

DELEGATED DECISION REPORT

DET/2024/0025
Valid 22/07/2024

BIRCH HOUSE
SPINNERBOTTOM
BIRCH VALE

**PRIOR NOTIFICATION FOR
THE CHANGE OF USE FROM
AGRICULTURAL BUILDING TO
DWELLINGHOUSE.**

**(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) (As Amended 2024)
- 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
 7. The provision of adequate natural light in all habitable rooms of the dwellinghouse(s)
- 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. The site is accessed via a steep single private access track from the public highway Spinnerbottom, that lies approximately 300m to the south-west.

In assessing a previous application under Schedule 2, Part 3, Class Q of the GPDO, Officers considered that in the absence of any detailed information, it was unclear whether the building subject to the application was used in connection with the former abattoir.

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.

The plans submitted with the application include a wider parcel of land (depicted by the blue line) totalling some 22ha. After seeking clarification from the applicant as to what constitutes the associated "agricultural unit", it has been confirmed that this parcel of land was used for agricultural purposes in conjunction with the building. With no evidence to suggest the contrary, the Local Authority accept this position.

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 plans are consistent with those previously considered under DET/2023/0010 under the same legislation, which was refused for several reasons, summarised as follows:

1. Whilst the building is agricultural, unsatisfactory evidence provided to demonstrate that the accepted agricultural use forms part of an "established agricultural unit" thus failing to comply with Paragraph Q.1(a), resulting in development which is not permitted and requires planning permission.
2. Unacceptable form of design by virtue of the use of materials, openings, and overall visual appearance, that diminishes and has a negative impact upon the rural character and appearance of the area
3. Proposed use as a residential dwellinghouse found to result in potentially significant adverse harm to the future occupiers of the property with regards to noise, given the fact that the current vacant abattoir and knackers yard within close proximity could commence at any given time without planning permission given its existing lawful use
4. Proposed use as a residential dwellinghouse found to result in potentially significant adverse harm to the future occupiers of the property with regards to Land Contamination, given the close proximity of the nearby abattoir and knackers yard, in the absence of a Phase I Land Contamination Report.
5. Application not accompanied by a Preliminary Bat Roost Assessment which can satisfactorily demonstrate that the proposed conversion would not result in any adverse harm to protected species and mitigation where appropriate,

and in the absence of this information, it is not possible to conclude that any risks to ecological assets have been satisfactorily addressed.

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.

This application has been supported by the following technical documents and assessments, which aim to address the 5no. reasons for refusal set out on the Decision Notice under DET/2023/0010 summarised above:

- Planning Statement
- Statutory Declaration signed by John Brennard
- Statutory Declaration signed by Jeremiah Thomas Lewis Woodall
- Phase I Land Contamination Report
- Preliminary Bat Roost Assessment

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

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

DET/2023/0010 Prior Approval for Change of Use of Agricultural Buildings to
1no. Dwellinghouse (C3 Use) and for building operations
reasonable necessary for conversion (Refused 20/06/2023)

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 objection.

Environmental Health

No comments received at time of writing

Derbyshire Wildlife Trust

No comments received at time of writing

Derbyshire County Council Highways

No objection subject to conditions.

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 2023

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).**

Schedule 2, Part 3, Class Q of the GPDO has been recently updated and came into force on 21st May 2024. This resubmission is therefore assessed having regard to this updated legislation, including transitional arrangements set out under Article 10.

Having regard to Article 3 of the updated GPDO, Class Q allows for –

- (a) A change of use of**
 - i) a building that is part of an established agricultural unit and any land within that buildings curtilage, or**
 - ii) a former agricultural building that was (but is longer) part of an established agricultural unit and any land within that buildings curtilage,**

to a use falling within Class C3 (dwellinghouse) of Schedule 1 to the use classes order to the Use Classes Order; and
- (b) development referred to in sub paragraph (a) together with the extension of the building referred to in sub- paragraph (a), or**
- (c) 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, which has undergone significant changes under Article 3 of the legislation that came into force in May 2024, is undertaken below:

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

- (a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit—**
 - (i) on 24th July 2023, or**
 - (ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins**

- (b) **in the case of a site that was (but is no longer) part of an established agricultural unit—**
 - (i) **the site was part of an established agricultural unit on 24th July 2023,**
 - (ii) **where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or**
 - (iii) **since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,**

