

DELEGATED OFFICER REPORT

Application Ref: PN/22/94154
Site Address: WISTERIA COTTAGE, COCKPIT FARM, DURLEY ROAD, HORTON HEATH, EASTLEIGH, SO50 7DY
Case Officer: Alex Webb
Description: Prior notice for Change of Use of Agricultural Buildings to Dwellinghouses (Use Class C3) and for building operations reasonably necessary for the conversion

Particular Site Constraints?	Yes ☒	No ☐
Nature Conservation NE - SSSI Impact Risk Zones, HRA Screening Criteria (River, SAC, SPA, Ramsar Hazards/other environmental - Environment Agency Surface Water Flooding (1000-year extent, 100-year extent) Aviation safeguarding - Airport Safeguarding Zone		

Planning History?	Yes ☒	No ☐
LDC/22/9390 - Lawful Development Certificate: for conversion of agricultural building, formally incubation units. The proposed use will be as living accommodation, principally for visiting family with addition of velux windows to the roof, new windows to the exterior and replacement of existing windows and doors – certificate not issued 18/10/2022		

Publicity:	Letters ☐	Site Notice ☒	Newspaper ☐
Representations:	None		
Parish Council:	No Objection		
Highways	The on-site layout would appear acceptable with an adequate undercroft parking area for 2 vehicles, and enough space on-site to enable turning and forward gear access and egress. The shared parking areas will however need to be managed on-site to ensure access to the undercroft parking is not restricted by obstructive parking. This however would be a private matter.		
Streetscene	No Objection		
Pollution	The former / current use of the land has the potential to have caused contamination of the ground, however no information is included in the application showing how land contamination risks have been appropriately considered for the proposed dwelling or garden / amenity area. Due to this and the sensitive end use proposed we recommend that the application be permitted only subject to condition requiring the investigation and assessment of land contamination, and a requirement that appropriate mitigation of any discovered risks be carried out to the satisfaction of the LPA, as necessary.		
Southern Water	No comment		

Site Visit:	Yes ☒	No ☐
09/03/2023		

Policy:
Section 38(6) of the Planning and Compulsory Purchase Act 2004 states: - "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
National Planning Policy Framework Planning Practice Guidance
Development Plan:

The Eastleigh Borough Local Plan 2016-2036 The most relevant policies are Strategic policies S1, S2 and S5; and Development Management policies DM1, DM2, DM11 and DM14.

Supplementary Planning Documents:

Quality Places; Residential Parking Standards; Bishopstoke, Fair Oak and Horton Heath Character Area Appraisal.

Assessment:

The application site is located on the north side of Durley Road within the countryside area of Horton Heath. The building is set back from the road and forms part of a group of former agricultural buildings which once formed part of Cockpit Farm. There is a residential property, Wisteria Cottage to the front and the grade II listed building, The Cockpit to the north west.

The site is accessed via a track which leads to several old farm buildings to the east and south east. Immediately to the north west is a former farm yard and hardstanding. To the north and north east is the garden to Wisteria Cottage and to the west the cottage itself.

The proposal is for the conversion of the former agricultural building into a 1-bed dwellinghouse with an open plan kitchen/living area and double bedroom with ensuite bathroom. The north west section of the building, where there is a protruding, hipped roof bay, there would be a car port for the parking of two vehicles. Externally there would be 4no rooflights inserted into the roofspace on the front (south west) elevation and 3no rooflights inserted into the roofspace on the rear (north east) elevation. No private amenity space is allocated within the red line plan submitted.

Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) some specified works can be carried out without requiring planning permission, providing they are within certain limits. Class Q of Part 3, Schedule 2 allows agricultural buildings to be converted into dwellinghouses (Class C3) providing:

- The cumulative number of separate smaller dwellinghouses does not exceed 5 and the floor space of any larger dwellinghouses does not exceed 465m² (this includes building which have previously changed use under Class Q within the established agricultural unit);
- The site is not occupied under an agricultural tenancy
- There has been no permitted development works carried out under Class A (a) or Class B (b) of GDPO Part 6
- the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point
- the development would consist of building operations other than 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 dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations
- the site is on article 2(3) land;
- The site does not form part of a site of special scientific interest; safety hazard area or military explosive storage area;
- The proposal is not for a listed building or scheduled monument.

The application forms dated 08.11.2022 state that the use of the building on 20.03.2013 (or last use before that date) was solely for agricultural use as part of an established agricultural unit and that there has not been any work carried out for the under the permitted development rights for the erection, extension or alteration of a building reasonably necessary for the purposes of agriculture since 20 March 2013.

During the site visit it was evident the building being used for mixed purposes; storage and domestic car parking. Consequently, there is no evidence to indicate that the building is or was last used solely for an agricultural use as part of an established agricultural unit on the requisite dates.

The works to form the protruding bay on the front elevation to form the car port have recently been carried out and it is being used to accommodate two domestic vehicles. These works to the front of the building are considered to materially affect the external appearance of the building and relate to residential use of the building as opposed to any intended agricultural improvement or maintenance. The conversion of the building has already commenced and therefore prior approval cannot be sought for development which has been partially completed.

The application, subject of this prior notification, does not therefore meet the necessary criteria of Class Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Accordingly, it is considered that the proposed conversion of the building into residential a unit Class C3 (dwelling house) would not be permitted development under Class Q.

