

BOROUGH OF KETTERING

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| Committee | Full Planning Committee - 22/08/2017 | Item No: 5.13 |
| Report Originator | Andrew Smith Development Team Leader | Application No: KET/2017/0506 |
| Wards Affected | Slade | |
| Location | Millwinds, Harrington Road, Harrington | |
| Proposal | Part 3 Class Q Determination - Agricultural Building to Dwelling: Conversion of agricultural building to 1 no. dwelling | |
| Applicant | Miss M Boswell | |

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. No development shall commence on site until details of the types and colours of all external facing and roofing materials to be used, together with samples, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON: Details of materials are necessary prior to the commencement of development in the interests of the visual amenities of the area in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

2. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A to D have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition D has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent

persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(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).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 (or any model procedures revoking and replacing those model procedures with or without modification)'.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The 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 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.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. 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 is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition A, and where remediation is necessary a

remediation scheme must be prepared in accordance with the requirements of condition B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition C.

REASON: Contaminated land investigation is required prior to the commencement of development to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy 11 of the NPPF and Policies 6 & 8 of the North Northamptonshire Joint Core Strategy.

3. No development shall take place on site until details of the method of construction and surfacing of the means of access have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented before the use hereby permitted is commenced.

REASON: Access and surfacing details are necessary prior to the commencement of development to ensure a satisfactory means of access to the highway and to ensure visual amenity of the area is safeguarded in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

4. The residential curtilage hereby approved is only that area contained within the red line on the approved block plan (KET/2017/0506/2; received 29th June 2017), except the means of access which shall be used for access purposes only.

REASON: For the avoidance of doubt and to ensure that the visual amenity of the area is appropriately safeguarded in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

5. No development shall commence on site until a scheme for surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development, and shall be retained at all times thereafter.

REASON: To ensure that development protects the quality of the water environment and does not contribute to the risk of flooding in accordance with Policy 6 of the North Northamptonshire Joint Core Strategy.

Officers Report for KET/2017/0506

This application is reported for Committee decision because a ward member has asked for it to be considered.

Relevant Planning History

The Millwinds site has significant planning history. During World War 2 the site was used as part of a military base connected with the nearby Harrington Airfield. Subsequently the land has been part of an agricultural use and with the benefit of a series of temporary permissions for agriculture related uses such as use of buildings for the sale and repair of tractors and farm diggers, incorporating some light fabrication work (KE/85/0403) and agricultural buildings and agricultural machinery repair depot (KE/1991/0400).

Approval was granted for a temporary agricultural dwelling house under reference KET/1988/0415, which was renewed under KET/1991/0399. However, applications without any agricultural attachment or seeking permanent permission for residential use have consistently been refused.

EN178 – Enforcement and stop notices were served following the failure to discontinue the temporary caravan use permitted under KE/1991/0399. This EN was withdrawn following the issue of EN96/167.

KE/92/0683 – Change of use to traveller/ caravan site (10 pitches). Refused 01.12.1992. Appeal dismissed 19.07.1993

KE/96/0550 & EN96/167 – Change of use to private caravan site for 5 Gypsy families. Refused and appeal dismissed 18.07.1997. The inspector concluded that the development had an urban character and caused very significant harm to the rural character of the area. In addition, the site was considered remote in location from local services and facilities resulting in reliance on the private car which is contrary to the aim of reducing the need for travel. The period for compliance with the enforcement notice was extended to 9 months.

KE/98/0090 – Change of use to private Gypsy caravan site for 4 caravans plus screen building. Refusal 31.03.1998

04/04/2000 – Planning Inspectorate's decision re-determined. Appeal dismissed. The caravans are visually intrusive, particularly from Kelmarsh Road and residential use is harmfully out of character with the open countryside. A distance of 5km from local services was considered to be well beyond what is considered to be a reasonable distance.

There were planning refusals in 2001 and 2003 (under references KET/2001/0499 and KET/2003/0546) to use existing buildings at the site for light industry and craft workshops on the grounds of extensive alterations being required to redundant buildings in the open countryside.

KET/2010/0133: Change of use of land to siting of 2no. mobile homes and 2no. traveller vans. Temporary consent was initially granted on 28th May 2010, this was

subsequently quashed via a Court Order following a Judicial Review of the decision. This was on the grounds of the approval reason referencing a local planning policy that had not in fact been satisfied and of the Council having not satisfactorily investigated the availability of traveller pitches on other private sites in the Borough. KET/2010/0133 was subsequently re-determined by the Council and refused on the grounds of its unsustainable location in the open countryside for use as a residential caravan site.

KET/2015/0253: Farrier residential training facility and equine hospital. Refusal 03.08.2017 on the basis of a harmful impact in the rural area and not strengthening the network of settlements within the Borough

Site Visit

Officer's site inspection was carried out on 10/08/2017

Site Description

The overall Millwinds site is roughly rectangular in shape and measures 1.8Ha in area. It is bound by Kelmarsh Road to its northern boundary and by a private track to its western boundary that runs from Kelmarsh and provides access to both the application site and to premises (Warth Lodge) that are sited to the south west. It is proposed that this private track provide access as part of this application. Agricultural land surrounds the site, including the buildings and farmhouse of Wheatfield Lodge Farm sited on the opposing side of Kelmarsh Road at the eastern edge of the site.

