

Unrestricted Report

ITEM NO: 05

Application No.
16/00689/PAA

Ward:
Winkfield And
Cranbourne

Date Registered:
8 July 2016

Target Decision Date:
2 September 2016

Site Address:

**Nuptown Piggeries Hawthorn Lane Warfield
Bracknell Berkshire RG42 6HU**

Proposal:

Prior approval change of use from 2 no. agricultural buildings to 2 no. residential dwellinghouses.

Applicant:

Mr Derek Chesterman

Agent:

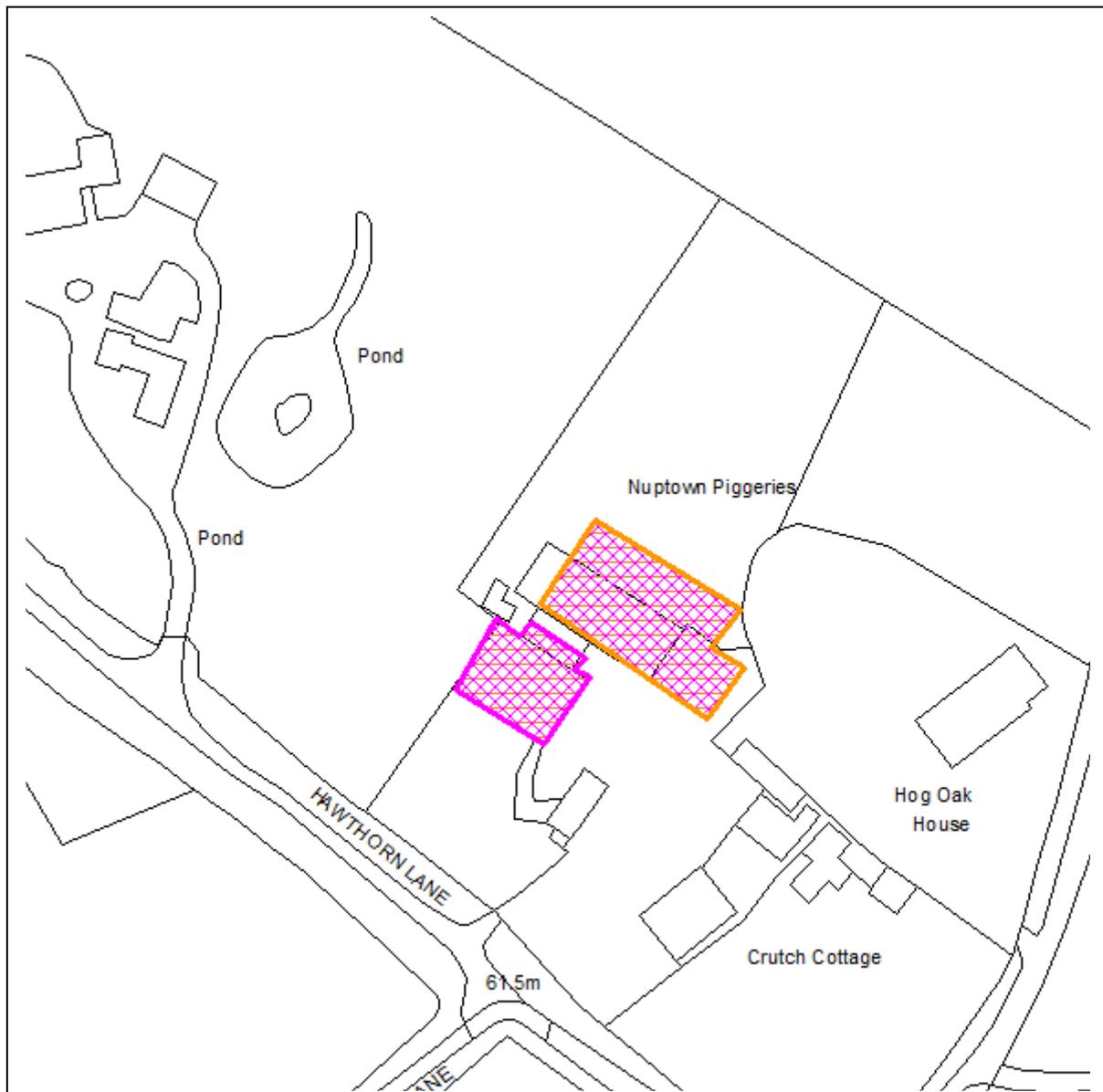
Mr Nick Kirby

Case Officer:

