

**PLANNING COMMITTEE – 14 JANUARY 2016**

**PART 1**

Report of the Head of Planning

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Any other reports to be considered in the public session

<b>1.1 REFERENCE NO - 15/509602/PNQCLA</b>		
<b>APPLICATION PROPOSAL</b>		
<p>Prior notification for the change of use of an agricultural building into a single residential dwelling (Use Class C3) and for associated operational development</p> <p>For the Council’s prior approval to:</p> <ul style="list-style-type: none"> <li>- Transport and Highways impacts of the development.</li> <li>- Contamination risks on the site.</li> <li>- Flooding risks on the site.</li> <li>- Noise impacts of the development.</li> <li>- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.</li> <li>- Design and external appearance impacts on the building</li> </ul>		
<b>ADDRESS</b> Barn Ludgate Lane Lynsted Kent ME9 0RF		
<b>RECOMMENDATION</b> - Prior Approval Not Required		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
3 or more Local Objections, and Ward Member request		
<b>WARD</b> Teynham & Lynsted	<b>PARISH/TOWN COUNCIL</b> Lynsted And Kingsdown	<b>APPLICANT</b> Bones Brothers <b>AGENT</b> Mr David Walsh
<b>DECISION DUE DATE</b> 08/01/16	<b>PUBLICITY EXPIRY DATE</b> 08/01/16	<b>OFFICER SITE VISIT DATE</b> 31/12/15

**1.0 DESCRIPTION OF SITE**

- 1.1 The building in question is a C20 barn situated outside the built-up area boundary, in a fairly isolated location. The only neighbouring property is a grade II listed detached house known as Ludgate, situated approximately 37 metres away, with a detached garage and a tennis court in between the listed building and the barn. The barn is in need of repair, but appears to be structurally sound.
- 1.2 The location lies outside the village of Lynsted and the site and, apart from the building itself, is open agricultural land.

**2.0 PROPOSAL**

- 2.1. This is not a normal planning application as the principle of conversion of the barn to a dwelling is provided for as Permitted Development under Class Q of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Instead this is a prior notification application submitted on the basis

that the conversion of the barn to a Class C3 dwelling is Permitted Development and the application is simply for approval in relation to certain detailed matters set out below.

- 2.2 The proposals would include the erection of a new external wall, new fenestration and two rooflights. The building would provide two bedrooms, with parking for two cars, the external area involved being no greater than the floorplan of the building to comply with the relevant regulations.
- 2.3 The applicant has submitted a supporting statement with the application, noting that historically, any traffic associated with the barn would have been physically larger and more frequent than that generated by a domestic use; and that the building was originally constructed in the 1930s to support fruit growing in the surrounding fields, and was last used to store apple boxes. The field surrounding the building is now sown with arable crops, rendering the barn redundant.

### 3.0 PLANNING CONSTRAINTS

- 3.1 The site is located within the countryside, and is adjacent to a grade II listed building.

### 4.0 POLICY AND OTHER CONSIDERATIONS

- 4.1 The conversion of agricultural buildings in Swale (except in conservation areas, SSSIs and Areas of Outstanding Natural Beauty) is now Permitted Development by virtue of Class Q of the Order subject to certain limitations and to an application for Prior Approval in relation to matters of;
- **Transport and Highways impacts of the development.**
  - **Contamination risks on the site.**
  - **Flooding risks on the site.**
  - **Noise impacts of the development.**
  - **Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.**
  - **Design and external appearance impacts on the building**
- 4.2 National Planning Practice Guidance (NPPG) provides guidance on the working of these relatively new provisions and states the following:

*“What are the residential uses?”*

*Subject to a number of conditions and restrictions, agricultural buildings and land within their curtilage may convert to a use falling within Class C3 of the Schedule to the Use Classes Order 1987 (dwelling houses). These conditions and restrictions are set out in Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The maximum floor space that may be converted under this permitted development right is 450 m<sup>2</sup> of floor space of a building or buildings within a single established agricultural unit. The total number of new homes which may be developed under the right is 3. The right is extinguished once any of the conditions ie the 3 dwellings or 450m<sup>2</sup> threshold, is reached. The total number of new homes (3 dwelling houses) does not include existing residential properties within the established agricultural unit, unless they were created by the use of the permitted development right on a previous occasion, in which case they would be counted.*

Are any building works allowed when changing to residential use?

*Building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.*

Are there any limitations to the change to residential use?

*There are some limitations to the change to residential use. The Class Q rights cannot be exercised where works for the building, extending or altering of a building, or the installation of additional or replacement plant or machinery for the purposes of agriculture under the existing agricultural permitted development, have been carried out on the established agricultural unit since 20 March 2013, or within 10 years before exercising the change to residential use, whichever is the lesser. The agricultural permitted development rights are set out in Class A (a) or Class B (a) of Part 6 of Schedule 2 to the General Permitted Development Order (agricultural buildings and operations).*

*In addition, the site must have been used solely for an agricultural use, as part of an established agricultural unit, on 20 March 2013, or if it was not in use on that date, when it was last in use. If the site was brought into use after 20 March 2013, then it must have been used solely for an agricultural use, as part of an established agricultural unit, for 10 years before the date the development begins. If there is an agricultural tenancy in place, there are separate arrangements set out in Class Q.*

Are there any conditions attached to the change to residential use?