The site exhibits significant areas of hardstanding, which is thought to date back to the site's wartime airfield use and has not recently been maintained and is in a poor state of repair. There are also existing buildings on site that have predominantly been used for agricultural purposes in recent times. The largest of which is the subject of this particular application and is sited to the southern side of the site. It is constructed from various blockwork and metal cladding. The other significant structure is sited close to Kelmarsh Road and is of blockwork construction with an unfinished roof.

Proposed Development

This application seeks determination as to whether prior approval is required under Class Q of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (here after referred to as the GDPO) for the change of use of an agricultural building to a dwelling house (Use Class C3), i.e. the building sited to the southern side of the site described above.

The proposal includes the introduction of an internal first floor level within the main structure, the retention of the building's existing steel portal frame, the replacement of existing roof cladding, new dark-stained weather-boarding to replace existing metal corrugated sheeting, new guttering, a new glazed area to where the current barn door opening is situated and the installation of new dark-stained window and doors openings. It is also proposed that an area of hardstanding be provided for two cars to park to the western side of the structure.

Any Constraints Affecting the Site

C road

Open Countryside

Consultation and Customer Impact

Harrington Parish Council

The Parish Council oppose the application. The provisions of Part 3, Class Q are not satisfied. The building was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, nor when it was last in use. A retrospective application to change the use of the site to a gypsy site was made under KE/98/0090. The breeze block side extension was added around 1995 and was not there when the building was used to repair machinery. There is not drainage on site and the soil is heavy clay and impermeable. Flooding has been caused during heavy rainfall due to runoff. No formal structural support has been submitted, only a report that does not include looking at the foundations. New foundations could be needed by virtue of the extra loading to the steel frame. The area around the building is constrained and there may not be room to install drainage or to store oil or gas.

Highway Authority

Cannot support the application in light of further information being required to demonstrate that safe access arrangements would be provided. Any further comments to be fed back through the Committee Update.

KBC Environmental Health

No objections subject to a standard contamination condition being applied.

Neighbours

A site notice was erected at the site; no responses were received.

Planning Policy

Legislation

This application is assessed in accordance with Class Q of Schedule 2 Part 3 and the provisions of paragraph W of that same part of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Policy

National Planning Policy Framework

Financial/Resource Implications

None

Planning Considerations

The key issues for consideration in this application are:-

1. Whether the development is permitted development in accordance with Part 3, Class Q of The GPDO, and:
2. Whether the prior approval of the Local Authority required and given.

1. Whether the development is permitted development in accordance with Part 3, Class Q of The GPDO

Class Q, Part 3 of the GPDO permits:

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

Interpretations for this class are as follows:

“agricultural building” means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and “agricultural use” refers to such uses;

“curtilage” means, for the purposes of Class Q—

- (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
- (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,*

Importantly there are exceptions, limitations and conditions which need to be satisfied to benefit from the permitted development.

An analysis of how this case fits with the legislation is set out below.

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

The applicants have stated that the barn has been solely and lastly used for an agricultural use since before 20th March 2013. They have also referred to the barn having been used for agricultural machinery repairs (presumably with reference to

historic planning consent KE/1991/0400 for such activities) and that therefore the building itself is an agriculturally related building. At the time of the officers site visits in respect to this application and with respect to KET/2015/0253 the barn was and currently is unused. There is no evidence apparent to the Council to believe that the site was not solely used for an agricultural use as part of an established agricultural unit on (and since) 20th March 2013. Indeed past planning decisions at the site have been made in the context of the use of the land being considered to remain agricultural.

(b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;

The cumulative floor space is 230 square metres.

(c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;

One dwelling is proposed.

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

The site is not the subject of an agricultural tenancy.

(e) 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;

The site is not the subject of an agricultural tenancy.

(f) development under Class A(a) or Class B(a) of Part 6 of this Schedule (GPDO 2015) (agricultural buildings and operations) has been carried out on the established agricultural unit—

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2013, during the period which is 10 years before the date development under Class Q begins;

No agricultural determination application has been submitted on the application site.

(g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

No extensions are included in the proposal. The proposed dwelling will be accommodated by the existing building.

(h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

The floor space proposed is 230 square metres

(i) the development under Class Q(b) 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(i)(i);

The proposal does not consist of any building operations other than stated above. The applicant has stated that as the building has limited openings, some new openings are required. It is considered that the number of new openings have been kept to a reasonable level and are logically positioned to serve a residential dwelling. The existing barn door opening has been utilised in its entirety to provide glazing to greatly assist in providing a source of light and outlook for future occupants, based on this information the works are considered to be in accordance with condition (i).

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

The site is not on article 2(3) land.

