

**AGENDA ITEM NO. 9/2(e)**

<b>Parish:</b>	<b>Outwell</b>	
<b>Proposal:</b>	<b>Change of Use of Existing Agricultural Buildings to Residential Dwellings (part retrospective) including standing of temporary static caravans during construction work</b>	
<b>Location:</b>	<b>Beaupre Barns Marsh Road Outwell WISBECH PE14 8BN</b>	
<b>Applicant:</b>	<b>Mr and Mrs P Johnson</b>	
<b>Case No:</b>	<b>23/00540/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Bradley Downes</b>	<b>Date for Determination: 11 July 2023 Extension of Time Expiry Date: 8 December 2023</b>

**Reason for Referral to Planning Committee** – At the discretion of the Executive Director for Planning

**Neighbourhood Plan:** No

**Case Summary**

The proposed development is for conversion of the two barns on site to residential dwellings. Material operations have commenced on site including installation of cesspits and removal of roof material, hence the application is part retrospective. The proposal includes siting of temporary mobile homes while the development is carried out. Prior approval has previously been granted under the provisions of Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to convert each of the barns to residential use. Despite partial implementation of these applications, they have now expired as development is not substantively complete within the required three year period. The site is approximately 1.2km away from the main built-up edge of Outwell and lay outside the development boundary as defined the SADMPP 2016.

**Key Issues**

Principle of development  
Form and character  
Impact on neighbour amenity  
Highway Safety  
Contamination  
Any other matters requiring consideration prior to determination of the application

**Recommendation**

**REFUSE**

## **THE APPLICATION**

The proposed development seeks permission for change of use and conversion of the two barns on site to residential dwellings. Material operations (foul drainage and roof covering removed) have commenced on site between September 2022 and February 2023, hence the application is part retrospective.

Prior approval has previously been granted under 19/01745/PACU3 and 19/01746/PACU3 to convert each of the barns to dwellings under the provisions of Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Paragraph Q.2(3) of Class Q states that development is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. As the prior approval applications were granted on 19th November 2019, the effective expiry date for completion of the conversions was 19th November 2022.

The proposals also include siting of 4 temporary mobile homes until the development is completed and habitable. The site is approximately 1.2km away from the main built-up edge of Outwell and is outside the development boundary. The application site has historically been used for agriculture since the buildings were constructed in the 1950s. The site contains two other barns within the ownership of the applicants which together with the application barns, have historically have been used for general purpose storage including machinery. The site is accessed via a short driveway in between two unassociated residential dwellings to the south-west.

## **PLANNING HISTORY**

23/00305/PACU3 & 23/00306/PACU3: Applications Withdrawn: 22/03/23 - Notification for Prior Approval: Change of use of Agricultural Buildings to Dwellinghouse (Schedule 2, Part 3, Class Q)

19/01745/PACU3 & 19/01746/PACU3: Prior Approval - Approved: 19/11/19 - Prior Notification: Change of use of agricultural building to a dwelling house

19/00918/F: Application Permitted: 05/07/19 - New agricultural access on to Marsh Road and roadway to serve farm buildings - Land Adjacent, Moors Lodge Farm, Marsh Road, Outwell

## **SUPPORTING STATEMENT**

*The following statement has been provided by the agent*

The applicants see this barn complex as an appropriate sounding in which to provide a secure home for Mr and Mrs Johnson in the South Barn, and their daughter and her partner in the North Barn. They are at different stages in life with Mr and Mrs Johnson now retired, and looking at this as a retirement project, with their daughter looking at this as a future long-term home for her, her partner and young family.

In reaching this stage, the applicants have endured a long, stressful process, however the matter has to be addressed regarding, what the planning department see as Policy conflicts under Core Strategy CS06, in particular 2 items. Namely, conversion to residential use will only be considered where:

1. 1 - The existing building makes a positive contribution to the landscape;
2. 2 - The building is easily accessible to existing housing, employment and services.