Article 10 to the recently updated legislation (May 2024) sets out transitional arrangements as follows:

- 10 (1) *Paragraph (2) applies where development (“previously permitted development under Class Q”) –*
- (a) *is permitted under Class Q immediately before 21st May 2024, and*
 - (b) *is, by virtue of any amendment made by Article 3, no longer permitted under Class Q on and after 21st May 2024*
- (2) *Where this paragraph applies –*
- (a) *a development may, notwithstanding the amendments made by Article 3, make an application for a determination as to prior approval in relation to previously permitted development under Class Q until the end of 20th May 2025, and*
 - (b) *the amendments made by Articles 3 and 5 do not apply in relation to previously permitted development under Class Q in respect of which an application for a determination as to prior approval is made before 21st May 2025 (whether the application is made by virtue of sub-paragraph (a) or otherwise).*

The above transitional arrangements essentially means that should a Prior Approval application be submitted under Schedule 2, Part 3, Class Q of the GPDO before 20th May 2025, and cannot demonstrate compliance with the newly worded Paragraph Q.1(a) and (b), with regards to when a building was last in agricultural use, an application should be assessed, as to whether it constitutes permitted development, be assessed having regard to the former wording of Paragraph Q.1(a)

The applicant is unable to demonstrate that the building was last in agricultural unit as part of an established agricultural unit on 24th May 2024. As such, the Council are not satisfied that the proposal constitutes permitted development, having regard to

the newly updated legislation, and as such, the transitional arrangements set out under Article 10 of the legislation which came into force in May 2024 is engaged.

As such, the Council must assess the application under the previous wording of Class Q Paragraph Q.1(a) which states the following:

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.

In considering the previous application, the Delegated Report stated the following: *“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 standalone 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."

In seeking to address this reason for refusal, the applicant has been accompanied by a comprehensive Planning Statement and supporting Statutory Declarations which argues the applicant's position with regards to the use of the building and what constitutes the associated agricultural unit, supported by evidence.

Mr Jeremiah Thomas Lewis Woodall states that his Grandfather worked at the abattoir as a mechanic, and Grandparents on the other side owned neighbouring land, and that the building subject to this application was used for the purposes of agriculture and not in connection with the abattoir, slaughterhouse and knackers yard.

The Statutory Declaration from Mr Woodall goes on to submit that a former owner (a Mr Bob Lawton) kept a small flock of sheep, which were lambed and sheared in the building, and that in the winter months, cattle would housed there, which were reared to be sold for profit. Subsequently, it is stated that the building was rented to Mr Ken White to house his own livestock which were reared to be sold for profit.

Mr John Brennand declares that he was the manager of the abattoir between 1974 and 2008, was subsequently caretaker of the site between 2008 and 2021, visiting the site 6 days per week, and lived on site between 1979 and 2008. It is stated categorically that the building was used for agriculture and not in connection with the abattoir, slaughterhouse and knackers yard. The statement of Mr Woodall is also verified with regards to Mr Lawton and Mr White using the building for keeping and rearing animals for profit.

The Planning Statement (Section 4.0) sets out in detail how the application complies with the legislation with regards to being in agricultural use and in connection with an agricultural unit.

Having carefully considered the submissions within Section 4 of the Planning Statement, Officers are fully satisfied (in the absence of any evidence to the contrary) that the proposed building has been in agricultural use, and, whilst not a primary income, was facilitating a small agricultural trade or business.

However further clarification was required from the applicant's agent with regards to what in their view, constitutes the "agricultural unit". In response, the applicant states the following:

"The last user of the building Ken White, who used the building to house his livestock also rented all the land within the blue line, which is 22 acres.

The reason the statutory declaration does not specify this is because they relate directly to the building, so this was not included in the wording, I can have these amended but as per the below information I do not believe this is necessary.

My understanding is that agricultural land also includes land occupied by a building for the purposes of agriculture. I would like to highlight an example such as a caged chicken unit, which requires no external land whatsoever, and these are undeniably agricultural units. Indoor pigs and some intensive cattle rearing units also require minimal if any land other than that located immediately round the building (the curtilage) as food and bedding can be bought in, however again these are undeniably agricultural units.”