*There are some conditions attached to the change to residential use. Before beginning the development, an individual will need to apply to the local planning authority for a determination as to whether the prior approval of the local planning authority is necessary for the change of use. This prior approval will be in respect of transport, highways and noise impacts of the development, and also as to the flooding and contamination risks on the site, and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to dwelling house. In addition, applicants will need to check whether the prior approval of the authority will be required as to the design or external appearance of the building.*

*The procedure for prior approval is set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. This procedure was amended in April 2015 to make clear that the local planning authority must only consider the National Planning Policy Framework to the extent that it is relevant to the matter on which prior approval is sought, for example, transport, highways, noise etc.*

*Is there a sustainability prior approval for the change to residential use?*

*The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.*

*What is meant by impractical or undesirable for the change to residential use?*

*Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”.*

*When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. 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.*

*There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.*

*When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.”*

## **5.0 LOCAL REPRESENTATIONS**

5.1 Three emails of objection have been received from local residents. The comments contained therein may be summarised as follows:

- Impact on the adjacent listed hall house
- No mention within application of impact on adjacent dwelling
- Ludgate was designed to be a house on its own
- The land is not in agricultural use
- The land is under an agricultural tenancy. It is not clear when or if the barn was removed from the tenancy
- We believe its use could not be changed without demolishing and rebuilding it
- The barn is within the curtilage of a listed building
- No hard access road to the site
- Isolated position
- Contrary to the NPPF

- No Historical Impact Assessment
- Design not in keeping with the listed building
- Overlooking from roof lights
- Impacts on privacy

5.2 The Agent has sent a letter responding to these comments:

- The site is agricultural land, now sown with arable crops, rendering the barn redundant
- The barn and access are not part of the agricultural tenancy
- The works necessary are in accordance with Class Q.1 (i)
- OS maps show the curtilage of Ludgate incorporating the house and gardens only; not the barn
- Rooflights are to let in light but would not overlook Ludgate
- The proposed conversion would not adversely affect the character and setting of the listed building; it is 35 metres away and outside the curtilage.

## 6.0 CONSULTATION RESPONSES

6.1 Kent Historic Buildings Committee of the CPRE raises objection due to the impact of the development on the adjacent listed building.

6.2 Kent Highways Services raises no objection.

## 7.0 APPRAISAL

7.1 This is not a full application for planning permission; it is a request to determine only whether or not prior approval is required. This is an unusual application, one normally dealt with under delegated powers as it is largely a technical assessment of the issues outlined in the GPDO which itself grants the general planning permission involved; it is referred to Members only because the powers delegated to the Head of Planning require proposals attracting three or more comments contrary to recommendation to be referred to the Planning Committee. Having discussed the issue with Ward Members, the application is further referred to the Committee further to a Ward Member request. I am of the opinion that the proposal complies with the conditions set out in Class Q of the GPDO 2015; the development under Class Q would not result in a building or buildings having more than 450sqm of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

7.2 I consider below the issues specified in Class Q in accordance with the provisions of paragraph W of the GPDO.

### **Transport and Highways impacts of the development**

- Kent Highways Services raises no objection. I note that there is an existing farm track leading to the building, and that no further works with regard to the access are envisaged.
- Vehicle parking can be accommodated within the defined curtilage of the dwelling.
- Prior approval is not required for the transport and highway impacts of the development.

### **Noise impacts of the development**

- I am of the opinion that the proposal would not result in unacceptable noise impacts; the proposal is for conversion to a C3 dwellinghouse.
- Prior approval is not required for the noise impacts of the development.

#### **Contamination risks on the site**

- Being an agricultural site, I can find no details of any potential contamination on site. It appears that the barn was only used to store equipment and machinery.
- Prior approval is not required for the contamination risks on the site.

#### **Flooding risks on the site**

- The threshold for consulting the Environment Agency set out in paragraph W has not been met.
- Prior approval is not required for the flood risks on the site.

#### **Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.**

- The NPPG is clear that there is no test for sustainability of location. I do not consider the location or siting of the building to make it impractical or undesirable for residential use as described in the NPPG above. The issue raised locally about the impact on the setting of the listed building is not one of the issues that the NPPG suggests might be a relevant consideration as these focus on practicality and amenity.
- Seemingly, the regulations have no provision for the impact on the setting of a listed building to be taken in to account. Nevertheless, I am conscious of the Council's statutory duty with regard to listed buildings and have considered the likely impact. The building will not be enlarged; thus I am of the opinion that the proposal will have no adverse impact on the character or the setting of the listed building.
- Prior approval is not required in this regard.

#### **Design and external appearance impacts on the building.**

- The proposed dwelling will still be relatively low scale and modest in both size and height.
- The proposed finishing materials, and simple design would amount to a design improvement over the existing that would benefit the external appearance of the building and wider area.
- Prior approval is not required for the design and external appearance impacts of the building. I am of the opinion that the proposal will have no adverse impact on the character or the setting of the listed building.

7.3 I note the concerns expressed by the objectors, but most of those would correspond with the matters normally taken into account in deciding whether or not to grant planning permission which has already been done in this case by national regulations. However, as the proposal has been submitted under the Prior Approval route, the method of assessment requires the Council to consider only specific issues as set out above. Having done so I conclude that Prior Approval is not required either for the use or the alterations proposed.

### **8.0 RECOMMENDATION – Prior Approval Not Required**

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.