Item 1 – The existing building makes a positive contribution to the landscape

A question to raise over that statement. Doesn't it look at the wrong end of the application process? It is understood that control is needed in development, however should it not be the end product that is assessed, not the existing?

The applicant(s) (and the previous applicant) have recognised the footprint of the existing buildings as something which can be converted into 2 modest, appropriately scaled dwellings, whilst from an environmental perspective, the buildings' fabric is unsuitable (asbestos roof covering). Modern building materials can replace such old materials, and due to current Building Regulatory requirements in terms of fabric insulation, it is seen as an ideal time to increase the suitability of all elements of the fabric of the building. This of course provides for more energy efficient building(s) for the applicant and provides a degree of additional noise reduction for the immediate neighbour/local community and wider environment. The existing building clearly has/had no architectural/historic merit with the conversion providing a more aesthetically pleasing feel to the area. It is seen as not providing any dominance to the road frontage as it is set back from the highway, ample parking can be provided within the site boundary, with any vehicle being able to enter, turn and egress in a forward gear.

If permission is declined, what would the future of the buildings be? Left to become dilapidated/or left to ruin. Any future use will of course make the area worse off than before, because it is still private property which the applicants would have the right to sell. So, the only buyers will be people who can use it for vehicle storage, or storage of containers of various forms, or even old machinery. This means that most likely within 2 years of this potential refusal this land will become more derelict, it will have been sold and most likely there would be increased vehicle movement to and from the site (the existing access is positioned between 2 existing residential properties) with vans, trailers or even agricultural machinery.

It is seen that the proposal does not adversely affect the local amenity, in terms of appearance they will become more aesthetically appealing buildings from that which exist (on the same footprint). The proposal clearly represents a substantial improvement in terms of design, there can be no dispute about the improvement that the proposal will have therefore addressing para 1 of CS06.

Item 2 - The building is easily accessible to existing housing, employment and services

In terms of the remote location, this is Norfolk. It could be argued that all locations (with the exception of towns) are remote. It is a lacking in the infrastructure of the county as a whole that makes this policy difficult to be fulfilled. ALL properties are served by cars, this proposal being no exception. Adjoining properties to the site exist, again served by cars, and it should be recognised that travel by car is, and will still be an essential option for many people in rural areas. If sustainability is considered, then vehicle charging points could be included within the scheme.

Paragraph 7.4.12 of KLWN Core Strategy states that *"the rural nature of the borough means that the car will remain the key transport method for many people. The isolated nature of rural areas makes it difficult to promote or adopt more sustainable methods of transport. Improving communications technology, particularly access to high speed internet connections and broadband will allow people in rural areas to access some services, or even work at home, reducing the need to travel by car. In the long term, promoting behavioural*

*change such as car sharing, as well as facilitating opportunities to operate from home will reduce the frequency of car usage”.*

The buildings are easily accessible to existing housing, employment and services and are in a wonderful semi-rural village location with fields to the rear and neighbours to the front including a terrace of neighbours opposite. The proposal is approximately 1500m from the main Wisbech Road that runs through Outwell village, from which there is a 6 day (Monday – Saturday) bus service.

By implementing a remoteness aspect to any application such as this, is there an inference that Local Authorities are forcing applicants to move to village/town centres to intensify current village/town housing? Not everyone wants to live in that village/town centre situation.

#### Conclusion

This application has subsequently been recommended for refusal by the planning officer, however I, and the applicant(s) feel that there is disparity between planning application procedures in that the same work can receive ‘approval’ in 2019, and yet a potential refusal in 2023. It should be noted that there has been no change to planning policy in that period of time, just treatment in application of the submissions.

It is therefore considered that the recommendation of refusal of planning permission is considered to be unfounded in this case, therefore ask that the application is considered favourably.

## **RESPONSE TO CONSULTATION**

### **Parish Council: NO RESPONSE**

### **Local Highway Authority: NO OBJECTION**

Given previous use of the site and previous permissions to convert the barns, I believe it would be difficult to substantiate an objection. However, it is disappointing that the site is not accessed from the access provided for the site under planning ref: 19/00918/F

### **IDB: NO OBJECTION**

Land drainage consent may be required.

