

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

**Planning Application 20/00307/CUPRIO**

**Change of use of building from agriculture to dwellinghouse**

**Meadow Farm, 33 Droitwich Road, Feckenham, Worcestershire, B96 6RU,**

**Applicant: Mr And Mrs Cole  
Ward: Astwood Bank And Feckenham Ward**

**(see additional papers for site plan)**

The case officer of this application is Emily Farmer, Planning Officer (DM), who can be contacted on Tel: 01527 881657 Email: emily.farmer@bromsgroveandredditch.gov.uk for more information.

**Site Description**

The application site is an agricultural nursery covered in hardstanding with one polytunnel for growing plants and a metal clad storage building in the south-west corner of the site. The metal clad storage building is subject to this application and was constructed in 2004 as a storage building to facilitate the existing use onsite.

The site is located south of the Droitwich Road and has two vehicular accesses; one from the Droitwich Road to the north-east of the site and one down a private derive to the north-west of the site. This private drive is also a Public Right of Way.

**Proposal Description**

The proposal is to convert the existing building into one 2 bedroom dwelling. The site will utilise the existing access from the private drive to the north-west and parking will be provided within the existing hard standing area around the building. A small area to the rear of the building will be converted to garden space to serve the dwelling. Concerns have been raised on the garden area due to its size and the proximity of a hedge. Applications for conversion under this part of the Schedule only allow for an amenity space no larger than the footprint of the dwelling and therefore the size of the garden is restricted by the development and usually can only facilitate a strip of land around the building. The external appearance of the building will be relatively unaltered however the conversion does include the introduction of new window and door openings. The land beyond this area will be unaltered and will remain in agricultural use.

**Relevant Policies :**

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

National Planning Policy Framework

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

National Planning Practice Guidance

**Relevant Planning History**

2004/552/FUL	Replacement Storage Building	Approved	16.11.2004
1999/239/FUL	Polythene Tunnel For Growing Ornamental Plants	Approved	04.10.1999

**Consultations**

**Highways Redditch**

No highways objections to the proposed conversion. The access via the private drive from Droitwich Road is considered acceptable. No new vehicular access is proposed for the proposed dwelling. The gated field access located off Droitwich Road has not been assessed however we would require further information for this access to be considered appropriate. Applicant also to note the gated field access located off Droitwich Rd is not to be used as a construction access or to be associated with the proposed development.

**Worcestershire County Council Countryside Service**

The definitive line of Feckenham footpath FH-693 runs along the access track to the application site. No objection subject to informatives.

**WRS - Contaminated Land**

Sufficient information is provided as part of the application to determine that contaminated land risk assessment is not required. The photographic survey provides a detailed review of both the internal and external use of the building. The Planning Statement confirms that the building has not been used for the storage of pesticides.

**WRS - Noise**

No objection to the application in terms of any noise / nuisance issues.

**North Worcestershire Water Management**

The proposed development site is situated in the catchment of the Bow Brook. The site falls within flood zone 1 and it is not considered that there is any significant fluvial flood risk to the site. Risk to the site from surface water flooding is indicated as low based on

# **PLANNING COMMITTEE**

27<sup>th</sup> May 2020

---

the EA's flood mapping (indicated above). Correctly designed drainage will mitigate any flood risk from surface water on the site.

Based on the available information there is no reason to withhold approval of this application on flood risk grounds. I don't deem it necessary for this planning application to recommend attaching a drainage condition as a future building control application will deal with this aspect.

## **Public Consultation Response**

3 representations have been received raising objections to the proposal which have been summarised as follows;

- Covenant on private access track
- Highways safety on use of access from Droitwich Road
- Noise impact on amenity of neighbouring dwelling
- Unsustainable location for residential development
- Design
- There is no provision for a boiler, flue or oil storage tank shown on the plan.
- Site in location close to Special Wildlife Site
- Development contrary to policies in Borough of Redditch Local Plan
- Government's intentions behind Prior Approval applications.
- Conversion works involve the construction of new structural elements since it requires the constriction of all outer walls (within the metal cladding) contrary to the *Hibbitt v SoS*
- Site adjacent to Special Wildlife Site
- Existing site solely for growing plants and not customers and therefore will have greater impact on noise.
- New openings do not retain the character and evidence of previous use

## **Procedural matters**

Members should note that this is not a planning application. In 2015 Central Government introduced a range of permitted development rights to allow the change of use of a variety of different buildings to a residential use without the need for full planning permission. These proposals are, however, subject to a 'lighter touch' prior approval process. As such the proposal has been submitted as a Prior Approval application under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). A copy of the relevant part of the Order has been attached as an appendix to this report.

