

WEST LANCASHIRE BOROUGH COUNCIL

CASE OFFICERS REPORT

APPLICATION NO:

2018/0342/PNC

LOCATION: 1 Malt Kiln Farm, Malt Kiln Lane, Aughton, Ormskirk

APPLICANT: Mrs Deborah Tyrer

WARD: Aughton And Downholland

PROPOSAL: Application for determination as to whether prior approval of details is required - Change of use of agricultural storage building to a dwellinghouse, and for associated operational development.

1.0 PREVIOUS RELEVANT APPLICATIONS

1.1 None

2.0 CONSULTEE RESPONSES

2.1 LCC Highways – Malt Kiln Lane is an adopted highway for a distance of 470m in a south easterly direction from its junction with Parrs Lane at which point it changes to a privately maintained road. The length of privately maintained road is also a Public Right of Way (FP26). The applicant is advised to contact the public rights of way offices for further information. I am of the opinion that the change of use from agricultural storage to a residential dwelling is likely to see a reduction in vehicular movements from those possible under the existing class use. No objection in principle to the proposed development and is of the opinion that the level of traffic generated by this proposal would not have any material impact on highway capacity within the immediate vicinity of the site.

2.2 Director of Leisure and Environment (17.05.2018) – The noise report concludes that noise at the proposed dwelling is generally within guidance levels, but internal maximum levels can be higher than recommended, especially early morning before 7am. Some precautions are therefore necessary and suggestions have been made that standard double glazing together with acoustic air vents is a reasonable solution. This being the case, there is no objection.

2.3 Director of Leisure and Environment (Land Contamination) (17.05.2018) – Having regard to the submitted Phase 1 report, I can confirm that no further investigations are necessary at this site and the land can be classified as not contaminated thereby allowing development to continue should it gain planning permission.

3.0 OTHER REPRESENTATIONS

3.1 A query has been received about the applicant, the address of the development and the submitted structural survey.

4.0 LOCAL PLAN ALLOCATION

- 4.1 National Planning Policy Framework (NPPF) and the West Lancashire Local Plan DPD (2012-2027) provides the policy framework.
- 4.2 The site is located within the Green Belt as designated in the West Lancashire Local Plan.

5.0 ASSESSMENT

Site

- 5.1 The application site comprises one building sited to the immediate south of No. 1 Malt Kiln Farm. The site is located within the Green Belt.

Proposal

- 5.2 This application seeks prior approval of details for the change of use of one agricultural barn to create one dwelling and for associated operational development relating to this use

Assessment

- 5.3 The Local Planning Authority must first assess whether the development benefits from the permitted development rights set out in Class Q, Part 3, Schedule 2 the Town and Country Planning (General Permitted Development) (England) Order 2015. If the development complies with the provisions of Class Q.1 the Local Planning Authority must then assess the application against Class Q.2 and determine whether prior approval is required as to:
- a) Transport and highway impacts of the development
 - b) Noise Impacts of the development
 - c) Contamination risks on site
 - d) Flooding risks on site
 - e) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use or
 - f) The design or external appearance of the building.

Class Q

- 5.5 Class Q (a) - The definition of "curtilage" for the purpose of Class Q is defined by paragraph X.

"Curtilage" is defined in Class X, the Interpretation of Part 3 of the Order, for the purposes of Classes Q, R or S only, as follows:

- i) 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*
- ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser".*

- 5.6 A site location plan has been received (26th March 2018) which identifies the application building and the land around it which would make up the curtilage of the proposed property. The proposed area is shown as being no larger than the land area occupied by the agricultural building, it is therefore considered that the proposal falls within the scope of permitted development.
- 5.7 Class Q (b) - The submission documents provide details of the proposed building operations that would be required to convert the building. The application is therefore assessed as to whether prior approval of details is required under Class Q.2 (1).

Class Q.1

5.8 Development is not permitted by Class Q unless the proposal complies with all sections of Q.1. Note Q.1 (b) to (h) were replaced in April 2018 essentially to allow for up to 5 dwellings on an agricultural unit and setting limits about the size of the dwellings so created – Statutory Instrument 2018 No. 343:

- (a) Information contained within the application form confirms that the last use of the building was for agriculture on an established agricultural unit;
- (b) In the case of –
- (i) A larger dwellinghouse, within an established unit –
- (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
- (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse under Class Q would exceed 465 square metres.

The proposed larger dwellinghouse would not exceed 465 square metres

- (c) Does not apply in this instance
- (d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would not result in either or both of the following –
- (i) A larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
- (ii) The cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5

There would be one larger dwellinghouse created with a floorspace of approximately 130 square metres

- (e) As far as the LPA are aware (and as confirmed by the agent) the site is not occupied under an agricultural tenancy

- (f) not applicable
- (g) No development under Class A(a) or Class B(a) of Part 6 has been carried out on this site since 20th March 2013.
- (h) The development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
- (i) It is considered that the level of works and demolition involved to make the building habitable are reasonably necessary for the building to function as a dwelling house.

In reaching the above conclusion I have given due consideration to the 2016 High Court Judgement Hibbett, and Another v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council [2016] EWCH 2853 (Admin) (9th November 2016) – this established that internal structural works are not prevented by Part 3 Clause Q. However it is still necessary for the overall works to constitute a "conversion" rather than a "rebuild or fresh build".

