



Appeal Decision

Site visit made on 23 July 2018

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th July 2018

Appeal Ref: APP/X1545/W/18/3198348

**Barn at Great Mountains Farm, Colchester Road, Great Totham, Essex
CM9 8ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs Pegley against the decision of Maldon District Council.
 - The application Ref COUPA/MAL/17/00981, dated 27 July 2017, was refused by notice dated 16 October 2017.
 - The development proposed is described as 'change of use of agricultural building to a dwelling house and for associated operational development'.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of agricultural building to a dwelling house and for associated operational development, in accordance with the terms of the application, Ref: COUPA/MAL/17/00981, dated 27 July 2017 subject to the following condition.
 - 1) The external finishing materials (including all external windows and doors) shall not be applied, erected or used until details outline those materials have first be approved, in writing, by the Local Planning Authority. Only the approved materials shall be applied, erected or used.

Preliminary Matters

2. Since the Council issued its decision the recent amendments¹ to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) have taken effect. The amendments to the GPDO have limited relevance to the main issue in this appeal.
3. For the purposes of this appeal I have taken the proposed development as being that described in the amended Paragraph Q.(b) of the GPDO. In the interests of brevity and precision I have taken the description of development from the decision notice. The Council's decision notice does not clearly state that its prior approval was required and subsequently refused. Nevertheless, I have interpreted the decision notice as meaning this.

¹ The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018

Background and Main Issue

4. Class Q of the GPDO permits the change of use of an agricultural building to a dwelling as well as building operations reasonably necessary to convert it. Paragraph Q.1(a) of the GPDO states that development is not permitted by Class Q if the site was not used solely for an *agricultural use* as part of an established *agricultural unit* on the 20 March 2013 or, 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. The site and building for the purposes of this appeal are identified in red on the site location plan.
5. Part 3 Paragraph X of the GPDO defines an 'agricultural building' as a building used for agriculture and which is so used for the purposes of a trade or business. An 'established agricultural unit' is defined in Paragraph X as agricultural land occupied as a unit for the purposes of agriculture. Whether or not the appeal building was an 'agricultural building' on or before the relevant date is a matter of fact and degree based on the particular merits of the case and the evidence presented
6. The Council are satisfied that the proposal meets all of the criteria contained in Class Q save for Paragraph Q.1(a). Furthermore, it has not taken issue with the matters listed for consideration in Paragraph Q.2. Therefore, if I find that the proposal does not offend Paragraph Q.1(a) then prior approval should be permitted. Thus, the main issue in this appeal is whether the appeal building was within an agricultural use on the date necessary for it to benefit from the permitted development rights conferred by Class Q of the GPDO.

Reasons

7. The appeal building is a red brick barn with a tiled roof. The south eastern elevation of the barn is partially open sided. It is part of a 'U' shaped complex arranged around a central yard and to the north east of the original farmhouse, which is the appellant's home. It has the form and appearance of an historic farm building and has been described in the past as being part of a late Victorian planned farm². A report prepared by Smart Planning and dating from October 2004 refers to the complex of barns, including the appeal building, as former farm buildings outside the curtilage of the appellant's home. This still appears to be the case.
8. The appellant has suggested that the appeal building was part of a long standing and larger farm complex which was subdivided in 1988 when the he purchased the farmhouse and the historic range of buildings. The Council have not disputed that the appeal building was in an agricultural use as part of an agricultural unit in 1988. I have no reason to come to a different view. However, the Council and the appellant have diverging views on how the appeal building has been used since 1988. The Council suggest that there has been no agricultural activity since 1988 and that the building has instead been used for both commercial and domestic activities.
9. There is nothing of substance before me to suggest that the appellant has ever operated an agricultural trade or business from the appeal building and it no longer appears to be part of an established agricultural unit. Photographs provided by the appellant suggest that he cut hay on his own land and stored it

² See Paragraph 13 of appeal decision APP/X1545/A/05/1175631.

in the yard adjoining the appeal building but it is unclear whether the hay was sold as part of an agricultural business or kept in the appeal building. It may merely have been cropped as part of the general maintenance of the land.

10. As such, the evidence before me does not indicate the appellant was involved in agriculture between 1988 and 2013. Thus, it is unlikely that the building was in an active agricultural use for the purposes of Class Q on the 20 March 2013. However, this does not mean it has moved away from its historic and lawful agricultural use. Particularly as a planning permission to use the building for purposes unrelated to agriculture has never been granted. On the balance of probabilities, the building was probably last in an active agricultural use as part of an agricultural unit in 1988. As such, it is important to examine whether there have been any lawful intervening uses.
11. At points between 1988 and 2004 the appellant operated a number of heavy goods vehicles (HGVs) from the yard as part of an agricultural haulage business. There is nothing to suggest the material being transported derived from an agricultural unit operated by the appellant.
12. The HGV licence only permitted the parking of HGV vehicles in the yard. The HGV vehicles were too large to be parked within the appeal building. There is nothing before me to suggest the barn formed part of this enterprise. Notwithstanding this, the use was never formally confirmed as being lawful, a point previously made by the Council³. Therefore, the lawful agricultural use, which has not been active since 1988, would have endured even if the building had been used at times to support the unlawful HGV business, which seems unlikely in light of the forgoing points.
13. The other buildings in the complex are used as a miscellaneous store and as somewhere for the appellant to keep and work upon his motorbikes. This would suggest the domestic use of the farmhouse has expanded into the range of barns. I have seen nothing to suggest these uses have been approved and little to demonstrate such a use is immune from enforcement action.
14. Notwithstanding this, the complex is divided into three distinct buildings. Two are currently used for domestic purposes whereas there is no evidence that the appeal building is currently used in this way. In fact, the appeal building is currently empty with little sign that it has been used for some time. It may have been cleared in preparation for my site visit and therefore its current vacant state is not determinative evidence in establishing the use of the building on or before the 20 March 2013.
15. The appellant's written statement, supported by photographs taken by the Council and appellant, suggest that the barn has been intermittently used to store a tractor and other paraphernalia left over from the historic agricultural use, such as apple crates. The barn has also, at points, been used to kennel dogs, to park vehicles and as a workshop. The observations of the case officer in 2004⁴, supported by photos, confirms this. The barn was described as being used for the storage of the owner's vehicles and farm equipment. It is unclear what farm the equipment related to. From a consideration of the photographs, the storage and workshop use appears to be domestic in nature given the items on show.