(k) the site is, or forms part of—

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

The site is not any of the above designations.

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

The site is not and does not contain a scheduled monument.

(m) the building is a listed building.

The buildings are not listed.

2. Whether the prior approval of the Local Authority is required and given.

Under Condition Q.2 (1) the local authority can require prior approval on the following five matters. A commentary has been added in regard to each matter.

(a) transport and highways impacts of the development,

The Local Highways Authority (LHA) has not objected to the proposal but has stated that they are currently unable to support the application on the basis of further information being required. In response the applicant has confirmed that the access onto the adopted highway is on average a width of 10.4m in width for the first 10m from the highway boundary and is of level gradient with good visibility – that can be confirmed from the site visit. The site is also considered to provide adequate on plot parking (2no. spaces) to service the proposed dwelling. The access arrangements across the Millwinds site also appear logical and to correspond with existing areas of hardstanding (that would presumably need upgrading, the details of which can be secured via condition).

Based on this it is considered that prior approval is required on highways grounds and given subject to the recommended condition on final surfacing arrangements.

(b)noise impacts of the development,

The site is adjacent to agricultural land, overall it is considered that noise from external uses will not significantly have an adverse impact on the future occupants. The change of the barn to a residential use is not considered to have a significant adverse noise impact on any dwellings.

Based on this it is considered that prior approval is not required on noise impact grounds.

(c)contamination risks on the site,

Due to the previous potentially contaminative use of the site (i.e. the repair of agricultural machinery) and the underlying geology present throughout Northamptonshire it is considered that a condition is necessary to secure site investigation and remediation with respect to potential contaminants.

As such prior approval is deemed to be required in regard to contamination risks and given on the basis of the recommended condition.

(d)flooding risks on the site,

The site is in flood zone 1 and is not in an area of critical drainage. However, with respect to previous applications at the site, issues of drainage from the Millwinds site have been raised by the Parish Council and investigated. In regard to the current proposal a scheme for the satisfactory drainage of surface and foul water for this conversion shall be expected and shall be subject to a condition.

As such prior approval is deemed to be required in regard to flooding risk at the site and given on the basis of the recommended condition.

(e)whether the location or 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 (dwellinghouses) of the Schedule to the Use Classes Order,

Notwithstanding Development Plan policies, the recently amended Planning Practice Guidance (PPG) makes it clear that no sustainability test applies to this class of permitted development.

Instead the local planning authority must consider whether the location or siting of the building makes it otherwise impractical or undesirable.

Whether Impractical

In terms of the structural suitability of the building for residential conversion, a Report has been submitted that was produced by a building surveyor whose work was overseen and approved by a Chartered Surveyor. The Report is based upon an assessment of all visible parts of the barn (no part of the foundations have been exposed); it confirms that the structure of the building is sound and suitable for conversion to residential use without the need for major structural alterations or repairs. The load bearing metal frame that supports the existing roof and wall coverings is adequate to accommodate additional insulation and finishes without any

significant alteration. The additional loading will be negligible and transferable through the existing steel frame. The Report also confirms that an additional floor can be carried through the existing blockwork wall and steel frame.

A KBC Building Control Officer accompanied the case officer during the site visit in the interests of viewing the building in the context of the findings of the Report. It is confirmed that the Report constitutes a reasonable assessment of the situation on site. There is no reason to challenge the findings and assessments that have been made. The foundations do not have to have been exposed to allow a Report on Structural Suitability to be put together.

Based on the information submitted and the officers observation on the site visit it is considered that the building is in a suitable condition for conversion and there are no structural problems which will restrict development. Based on the advice contained within paragraph 108 of the NPPG the overall location of the building is not thought to be impractical.

Whether Undesirable

The conversion of the site will not have an adverse impact on the amenity of nearby properties, nor a harmful impact on the functionality of surrounding agricultural land uses.

(f) the design or external appearance of the building,

The proposal includes significant alterations to the external materials including the replacement of existing roof and wall cladding. The proposals external appearance does have the potential to have a significantly impact on the local area.

In the majority the proposed external changes do have the potential to mimic the characteristics of the existing barn however sensitive material choices are of importance. As such a condition has been recommended that all external materials are submitted for approval prior to development. On this basis the authority's prior approval for the design and external appearance is considered to be required and given.

It should also be noted that the various permitted development rights afforded for development within the curtilage of a dwellinghouse within Schedule 2, Part 1 of the General Permitted Development are not applicable to a dwellinghouse permitted via Part 3, Class Q of the Order. Therefore a further application would be required to be submitted for any future extension or alteration.

Conclusion

The proposal meets with the criteria and conditions set out in Class Q, Part 3, of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Prior approval is required in regard to highway, possible land contamination and the design and external appearance. These matters are considered acceptable and prior approval is granted subject to the conditions recommended.

Background Papers

Title of Document:

Date:

Contact Officer:

Andrew Smith, Development Team Leader on 01536 534316

Previous Reports/Minutes

Ref:

Date:

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