Katie Walker, 01344 352000

Development.control@bracknell-forest.gov.uk

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



1. SITE DESCRIPTION

1.1 The site is Nuptown Piggeries. It is bounded to: the north by open fields; the east by Hogoak House, beyond which is Hogoak Lane; the south by Hawthorn Lane, beyond which is Whitelocks Cottage, Little Honeywood, and open fields; and the west by thick tree planting, beyond which is Nuptown Farm.

1.2 The site is currently occupied by vacant buildings, including a large barn which has planning permission to be converted to a residential dwelling with a detached garage.

1.3 The site is sited beyond 5 kilometres of the Thames Basin Heath Special Protection Area (SPA).

2. RELEVANT SITE HISTORY

2.1 The relevant site history can be summarised as follows:

16/00154/PAA: Application for prior approval for the change of use of 2no. agricultural buildings to 2no. dwellinghouses following the demolition of part of the buildings – Refused 2016.

15/01131/FUL: Change of use of agricultural land to residential and erection of a detached dwellinghouse and driveway, and construction of a new driveway for Hogoak House following the demolition of the existing agricultural buildings and hardstanding - Refused 2015.

13/00156/FUL: Change of use of existing agricultural barn to form 1 no. 6 bed detached dwelling and erection of detached garage following demolition of existing derelict buildings - Approved 2013.

10/00792/OUT: Outline application with all matters reserved, for the erection of 1no. detached dwelling and garage following demolition of all existing buildings - Refused 2011.

03/00418/FUL: Continued use of agricultural buildings (total floor space 402 sq.m.) for storage purposes with ancillary offices - Refused 2003.

01/00662/FUL: Erection of 1no. five bedroomed house and building containing 4no. stables following demolition of existing buildings - Refused 2001.

3. THE PROPOSAL

3.1 Prior approval is sought for the change the use of two agricultural buildings (buildings A and E) to two dwellinghouses (Use Class C3) in accordance with class Q and section W of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposal would include the demolition of part of each building. The applicant has submitted details to show the location of the buildings and existing and proposed plans of the buildings to demonstrate the changes in their appearance, proposed floor plans and the residential curtilage.

3.2 Building A is a large barn of 324.23 square metres. The proposal includes the demolition of part of the building, leaving a resultant 273.96 square metres of floor space to be converted to residential use. The building would have four sets of bi-fold doors and four high level windows on the northeast elevation; a front door and 6 windows on the southwest elevation; 4 windows on the southeast elevation and 3 sets of patio doors on the northwest

elevation. The resultant house would comprise four bedrooms, one with en-suite, a lounge, study, kitchen/diner, bathroom, cloakroom and utility/boot room.

3.3 Building E has a lean-to structure and this would be demolished. The resultant floorspace of the building would be 175.86 square metres. The building would have glazing installed to the first floor of the southeast (front) elevation, as well as patio doors. There would be 6 windows inserted into the roof slope of each side of the buildings, with 4 sets of patio doors to the southwest elevations and 4 windows and a door in the northeast elevation. There would also be 2 windows in the rear elevation. The proposed house would have 4 bedrooms, one with ensuite, a bathroom and an open plan kitchen, dining and lounge area.