³ See Paragraph 20 of appeal decision APP/X1545/A/05/1175631.

⁴ When considering application 04/01086/FUL

16. The 2006 appeal decision⁵ refers to the range as single storey farm buildings but it also refers to the then current use as a store and workshop. This was probably the same use observed by the Council's Case Officer in 2004. Paragraph 19 of the 2006 appeal decision discusses the likelihood of the agricultural use being resumed; this would suggest there was no agricultural use evident in the range in 2006.
17. Pursuant to a planning application to convert the barns to ancillary residential accommodation, submitted in 2016⁶, the use of the barn was described by the Council's Case Officer as being for storage in association with Great Mountains Farm, the appellant's home. This would suggest a domestic use and the photos support this contention.
18. Therefore, the complex of barns, including the appeal building, appears to have been used for non-agricultural purposes in 2004, 2006 and 2016. It is unclear whether the non-agricultural uses were for unbroken periods of time, more than intermittent and consistently more than low key. As such, the recorded use of the appeal building as a store and workshop is unlikely to be sufficient evidence to demonstrate that a material change of use of the barn from agriculture to some other use has occurred. Thus the historic and long standing use as an agricultural building has endured. This would suggest that the barn has had a lawful dormant agricultural use since 1988.
19. The description of the barn as being agricultural and redundant on many occasions would support this proposition. Planning application 03/00952 was described as a proposal to convert *disused farm buildings*. This was replicated in application 04/01086/FUL. Moreover, a letter dated 30 November from Essex County Council to the appellant discusses the proposed conversion of the barn to a commercial use. There is no indication the barns, including the appeal building, had already moved away from being a complex of redundant farm buildings. I have seen nothing to suggest the Council ever suggested to the appellant in 2004, 2006 or 2016 that a material change of use from agriculture to some other use had occurred.
20. Furthermore, the appellant wrote to the Council on 8 March 2017 in connection with a land contamination check that *'the site was a working farm prior to 1988 when we purchased it. Since then the redundant farm buildings have not been used for any other use and have fallen into disrepair'*. This account appears to have been accepted by the Council and would suggest the last lawful use of the building was in 1988 and this was for agriculture as part of an agricultural unit.
21. The evidence before me is incomplete and finely balanced but, on the balance of probabilities, I find that the appeal building, whilst not in use on the 20 March 2013, was last lawfully used in 1998 and this was solely for agriculture in connection with an agricultural unit. In this respect, the permitted development rights in Class Q of the GPDO apply to the appeal building.

Other Matters, Conditions and Conclusion

22. There is no substantive evidence before me to indicate that the proposed conversion would have an adverse impact on biodiversity and would thus be undesirable. In forming this view I have had regard to the duty imposed in s40 of the Natural Environment and Rural Communities Act 2006.

⁵ APP/X1545/A/05/1175631.

⁶ Council reference 16/01510

23. In granting approval, the appellant should note that the GPDO requires (at Paragraph Q.2) that development permitted under Class Q subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. Moreover, Class W of the GPDO states that where prior approval is required, the development must be carried out in accordance with the details submitted. In this instance these are drawings 16-2283-1B. Given the historic nature of the barns, it is necessary to ensure the finishing materials are contextually appropriate and avoid, for example, the use of UPVc. I have therefore imposed a condition in this regard.
24. In conclusion, in order to benefit from the provisions of Schedule 2, Part 3, Class Q of the GPDO, the appeal building must have been an agricultural building within the Class Q meaning on the 20 March 2013 or if not on this , when it was last used. In this case sufficient information has been submitted to establish this and therefore I find that the proposal before me is permitted development. For the reasons given above, and having regard to all matters raised, I conclude the appeal should be allowed and approval granted.

INSPECTOR

Appeal Decision

Site visit made on 29 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2020

Appeal Ref: APP/J1860/W/20/3255136

Kerswell House, Kerswell Green, Worcester WR5 3PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr R Melling against the decision of Malvern Hills District Council.
 - The application Ref 20/00490/GPDQ, dated 9 April 2020, was refused by notice dated 9 June 2020.
 - The development proposed is the change of use of an agricultural building to a dwellinghouse and associated operational development.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the change of use of an agricultural building to a dwellinghouse and associated operational development at Kerswell House, Kerswell Green, Worcester WR5 3PF in accordance with the application 20/00490/GPDQ dated 9 April 2020, and the details submitted with it.

Procedural Matters

2. The application forms did not include a description of development. Consequently, it has been taken from the appeal forms and the decision notice. I have dealt with the appeal accordingly.
3. The Council refused the application pursuant to Class Q.(a) relating to a change of use. It does not dispute the proposal insofar as it relates to Class Q.(b) and therefore it is considered that the building operations presented under the appeal are reasonably necessary to convert the building, and this is reflected in the structural report submitted under the proposal. Given that the Council came to the decision that the proposal was not permitted development, it did not consider whether the proposal met the conditional requirements pursuant to Class Q.2. Therefore, I have made my own assessment under the appeal.

Main Issue

4. The main issues are whether the building was used solely for agriculture when it was last in use, and whether it was part of an established agricultural unit, established on or before 20 March 2013, and therefore whether the proposal is permitted development under Class Q.1; and whether the proposal satisfies prior approval matters under Class Q.2.

