

Parish:	Upwell	
Proposal:	SELF-BUILD - Demolition of barn and construction of new self build 3 bedroom dwelling, and formation of new access	
Location:	Land And Buildings At E550219 N300679 Back Drove Upwell Norfolk PE14 9EX	
Applicant:	Mrs C Leigh-Walker	
Case No:	25/00270/F (Full Application)	
Case Officer:	Helena Su	Date for Determination: 17 April 2025 Extension of Time Expiry Date: 6 June 2025

Reason for Referral to Planning Committee – Referred to by Sifting Panel as the Parish Council object to the proposal.

Neighbourhood Plan: Yes

Case Summary

This application is for the demolition of a barn for the construction of a self-build three-bedroom dwellinghouse and formation of a new access along Back Drove in Upwell.

Upwell is classified as a Tier 4 settlement, alongside Outwell, under the settlement hierarchy of LP02 of the Local Plan 2021-2040. The site falls outside the development boundary of Upwell by approximately 156m.

This decision will be balanced against the extant fallback position established under planning permission 24/00500/PACU3, for conversion of the barn into one dwelling. This planning permission remains extant and all works are required to be commenced and completed by the expiry date of 16 May 2027.

Key Issues

Principle of development
 Form and character
 Impact on neighbour amenity
 Highway safety
 Flood risk
 Ecology and Biodiversity Net Gain
 Any other matters requiring consideration prior to determination of the application

Recommendation:

APPROVE

THE APPLICATION

The site is situated within a parcel of land which comprises brick-built pig styes and a barn finished in corrugated metal sheeting. The application site comprises the barn and land around it to form residential amenity space and an access to serve the proposed dwelling.

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SUPPORTING CASE Submitted by the Planning Agent:

At the time of making this statement it is our understanding that the application has been recommended for approval by your planning officers but is in front of the planning committee due to an objection by the parish council.

The existing barn on the site was granted prior approval under class Q for the change of use from an agricultural building into a dwelling.

The Parish council has suggested that the existing barn is not fit for conversion, and therefore the original prior approval should not have been granted in the first place. However, the parish council has provided no evidence of why it is not fit for conversion, and actually supported the original prior notification application.

Prior to submission of the application that is now in front of the planning committee a pre-application planning enquiry was submitted, and following a number of meetings with planning officers the proposed design was finalised.

The proposal has been designed to reflect the size, and characteristics of the existing barn, and the client is not seeking drastically to alter its appearance, with the siting and footprint of the proposal being essentially the same as the existing barn, with just the eaves and ridge height of the proposal being raised slightly to enable the provision of a first floor.

Dwellings formed via a conversion have to meet less stringent building control regulations regarding energy efficiency than new built dwellings so the proposal to demolish and re-build would result in a much more energy efficient dwelling. The conversion would also require contractors with more specialist skills whereas a new build would be easier to construct. So, while the building could be converted to form a dwelling as approved under the prior notification, it is felt the construction of a new dwelling on the site will provide a much more attractive and long-term sustainable property, to that which could be achieved via conversion of the existing building.

I would therefore ask that the committee follow their own officer's recommendation and approve the application.

Planning Committee
2 June 2025

PLANNING HISTORY

24/00500/PACU3: Prior Approval - Approved: 16/05/24 - Notification for Prior Approval for change of use of agricultural building to dwelling (Schedule 2, Part 3, Class Q)

23/00043/PREAPP: Application Withdrawn: 21/02/24 - Class Q permitted development for barn conversion and pig sty to dwelling

RESPONSE TO CONSULTATION

Parish Council: OBJECT with following comments.

The existing barn was granted a PACU3 notification for conversion into a dwelling, with no mention within that notification for its demolition. The demolition of the existing barn in favour of a new residential dwelling, whether on the same footprint or not, suggests that the existing barn was not fit for conversion, and therefore the PACU3 notification should not have been granted. The granting of a PACU3 notification relates only to the existing structure, not demolition and a completely new building. As such, this falls outside the development boundary for new build dwellings and is considered as a development in the rural countryside. Back Drove is unsuitable for regular vehicular usage. Refuse vehicles will need to reverse down to the site as there is no facility for turning. This could prove hazardous for such a vehicle in inclement weather given the overall condition of the Back Drove surface.

