

Unrestricted Report

ITEM NO: 12

Application No.
15/00413/PAC

Ward:
Winkfield And
Cranbourne

Date Registered:
5 May 2015

Target Decision Date:
30 June 2015

Site Address:

**Land To The Rear Of The Elms Winkfield Lane
Winkfield Windsor Berkshire SL4 4QU**

Proposal:

Application for prior approval change of use of existing agricultural building to use as a single dwellinghouse (C3).

Applicant:

Mr Mark Barney

Agent:

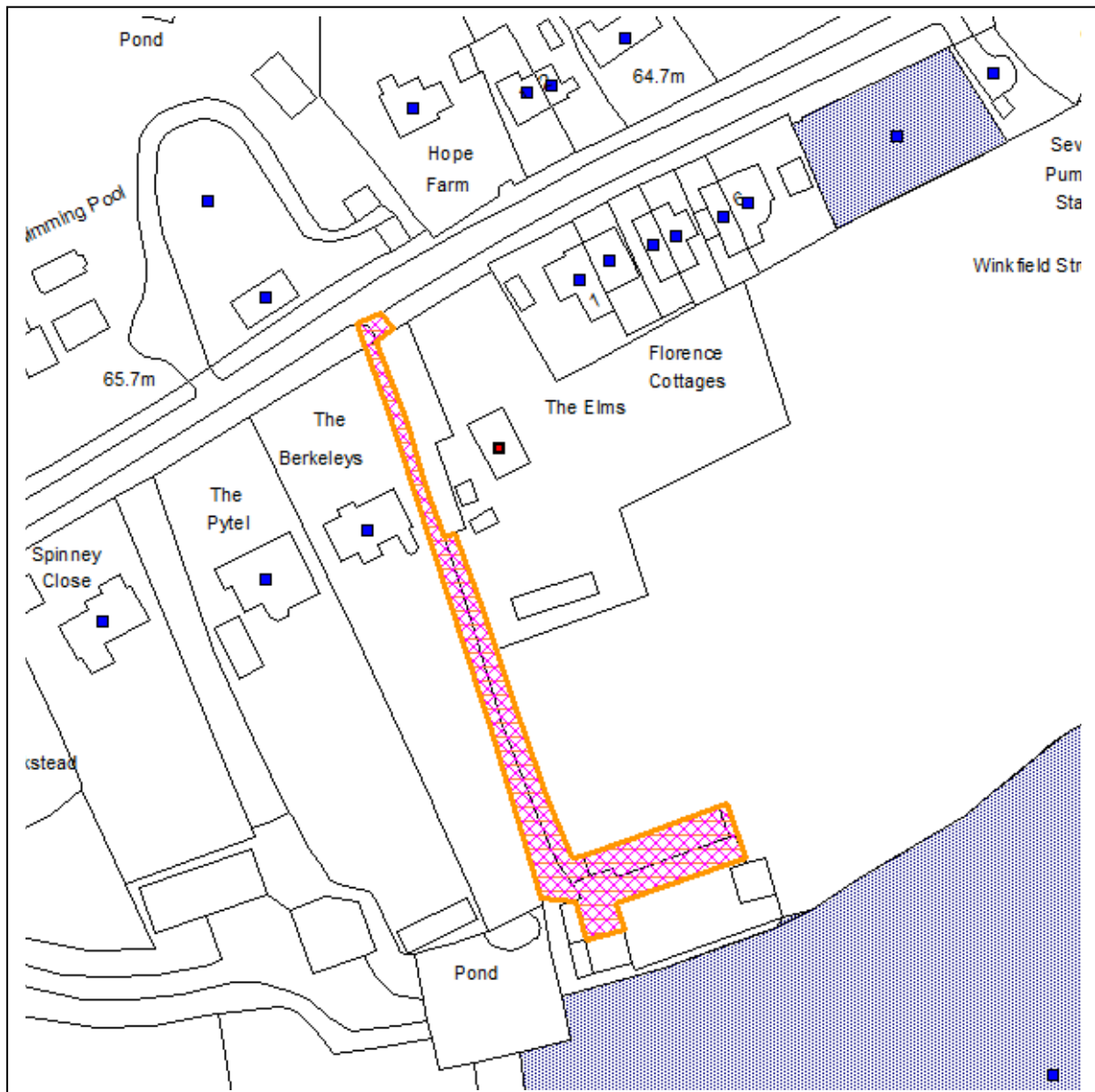
Miss Amy Cater

Case Officer:

Paul Corbett, 01344 352000

Development.control@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)



OFFICER REPORT

1. REASON FOR REPORTING TO COMMITTEE

The application is reported to the planning committee as more 3 objections have been received.