Reasons

Permitted Development

5. Class Q permits development consisting of 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 any building operations reasonably necessary to convert the building.
Paragraph Q.1 (a) sets out that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or 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.
6. The proposal relates to an outbuilding associated with a historical working farm. The site is set within an open countryside location and is of a rural character and appearance, with agricultural fields populating the surrounding environment. During my site visit, there were no clear signs of agricultural uses or activities on site.
7. However, the current use of the site and the building itself are somewhat peripheral given that the provisions of Class Q relate to the last use of the building and whether any agricultural unit had been established on or before 20 March 2013. In this context, the site visit confirmed that the building was not currently in use and appeared vacant. Furthermore, the Council's own reporting seems to confirm that there is no evidence that the building has been used for any other purpose. Consequently, the outcome of the appeal rests on the evidence relating to historical uses.
8. The appellant contends that the building was originally utilised for the storage of agricultural equipment, seed, produce and agricultural machinery as part of the original working farm. This claim is supported by a signed letter from the previous owners of the property which confirms that these operations were established before the sale in 2002. The statement from the previous owner, together with my observations on site, including that the building appeared capable of being used as an area for storage, and in the absence of evidence suggesting that it was used in any other capacity since its last purported agricultural use, brings about a collective evidence base that suggests the appellant's contentions are accurate.
9. A previous application¹ pursuant to Class Q was approved by the Council on the site. Consequently, this significantly implies that the Council was satisfied that at least some form of agricultural unit was established on the wider property prior to 20 March 2013, otherwise the Council would not have been able to make such a decision in that case.
10. The appellant has also provided substantive evidence of commercial agricultural operations at the site, in the form of sales receipts derived from the trading of hay that were also dated prior to 20 March 2013.
11. There appears no logic as to why the building could or would not have reasonably been used for storing hay prior to trading. Cumulatively, the evidence suggests that the property was historically a working farm, occupied for the purposes of agriculture and that an agricultural unit was established before the relevant trigger date under Class Q.

¹ 15/01677/PDU

12. Accordingly, on the balance of probability, and based on the collective weight of the various strands of evidence, I have no reason to doubt the appellant's contention that the last use of the building was for agriculture and that this was part of an agricultural unit.
13. Planning Practice Guidance² states that the prior approval process is meant to be light-touch and does not seek to replicate the planning application system, and I have taken a straightforward view of requirements in this context. The GPDO does not require a complicated assessment of an agricultural use's viability, neither does it require a weighing up exercise about one particular type of agricultural use compared to another, the extent of the use or who the proprietor is. In a similar context, there is no requirement for the use to have been continuous up until the application was submitted and is irrespective of the planning history of other buildings within the wider site therein. Whether the use of the building in this case has been abandoned or not is a peripheral matter as the GPDO merely requires that the last use was for agriculture and that this use was part of an agricultural unit established on or before 20 March 2013.
14. The appeal decision³ acknowledges that there were no records of sales or other transactions submitted in support of that particular proposal. Clearly, this is not the case here and to reiterate the Inspector's comments therein, there is no requirement in the GPDO or elsewhere for an agricultural trade or business to be of a certain scale or turnover. I would add to this and point out there is also no requirement for such trading of goods to be conducted under the auspices of a registered business. The appeal decision⁴ deals with a building that was being used for the storage of materials, tools and equipment that were not for agricultural use. The building in this case is vacant and therefore the appeal decision is not directly comparable. The appeal decision⁵ does not appear to be supported by financial information concerning the activities on site, where in this case the commercial nature of the use has been substantiated and is clearer than in the example case. The appeal decision is not therefore directly comparable.
15. The fact the building in this case was labelled under a historical application is not substantive evidence about its historical use. Especially considering that under that application the building in this case would have been a peripheral consideration and therefore the accuracy of its label may have been overlooked at the time. Furthermore, even if the appellant bought the dwelling and the outbuildings without the intention of using them as part of an established agricultural unit, there is no evidence to suggest that they were in fact used for domestic purposes.
16. This aspect of the Council's case is limited and does not overcome the collective weight associated with the other strands of the appellant's case which point towards the last use of the building as being agricultural in nature. Overall, and on balance, the building was used solely for agriculture when it was last in use and was part of an established agricultural unit on or before 20 March 2013. Consequently, the proposal is permitted development under Schedule 2, Part 3, Class Q.1 of the GPDO.

² Paragraph: 028 Reference ID: 13-028-20140306

³ APP/P1133/W/17/3191645

⁴ APP/C1435/W/17/3191024

⁵ APP/J1860/W/17/3178383

Prior Approval

17. Even though the Council did not engage in the assessment of the proposal under the relevant prior approval matters, it appears that they consulted with relevant bodies pursuant to such matters and these have been considered where appropriate.
18. Part 3, paragraph W.(5) requires the Council to consult with the highway authority in relation to a material change in the character of traffic in the vicinity of the site, and there is a consultation response from the highway authority submitted under the appeal raising no objection.
19. Access to the site is achieved via a single track from the north and the south, serving the existing dwelling at the site. There is no evidence to suggest that additional, small scale residential development would change the character of volume of traffic using the existing access points. Consequently, it is unlikely to generate unacceptable effects, and this is reflected in the highway authority's response to the proposal. It would therefore comply with Class Q.2 (1)(a) of the GPDO.
20. Notwithstanding the historical agricultural activities on the site, the building subject to the appeal currently sits within a residential context, and therefore is not exposed to potentially noise generating development. The building could be used for agricultural development in the future and therefore, the proposal would deliver a use that reduces the risk of noise generating effects on the adjacent residential development that already exists at the site.
21. The site is within proximity of the M5 Motorway and there are comments from the Council's regulatory services relating to noise and living conditions. The Council has stated that this is not part of the assessment under the prior approval category for noise and nuisance which is more relevant to farm activities.
22. There is no evidence in front of me establishing that noise from the M5 Motorway is likely to be harmful or that it should be considered as a prior approval matter, and a condition relating to British Standards is not necessary. Altogether, the proposal would comply with Class Q.2 (1)(b) of the GPDO.
23. The appellant has confirmed that the building has not been used to store potentially contaminating material, and that no known contamination events have taken place nearby. There is no evidence to suggest that the site is or has been historically contaminated. Consequently, the proposal would comply with Class Q.2 (1)(c) of the GPDO.
24. Part 3, paragraph W.(6) requires the Council to consult with the Environment Agency regarding flood risk, where the proposal meets the relevant criteria. There is no evidence to suggest the site is within Flood Zones 2 or 3, or that it has critical and notifiable drainage problems. There is no evidence to demonstrate that the proposal would put people at unacceptable risk of flooding, and it would therefore comply with Class Q.2 (1)(d) of the GPDO.
25. The building is located within the vicinity of existing residential development, on an agricultural holding with historical activity. The existing character of activity is residential in nature, and therefore it would not be impractical or undesirable for the change of use to take place. Consequently, the proposal would comply with Class Q.2 (1)(e) of the GPDO.