3.4 The overall floorspace of the buildings to be converted would be 449.82 square metres.

4. REPRESENTATIONS RECEIVED

Warfield Parish Council:

4.1 Warfield Parish Council recommended refusal for the following reasons:

There is evidence to suggest that the site was not in use on 20 March 2013 (the Planning Report submitted as part of planning application 13/00156/FUL for one of the buildings, dated February 2013, stated that 'There are a number of buildings on the site, all unused and in various states of disrepair' and this was confirmed by the Great Crested Newt Habitat Suitability Index Assessment, dated April 2013 and also submitted as part of this planning application) and, when the buildings on site were last used, they were not used solely for an agricultural use as part of an agricultural unit, having been used for light industry up until 2010 (Warfield Parish Council can confirm this), and previously for storage of household items and motor vehicles, the storage and refurbishment of photocopiers, and for office use (as identified by Enforcement Notices dated 21 December 2006 and 2 August 1996, reference EN/05/00379/UCOU, and planning application 03/00418/FUL for the 'Continued use of agricultural buildings for storage purposes with ancillary offices'). However if Bracknell Forest Council is minded to approve this application then Warfield Parish Council has the following observation: The site, especially the buildings on the site, have the potential for supporting wildlife and, in particular, bats. The wildlife must be protected.

Other representations

4.2 21 letters of objection were received from 13 neighbouring properties. The issues raised can be summarised as follows:

- Evidence suggests that the site was not solely in agricultural use on 20/3/16.
- Adjoining neighbours have not seen agricultural activity
- There is a covenant on the site relating to building E restricting development.
- A bat roost was found in 2013.
- No large scale machinery required to move the hay bales as set out in the applicant's information has been seen on the site.
- The Nuptown Area Preservation Society seeks to protect the character of Nuptown and the "Countryside Experience". This should be preserved and is already being eroded.
- Impacts on the countryside.
- The proposal is inappropriate development in the Green Belt.
- There is room for a second floor to be constructed which would then exceed the 450 square metre limit. If permitted there should be conditions to remove buildings B,C and D and to barr construction of a first floor [officer note: conditions cannot be attached to prior approval consents. The plans show one floor in each building, and the prior approval should be determined on the basis of the submitted plans, which comply with the floorspace requirement].

- The buildings are not suited to the storage of large rectangular hay bales.
- Various reports have referred to the buildings as being vacant in the past.
- The definition of agriculture does not include hay storage [*officer note: the definition of agriculture as set out in the Town and Country Planning Act 1990 is not an exhaustive list, and as such a balanced view should be taken. This is discussed in detail in the report*].
- Only small bales of hay have been stored.
- The site has a history of enforcement notice [*officer note: all enforcement cases for the site have been closed*].
- One residence, as already permitted, would be acceptable.
- Evidence to suggest the barns are empty.
- Increase in traffic from proposed development would have a detrimental impact on other users of Nuptown Lane and Hawthorne Lane.
- The case officer refused the previous application as it was considered that on the balance of probabilities, the site was not in agricultural use [*officer note: additional information has been provided since the previous application, which is set out in the report*].
- There are no bat or newt surveys [*officer note: these are not a requirement of a prior approval application*].
- Converting one barn could set a precedent allowing all barns to be converted [*officer note: the prior approval legislation allows for the conversion of up to three barns only per agricultural unit, up to a floorspace of 450 square metres. Should this prior approval be granted, no further conversion would be allowed under the prior approval process as the floorspace limit will have been reached*].

4.3 One letter was received in support of the application, stating that in August 2012 the neighbor assisted Mr Chesterman in the unloading of hay into a truck. The truck is container so no hay would have spilled on to the nearby roads to view. The forklift entered the site once and left in less than two and a half hours.

5. SUMMARY OF CONSULTATION RESPONSES

Highway Officer:

5.1 No objections.

SuDS:

5.2 No objections.

Environmental Health

5.3 No objections.

5.4 No further statutory or non-statutory consultations have been required.

6. RELEVANT LEGISLATION

6.1 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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.'

6.2 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 forms 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.

6.3 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.

6.4 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).

6.5 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.

6.6 Section W sets out the procedure to be followed where a developer is required to apply for prior approval to the Local Planning Authority 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.

7. ASSESSMENT

- (a) (i) The Council considers that, on the balance of probability, the application site was in use for agricultural use on 20 March 2013.