The application benefits from significantly more detail compared to the previous application refused under DET/2023/0010, which includes sworn testimony from people who witnessed the building being in agricultural use as part of an agricultural unit on 20th March 2013.

Having considered the above submission, Officers are satisfied that the building has been last used for agricultural purposes and is associated with a parcel of land totalling some 22ha used for grazing livestock thus amounting to an agricultural unit.

Whilst the application cannot demonstrate compliance in respect of the new wording of the GPDO that came into force under Article 3 of the GPDO Amendment Order 2024, the proposal does comply with the previous wording of the Order enforced prior to May 2024, and as such is compliant with the transitional arrangements set out under Article 10 of the GPDO Amendment Order 2024.

As such, the application is considered to be compliant with this part of the legislation.

- (c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,**

The plans shows the total floor area of the dwellinghouse to total approximately 48 square metres across two floors (96 square metres) and as such the application is compliant with Paragraph Q.1(c).

- (d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in—**
- (i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or**
 - (ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,**

The application relates to a single dwellinghouse with a total floor area of approximately 96 square metres and as such the application is compliant with Paragraph Q.1(d).

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

The building and associated land is not occupied under an agricultural tenancy and as such the application is 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,**

N/A

- (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 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 is 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, other than—**
 - (i) **extension of the building allowed by paragraph Q.1(i);**
 - (ii) **protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),**

The proposed plans show that there are no physical extensions or protrusions above the existing ridge height associated with the proposed change of use and as such the application is compliant with Paragraph Q.1(h).

- (i) **the development under Class Q(b) would result in an extension that—**
 - (i) **has more than one storey,**

- (ii) is sited anywhere other than to the rear of the existing building,
- (iii) extends beyond the rear wall of the existing building by more than 4 metres,
- (iv) has eaves the height of which exceed the height of the eaves of the existing building,
- (iv) is higher than whichever is the lower of—
 - (aa) the highest part of the roof of the existing building, or
 - (bb) a height of 4 metres above the ground,
- (v) extends beyond a wall that forms a side or principal elevation of the existing building, or
- (vi) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—
 - (aa) the hard surface was not provided on the land on or before 24th July 2023, or
 - (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,

N/A

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

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, the development is considered to accord with Paragraph Q.1(i).

(k) 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(k).

(l) 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(l).

(m) the site is, or contains, a scheduled monument,

The building is not located within or contains a Scheduled Monument and thus the application is compliant with Paragraph Q.1(m).

(n) the building is a listed building,

The building is not Listed and thus the application is compliant with Paragraph Q.1(n).

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

The GPDO now requires all Prior Notification applications concerning residential units to comply with Nationally Described Space Standards (NDSS) as published by DCLG (2015).

Such standards require a two storey two bedroom residential unit to have a total minimum floor area of 79 square metres based on double occupancy (4no. people in total) with each bedroom having a minimum total floor area of 11.5 square metres and minimum width of 2.75m.

The plans show that each floor has an approximate footprint of 48 square metres and thus comfortably exceeds the minimum floor area required for a two bedroom double occupancy property. Similarly, the bedrooms are shown to have a generous width and floor area which comfortably exceeds the minimum requirements.

As such the application demonstrates compliance with NDSS.

(p) the building does not have suitable existing access to a public highway.

The site benefits from an existing private access, which connects to the public highway and as such the application is compliant with Paragraph Q.1(p).

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

- (a) Transport and Highways**
- (b) Noise impacts**
- (c) Contamination risks**
- (d) Flooding risks**
- (e) Whether the location of siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3**
- (f) Design or external appearance of the building;**
- (g) The provision of adequate natural light in all habitable rooms of the dwellinghouse(s)**

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

Having established that the proposed development (in light of further evidence and documentation being submitted in connection with this application that did not accompany the previously refused Prior Notification application) constitutes permitted development having regard to Paragraph Q.1, it is necessary to consider the matters of Prior Approval as set out under Paragraph Q.2, which are assessed as follows:

(a) Transport and Highways

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 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 for the size of the dwelling. The Highways Authority have not raised any objection to the proposals, but request that a condition is imposed securing the provision of the parking spaces.

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

(b) Noise Impacts

Paragraph 191 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account of the likely effects of

pollution and health. This includes mitigating and reducing to a minimum potential adverse impacts resulting from noise.