2. SITE DESCRIPTION

The application site is located to the south of Winkfield Lane between the residential properties known as The Berkeleys and Florence Cottages. The barn the subject of this application for prior approval is located some 120m back from the highway. The site is positioned to most south western corner of the land associated with the wider land parcel known as The Elms.

A vehicle access track leads from the gated access with highway past the existing residential dwelling known as The Elms parallel with the common boundary with a neighbouring residential property known as The Berkeleys to a collection of outbuildings to the rear of the site. The collection of buildings are considered to form agricultural buildings having previously been used for the storage of agricultural machinery such as tractors.

This site is located more than 5km from Thames Basin Heath Special Protection Area (SPA) and therefore will not result in any effect on the SPA as defined in the Thames Basin Heaths Special Protection Area Avoidance and Mitigation Supplementary Planning Document and as such there is no requirement to secure any mitigation for this proposal.

3. RELEVANT SITE HISTORY

The historic records make reference to the land as accommodating a smallholding. A smallholding is normally a piece of land and its adjacent living quarters for the smallholder and stabling for farm animals, on a smaller scale than that of a farm but larger than an allotment, usually under 50 acres (0.20 km²). It is often established for the breeding of farm animals on an organic basis on free-range pastures. Alternatively, the smallholder may concentrate on the growing of vegetables by various traditional methods or in a more modern way using plastic covers, Polytunneling or cloches for quick growth. It often provided the owner with a means of achieving self-sufficiency as to his and his family's own needs which he may be able to supplement by selling surplus produce at a farmers market and/or temporary booths or more permanent shop facilities are often part of a smallholding.

Our records also indicate that the residential bungalow to the front of the site was erected on the site in 1954 for the purposes of a smallholding. REF: DC2598 1954

The site does have small orchard and number of green houses of which the larger of them has a purpose built coal fired boiler attached which would have been for the heating of the green house. Our records show that the large greenhouse was purposely constructed for agricultural purposes.

The records also clearly identify 2 large buildings positioned to the far end of the site which were noted to be of brick construction were erected for agricultural purposes and the drawings and application form stated these were for agricultural purposes to store a tractor and implements. REF: BC20239 1973.

4. THE PROPOSAL

The applicant wishes to change the use of the agricultural barn to one dwellinghouse (Use Class C3) in accordance with Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Pursuant to paragraph W of the same legislation, the applicant is applying for prior approval for this change of use. The applicants have submitted details to show the location of the building itself, and existing and proposed plans of the barn to show the change to its appearance and what would be its curtilage.

New doors and windows would replace the existing windows and doors some additional infilling of the part open southern elevation of the building is proposed.

The building is currently of brick and block construction with timber cladding over the bricks and corrugated sheeting roof. The proposal is to keep the brick and block walls and use render over part of the building. Additional black metal framed windows are to be inserted which will be in keeping with the existing openings. The corrugated sheet roof will be replaced with slates.

The existing access track leading from Winkfield Lane would be utilised to serve the building. 2no. parking spaces will be required to serve the proposed residential dwelling.

The building is already is connected to electricity and water. It can be connected to mains sewage.

The building would comprise an entrance hall, kitchen/dining/utility, living room and 3no. bedrooms and a communal bathroom, two of the bedrooms have en-suites.

5. REPRESENTATIONS RECEIVED

9 representations have been received in relation to the proposal comprising 9 objections which are summarised as follows:

The isolated siting of the building makes the change of use undesirable
Noise related impact from vehicular movements would be unacceptable
The site poses a contamination risk
The site poses a flood risk

6. SUMMARY OF CONSULTATION RESPONSES

Winkfield Parish Council were consulted and their comments are awaited

The Council's Highways Officer were consulted and their comments are awaited.

The Council's Environmental Health Officer states there are no noise implications or land contamination issues but advises that a condition is imposed restricting construction times due to the proximity to neighbours.

7. RELEVANT LEGISLATION

Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows 'development consisting of -

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

Paragraph Q.1 states: Development is not permitted by Class Q if:

- (a) the site was not used solely for an agricultural use, as part of an established agricultural unit -
 - (i) on 20th March 2013;
 - (ii) if the site was not in use on that date, when it was last in use; or
 - (iii) if the site was brought into use after that date, for ten years before the date the development begins
- (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;
- (c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds three;
- (d) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (e) less than one 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;
- (f) development under Class A(a) or Class B(a) of Part 6 of this Schedule (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 20 March 2023, during the period which is 10 years before the date development under Class Q begins;
- (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;
- (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);
- (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);
- (j) the site is on article 2(3) land;
- (k) the site is or form part of -

- (i) a site of special scientific interest;
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area;
- (l) the site is, or contains, a scheduled monument;
- (m) the building is a listed building.