Class Q. a and b of the above legislation allows for a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order together with building operations reasonably necessary to convert the building. To establish whether the development can be considered under this process the application must be considered against the fixed criteria as outlined in detail within your officers report.

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

Where development can be considered under Class Q (a and b), development is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to;

- a) transport and highways impacts of the development,
- b) noise impacts of the development
- c) contamination risks on the site
- d) flooding risk on site
- e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from an agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and
- f) the design and external appearance of the building.

Only the above list of considerations can be taken into account when making an assessment on this application. Having regards to this both Local and National policies relating to matters such as Green Belt and sustainability cannot be considered as part of this assessment.

**Assessment of Proposal**

Prior approval is sought under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended to convert an agricultural building to one residential dwelling.

In determining the proposal, regard has to be had to whether the proposal constitutes permitted development under Class Q and in the event that it does, an assessment is required under Class Q.2(1) regarding a series of six criteria.

Q.1 (a) specifically states that the last use of the building or the use of the building on 20th March 2013 must have been solely for agricultural purposes as part of an established agricultural unit. The building forms part of an established nursery and therefore the use therefore accords with criteria Q.1 (a)

Q.1 (b-d) restricts the number of units and the scale of the units available under a Class Q application. The proposal is for one dwelling and therefore complies with this section.

Q.1 (e-f) requires the agricultural tenancy be terminated on site. This has been confirmed by the applicant on the application form. The building therefore complies with this criterion.

Q.1 (g). Having reviewed the planning history no buildings have been constructed under Class A(a) or Class B(a) of Part 6 of the General Permitted Development Order since March 2013.

## **PLANNING COMMITTEE**

27<sup>th</sup> May 2020

---

Q.1 (h). The Council have been mindful that the development should not result in external dimensions extending beyond the external dimensions of the existing building at any given point. The building is to retain the external metal cladding and therefore will comply.

Q.1(i) allows building operations comprising the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling. In addition, demolition is permitted to the extent reasonably necessary to carry out the building operations listed above.

In order to comply with the permitted development criteria it needs to be established that the works required for the building to function as a dwelling are not so substantial as to amount to the construction of a new building. The Planning Practice Guidance supports this by stating that the intention of the permitted development right is not to allow rebuilding work which would go beyond what is reasonably necessary for conversion to a residential use. 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. Furthermore, the Hibbitt case established that it is a matter of judgement as where the line is drawn between a conversion and a rebuild.

In this case, supporting documents have been submitted with the application including an annotated plan and Supporting Statement outlining the extent of the works required to the building. The existing building is of metal clad construction with flooring and electricity already installed and is in good condition. In this case, the documentation submitted with the application indicates that the existing walls, roof, and frame are to be retained with the insertion of additional doors and windows. Some internal works are proposed relating to the installation internal walls. However having regard to paragraph 105 of the Planning Practice Guidance advises that internal works are not Development. Concerns have been raised from third parties that the works go above and beyond that allowed and that the internal walls should be considered as new structural elements which go above and beyond a conversion. Various Appeal Decisions have determined that new internal walls are not structural and are commonly required on such conversions. Having regards to the extent of the building retained and the creation of new openings, the works required to enable the residential use would not go beyond the works outlined to be acceptable within the Planning Practice Guidance and therefore are considered to fall within the scope of Class Q permitted development.

Q.1 (j-m). The site does not fall within article 2(3) land, a site of special scientific interest, a safety hazard area, a military explosive storage area, a scheduled monument or a listed building. It is noted that the site is close to a Site of Special Wildlife however the legislation does not restrict development under this part of the Schedule in such locations.