The accumulative floor space proposed for change of use would be 60m² resulting in a single 'smaller dwellinghouse' which is no more than 100m² and is therefore compliant with Class Q.1 (c).

The site is not occupied under an agricultural tenancy nor has any development under Class A (a) or B(b) under Part 6 have been carried out however alterations to the front elevation to form a projecting bay to facilitate domestic use has been carried out since 2019. The external dimensions of the building would not change and building operations would include the installation of windows in accordance with Class Q (b) and are considered reasonably necessary for the building to function as a dwellinghouse.

The site is not on article 2(3) land nor does it form part of a site of special scientific interest; a safety hazard area; a military explosives storage area; contain a scheduled monument; or is it a listed building.

Prior Approval matters – only the following matters can be considered.

Transport and highway impacts

The Highways Officer raises no objection to the proposals from a highway perspective and the proposed parking provision of 2 spaces would meet the requirements of the Residential Parking Standards SPD. The provision of cycle storage could be conditioned if prior approval were to be given.

Noise Impacts

The proposed dwelling would be constructed to current building regulations to include necessary insulation and prevention of noise spread. The building is set back from Durley Road therefore any potential noise impacts from the highway from this location are not considered to be prohibitive to the development.

The prior approval of the LPA is therefore not considered to be required in this regard.

Contamination Risks

The EBC Environmental Health officer comments that there is potential for ground contamination and no information has been provided to demonstrate whether such risks have been considered. Further investigation and assessment of land contamination together with the requirements for any appropriate mitigation could have been conditioned if prior approval were to be given.

Flood Risk

The application site is located within Flood Zone 1 and therefore in an area of low flood risk from fluvial sources. Furthermore, it does not lie within a “critical drainage area” notifiable by the Environment Agency. For these reasons there is no requirement under Class Q to consult the Environment Agency.

Whether the location or siting of the building makes it otherwise impractical or undesirable to change use to residential

The terminology “impractical” and “undesirable” are not defined in the GPDO however the NPPG makes it clear that LPAs should apply a reasonable ordinary dictionary meaning to the words. Impractical indicates that the location and siting would not be sensible or realistic and the word undesirable suggests that it would need to be harmful or objectionable. The NPPG is clear that Class Q does not apply a test in relation to sustainability of location given the inherent rural location of agricultural buildings. It 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”*. Just because the buildings are situated in designated countryside, it is not sufficient to render it unacceptable in this regard. Indeed, given the location of the buildings close to other buildings along Durley Road and with existing services, it is considered that, for the specific purposes of the test under Class Q, the siting and location is acceptable.

The design or external appearance of the building

The proposed building operations subject of this application are confined to the elements allowed for in Class Q. The proposed new window openings would not detrimentally affect the character and appearance of the building. There is therefore no justification to refuse on design/appearance grounds.

Other matters: -

Ecology

The proposal involves the conversion of a rural building which may contain potential bat roosting features. A Preliminary Ecological Appraisal and Bat Survey may therefore need to be carried out to identify the protect species that could be affected and to enable the imposition of suitable conditions to mitigate against any potential effects on protected species. Notwithstanding the prior approval limitations previously stated, consideration of such ecology matters is necessary in accordance with the Wildlife and Countryside Act 1981 (as amended) and legislation relating to the protection of European Protected Species.

Habitat Regulations

Article 3 (1) of the GPDO imposes a condition of any permission under the GPDO that in cases where a development is likely to have a significant effect on a European site, either alone or in combination, the development must not be begun until the developer has received written notification of the approval of the LPA under Regulation 75 to 78 of the Conservation of Habitats and Species Regulations 2017. Any such habitat regulations application must be made as a separate process to this Prior Approval application and before the permitted development begins.

Natural Light

It is clear from the proposed floor plans and elevations that each habitable room within the dwelling would be lit by a window. It is considered that the proposal complies with the natural light test set out in the GPDO.

Summary

There is no evidence to indicate that the building is or was last used solely for an agricultural use as part of an established agricultural unit on the requisite dates.

The recent works to the front of the building materially affect the external appearance and relate to the residential use as opposed to any intended agricultural improvement or maintenance. The conversion of the building has already commenced and therefore prior approval cannot be sought for development which has been partially completed.

Therefore, this application, subject of this prior notification, does not meet the necessary criteria of Class Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).. Accordingly, it is considered that the proposed conversion of the building into residential a unit Class C3 (dwelling house) would not be permitted development under Class Q.

Conclusion

The information submitted cannot demonstrate that the proposal is in compliance with the criteria of Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in relation to the existing use of the building and the site of the proposed change of use.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.

The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.

Equalities Implications:

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications

Conclusion:

For the reasons set out above, prior approval is refused for the following reasons:

- 1) The site, the subject of this prior notification, was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013 and was not last in use for an agricultural use. It does not therefore meet the criteria of Class Q.1 (a) of the General Permitted Development Order 2015 and is not permitted development under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 2) The recent works to the front of the building materially affect the external appearance of the building and relate to residential use as opposed to any intended agricultural improvement or maintenance. The conversion of the building has already commenced and therefore prior approval cannot be sought for development which has been partially completed. It does not therefore meet the criteria of Class Q of the General Permitted Development Order 2015 and is not permitted development under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Recommendation:

PERMIT ☐

REFUSE ☒

Comments ...