26. The building would retain largely the same external character and appearance, with existing brickwork to be retained along with fenestration openings. Changes to the roof are proposed, which would comprise the removal of corrugated sheets and the introduction of natural slate. This is something that would be more in keeping with its proposed residential use. Altogether, the proposal would comply with Class Q.2 (1)(f) of the GPDO.

Other Matters

27. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on decision makers to consider relevant Directives and whether there is a reasonable likelihood of European Protected Species being present and affected by development. There is no credible evidence suggesting that there is a reasonable likelihood of protected species being affected, and this is reflected in the appellant's submitted ecological report. Consequently, the proposal is in accordance with the relevant regulations. A number of interested parties raise concerns about rights of access. However, this is a private matter and not something I can consider under Class Q of the GPDO.

Conditions

28. Any prior approval and planning permission granted for the development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2 (3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date.

Conclusion

29. For the reasons given, the appeal is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class Q (a) and (b) of the GPDO.

INSPECTOR



Appeal Decision

Site visit made on 30 August 2022

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Appeal Ref: APP/H1033/W/22/3295929

Stubbins Farm, unnamed road from Stubbins Lane to Tithe Barn Farm, Chinley SK23 6ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr William Broadhurst against the decision of High Peak Borough Council.
 - The application Ref DET/2021/0020, dated 29 November 2021, was refused by notice dated 11 February 2022.
 - The development proposed is the change of use of agricultural buildings to dwellinghouse (C3).
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Decision

1. The appeal is allowed and prior approval is granted under Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO) for a change of use of an agricultural building to dwellinghouse (C3) at Stubbins Farm on an unnamed road from Stubbins Lane to Tithe Barn Farm, Chinley, SK23 6ED, in accordance with the terms of application Ref DET/2021/0020, dated 29 November 2021, and the plans submitted with it, subject to the conditions set out in a Schedule attached to this Decision.

Procedural Matter

2. The second reason for refusal listed on the Council's Decision Notice refers to 'Part 6, Class Q, Paragraph A.1 of the GDPO'. The reason follows on from the Council's assessment under Part 3, Class Q - which is referred to both in the first reason for refusal and the Council's report. It is also the relevant provision under which the application was submitted. Accordingly, I have proceeded with reference to the Part 3 provisions only. For the avoidance of doubt, there is no Class Q under Part 6 of the GPDO.

Background and Main Issues

3. Schedule 2, Part 3, Class Q(b) of the GPDO permits development consisting of 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 of the Use Classes Order¹, together with building operations reasonably necessary to convert the building to the Class C3 use.

¹ The Town and country use Classes Order 1987 (as amended)

4. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.
5. It was on this basis that the Council refused to grant prior approval for the scheme under Schedule 2, Part 3, Class Q1(i) of the GPDO as it relates to the degree of building operations necessary for the building to function as a dwellinghouse and Condition Q2 (1)(f) in relation to the design or external appearance of the property.

Reasons

Extent of works

6. The building is a modern steel-framed agricultural shed with a sloping concrete floor. It has a full height blockwork gable separating it from an adjoining agricultural shed on its eastern side. The remaining elevations variously consist of areas of part-height blockwork, corrugated fibre-cement sheeting to the upper elevations and some openings. The roof has supplementary timber purlins supporting fibre sheeting.
7. The Planning Practice Guidance² (PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
8. However, following the judgement in *Hibbit*³, as referenced by the Council, the PPG also clarifies that 'it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right'. The nature and extent of the proposed building operations are therefore a relevant consideration in making that assessment.
9. Although the accompanying structural survey indicates that the building was only visually assessed, there is little before me to cause me to doubt its findings. At my site inspection, I saw that the framework was substantial, of limited age and with few signs of wear and tear. The intermediate timber elements, blockwork and roof covering also appeared in sound condition.
10. To function as a dwelling, the appellant's Design and Access Statement clarifies that it is proposed to retain much of the existing blockwork, cement sheet walls and roof. The main external works would consist of replacing the existing sheeting on the south elevation with full-height cladding, and the treatment of the existing and new window and door openings to comply with safety requirements and allow sufficient natural daylight to enter the building.

² Reference ID: 13-105-20180615

³ *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

11. Internal works to insulate the building, provide a level floor and subdivide the space would also be necessary. Some limited bracing of the steel framework is also recommended.
12. As the majority of the building envelope would be retained and the other limited external works would be within the scope of works set out in Paragraph Q.1.(i)(i), I find that, subject to meeting the remaining considerations of Class Q and Paragraph W of Part 3, the building would be capable of conversion to a dwellinghouse without necessity for extensive new/re-build.