### **Environmental Quality: NO OBJECTION**

The applicant has provided a screening assessment stating no known contamination. Comments mention the removal of asbestos from the barns after their purchase in 2022. The applicant has provided waste transfer notes evidencing the safe disposal of the asbestos material by DEM Waste Management Ltd. The applicant has also provided an air monitoring certificate by Specialists Asbestos Services to evidence the precautions while undertaking works and that the air quality testing regarding asbestos fibres was satisfactory. Lastly, the applicant has submitted a document by Oakmere Contract Services confirming that all materials have been removed as stated.

The information submitted does not indicate the presence of significant land contamination. However, the long history of agricultural use means it's possible some unexpected contamination could be present. Therefore, the unexpected contamination condition is recommended.

## **Emergency Planner: NO OBJECTION**

Occupier should sign up to EA flood warning system and a flood evacuation plan should be prepared.

## **REPRESENTATIONS**

**FIVE** letters have been received by third parties, **TWO** stating **NO OBJECTION** and **THREE** raising **OBJECTIONS**. The **TWO** comments stating **NO OBJECTIONS** make the following points:

- The site plan shows vegetation on both sides of the access, but Moors Lodge Farm has access through where vegetation is shown.
- Would like assurances that no commercial use will be carried out. Would object to any commercial or business.
- Site address 'Moors Lodge Farm' is incorrect as that is a neighbouring property.

The **THREE** letters received with **OBJECTIONS** raise the following concerns:

- Asbestos materials removed with lack of compliance to standards.
- Concerned that asbestos fibres litter the site and are in the air.
- Number of trees have been removed. One felled tree damaged neighbouring property.
- Connection to services including electricity has been haphazard.
- Two large septic tanks have been delivered to the site, which seem in excess of what would be needed for a dwelling with two people.
- Applicant has allegedly damaged bank of nearby watercourse by placing dam across, putting stakes, planting trees and cutting stairs. Could affect surface water drainage.
- Proposed caravans for temporary occupation have already been occupied for 12 months.
- Would like assurance caravans are removed once conversion is completed and not left in place or used as holiday let.
- There is a commercial garage in operation from one of the barns.
- Work has commenced without proper permissions in place.

## **LDF CORE STRATEGY POLICIES**

**CS02** - The Settlement Hierarchy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS10** - The Economy

**CS11** - Transport

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

## NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide 2021

## PLANNING CONSIDERATIONS

### The main considerations are:

Principle of development  
Form and character  
Impact on neighbour amenity  
Highway safety  
Contamination  
Any other matters requiring consideration prior to determination of the application

### Principle of Development:

The proposed development is part retrospective for conversion of the two barns on site to two separate residential dwellings. Previous prior approval permitted development applications for residential development of the site 19/01745/PACU3 and 19/01746/PACU3 have expired as of 19th November 2022 and are therefore no longer considered to hold any significant weight.

For clarity, prior approval permissions under Class Q are subject to Condition Q.2(3) which sets out the time limit within which development must be complete as follows:

*Paragraph Q.2(3) – “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”.*

Development under Class Q(a) is comprised solely of the change of use of the buildings to dwellings. Class Q(b) comprises the building operations that are reasonably necessary for the conversion to residential use to be carried out. The condition requires that both parts of the development must be **complete** within 3 years.

According to the information submitted with this application, the applicant moved onto the site approximately August 2022, living in static caravans. They state that development commenced before the expiry of the Prior Approval applications on 19th November 2022 in the form of fitting septic tanks and performing minor structural repairs to the buildings. Evidence has also been provided to demonstrate that the asbestos sheeting roofs were removed in February 2023. Regrettably these works appear to have taken place after the time limit within which development must otherwise be **complete**. The applicant has stated that unfortunately they were not aware of the time limit for completion of development imposed on the Prior Approval permissions.