Whilst the structural report acknowledges that certain works are required to bring the building back into use, I am satisfied that these works cumulatively amount to conversion works and not substantial rebuilding.

(j), (k), (l), (m) The site does not have any special designations and does not fall within any of the categories listed at these parts.

Class Q.2

5.9 Class Q.2:

a) Transport and highway impacts of the development

It is proposed that the new dwelling would be accessed via Malt Kiln Lane which currently serves Nos. 1 and 2 Malt Kiln Lane and the surrounding farmland. The Highway Officer has raised no objections to the development. I am satisfied that the proposed development would not result in adverse transport/highway impacts.

b) Noise impacts of the development

Paragraph 123 of the NPPF states that planning decisions should aim to “avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development” and Paragraph 17 of the NPPF requires that planning should always seek to ensure a good standard of amenity for all existing and future residents.

Given the location of the proposed dwelling and uses of buildings in close proximity to the site, I do not consider that there would be any significant adverse impact to the residential amenity of residents of the proposed dwelling. However it has been noted that there could be some noise sensitivities early in the morning and so a condition would be appropriate to ensure standard double glazing

together with acoustic air vents (as recommended in the submitted report) are incorporated to minimise this potential noise impact.

c) Contamination risks of the site

The application has been accompanied by a Contamination Survey and Report (Demeter Environmental Ltd). The Council's Environmental Health Officer has been consulted on this application and has confirmed that the site and land can be classified as not contaminated.

d) Flooding risks on the site

The site is located within Flood Zone 1 where it is considered appropriate to locate more vulnerable types of development as per Technical guidance to the National Planning Policy Framework, 2012. It is considered that a Flood Risk Assessment would not be required in this instance and prior approval in this respect is not required.

e) Location or siting of the building

NPPF at paragraph 17 requires that planning seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

The curtilage would contain the dwelling with amenity space to the rear of the building. If the application were to be approved I consider it would be necessary to impose a condition requiring details of the boundary treatments to ensure that the amenity space is adequately screened. Otherwise I am satisfied that the location/siting of the building is appropriate for the proposed purposes.

f) The design or external appearance of the building

The building is currently in agricultural form. Having regard to the nature of the surrounding area, the proposed development would be unlikely to cause significant harm to its character and appearance.

5.10 Other matters

Paragraph W(13) states *"The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval."* As mentioned above, I consider it necessary to impose a condition requiring details of a boundary treatment to be submitted to ensure the proposed private amenity area is appropriately screened.

I note that a query was received regarding the address of the proposed development. The address provided within the application form referred to Malt Kiln Barn; however as this address was not on the Council's database, the application site could only be plotted by using reference to No. 1 Malt Kiln Farm. The application site refers to the barn immediately to the side of No. 1 Malt Kiln Farm and as this is an existing dwelling, I am satisfied that the discrepancies in the published address would not prejudice any interested party.

With respect to a query regarding the submitted structural survey, an email was received from the agent on 17th May 2018 which confirmed that this survey

contained an error in that it referred to Limekiln Farm. The pictures which accompany the survey however confirm that the building which is the subject of the application is that located next to Malt Kiln Farm. Therefore I am satisfied that the submitted structural survey is relevant to this application.

Summary

5.11 Having regard to the above assessment I consider that the development does benefit from permitted development under Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 under the provisions of Class Q and that prior approval of details is not required.

Condition(s)

1. The development hereby permitted must be completed within 3 years of the date of this decision.
2. The hereby permitted dwellinghouse shall not be occupied until details of the proposed boundary treatment for the curtilage has been submitted to and approved in writing by the Local Planning Authority. Such boundary treatment shall be erected in its entirety prior to first occupation of the dwelling and retained for the duration of the development.
3. The development hereby approved shall accord with the mitigation measures outlined in Section 4 of the 'Acoustic Survey and Assessment for Proposed Conversion of a barn to residential accommodation' (Martin Environmental Solutions, Report No. 1542-1, February 2018). These measures shall be completed before the permitted dwelling is occupied.

Reason(s)

1. As required by Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
2. To prevent unsightliness and visual intrusion and so ensure that the development complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To safeguard the amenity of future occupants and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

Note(s)

1. The development approved by this permission may be liable to a Community Infrastructure Levy, which is payable after development begins. If your scheme is liable, and you have not already done so, you must submit an Assumption of Liability Notice to the Council before development commences. If your scheme is issued with a CIL charge, it is essential you submit a Commencement Notice to the Council before the development commences. Any application for relief or exemption should also be submitted before commencement.

The Council will impose penalties where the correct forms are not submitted, or are late, or where the information provided is inaccurate.

All forms are available at <http://www.westlancs.gov.uk/planning/planning-policy/community-infrastructure-levy/the-cil-process.aspx> and once completed, should be emailed to CIL@westlancs.gov.uk.

Further information on CIL can be found at www.westlancs.gov.uk/CIL or by contacting the Council's CIL and S106 Officer on CIL@westlancs.gov.uk or tel: 01695 585171.

SIGNED.....DATE.....

2018/0342/PNC/ Mr N Ellis