7.1 For the previous prior approval application for the same proposal, officers considered that the buildings were not in agricultural use on 20 March 2013, or when it was last used as would be required under (a)(ii), for buildings which were not in use on that date. Officers did not dispute that the lawful use of the site was agricultural, but considered that the buildings were not in an agricultural use on the requisite date.

7.2 The applicant has provided additional information for the current application to demonstrate that the buildings were in agricultural use on 20 March 2013. This information comprises:

- A signed statutory declaration from the site's owner, Mr Chesterman, explaining that both Mr Slade of Halo Farm in Warfield, and Mr Chesterman of Pikes Farm in Wokingham both used the subject buildings to store large hay bales over the requisite dates. Mr Slade cuts and bales hay in the area, and Mr Chesterman farms, cuts and bales hay.
- A signed letter from Mr Slade confirming that he started using barn 1 (building A in this application) for storing hay in 2012 for the storage of hay until required by him or other livestock farmers for overwinter feed.

- A letter from the site's previous owner, stating that although he paid business rates on the two buildings, they remained unused for business purposes since early 2012.
- An invoice from Mr Slade to Mr Frost of Row Farm in Warfield, requiring payment 'to supply hay and straw for cattle through the winter months'.
- A letter from Mr Short at Planners Farm, Warfield, confirming that hay was taken from the buildings during the winter of 2012/2013 to feed livestock at his farm.
- A letter from Ms Seaton, the site's previous owner, confirming that Mr Chesterman and Mr Slade stored large rectangular hay bales in the two buildings, which were used for overwinter feed by both themselves or sold on for this purpose. The site was sold to Mr Chesterman in 2014.
- A letter from Pike Smith & Kemp Rural confirming that the proposed buildings were used for the storage of large rectangular hay bales, and that such hay bales are generally restricted to agricultural users as their size and weight requires large scale machinery to facilitate handling, and because they provide an efficient quantity of feed for several head of agriculture per bale. The letter also confirms that the storage of hay for distribution to the feeding of livestock elsewhere conforms with the definition of agriculture as set out in Section 336 of the Town and Country Planning Act 1990.

7.3 The information provided confirms that the buildings would be vacant in February/March each year until June/July due to the cycle of hay, and the letter from Pike, Smith & Kemp states that it is common that two grass cuts are achieved on grassland throughout the year, in June/July and September/October. This may explain why some neighbours for the previous prior approval application considered the site was not in use on 20th March 2013. This may also explain why the design and access statement dated February 2013 for the previously refused planning application also considered the site to be vacant. However, a gap in between the hay storage periods does not mean that the use of the site has changed or ceased in the meantime, as long as no other substantial use takes place in between and Officers have no reason to believe that such an intervening use took place.

7.4 Agricultural uses are a commercial enterprise and the selling of hay produced by Mr Chesterman and Mr Slade from the buildings at Nuptown Piggeries to farmers to feed their livestock does not preclude this use from agriculture. Taking the above information into account, Officers are satisfied that, on the balance of probabilities, the buildings were in use on 20 March 2013 for agriculture, through the storage of hay by farmers, to sell use to feed their livestock or to sell to other farmers to feed livestock.

- (b) The cumulative floor space of the existing buildings changing use under Class Q within an established agricultural unit would not exceed 450 square metres (following the demolition of part of the buildings);
- (c) The cumulative number of separate dwellinghouses developed under Class Q within the established agricultural unit would be 2 and would therefore not exceed 3, and no other dwelling houses within the agricultural unit have been granted through the prior approval process;
- (d) The site is not occupied under an agricultural tenancy;
- (e) The site has not been occupied under an agricultural tenancy and therefore an agricultural tenancy has not been terminated less than 1 year before the date the development would begin;
- (f) No development under Class A(a) or Class B(a) of Part 6 of the schedule (agricultural buildings and operations) has been carried out on the established agricultural unit;
- (g) 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;
- (h) The development under Class Q (together with any previous development under Class Q) would not result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use

Classes Order as the development would result in 449.82 square metres of building in C3 use and no other floorspace within the agricultural unit has changed use to residential under the prior approval process;

- (i) (i) (aa) The development would consist of the installation of windows, doors, roofs and exterior walls;
- (bb) and would also be connected to relevant utilities and services.
- (ii) The lean-to structure to be demolished from building E is not suitable for conversion and therefore its demolition is considered acceptable. Part of building A is not required for conversion and is also proposed for demolition, however this is considered acceptable under Q (b);
- (j) The site is not on article 2(3) land;
- (k) The site is not an SSSI, safety hazard area or a military explosives storage area;
- (l) The site is not a scheduled monument and the site does not contain any scheduled monuments;
- (m) The building is not listed.