Character and appearance

13. The shed is of a typical modern agricultural design. Its utilitarian appearance amongst a cluster of other modern sheds and more traditional rural buildings is a characteristic feature of the surrounding landscape.
14. The proposed alterations to the main southern elevation of the building would retain the appearance of an agricultural shed. As the main aspect of the building visible from the roadway, this and the sheeted roof would retain much of the building's functional appearance.
15. The main interventions, including window and door openings, would be limited to the north and western elevations. These would utilise existing openings and a limited number of new openings. Although the introduction of new domestic proportioned window openings in the northern elevation would be incongruous to the character of the building, views to the altered elevations would be highly limited due to the nestled position of the shed within the local topography, which rises to the north.
16. Accordingly, in most views, the building would largely retain its existing character and agricultural appearance. Contrary to the Council's position, I find that they would not appear prominent or cause undue harm to the character and appearance of the wider surrounding area.
17. For the above reasons, I find that the character and appearance of the building and its location would be substantially retained. The proposal would thereby align with Policies S1, EQ2, EQ3 and EQ6 of the High Peak Local Plan [2016], the 'High Peak Landscape Character Assessment' SPD (2006), High Peak 'Residential Design Guide SPD' (2018) and the National Planning Policy Framework (the Framework) as they seek development to contribute to local character, appearance and distinctiveness, and protect the landscape character to achieve sustainable forms of development.

Other Matters

18. There is no dispute between the main parties that the proposal would comply with the other matters to be considered under Class Q. In regard to potential site contamination, the Council is satisfied that a watching brief would provide sufficient reassurance to achieve a safe form of development. This can be secured by planning condition.
19. For the purposes of the appeal, the appellant has reproduced a protected species survey which was submitted to the Council in conjunction with a preceding application Ref DET/2020/0012. It is referred to in the Council's report in its assessment of the current proposal. The Council was satisfied that

the proposal would not lead to an adverse effect on protected species. Having regard to the report⁴, and visited the site, I find no reason to disagree with that conclusion. Accordingly, I am satisfied that the duty under Regulation 9 of the Conservation of Habitats and Species Regulations 2017 is discharged.

Conditions

20. Section W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
21. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the PPG. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with paragraph Q.2 (3) of the GPDO. Additionally, I have imposed a condition specifying the relevant drawings as this provides certainty.
22. To ensure a suitable external appearance of the building, conditions in relation to external materials and window and door types are reasonable and necessary. To ensure a safe form of development a condition relating to the treatment of potentially undiscovered contamination is reasonable.
23. A condition requiring the removal of Permitted Development Rights under Classes A-E of Part 1, Schedule 2 of the GPDO is unnecessary as they exclude dwellinghouses formed under the Class Q provisions. A condition requiring detailing of means of enclosure falls outside the limited scope of issues under consideration within Class Q.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed.

INSPECTOR

⁴ Stubbins Farm, Chinley Update Bat Survey August 2020 by Dunelm Ecology

Schedule of Conditions to Prior Approval Ref DET/2021/0020

(1) The development must be completed within a period of 3 years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 300, Site Plan as Proposed 302, and, Plans and Elevations as proposed 200.

(3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on approved drawing No200.

(4) Prior to their installation, details of the windows and doors to be used in the external envelope of the building shall be submitted to and agreed in writing with the local planning authority. Thereafter, the development shall be completed in accordance with the approved details.

(5) If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in full prior to first use of the building as a dwellinghouse.

END.

Appeal Decision

Site visit made on 16 July 2018

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2018

Appeal Ref: APP/W1145/W/18/3195921

Agricultural barn, Aldercott Farm, Pancrasweek, Holsworthy EX22 7JN

- The appeal is made under section 78 of The Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr R Cleave against the decision of Torridge District Council.
 - The application Ref 1/0661/2017/AGMB, dated 4 July 2017, was refused by notice dated 25 August 2017.
 - The development proposed is change of use of an agricultural building to a dwelling.
-

Decision

1. The appeal is allowed and prior approval is granted for change of use of an agricultural building to a dwelling at Agricultural barn, Aldercott Farm, Pancrasweek, Holsworthy EX22 7JN in accordance with the terms of the application, Ref 1/0661/2017/AGMB, dated 4 July 2017, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr R Cleave against Torridge District Council. This application is the subject of a separate decision.

Preliminary matters

3. The application was made under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (hereafter referred to as 'Class Q'). This permits 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. Approval is being sought pursuant to Class Q(a) and Class Q(b).
4. Class Q has been amended¹ and the Planning Practice Guidance modified² since the appeal was lodged. A revised National Planning Policy Framework (the Framework) was also published in July 2018. The parties have been able to comment on the implications of this for their case.

¹ Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018/343

² Reference ID: 13-104-20180615, Reference ID: 13-105-20180615 and Reference ID: 13-106-20180615

5. The Council has assessed the appeal proposal as complying with the limitations and restrictions set out in Paragraph Q.1³. Based on the available information, I have no reason to reach a different finding.
6. The submitted block plan labels two separate land parcels as garden curtilage and parking respectively. These areas would be immediately beside the building and no larger than the land area occupied by it. They would therefore meet the definition of 'curtilage' set out in Paragraph X.

Main issues

7. The main issues in this case are whether the proposed dwelling would provide acceptable living conditions for future occupiers, having regard to neighbouring agricultural buildings, and whether any land use conflicts can be satisfactorily addressed using planning conditions.