The development carried out so far (installation of septic tank and removal of the roofs) is not considered to be at a stage sufficiently completed to consider the use of the buildings as dwellings has commenced. While the applicants occupy the site in mobile homes, this does not constitute a completion of the conversions, or indeed a commencement of the residential use of the buildings themselves. Subsequently, development under Class Q(a) and Class

Q(b) has not been completed within 3 years as required by the condition set out in Paragraph Q.2(3). The Council is aware that some unauthorised development has recently been undertaken to re-instate roofs to the buildings, but this can be considered a separate planning enforcement matter and is not considered a relevant material consideration to this planning application.

New prior approval permitted development applications were submitted (ref: 23/00305/PACU3 and 23/00306/PACU3). Officers are of the view that as work to convert the buildings has already started, then no further permitted development prior approval applications could be considered. Consequently, a full planning permission would be required. This is because condition Q.2(1) of Class Q states:

Paragraph Q.2(1) - *"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"*.

Fundamentally, as development has already commenced, it is considered the site no longer benefits from permitted development rights under Class Q as the site would fail to meet the requirement of condition Q.2(1) that a prior approval application has to be made **before** development commences. Therefore, the site would not be eligible for future permitted development under Class Q. This approach was upheld in the High Court in *Winters v SoSCLG 2017* where the judge upheld the view of the planning appeals inspector that *"Prior approval cannot be granted in respect of works that have already commenced"*. The inspector concludes in their decision that *"The proposal does not therefore amount to permitted development"*.

Since the previous prior approval applications have expired without substantial works having taken place to complete the conversion of the buildings, it is considered the site does not benefit from any fallback position for residential development. Furthermore, the site no longer meets the requisite conditions to be eligible for Class Q permitted development rights. As such, it is highly improbable that a future prior approval application could be granted on the site. In the absence of any fallback position, the determination of the application must be made in accordance with the Development Plan.

Applications for prior approval under permitted development rights have very different considerations when compared with the determination of a full planning application. A prior approval application can only consider specific matters such as design and appearance, highway safety and flood risk. Whereas for full applications the Local Planning Authority are required to consider all relevant material considerations including matters which may have previously benefitted from the permitted development right but would otherwise fail when subject to the rigour of a full planning application.

The site lies in the countryside where Policy DM2 states that development will be more restricted and limited to that identified as suitable in rural areas in other parts of the Development Plan. Policy CS06 allows for the conversion of buildings to residential use in rural areas when certain criteria are met. It states Conversion to residential use will **only** be considered where:

The existing building makes a positive contribution to the landscape;  
a non-residential use is proven to be unviable;

The accommodation to be provided is commensurate to the site's relationship with the settlement pattern; and

The building is easily assessable to existing housing, employment and services.

Rural areas are protected for their own intrinsic value and character, as such development is only approved in rural areas in rare circumstances. The aim of Policy CS06 is to protect and

maintain the character of rural areas in line with the overarching aims of the NPPF (2023), supporting sustainable patterns of development and the sustainable development of rural areas. Paragraph 174 of the NPPF recognises the intrinsic character and beauty of the countryside and supports the protection of the countryside.

Those rare circumstances where policy favours development in rural areas includes Policy CS06 set out above, but also Paragraph 80 of the NPPF which supports conversion of redundant buildings to residential use and Paragraph 120 of the NPPF states that decisions should support the development of under-utilised buildings.

Policy CS10 of the Core Strategy 2011 is also relevant. It sets out that in rural areas, the strategy will be to retain existing employment sites unless it is demonstrated that continued use for employment purposes is no longer viable, gives rise to unacceptable environmental problems or a mixed use would offer greater benefits.

The application site has historically been used for agriculture since the buildings were constructed in the 1950s. The buildings have been used for general purpose storage and machinery. As of late 2018, the buildings have been deemed redundant as they are no longer required for the operation of the agricultural holding. An alternative agricultural access was granted to the south of the site in 2019 so that agricultural machinery could still access the fields to the rear. The original site access is retained for use by the current occupants, which lies in between two un-associated residential dwellings to the south-west. This close relationship with the residential neighbours limits the potential for alternative commercial uses of the site. As such, it is considered the requirements of Policy CS10 and bullet point 2 of the requirements in CS06 set out above have been met.