The previous application was considered by the Council's Environmental Health Team who raised an objection on grounds of noise and odour, after being advised that whilst currently redundant, the abattoir and knackers yard did retain its lawful use for such purposes and could therefore technically recommence this use at any time.

As such, the decision notice under DET/2023/0010 included a reason for refusal relating to potential noise impacts.

In seeking to address this reason for refusal within their submission, the Planning Statement makes the following case:

- *Proposed dwelling located 36m from nearest building formerly used in association with the abattoir, currently in commercial use operating from 9am – 5pm and has a commercial tenancy.*
- *The other group of buildings is located some 82m distance and occupied by the applicant.*
- *The premise that the abattoir and knackers yard can be reinstated is unlikely, given the scale of the premises, its location, access and general layout. Modern food and health standards and complaints to environmental health would mean the site would have to be heavily adapted and invested in order to be brought back into use, which may require planning permission. The Food Standards Agency states that on average 10% of abattoirs in the UK close every year and 59% of small abattoirs expect to need to close within the next 5 years without government support. It is in the interests of residential amenity that the sites use as an abattoir is not recommenced.*

At the time of writing this report, no comments have been received from the Council's Environmental Health Officer. Given the time constraints associated with determining the application, a judgement has to be made with regards as to whether or not the submission by the applicant changes Officer opinion with regards to the relationship between existing and proposed uses with regards to noise impacts.

Information held by the Council's Enforcement Team corroborates that one of the buildings is indeed being used on a commercial basis as stated by the applicant, rather than an abattoir, the use of which would not give rise to any adverse noise impacts detrimental to the amenity of future occupiers.

Given the presence of a new commercial business since within the wider site, it is acknowledged and accepted that the prospect of the abattoir and knackers yard being restored to its former lawful use has decreased significantly. In addition, it is accepted that it is not in the applicant's interests to reinstate the former use, in light of the fact that they are seeking to secure permission for a residential dwellinghouse within the wider site.

Having regard to the changes in the site context and additional information since the Council considered the previous application under DET/2023/0010 it is considered that, there is sufficient evidence for Officers to conclude that the introduction of this residential dwellinghouse would not give rise to any adverse noise impacts, and as such Prior Approval is not required in this regard.

(c) Contamination Risks

Paragraph 189 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.

When considering the previous application under DET/2023/0010, Officers concluded that having regard to the former heavy industrial use of the site, comments made by Environmental Health and the absence of a Phase I Land Contamination Report or Phase II Remediation Strategy, it was not possible for the Council to conclude whether this matter of Prior Approval could be granted, even by way of a suitably worded planning condition.

This application is accompanied by a Phase I & Phase II Geo-Environmental Assessment concludes the following:

- Human Health – no significant risks identified. Further assessment or remediation is not considered to be required
- Controlled Waters – no significant risks identified. Further assessment or remediation is not considered to be required
- Gas Risk – no significant risks identified. Further assessment or remediation is not considered to be required

The report has been prepared by a suitably qualified professional and recommends that a standard compliance condition that requires the applicant to notify the LPA of any unexpected land contamination during construction, and to address this before completing the works will be sufficient to mitigate any potential risks.

In light of this additional information that was absent from the previously refused application, Officers are satisfied that subject to a standard compliance condition, the matter of Land Contamination has been satisfactorily addressed. Thus Prior Approval is Required and Approved in this regard.

(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 be liable to flooding 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 previous application considered that owing to the lawful use of the site and that this could theoretically recommence without planning permission, in the absence of any supporting assessments confirming that such impacts could be addressed and suitably mitigated, the location and siting of the building made it impractical or undesirable for the building to become a residential dwellinghouse (Class C3).

In light of the analysis set out above in relation to Noise and Land Contamination, the Council, owing to the benefit of additional information and a change in circumstances regarding the use of the wider site, Officers are now satisfied that there are no grounds to resist the proposed development with regards to the practicality or desirability of introducing a residential use on the site. As such Prior Approval is Required and Approved in this regard.