Reasons

8. The deemed permission under Class Q is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval would be required as to the matters set out in Paragraph Q.2(1). Of particular relevance to this case are criteria (b) and (e). Respectively, these relate to the noise impacts of the development and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse.
9. The appeal concerns a vernacular barn constructed of stone and cob, with brick quoins and a slate roof. The building is located within the farmstead of Aldercott Farm which comprises the former farmhouse, a number of agricultural buildings and a slurry store. The appellant states that the farm was purchased purely for the land and grazing it offered, not for the buildings which, with the exception of the modern barn closest to the farmhouse, are of poor quality and unsuitable with regard to current livestock housing standards. Farming activities are centred on Lower Lophthorne with all livestock housed there during the winter months. This site provides more than 5,500 m² of modern agricultural buildings which are far superior to those at the appeal site.
10. The Council describes Aldercott Farm as a working farmstead, but it was clear that the majority of buildings are disused. The appellant has disposed of the farmhouse in a private sale along with the modern barn which was being used for domestic storage at the time of my visit. The contract of sale includes provision to ensure that this building is not used for agricultural purposes.
11. The existing buildings within the farmstead are grouped close together and, should the site resume operation as a working farm, there would be potential for occupiers of the proposed dwelling to be adversely affected by noise, flies and odour, and disturbance from machinery and day-to-day farming activities. In my opinion, the living conditions would not be of an acceptable standard and this would make conversion of the appeal building undesirable.
12. The appellant acknowledges this and is proposing to take the slurry store out of use and demolish two of the remaining buildings within his ownership. A third building in the north-western corner of the farmstead is proposed to be taken out of livestock use, but it would be retained pending the outcome of a Class Q

³ All paragraph references hereafter relate to paragraphs within Schedule 2, Part 3 of the Order.

application for residential conversion. I understand that the building would be demolished should prior approval not be forthcoming. In my opinion, demolition would be necessary in order to prevent noise nuisance and disturbance from farm machinery – even with the agricultural building in non-livestock use.

13. Paragraph W(13) states that prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Framework explains that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
14. It is argued that a condition requiring the demolition of buildings would be to the detriment of the farm business. However, this ignores the fact that the buildings are surplus to requirement. Given the modern facilities available at Lower Lophthorne, there is no overriding need to retain poor quality buildings which lie some distance from the centre of farming operations. I do not share the concern that a planning condition would be impractical or unenforceable. On the contrary, a suitably worded condition would be precise and enforceable and it would be reasonably related to the subject matter of the prior approval. Furthermore, such a condition would be necessary in order for the development to go ahead.
15. Although the modern barn would remain it is unlikely that this would ever revert to agricultural use or change to another bad neighbour use, given that it is in common ownership with the farmhouse – the occupiers of which will have a keen interest in protecting their amenity.
16. The Council has not raised any concerns regarding the other matters for consideration under Paragraph Q.2(1) and I have no reason to take a different view. There is no evidence to demonstrate that the site is contaminated or at risk from flooding. Whilst the access track is in poor condition, this is not sufficient reason to dismiss the appeal. As regards design and external appearance, the scheme would facilitate a sensitive re-use of a vernacular building. This, together with the removal of the adjacent agricultural buildings, would bring significant benefits to the character and appearance of the area.
17. Accordingly, I conclude that, subject to appropriate conditions being imposed, the proposal would provide adequate living conditions for future occupiers. The scheme is acceptable having regard to the matters for which prior approval is required. On this basis I shall grant prior approval.

Other matters

18. The Council has cited two appeal decisions (refs. 3149347 and 3172385) in support of its arguments. However, the circumstances of these other cases are materially different to the circumstances before me. Whereas both Inspectors found that future residents would suffer from unsatisfactory living conditions due to the proximity of the proposed dwelling to farm buildings, neither appeal involved a situation where the farm buildings were being proposed for removal.

Conditions

19. Paragraph Q.2(3) stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. I have attached a condition requiring the development to be carried out in accordance with the approved plans, in the interests of certainty, together with a condition to address the risks associated

with unexpected contamination. Finally, a condition is required to ensure that the relevant buildings are demolished and the slurry store removed, to ensure a good standard of amenity for future occupiers of the new dwelling. The condition wording allows the latter building to remain in the event that planning permission is granted for an alternative non-agricultural use in the meantime.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be completed within a period of 3 years starting with the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan and Drawing nos. 2016-73.10C and 2016-73.11.
- 3) No development shall commence until the slurry store has been permanently removed and the buildings identified for demolition on the submitted block plan demolished, with any resulting waste material removed from site and the land restored in accordance with details which have been first submitted to and approved in writing by the local planning authority.
- 4) The building in the north-west corner of the farmstead shall be demolished prior to first occupation of the new dwelling, unless planning permission has been granted (or deemed to be granted following the grant of prior approval) for an alternative non-agricultural use and the development authorised by that permission is substantially complete.
- 5) If contamination is found at any time when carrying out the development all work must cease and the contamination must be immediately reported in writing to the local planning authority. An investigation and risk assessment should then be undertaken by competent persons and a written report submitted to and approved in writing by the local planning authority. This report shall contain the following:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments.
 - iii) an appraisal of remedial options, and proposal of the preferred option(s).

The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Review by the local planning authority of the investigation and risk assessment will confirm whether there is a need to undertake remediation measures. If required a detailed remediation scheme to bring the site to a condition suitable for the intended residential use by removing unacceptable risks to human health, buildings and other property and to the natural and historical environment must be prepared by competent persons, and be approved in writing by local planning authority. The scheme must then be implemented in accordance with the approved details prior to

the re-commencement of any development on the site. The remediation scheme must include:

- all works to be undertaken
- proposed remediation objectives and remediation criteria
- timetable of works and site management procedures.

The scheme must ensure that following the remediation works the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and approved in writing by the local planning authority. Where an approved remediation scheme includes a requirement for a monitoring and maintenance scheme to ensure the long-term effectiveness of the proposed remediation over time, a report setting out monitoring and maintenance requirements must be submitted to and approved in writing by the local planning authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance produced shall be submitted to and approved in writing by the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR'.

DELEGATED DECISION REPORT

HPK/2023/0540
Valid 02/01/2024

WORKSHOP BACK
SPINNERBOTTOM
BIRCH VALE

EXTENSION TO EXISTING
COMMERCIAL BUILDING,
WITH ASSOCIATED PARKING
AND LANDSCAPING

(FULL - MINOR)

MAIN ISSUES

- Principle of development / Green Belt
- Impact on character of open countryside
- Design
- Amenity
- Highway safety
- Flood risk
- Trees / Ecology

DESCRIPTION OF SITE

The site relates to a workshop premises and associated areas of hardstanding occupied by TH Plastics lying to the west of Spinnerbottom. The site is bounded by areas of woodland to the north, south and west and a commercial premises to the east. The access road to the site is located to the east which leads from Back Spinnerbottom. The northern boundary of the site is formed by the River Sett and a small section of the northern part of the site is within Flood Zones 2 and 3. The site is within the North Derbyshire Green Belt and Open Countryside.