The buildings are constructed with red brick to the walls and have a traditional utilitarian rural appearance. However, they are not considered to have any significant architectural merit and are not considered to have any substantive positive impact on the wider landscape. Therefore, the proposal does not meet the first bullet point of Policy CS06.

The site is approximately 1.2km away from the main built-up edge of Outwell, with limited public transport provision and not easily accessible to employment and services. As such it is considered the fourth bullet point of Policy CS06 is also not met.

In terms of precedent, a similar application ref: 21/00302/F was considered approximately 1km to the south west of the site for the conversion of a barn on Hall Road, Outwell. These barns were also in a poor state of repair and the officer report does not comment on whether the buildings were considered to have a positive impact on the landscape. However, this building was located immediately adjacent the development boundary of Outwell and read as part of the settlement. It was considered in this case that as the site was located at the edge of the settlement it was well-located for future residents to access services and employment in the key rural service centre of Outwell and Upwell. Ultimately the proposed conversion was approved as a delegated decision as the planning balance weighed in favour of the proposal.

In contrast, the currently proposed site lies further into the countryside and cannot be reasonably considered adjacent the settlement of Outwell. There is no public transport or footpath provision that serves the site and therefore it does not benefit from easy access to employment and services. It is development in these locations which the Development Plan seeks to steer away from.

As set out above, the proposed development does not benefit from a fall-back position by virtue of Prior Approval under Class Q having expired and no further Class Q permitted development being eligible. Following the above, it is considered the principle of conversion



of the existing buildings to the dwelling is not in accordance with Policy CS06 of the Core Strategy 2011 and Policy DM2 of the SADMPP 2016. While the NPPF is more broadly in favour of the re-use of existing buildings in the countryside, it is considered this case represents unsustainable residential development in the countryside due to the conflict with the development plan.

### **Form and character:**

The proposed conversions retain the majority of the existing buildings but include the replacement of the roof and insertion of new fenestration to the elevations. The dwellings would be single-storey in height. Proposed materials include plastisol coated roof sheets in dark grey, and anthracite grey upvc windows. The previous asbestos roof sheets have already been removed from the buildings. The site is well screened from wider view. Overall, it is considered the proposed conversions will not have any significant adverse impact on the character and appearance of the area.

There are currently 4 mobile homes on site which are occupied by members of the family intending to occupy the proposed dwellings. One of the mobile homes is situated within the curtilage of the buildings, while the other 3 mobile homes are located elsewhere within the former yard. These mobile homes are currently unauthorised. In the event of an approval of this application, with the exception of the single mobile home that is situated within the curtilage, the three remaining mobile homes would need to be removed from the site once the dwellings are habitable. For the avoidance of doubt, any such decision should be conditioned to ensure that details of the mobile homes are provided and that they are removed in a timely manner and the land reinstated when they are no longer required. Notwithstanding, permission is recommended for refusal due to fundamental issues with the principle of development.

### **Impact on Neighbour Amenity:**

The proposed dwellings would not have any significant overbearing or overshadowing impact on the neighbouring dwellings to the south-west as the scale of the buildings is remaining the same. There are proposed windows at ground-floor level on the south-west elevation in both the north and south barns which would face towards the neighbours Manordale and Moors Lodge Farm respectively. The north barn is situated approximately 5.3m away from the boundary with Manordale, while the south barn is approximately 2m away from the boundary with Moors Lodge Farm. The boundary alongside the north barn is a 1.8m timber fence with an approx. 2.5m hedgerow under the applicant's control on their side of the fence. The boundary treatment alongside the south barn is a 1.8m timber fence.

