

3.3 REFERENCE NO - 21/500951/PNQCLA		
APPLICATION PROPOSAL		
Prior Notification for change of use of agricultural building to 1no. dwelling and associated operational development. For it's prior approval to: - Transport and Highways impacts of the development - Noise impacts of the development - Contamination risks on the site - Flooding 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 from agricultural use to C3 (dwellinghouses) - Design and external appearance impacts on the building, and - Provision of adequate natural light in all habitable rooms of the dwellinghouses.		
ADDRESS Pebble Court Farm Woodgate Lane Borden Kent ME9 7QB		
RECOMMENDATION Prior Approval Refused		
REASON FOR REFERRAL TO COMMITTEE		
Application called in by Cllr Baldock & Cllr Hampshire		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Michael Miller AGENT
DECISION DUE DATE 06/05/21	PUBLICITY EXPIRY DATE 23/03/21	

Relevant Planning History (History for the current application building emboldened)

19/505970/FULL

Conversion of existing disused light industrial workshop to a four bedroom dwelling, and conversion of existing adjacent associated office and store into a home office to be used by the dwelling occupier. Proposals include part demolition of existing workshop and installation of a sewage treatment plant.

Refused Decision Date: 24.01.2020

Appeal Dismissed Decision Date: 30.09.2020

19/506446/PNPA

Prior Notification for change of use of 1no. building from light industrial (Class B1 (c)) to 2no. dwellings (Class C3). For it's prior approval to: - Transport and Highways impacts of the development - Contamination risks on the site - Flooding risks on the site - Where the building is located in an area that is important for industrial services or storage or distribution services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

Refused Decision Date: 03.02.2020

Appeal Dismissed Decision Date: 30.09.2020

19/506161/PNOCLA

Prior notification for the change of use of an office building (Class B1 (a)) to a dwellinghouse (Class C3). For its prior approval to: Transport and Highways impacts of the development - Contamination risks on the site - Flooding risks on the site - Impacts of noise from commercial premises on the intended occupiers of the development.

Prior Approval Refused Decision Date: 22.01.2020

19/502883/PNPA

Prior notification for the change of use from premises in light industrial use (class B1(c)) and any land within its curtilage to 1 no dwellinghouse (class C3). For its prior approval to: - Transport and Highways impacts of the development. - Contamination risks on the site. - Where the building is located in an area that is important for industrial services or storage or distribution services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

Prior Approval Refused Decision Date 24.10.2019

SW/05/0389

Replacement dwelling on industrial buildings site.

Refused

Decision Date: 24.05.2005

SW/02/1255

Demolition of existing dwelling and the construction of a new dwelling.

Refused

Decision Date: 13.12.2002

SW/93/0558

Lawful development certificate for extension and alteration of original double garage/workshop, use of original double garage and workshop and extensions and alterations as a workshop, use of adjoining land for uses ancillary to the workshop use.

Approved

Decision Date: 12.08.1993

SW/87/1421

Outline application for erection of a detached dwelling.

Refused

Decision Date: 14.01.1988

1. DESCRIPTION OF SITE

- 1.1 The building in question is a small timber building, part of which is an open-fronted canopy. It lies adjacent to a remote bungalow known as Pebble Court, and is one of two disused buildings here that are owned by the applicant.
- 1.2 The larger of the two buildings has a 1993 Lawful Development Certificate (LDC) for a mixed use comprising a number of specific uses, including car valeting. The smaller building the subject of this application was apparently erected under agricultural permitted development rights as detailed in application SW/93/0558. It appears that the bungalow here was once associated with an agricultural unit including orchards, although it is evident that the vast majority of any agricultural land once associated with that holding is not within the current applicant's ownership. The applicant lives elsewhere and does not own the bungalow; and as I understand it he has purchased the two disused buildings and a small area of adjoining land relatively recently.
- 1.3 The applicant has made several applications to convert one or other of the two buildings to a dwellinghouse(s) either under Prior Approval procedures, or via a full planning application. All such applications have been refused, and two of the decisions have been appealed, with both appeals being dismissed.