The site has previously benefited from full planning permission for a similar scheme under HPK/2019/0372 however due to the outbreak of the Covid-19 Pandemic this application was not implemented and has now expired.

PROPOSAL

This application is essentially the re-submission of the previously approved scheme under HPK/2019/0372.

The application seeks full consent for what is described as “Extensions and alterations” to existing commercial premises to improve the appearance and efficiency of the business together with associated parking and landscaping”. The extensions are proposed to the front and rear and a first floor extension to the northern side.

The application form states that the proposed development will increase the number of from 14 to 25 with some of these relocating from another premises off site. Parking at the site remains the same at 25 spaces.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S6 Central sub area strategy
- EQ1 Climate Change
- EQ2 Landscape Character
- EQ3 Rural Development
- EQ4 Green Belt Development
- EQ5 Biodiversity
- EQ6 Design and Place Making
- EQ8 Green Infrastructure
- EQ9 Trees, Woodland and Hedgerows
- EQ10 Pollution Control and Unstable Land
- EQ11 Flood Risk Management
- E1 New Employment Development
- CF6 Accessibility and Transport

National Planning Policy Framework 2023

Achieving Sustainable Development	Chapter 2
Building a Strong Competitive Economy	Chapter 6
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed and Beautiful Places	Chapter 12
Protecting Green Belt Land	Chapter 13
Meeting the Challenges of Climate Change	Chapter 14
Conserving and enhancing the Natural Environment	Chapter 15

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

- HPK/0001/9135 Proposed Steel Store/office Also Canteen Extension (Approved)
- HPK/0002/4540 Workshop Extension (Approved 04/09/1986)

HPK/0003/5079	Re-siting of Existing Equipment Store (Approved 25/01/1996)
HPK/2019/0372	Extension to existing commercial building, with associated parking and landscaping (Approved 6 th December 2019)

CONSULTATIONS

Publicity

Site Notice expiry date: 14th March 2023
 Neighbour consultation period ends: 29th January 2024
 Press Advert: N/A

Public Comments

1no. representation has been received that confirms that they have no objections to the proposed development.

Town / Parish Comments

No comments received at time of writing.

Environmental Health

No objections subject to conditions

Lead Local Flooding Authority

No comments received at time of writing

Derbyshire County Council Highways

It is noted that the applicant obtained planning consent for an identical proposal on 6th December 2019 under HPK/2019/0372, and therefore the Highways comments for this application are still valid.

On this basis, there are no highway objections to this application subject to the following conditions being included to any consent granted:

1. The premises shall be provided with space for the parking and manoeuvring of visitors staff, customers, and service and delivery vehicles within the application site in accordance with the submitted drawings, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

OFFICER COMMENTS

Principle of Development & Green Belt

The site is within the Open Countryside and Green Belt and as such the application is subject to Local Plan (LP) Policy EQ3, which relates to all development proposals in the rural areas, and Policy EQ4, which relates to all proposals in the Green Belt.

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, which will be achieved by:

- Supporting the redevelopment of a previously developed site and/or the conversion of existing buildings for employment use provided it does not have an adverse impact on the character and appearance of the rural area
- Supporting rural employment in the form of home working, commercial enterprises and live-work units where a rural location can be justified
- Ensuring that all development is of a high quality design and protects or enhances landscape character and the setting of the Peak District National Park

LP Policy EQ4 relates to Green Belt development and requires all development proposals in the Green Belt to be assessed in line with national policy and set out under Chapter 13 of the NPPF.

The proposal seeks full planning permission for extensions to the existing commercial building which are of the same scale, height, and massing with that approved under HPK/2019/0372 in December 2019, enhancing an existing business and thereby supporting the aims and objectives of LP Policy E1 and relevant policies contained within Chapter 5 of the NPPF that requires significant weight to be applied to economic benefits.

A detailed and rigorous assessment of the principle of development is contained within the delegated report that was published with the decision notice.

This assessment identified that whilst the scale of the proposed extensions amounted to disproportionate additions comparable to the original building, and thus constituted 'inappropriate development' in the Green Belt, it was judged that Very Special Circumstances (VSC) did exist, and that due to the very limited harm to openness, these VSC were found on this occasion to outweigh the identified harm to the Green Belt.

As such, given that this application is essentially a resubmission of the previously approved scheme and that the planning policy context has not materially altered in that time, the Council have already accepted that the principle of development is acceptable, with regards to LP Policies E1, EQ3 and EQ4, and relevant paragraphs under Chapters 5 and 13 of the NPPF.

Design Character 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.

Policy EQ3 'Rural Development' supports the redevelopment of a previously developed site and/or the conversion of existing buildings for employment use provided it does not have an adverse impact on the character and appearance of the rural area.

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.

Paragraph 130 of the NPPF states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

The site is particularly well screened from surrounding areas by dense tree cover such that the proposed extensions will not be prominent from public vantage points. Existing trees are proposed to be retained and these will therefore soften the appearance of the development.

The existing industrial building is of a utilitarian appearance and is in need of refurbishment. The proposed extensions are of a scale and design that respects the existing building whilst serving to modernise and enhance its appearance. In particular the glazed extension providing a new entrance and first floor extension to the north side will provide a focal point which makes a positive contribution to the appearance of the building.

A further visual improvement will be secured through the proposed relocation of areas of external storage within the extended building. The revised plans submitted during the course of the application removed the extension to the south side which reduces the overall size and scale of the development. Parking areas will be rationalised. Although the application also refers to landscaping, there is little detail in this respect and therefore a condition is recommended to require a detailed scheme of landscaping to be submitted.