It is considered the proposed dwelling to the north of the site would have its views sufficiently screened by the vegetation within the applicants control and the gap of 5.3m is sufficient such that the proposed ground floor windows would not have any significant overlooking impact. The single ground floor bedroom window on the south-west elevation of the south barn would only be slightly screened by the 1.8m fence along the boundary. However, it is considered this ground floor window would not result in any significant detrimental overlooking impact on Moors Lodge Farm sufficient to warrant refusal. No other windows within the proposed development would face towards any neighbouring private amenity space.

It is considered there is sufficient front to front distance of approximately 25m between the two barns that they would not have any significant adverse window to window relationships. As the site lies in Flood Zone 1, raised finished floor levels are not required as part of the scheme which may otherwise impact on overlooking. Overall, it is considered the proposed

conversions would not have any significant adverse impact on residential amenity in accordance with Policy DM15 of the SADMPP 2016.

### **Highway Safety:**

The Local Highway Authority has brought attention to a separate access approved under 19/00918/F. This access is owned separately from the site and was approved to serve the fields to the rear. The existing access for the site is well established and runs between the neighbouring properties to the west. It is considered this access point is sufficient to serve the proposed dwellings and it would not be reasonable to insist the other access is utilised. In any case, the Local Highway Authority do not object to the development and it is considered the proposed conversions would not have any significant adverse impact on highway safety in accordance with Policy CS11 of the Core Strategy 2011 and DM15 of the SADMPP 2016.

### **Contamination:**

Third party representations have raised concern with the way that asbestos containing materials may have been handled on site. The asbestos that was removed from the barns is supported by evidence that demonstrates it was handled in a responsible way. The Environmental Quality team has examined the information and does not consider there to be any significant land contamination issues. However, due to the historic use of the land and buildings for agriculture, the unexpected contamination condition would be recommended in the event of an approval.

### **Other matters requiring consideration prior to the determination of this application:**

The site address previously referred to 'Moors Lodge Farm'. With the agreement of the agent, this was changed to 'Beaupre Barns' to avoid confusion.

Third party comments raise concern with alleged or potential commercial activities from the site. The planning application is only concerned with the residential conversion of the barns. No commercial activity is proposed or assessed as part of this application. An enforcement case is on-going as a separate matter in respect of the alleged breaches of planning control.

Any damage to neighbouring property while carrying out the proposed development or any issues that arise while connecting to services such as electric and water supply are not material planning considerations and should be dealt with as a civil matter or with the service providers.

A third party comment raises concern with the delivery of 2 septic tanks for a dwelling for two people. The proposed development is for two separate dwellings, each would be capable of occupation by more than two people. It is therefore considered the septic tanks are domestic in nature and reasonably required to provide foul drainage for the two dwellings and is not considered to be excessive as suggested.

### **CONCLUSION:**

Planning law requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. It is considered that fundamentally the location of the site is unsustainable for new residential development and that the existing buildings have a limited if any positive contribution to the landscape. Officers may agree that the proposed conversions could be carried out without any significant detriment to the

character of the area or the amenity of the neighbouring occupiers. However, the proposals remain contrary to Policy CS06 of the Core Strategy 2011 and DM2 of the SADMPP 2016.

While the site had previously benefitted from Class Q permitted development rights for conversion to residential use, this fallback position no longer exists and therefore does not represent an overriding material consideration which indicates any deviation from the Development Plan should be taken in this case.

With no other material justification for the residential conversions of the barns to go ahead, then the Officer recommendation for the development is for refusal for the reason below.

**RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 The site lies in the countryside and in accordance with Policy DM2 development is restricted and limited to that identified as suitable in rural areas. Policy CS06 outlines an exception where conversion of existing buildings to residential can be acceptable subject to meeting specific criteria.

It is considered in this case that the proposed dwellings would lie in an area that would not be easily accessible to services and employment and the existing buildings are not considered to have any significant positive contribution to the landscape. As such the proposal would not meet all the requisite criteria in Policy CS06 for the conversion of buildings to residential use. As such, the proposals would instead represent unjustified development of a site in the countryside and an unsustainable location for a new dwelling contrary to Policy DM2 and Policy CS06, together with Paragraphs 80 and 120 of the NPPF