- 1.4 In relation to the smaller building the subject of this application, the applicant sought Prior Approval for conversion from a claimed B1(a) office use to a dwellinghouse in 2019. That application was refused as it was concluded that its original use was for agriculture, although that use had in fact been lost by change of use for domestic storage so long ago that this was now its lawful use. That decision was based on the understanding of a Valuation Tribunal decision (provided by the applicant on an earlier application for the larger building) that resulted in the de-rating of the larger building because its mixed use had ceased and been replaced by a (now lawful) domestic storage as long ago as 2009.
- 1.5 The smaller building now is clad in timber, and although said to have first been erected as an agricultural building, it is unusual in that it has a number of quite large windows, although these windows are crudely made, with slightly different cill heights, and are likely to have been later alterations. The building is currently vacant but its exhibits evidence of past commercial use with tables and office furniture set out, but with all indications that that use ceased a long time ago.

2. PROPOSAL

- 2.1 The current application is seeking Prior Approval for the conversion of the smaller building here, which is said to be in agricultural use to use as a dwellinghouse (Class C3) under Class Q of Part 3 of the GPDO 2015 (as amended).
- 2.2 Class Q of the GPDO permits;
- “Development consisting of –*
- (a) 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; or*
- (b) 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 (dwellinghouses) of that Schedule.”*
- 2.3 Class Q of the GPDO does mean that the principle of new homes being created from agricultural buildings in rural locations (except in locations including conservation areas and AONBs) is approved in principle; even when Local Plan policies might otherwise restrict such conversions. The GPDO requires that all such conversions are subject to a Prior Approval process, and the current application is for Prior Approval in relation to the following required matters:
- (a) Transport and highways impacts of the development,
- (b) Noise impacts of the development
- (c) Contamination risks on the site,
- (d) Flooding risks on the site,

- (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,
 - (f) The design or external appearance of the building, and
 - (g) The provision of adequate natural light in all habitable rooms of the dwellinghouses.
- 2.4 The Prior Approval process is intended to be a straightforward technical assessment of the practicalities of the proposed conversion to determine if the building(s) is suitable for residential use, and not a subjective assessment of the planning merits of the development. Parish Council and neighbour notification is not required, but a site notice is required, and I have gone beyond this minimum measure by also consulting nearby residents directly.
- 2.5 This permitted change of use is subject to a number of criteria including the provisions of Section W (Procedure) which states that the Local Planning Authority may refuse an application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether, the proposed development complies with any conditions, limitations or restrictions specified.
- 2.6 The applicant has submitted a Design and Access Statement in support of the application. This also includes reference to the report on the recent Class O(B1(a)) refusal for this smaller building, from which I quote:

“In the determination letter for the said delegated authority refusal decision dated 4 February 2020 for 119/506161/PNOCLA under the ‘description of site’ section it is confirmed by the Council that the ‘smaller building the subject of this application has a formal agricultural use as detailed in SW/93/0558’ although it also states that ‘although its last use would appear to be domestic storage as shown in the planning statement dated 2006 submitted by the applicant’. This has in fact been incorrectly assumed as the 2006 planning statement was referring only to the LARGER building covered under the 1993 Certificate of Lawful Development and it has been determined by the Council itself that the adjacent smaller agricultural building was NOT included under the 1993 Certificate...therefore the 2006 planning statement did NOT apply to the smaller of the two buildings....

Since the council has emphatically confirmed that the building the subject of this application had the former use of an agricultural building I would respectfully ask that it therefore be given the right of benefit to permitted development into change of use to residential Use Class C3.”

- 2.7 The Statement also includes the following summarised points:
- Excellent quality metal frame and concrete floating floor slab
 - Proposed to create an additional inner timber skin to complement external timber frame and provide thermal insulation to both external walls and existing roof structure
 - Triple glazed windows will replace the existing in established openings
 - External timber cladding will be upgraded and stained accordingly
 - Solar panels and Air Source Heat Pump electric heating

3. PLANNING CONSTRAINTS

3.1 None

4. POLICY AND CONSIDERATIONS

4.1 Class Q of Part 3 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

5. LOCAL REPRESENTATIONS

5.1 Borden Parish Council has no comment.

6. CONSULTATIONS

6.1 Kent Highways states that the proposal does not warrant involvement from the highway authority.

6.2 The Environmental Health Manager has no comments or observations to make.

7. BACKGROUND PAPERS AND PLANS

7.1 All plans and documentation relating to 21/500351/PNQCLA

8. APPRAISAL

8.1 The Prior Notification procedure is intended to assess environmental constraints on the use of the building as a dwellinghouse. These matters do not reveal any reason why the building should not be used as a dwellinghouse.