On the basis of the above, the proposal complies with the criteria included within paragraph Q. 1.

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

Condition Q.2 of Class Q

Q.2 (a) The application utilises an existing vehicular access and has provided sufficient parking. There has been some dispute from the public comments as to which access the applicant intends to use to facilitate this change of use. The applicant has confirmed they intend to use the access via the private drive and have annotated the submitted plans to make this clear (Rev B). The Highways Authority raised no objection to the use of this access on Highways safety grounds it is therefore not reasonable to refuse the application on these grounds. Objections from the owner over the legal use of this access are noted. The ownership and right of access over the private drive is a civil matter to be dealt with through the relevant covenants on site. Planning permission does not override any legal covenants on the land and the applicant would need to go through the correct legal processes to ensure access as proposed.

Q.2 (b) objections have been received from the neighbouring dwelling on noise grounds. It is acknowledged that the site is subject to a planning condition restricting the selling of plants to customers however a small single dwelling is not likely to have an undue impact on the neighbouring dwelling in terms of noise given this would not create an unusual relationship or proximity. No objection has been received on noise grounds by Worcestershire Regulatory Services. For these reasons it would not be reasonable to refuse the application on these grounds.

Q.2 (c) Worcestershire Regulatory Services have raised no objection to the scheme. Sufficient information is provided as part of the application to determine that contaminated land risk assessment is not required. The photographic survey provides a detailed review of both the internal and external use of the building. The Planning Statement confirms that the building has not been used for the storage of pesticides.

Q.2 (d) The site falls within Flood Zone 1 and is not shown to be susceptible to flooding. The drainage engineer consultee has raised no objection to the scheme.

Q.2 (e) given existing residential uses are within the locality it is not considered the location impractical or undesirable for a use falling within C3. Comments have been received suggesting that the site is not sustainable given the lack of public transport and thereby is not a good location for residential dwellings. The unsustainable location of the site is not disputed and Highways have also raised this matter in their comments. However, a Ministerial Statement in March 2015 updated the Planning Practice Guidance (PPG) to remove this test from the assessment of such applications. A Class Q application needs to be seen as part of a wider and more positive approach in considering appropriate opportunities, such as the re-use of rural buildings, to meet housing need in rural areas. This as updated in paragraph 109 of the PPG which states. "That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.". It is therefore not reasonable to refuse the application on these grounds. It is noted there is some dispute from the residents as to the exact distance of

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

the bus stop from the site. In any event Highways agree and concluded the site is unsustainable.

Q.2 (f) In respect of design it is noted that the representations received from the neighbouring properties make comment on this matter. The Councils Supplementary Planning Guidance suggests that agricultural buildings to be converted should be designed to retain their character and evidence of previous use. This building has been constructed for storage purposes and not traditional farming practices. Therefore with the retention of the existing external materials and the inclusion of a small number of new openings this is considered to comply with this guidance. One letter has made reference to an appeal decision for a change of use of a metal agricultural building which was dismissed on the excessive number of new openings creating a domesticated appearance to the building. In this instance, the building is very modern, with modern openings which are to be utilised as part of the conversion. The conversion does also create a number of small openings for windows. These openings are not considered to be excessive and given the nature of this building with little agricultural character as existing it would not be reasonable to object on these grounds. The extent of new openings has been disputed however the building has been designed to ensure that the numbers of new openings are kept to a minimum and given the modern nature of the building it is not unreasonable to except these alterations. Having regards to this, the design is considered acceptable in this rural location.

No objections have been received from statutory consultees in relation to criteria (a) - (d) and therefore it is considered unreasonable to refuse the prior approval on these grounds.

**Public Consultation**

A number of comments have been received from the neighbouring properties in respect of this application. Comments have also been received from the Parish Council objecting to the scheme. The Parish Council are not a consultee on such applications and their comments reflect that received from the neighbours. Matters such as proposed works carried out to the building, highways, noise, design and sustainability are addressed within this report. Other matters raised including the Governments intentions with the creation of these Prior Approval change of use applications are not for the Borough Council to make comment. Any questions on the wording chosen for such legislation should be directed to your MP.