Paragraph Q.2 (1) states that Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to-

- (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, or
- (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; and
- (f) the design or external appearance of the building,

and the provisions of paragraph W (prior approval) of this Part shall apply in relation to any such application.

Paragraph Q.2 (2) states that Class Q(a) development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1) (a) to (e) and the provisions of paragraph W (prior approval).

Paragraph Q.2 (3) states that development under Class Q is permitted subject to the condition that development under Class Q(a) and under Class Q(b) must be completed within a period of 3 years starting with the prior approval date.

Paragraph W sets out the procedure to be followed where a developer is required to apply for prior approval to the LPA under any class falling within Part 3. This paragraph states that the Local Planning Authority may refuse an application where, in the opinion of the Authority, 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 in this Part as being applicable to the development in question.

8. ASSESSMENT

The proposal complies with the following caveats outlined in Q.1:

a) The applicants statement in the form of the covering letter from Tozers Ref: AC/4295-37 received by the LPA 05 May 2015 states that the building subject to the change of use was in use solely for agricultural use, as part of an established agricultural unit on 20th March 2013.

The covering letter states: "The previous owner, who used the property for agricultural purposes, continued to live at the property until his death in May 2013. When Mr Barney submitted an application for a replacement dwelling (to replace the bungalow) in late summer 2014 (ref: 14/00868/FUL) a number of neighbours objected to the

proposal. Many of the objection letters refer to the agricultural use of the land and how the previous owner had used the barns, orchard and paddock for agricultural purposes up until his death.

The barns were erected in approximately 1973 for agricultural purposes and this particular barn was used for tractor and implement storage. The permission for the barns was given Council reference BC20239. The land remained in the same ownership following the grant of permission until Mr Barney purchased it. It is understood that the previous owner and his parents had originally kept pigs and poultry as well as growing crops. Later the owner grew crops, and sold flowers and fruit. The paddock was used for grazing or hay."

An objection from Maidens Green Society refers to the use of the land as horticultural rather than agricultural. The applicant confirms that the land has been used for keeping livestock,

pasture, horticulture, market gardening and the buildings were used for storing agricultural implements and tractors. The barn was constructed for agricultural purposes under ref: BC20239. In any event the definition of "agriculture" set out in s.336 of the Town and Country Planning Act 1990 is as follows: "agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be constructed accordingly."

No contradictory evidence has been formally submitted to the Council to refute the claim the barn and land has not been used for agricultural purposes..

Upon the evidence available the LPA does not dispute that the site was not used solely for an agricultural use prior to 20th March 2013.

b) The cumulative floor space of the building changing use is under 450 square metres, at 148.25 square metres. No additional floor space is proposed.

c) A single residential unit would be created by this prior approval; therefore the cumulative number of dwellinghouses developed under Class Q within the established agricultural unit would not exceed three.

d) The site is not occupied under an agricultural tenancy.

e) An agricultural tenancy has not been terminated within a year.

f) No development has taken place under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) since 20th March 2013 or over the past 10 years.

g) The development would not result in the external dimensions of the building extending beyond the existing building - the only changes proposed are to fenestration and materials.

h) No previous change of use under Class Q have taken place at the site. As such the proposed development would not exceed the cumulative threshold of floor space having a C3 (dwellinghouse) use of 450 square metres.

i) The development under Class Q(b) would comprise replacement roof and additional windows and doors. The roof would be no higher than the existing roof. The building is currently of brick and block construction with timber cladding over the bricks and corrugated sheeting roof. The proposal is to keep the brick and block walls and use render over part of the building. Additional black metal framed windows are to be inserted which will be in keeping with the existing openings. The corrugated sheet roof will be replaced with slates.

The works are considered reasonably necessary to carry out the building operations. The proposed development would therefore sit within the parameters allowed.

The existing building is already connected to electricity and water. It can be connected to mains sewage.

j) The site is not on Article 2(3) land.

k) The site is not located in an SSSI, a safety hazard area or a military explosives storage area.

l) The site does not contain any scheduled monuments.

m) The building subject to this application is not listed.

With regard to the conditions listed in paragraph Q.2 (1):

a) Transport and Highways Impacts of the Development

Third party concerns are that the proposed development would not prevent agricultural vehicles accessing the paddock. There is already sufficient space along the track to enable agricultural vehicles to enter the paddock at any given point.