7.5 With regard to the conditions listed in paragraph Q2:

a) Transport and Highways Impacts of the Development:

7.6 These two new dwellings would take access off Hawthorn Lane via an existing gated access serving the existing agricultural buildings on the site. This access is onto an unmade section of Hawthorn Lane which is a byway and an existing traffic sign notes it is, 'Unsuitable for Motors'. This section of the lane currently serves a few existing properties as well as Nuptown Piggeries.

7.7 The lane is wider between the access and the junction with Nuptown Lane for vehicles to pass each other before narrowing to a single track lane to the north and adequate sight-lines can be achieved to either side of the access.

7.8 Three parking spaces are shown on drawing D1235-26 which complies with the parking standards for these 4 bed dwellings. The access, parking and turning shown on this drawing would be adequate. No details of cycle parking have been provided, however, a Highway Authority objection on these grounds would be unsustainable and Officers consider that there would be adequate space on the site for cycle storage.

7.9 Residents would be required to bring the bins to the roadside for collection by the Council in the same way as existing residents along this unmade section of Hawthorn Lane.

Trips

7.10 Two new dwellings are likely to generate 12 two-way vehicle movements over the course of a typical day with one or two movements in both the morning and evening peak periods. The existing agricultural buildings are likely to have a low number of infrequent traffic movements with seasonal variations likely.

b) Noise Impacts of the Development:

7.11 The site is not located close to any noise generating uses.

c) Contamination Risks on the Site:

7.12 The site is not located on any known contaminated land.

d) Flooding Risks on the Site:

7.13 The proposal does not pose any flooding risks.

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:

7.14 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'.

7.15 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." Therefore the siting of this dwelling in a Green Belt location, a considerable distance away from important local facilities such as schools, shops, health centres and public transport, is not a reason to refuse prior approval.

7.16 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." As the site is located adjacent to the public highway and has access to services it is not considered that the proposed conversion would be impractical.

7.17 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 building would not be adjacent to any such uses, and in this respect it would not be harmful or objectionable to site a building in this location. It is therefore not considered that the siting of a building in this location would be undesirable, for the purposes of this condition.

7.18 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.

7.19 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.

8. CONCLUSIONS

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

8.2 The proposal complies with the criteria set within Paragraph Q.1 of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore the proposal satisfies the conditions set out under Q2, provided that the development is completed within 3 years of the date of the planning permission. As such, prior approval should be granted.

9.0 RECOMMENDATION

This decision is based on the following plans and information received by the Local Planning Authority on 6 July 2016:

Planning Statement by Pegasus Planning dated July 2016.

D1235-01b Site Location Plan

Site Plan

D1235-21 Existing Building A, Floorplans

D1235-22 Existing Building A, Elevations

D1235-27a Proposals – Building A – Floor Plans

D1235-28a Proposals – Building A -Elevations

D1235-24 Existing Building E – Elevations

D1235-23 Existing Building E – Floor Plans

D1235-30a Proposals Building E – Elevations

D1235-29a Proposals Building E – Floor Plans

And the following plan received by the Local Planning Authority on 1 August 2016:

D1235-26D Proposed Site Layout Plan

Informative(s):

01. The applicant is advised that this development is subject to Regulation 64 of the The Community Infrastructure Levy Regulations 2010 (as amended).

02. Such a building in a rural area may support roosting bats or nesting birds. The legislation protecting these species overrides Permitted Development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification). As such the building should be surveyed for such species prior to any works taking place at the site. Any works that result in a harm to such species may be liable to prosecution.

Doc. Ref:

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