(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 135 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. Development must be visually attractive as a result of good architecture, be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Paragraph 139 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 Delegated Report that informed the decision to refuse Prior Approval under DET/2023/0010, stated the following with regards to the matter of Design and External Appearance:

- Resultant 'conversion' would be dominated by timber boarding/cladding
- Existing building is a functional practical building that was not designed to be a permanent feature in the landscape, and is not suitable for conversion with regards to its architectural merit – dwellinghouse appearing as an agricultural building amounts to poor and wholly inappropriate design
- Use of larch timber cladding that is alien to character and appearance of local landscape in the context of its proposed use is not traditional either historically or in more recent times. The choice of materials would result in significant harm to the character and appearance of the immediate rural landscape

The plans accompanying this application are unaltered from the previous application. The Planning Statement refers to applications and appeals that justifies the design approach.

Whilst every application is to be determined on its own individual merits, Officers acknowledge the point made within the Planning Statement with regards to decision making, having regard to relevant case law.

The most pertinent decision referred to by the applicant with regards to design and the introduction of timber larch cladding, is an Appeal Decision which was allowed at Stubbins Farm, Chinley (DET/2021/0020) whereby the LPA sought to strongly resist the use of such materials, in a similar manner to the assessment of DET/2023/0010.

In his Appeal Decision, issued on 15th September 2022, the Inspector disagreed with the Council's stance with regards to the use of timber cladding, as referenced with the Planning Statement (paragraphs 13-17 of the Appeal Decision).

The conclusions made by the Inspector is that essentially, the appearance of the building as an agricultural building is acceptable in so far as introducing a residential dwellinghouse and retaining this character (i.e. it is acceptable for a residential dwellinghouse to have the appearance of a large agricultural shed, despite conceding that the introduction of new window openings would appear incongruous). In light of this appeal decision, and despite the Council maintaining the view that the use of timber cladding is not usually appropriate in the High Peak, it is with the site being well screened by natural vegetation and not visible from any public vantage points the impact on the rural landscape character would be limited.

As such, whilst Prior Approval is Required the development in the specific context of the site, there are no sustainable reasons to refuse the application.

(g) the provision of adequate natural light in to all habitable rooms of the dwellinghouse

The plans submitted with the application shows that all habitable rooms are served by windows of varying size. Overall, it is clear that the proposed dwellinghouse will benefit from a generous amount of natural light to all habitable rooms and as such Prior Approval is not required in this regard.

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 determination, 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.

Unlike the previous application, this application has been accompanied by a Preliminary Bat Roost Assessment carried out by a suitably qualified professional. The report makes the following conclusions:

- No species of bat observed entering or exiting the barn
- No species of bat discovered using the barns for any purpose
- No species of bat discovered ever having used the barn
- No species of bat or evidence of use was identified
- Records of bats being present within wider area were identified
- No evidence of inactive/old avian nest sites were identified within the barn
- No evidence of bats using the adjacent stables
- No evidence of any other protected species using or ever having used the site for any other purpose
- Mature trees present within immediate area

- Negligible potential is considered as offered by the barn for bats to use for any purpose

Whilst no comments have been received at the time of writing from the relevant statutory consultee Derbyshire Wildlife Trust, it is possible for Officers to reach the logical conclusion that in light of the above conclusions within the Preliminary Bat Roost Assessment, the proposed change of use would not result in any adverse harm to ecological assets or protected species.

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 2024 as amended for the change of use of an agricultural building to a dwellinghouse.

The application follows a previous application for the same scheme with regards to its elevations and floor plans submitted under the same legislative context under DET/2023/0010 that was refused on multiple grounds.

This application has been accompanied by a significant level of detail and technical assessments, including a comprehensive Planning Statement and Statutory Declarations, all of which are considered to satisfy the primary reason for refusal that relates to the use of the building and its associated agricultural unit, and whether or not the proposal amounts to permitted development.

The detailed assessment of the application confirms that having regard to all supporting information, much of which did not accompany the previous application, recent changes in the use of buildings on site, and consideration of a recent appeal decision and supporting technical assessments prepared by suitably qualified professionals, the proposed change of use of the building to a residential dwellinghouse is indeed permitted, and that having regard to matters of Prior Approval, these are acceptable subject to appropriately worded planning conditions.

As such, it is recommended that Prior Approval is Required and Approved.

OFFICER RECOMMENDATION : Prior Approved Required and Approved

Case Officer: James Stannard

Recommendation Date: 19th September 2024

X *J. Colley*

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council