The Highway Officer confirms:

- That the existing access onto Winkfield Lane is wide enough to enable two vehicles to pass each other at low speed being 4.1 metres wide from gate post to gate post. The LHA has measured this on-site to be correct.
- The existing gates are to be set-back 6 metres from the edge of the road and a standard car would be able to be clear of the main road while gates are being opened.
- That a 4.1 metre wide access road (drawing 990-BSK01-A) can be achieved between Winkfield Lane and the existing dwelling and this will minimise conflict between vehicular movements from the existing dwelling and this proposed dwelling.
- Beyond the existing dwelling the driveway varies in width generally being 3.8 metres and no less than 3.1 metres which is acceptable for access to a single dwelling and for access by domestic delivery vehicles and emergency services. The two tandem spaces shown for this proposed 3-bed dwelling and the associated turning area identified for access to these spaces is acceptable proving no access is required to the existing garage building. The applicant confirmed in an email dated 04 June 2014 that turning area will not conflict with access to the building outside of the application site as it is not intended use what is considered to be an agricultural building as a domestic garage.

b) Noise Impacts of the Development

The site is not located close to any noise generating uses. The Council's Environmental Health Officer confirms there is no history of noise complaints regarding the site and the proposed change of use of the barn to residential would not result in significant noise impacts either.

c) Contamination Risks on the site

The Council's Environmental Health Officer confirmed that the site is not contaminated land as described in Part 2A of the Environmental Protection Act 1990.

d) Flooding Risks on the site

The application site is not located on either Flood Zone 2 or Flood Zone 3. The site is located within Flood Zone 1 but not in an area known for drainage issues.

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

Planning Practice Guidance with regard to this condition was published on 5 March 2015. This states that "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 rights grant 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." The existing barn is located within the Green Belt, a considerable distance away from local facilities such as schools and shops, however this is not considered to be a reason to refuse prior approval. Within the immediate area, there are existing residential properties and the building is sited close to existing built form including stables and a mobile home. It is therefore not located within an isolated location.

The guidance goes on to state "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 is on top of a hill with no road access, power source or other services its conversion is impractical." The application site is located off Winkfield Lane. The existing building is already connected to electricity and water. It can be connected to mains sewage. As such, it is not considered that the proposed conversion would be impractical.

The guidance also states "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 and chemicals.' The existing barn subject to this application would not be adjacent to any such uses, and in this respect it would not be harmful or objectionable to change the use of the building to a residential use in this location. It is therefore not considered that the siting of a building in this location proposed to be used for residential purposes would be undesirable, for the purposes of this condition.

Finally, the guidance states "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." Therefore although the NPPF seeks to avoid isolated homes in the countryside other than in particular circumstances, this is not relevant to an application for prior approval.

It is therefore not considered that 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

Proposed floor plans and elevations have been submitted to the LPA in relation to the design and external appearance of the building - drawing no. 990-BSK02 Proposed Plan and Elevations received by the LPA 05 May 2015. The proposed elevations show the alterations to the fenestration of the building and the materials to be used in the external finish of the building.

The applicant confirms that the building operations that would be carried out would comprise a replacement roof and additional windows and doors. The roof would be no higher than the existing roof. The building is currently of brick and block construction with timber cladding over the bricks and corrugated sheeting roof. The proposal is to keep the brick and block walls and use render over part of the building. Additional black metal framed windows are to be inserted which will be in keeping with the existing openings. The corrugated sheet roof will be replaced with slates.

These details are considered satisfactory in allowing an assessment to be made on the design and external appearance of the building.

CONCLUSION

An assessment has been made of the proposal and it is considered that prior approval is required for the change of use of the barn and land from an agricultural use to a C3 (dwellinghouse) use. An assessment has also been made of the building operations necessary to convert the building to a C3 use.

The proposal satisfies the criteria in Q.1 and the conditions in Q.2 and therefore prior approval can be granted.

RECOMMENDATION

01. This prior approval decision is based on the following:-

990-SLP01 Site Location Plan received by the LPA 05 May 2015
990-BSK01 A Existing Plan and Elevations and Block Plan received by the LPA 04 June 2015
990-BSK02 A Proposed Plan and Elevations received by the LPA 04 June 2015
Covering Letter from Tozers Ref: AC/4295-37 received by the LPA 05 May 2015
Email from Michael Pagliaroli dated 01 June 2015
Email from Tozers (Amy Cater) dated 04 June 2015
Car Parking Plan (Block Plan) received by the LPA 01 June 2015

Informative(s):

01. Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.
02. The applicant is advised that the proposed residential dwelling does not comply with the requirements of the Council for bin collection as it is approximately 120 metres from Winkfield Lane. A refuse vehicle would not enter the site. As such any occupiers will need to carry their bins/refuse to the front of the site.

Doc. Ref: Uniform 7/DC/Agenda

The application file to which this report relates can be viewed at the Council's Time Square office during office hours or online at www.bracknell-forest.gov.uk