside Act 1981. In the absence of any Preliminary Bat Roosting Survey submitted with the application, which could then in turn be reviewed by Derbyshire Wildlife Trust, it is not possible to conclude that there would not be any adverse impacts to protected species, and what mitigation can be implemented to ensure that such species are protected and that a net gain in biodiversity can be achieved.

In light of the above, it is concluded that Prior Approval is required and refused with regards to potential impacts on ecological assets, having regard to relevant policies contained under Chapter 15 of the NPPF.

CONCLUSION / PLANNING BALANCE

This Prior Notification application has been submitted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended for the change of use of an agricultural building to a dwellinghouse.

Having regard to whether or not the application amounts to permitted development, Officers conclude that insufficient information has been submitted that shows that the building subject of the application relates to an “established agricultural unit” having regard to the definition under Paragraph X, notwithstanding the fact that Officers accept that the building was previously in agricultural use. As such, the application fails to comply with Paragraph Q.1(a), is not permitted development, and requires full planning permission on this basis.

If an Inspector were to take a different view, then the Council have identified four matters of Prior Approval that are required and for reasons outlined within the body of report, are recommended for refusal.

The recommendation is therefore that Prior Approval is Required and Refused for the reasons set out above.

OFFICER RECOMMENDATION : Prior Approval Required and Refused

Case Officer: James Stannard

Recommendation Date: 20th June 2023

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council