Consequently the proposal would not harm the character and appearance of the countryside and therefore accords with LP Policies S1 and EQ6 and relevant paragraphs under Chapter 12 of the NPPF.

Amenity

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.

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.

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

The site is well screened to all sides and self-contained which mitigates any impact on neighbouring residential properties. The nearest residential dwellings are located at 22-28 Spinnerbottom, which are located to the north east of the site. The proposed building will be approx. 40 metres away from these neighbours at the closest point and there is a significant amount of tree cover along the northern site boundary which acts as a buffer between the site and the neighbouring properties.

With these separation distances in mind and the nature of commercial activities already taking place on the site, there is unlikely to be any significant impact on the amenities of the neighbouring properties.

In addition, the Environmental Health Officer has recommended a number of conditions which will safeguard the amenities of the neighbours, including the need for a scheme of noise attenuation for plant and machinery, a scheme of atmospheric pollution control measures and restriction on hours of construction and demolition.

Subject to the conditions recommended by Environmental Health Officer, and taking account of the above factors, it is not considered likely that the proposal would result in injury to nearby residential amenity or the wider environment.

Accordingly, it is considered that the proposal accords with the requirements of LP Policies EQ6 and EQ10 and relevant paragraphs under Chapter 15 of the NPPF.

Highway Safety

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.

Paragraph 114 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 115 of the NPPF 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 existing site access will be used to access the proposed development and no alterations are proposed to the access. It is considered that the site can accommodate appropriate parking and turning facilities and, on that basis, the Highways Authority does not object to the application. It is therefore reasonable to conclude that there would not be a significant adverse impact on the local road network or highway safety, in accordance with LP Policy CF6 and paragraphs 114 and 115 of the NPPF.

Flood risk

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 national policies aimed at meeting the challenge of climate change and flood risk.

A very small section of the site along the northern boundary is within Flood Zones 2 and 3 which are the zones at the highest risk of flooding, with the majority of the site being within Flood Zone 1. The proposed development is not within Flood Zones 2 and 3.

Whilst no comments have been received from the Environment Agency in connection with this application, it is noted that this consultee raised no objections in relation to the previous (identical) application. Likewise no comments have been received from the County Flooding Authority which was the case with the previous application, whereby the scheme was positively determined.

Having regard to the above and how the previous application was assessed and determined, it is not considered that the proposed development would not increase flood risk to the area and as such would comply with Local Plan Policy EQ11 and relevant paragraphs under Chapter 14 of the NPPF.

Trees

LP Policy EQ9 affords protection to existing trees, woodlands and hedgerows, in particular, ancient woodland, veteran trees and ancient or species-rich hedgerows from loss or deterioration. This will be achieved by requiring that existing woodlands, healthy, mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss.

The site is surrounded by trees / areas of woodland within close proximity of the proposed building. The scheme does not require any trees to be removed as a result of the development as the development will be sited upon existing hardstanding areas.

The Council's Arboricultural Officer, in connection with the previously approved application, advised that any areas not covered with existing hardstanding below the canopies will need to be within a construction exclusion zone which is fenced off to

ensure that these areas are not used for fires and storage of materials etc. Officers previously concluded that any potential harm to nearby trees could be managed and controlled by way of a condition requiring the submission of an Arboricultural Method Statement.

Given that the context of the site and nature of development is not materially different to the scheme previously approved in December 2019, it is considered that any potential impacts to trees can be dealt with by way of suitably worded conditions that align with the previous permission, in accordance with LP Policy EQ9.

Ecology

LP Policy EQ5 requires all new development proposals to demonstrate that any protected species and habitats within the site will not be adversely affected and seeks to promote a nett gain in biodiversity by securing appropriate mitigation and ecological enhancements where appropriate.

Chapter 15 of the NPPF contains the relevant paragraphs relating to the conservation and enhancement of the natural environment.

The site forms part of a larger area of hardstanding which is occupied by containers and is in industrial use. The site is of no obvious ecological interest and this authority has no reason to believe that the development would impact upon any wildlife interest.

Comments from Derbyshire Wildlife Trust in relation to the previously approved application stated that the proposals are entirely contained within the existing areas of hardstanding and the building is of a style and structure likely to have very limited scope for roosting bats. Whilst no comments have been received from Derbyshire Wildlife Trust that directly relate to this application, it is possible to attach similar suitably worded conditions that ensure that the proposed development will preserve ecological assets and promote biodiversity net gain.

As such, and consistent with the previous application, it is considered that subject to appropriate conditions, the application is in accordance with LP Policy EQ5 and relevant paragraphs under Chapter 15 of the NPPF.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework. It states that planning applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks full planning permission for extensions to an existing commercial building that would enhance an existing business, thereby supporting the aims and objectives of LP Policy E1 and relevant paragraphs under Chapter 5 of the NPPF.

The site lies outside of the built-up area boundaries in the open countryside and the Green Belt. In light of the detailed and comprehensive analysis carried out by Officers as contained within the delegated power relating to HPK/2019/0372 and that the proposals are essentially the same, the principle of development has already been established.

For the avoidance of doubt, the Council conclude that whilst the extensions are of a scale that amount to disproportionate additions comparable to the original building and thus constitute inappropriate development in the Green Belt, the limited harm to openness coupled with credible Very Special Circumstances are on this occasion considered to outweigh the harm to the Green Belt by reason of inappropriateness.

All other planning consideration have been assessed and in line with conclusions reached previously by Officers in connection with HPK/2019/0372, it is considered that the proposed development complies with all other local and national planning policies and thereby constitutes a sustainable form of development.

In line with LP Policy S1a and paragraph 11 of the NPPF, the application is recommended for approval subject to appropriately worded conditions in a similar manner to those applied to the Decision Notice relating to HPK/2019/0372.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 26th March 2024

X

Signed by: Ben Haywood

On behalf of High Peak Borough Council