8.2 However, Class Q permitted development rights only apply to buildings that are (or were last) in agricultural use on an established agricultural unit. The applicant previously claimed that this smaller building was in office use, but it appears that he now sees the previous Class O report as confirmation that the building is in agricultural use. However, the conclusion (as then) is that this is not the case.

Existing use of the smaller building

8.3 The 1993 application for the larger building stated that this smaller subject building was erected under permitted development rights for an agricultural use, and information submitted at that time states:

“The agricultural storage building is used for general purpose storage i.e. of implements and machinery used to tend to the orchard, and other land on the holding i.e. tractors, grass cutters, ladders, fruit boxes etc and whilst recently completed this building benefits from permitted development rights being reasonable necessary for the purposes of agriculture...”

8.4 An aerial photograph from 1985 submitted as part of the LDC application does not show the building in situ at that time. However, I understand that in 1997, after the LDC decision was issued, the bungalow and accompanying buildings were purchased by a Mr Watkins. I note from the 2009 Valuation Tribunal Hearing decision letter that Mr Watkins’s business folded in 2004.

- 8.5 It now seems logical to assume, looking at this statement from Mr Watkins, that he had no need for any agricultural building as his land was no longer part of an established agricultural unit and that, having purchased the site with the LDC in place, he used the smaller building in a manner ancillary to his use of the larger building. This might also explain the large windows in the building, which are likely to have been created to serve that use. The site photographs show the crude nature of the windows and the recent appearance of the interior of the building (Appendix 1). Note crude fitting of windows to the exterior of cladding, and their slightly varying sizes and cill heights, which appear to be indicative of them being later alterations.
- 8.6 It is apparent that Mr Watkins's use of both buildings would have ceased in 2004 (according to the Valuation Tribunal Hearing decision) and this would be consistent with current evidence from these recent photos taken of the interior of the unit.
- 8.7 It is also clear that a car was parked within this smaller unit in 2005 as seen in a photo submitted with application SW/05/0389 (Appendix 2). This suggests that the building was used for the owner's domestic purposes, as well as for his business purposes, rather than for any agricultural use.
- 8.8 It is clear to me now, from re-reading the relevant documentation provided with previous applications that, whilst the smaller building was perhaps erected under agricultural permitted development rights, that use was changed many years ago, and that the building was not in agricultural use within an established agricultural unit on 20th March 2013, nor was that the building's last use at that time. Officer's may have been wrong in the previous report to conclude that the building's last use was for domestic storage but, even if that is the case, there is no evidence of recent agricultural use, and all other known facts point to the strong likelihood that the building's most recent use (and the external alterations) was ancillary to Mr Watkins's continuation of the lawful mixed use of the larger building. I therefore conclude that the building was not in agricultural use in 2013, nor was that its last use at that time; and that the current application does not comply with the terms of Class Q of the GPDO. I recommend that Prior Approval is refused on the basis that the application does not in fact relate to Class Q development.

9. CONCLUSION

- 9.1 I therefore conclude that the building was not in agricultural use in 2013, nor was that its last use at that time; and that the current application does not comply with the terms of Class Q of the GPDO. I recommend that Prior Approval is refused on the basis that the application does not in fact relate to Class Q development.

10. RECOMMENDATION

REFUSE Prior Approval for the following reasons:

- (1) Whilst the application building may have been erected under agricultural permitted development rights, the subsequent planning applications and documents relating to this site suggest that the building has not been used solely for an agricultural use as part of an established agricultural unit for many years, and was not so used in 2013, making the current application contrary to paragraph Q.1(a) of Part 3 of Schedule 2 to The Town and Country Planning (General Permitted

Development)(England) Order 2015 (as amended).

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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