There is no requirement for water drainage, electricity, gas or other services to be shown on the plans as this falls into the Building regulations remit.

The site is located close to the boundary of a special wildlife site however the legislation only restricts such application types that are located within a Site of Special Scientific Interest.

# **PLANNING COMMITTEE**

27<sup>th</sup> May 2020

---

Comments have also been made stating planning polices within the Borough of Redditch Local Plan. This is not an application for planning permission and is a Prior approval sought under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended to convert an agricultural building to one residential dwelling. In determining such proposals, no consideration is made to Local or National Planning Policies and regard has to be had to whether the proposal constitutes permitted development under Class Q and in the event that it does, an assessment is required under Class Q.2(1) regarding a series of six criteria as outlined previously in this report.

The applicants have confirmed in writing and made clear on the plans which access the application is proposing to use and it is clear to the Council what is being considered as part of this application. Conditions have been used to ensure that the access directly off the Droitwich Road, which has caused concern over its use with residents and the Parish Council, is not used as part of the conversion or during any construction works.

## **Conclusion**

The building to be converted is a modern metal structure sited on concrete with no roof tiles or separate roof void. Having regards to this it has not been considered necessary to require a protected species survey in this instance. It has however been deemed appropriate to condition the installation of bat boxes to provide a net gain in biodiversity.

On the basis of the information submitted with the application and all the comments received from the neighbouring properties and relevant consultees, the proposed conversion complies with Schedule 2, Part 3, Class Q of the GPDO.

## **RECOMMENDATION:**

**That having regard to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and to all other material considerations, Prior Approval is required and GRANTED subject to the following conditions:**

### **Conditions:**

- 1) The development hereby approved under must be completed within three years starting with the prior approval date.

Reason: Required as a result of the provisions of Class Q, Part 3 Schedule 2 of the Town and Country Planning General Permitted Development Order 2015.

- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings:

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

125312-100 Location and Block Plan  
125312-102 Proposed Plans  
125312-103a Proposed Block Plan

REASON: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 3) All new external walls and roofs shall be finished in materials to match in colour, form and texture those on the existing building.

Reason:- To ensure that the development is satisfactory in appearance, to safeguard the visual amenities of the area and in accordance with Policies in the Local Plan.

- 4) To provide a net gain in biodiversity two 'schwegler bat boxes' or equivalent shall be placed on site in suitable locations and kept thereafter in perpetuity.

Reason: To ensure that the proposal results in a net gain of biodiversity having regard Policy 41 of the Borough of Redditch Local Plan and Paragraph 175 of the NPPF.

- 5) The Development hereby approved shall not be occupied until an area has been laid out within the curtilage of the dwelling for the parking of 2 cars at a gradient not exceeding 1 in 8. This area shall thereafter be retained for the purpose of parking a vehicle only.

REASON: In the interests of highway safety and to ensure the free flow of traffic using the adjoining

- 6) The Development hereby permitted shall not be first occupied until the proposed dwelling has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

REASON: To encourage sustainable travel and healthy communities.

- 7) The Development hereby approved shall not be occupied until the parking has been provided as shown on drawing 125312-103 Rev B.

Reason: To ensure conformity with submitted details.

- 8) The Development hereby approved shall not be occupied until the existing gated vehicular access located off Droitwich Rd shall be permanently closed in

**PLANNING  
COMMITTEE**

27<sup>th</sup> May 2020

---

accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. In addition, this access shall not be used for construction vehicles as part of the conversion works at any time.

REASON: To ensure the safe and free flow of traffic using the adjoining highway.

**Informatives**

- 1) Proactive engagement by the local planning authority was not necessary in this case as the proposed development was considered acceptable as initially submitted.
- 2) Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- 3) A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under section 257 of the Town and Country Planning Act 1990, provided that the Order is made before the development is carried out. If the right of way is obstructed before the order is made, the Order cannot proceed until the obstruction is removed.

**Procedural matters**

This application is being reported to the Planning Committee because two (or more) objections have been received.