Highways Authority: NO OBJECTION subject to conditions, with following comments:

Having reviewed the submitted information and being aware of the site, it is evident that the site has gained planning permission historically for the principle of a single dwelling under 24/00500/PACU3. As such this application would have a very similar traffic generation and as a result we are not be against the principle of the application.

Ecologist: NO OBJECTION subject to conditions for self-build and custom dwellings and securing a water vole licence.

Emergency Planning Officer: Because of its location in an area that during an extreme flood event could become isolated from safe access and egress routes (i.e. become a dry island), I would suggest that the occupiers:

- Sign up to the Environment Agency flood warning system
- A flood evacuation plan should be prepared.

This will include actions to take on receipt of the different warning levels, evacuation procedures, e.g. isolating services and taking valuables etc. and evacuation routes.

REPRESENTATIONS None Received

KING'S LYNN AND WEST NORFOLK LOCAL PLAN 2021-2040

LP01 - Spatial Strategy and Settlement Hierarchy Policy (Strategic Policy)

LP02 - Residential Development on Windfall Sites (Strategic Policy)

Planning Committee
2 June 2025

LP04 - Presumption in Favour of Sustainable Development Policy (Strategic Policy)

LP06 - Climate Change (Strategic Policy)

LP13 - Transportation (Strategic Policy)

LP14 - Parking Provision in New Development

LP18 - Design & Sustainable Development (Strategic Policy)

LP19 - Environmental Assets - Green Infrastructure, Landscape Character, Biodiversity and Geodiversity (Strategic Policy)

LP21 - Environment, Design and Amenity (Strategic Policy)

LP23 - Green Infrastructure (Strategic Policy)

LP25 - Sites in Areas of Flood Risk (Strategic Policy)

LP27 - Habitats Regulations Assessment (HRA) (Strategic Policy)

LP31 - Custom and Self-Build Housing (Strategic Policy)

LP35 - Enlargement or Replacement of Dwellings in the Countryside

NEIGHBOURHOOD PLAN POLICIES

Housing Policy H3: Design

Policy H4: Residential Car Parking Standards

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

Flood risk

Ecology and Biodiversity Net Gain

Any other matters requiring consideration prior to determination of the application

Principle of Development:

Upwell is classified as a tier 4 settlement, along with Outwell, under LP01 of the Local Plan 2021-2040. Under LP02 (Residential Developments on Windfall Sites), sites outside, but

Planning Committee
2 June 2025

adjoining development boundaries, would be supported provided they meet the criteria set out within the policy, which seeks to respect or enhance the character, support existing and future services and infrastructure provisions, not located within the National Landscape, preserve or enhance the significance of heritage assets and their setting, and maintain physical separation between existing settlements and protect their identity.

The site does not adjoin the development boundary of Upwell, being 156m to the north-east of the development boundary.

Although the site lies outside the development boundary of Upwell, the site has a fall-back position by having a recent granted consent under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), for the barn to the south of the pigsties to be converted into a dwellinghouse.

The status and concept of a fall-back development as a material consideration has been established through High Court Cases. Precedent judgements have referred to Class Q of the GDPO as a 'fall-back' position and state that Councils should satisfy themselves that there is a 'real prospect' of the 'fall-back' development being implemented. For a 'fall-back' position to be considered a 'real prospect', it does not have to be probable or likely: a possibility will suffice.

The prior approval application under Class Q was approved on 16 May 2024. All works are required to be commenced and completed by the expiry date of 16 May 2027. Given that there is two years left of the permission it is considered that there is a real prospect that a dwelling could be accommodated on this site.

As well as the fall-back position, the proposed dwelling would be a custom and self-build dwelling. Footnote 29 of the NPPF explains that the Self Build and Custom Housebuilding Act 2015, (as amended recently by the LURA), places a legal duty "to give enough suitable development permissions to meet the identified demand". At the current time the Council is experiencing some difficulty in demonstrating that it has met the need for Custom and Self-Build due to a change in legislation, however this does not mean that planning permission should automatically be granted - it is just one of a range of material considerations that we need to consider. The self-build nature of this proposal does attract weight in the determination of the application.

Considering the real prospect of the fall-back position and self-build and custom nature of the application, the principle of residential development of this site is considered acceptable. There is a real prospect that a dwelling could be accommodated on the site and the self-build and custom nature of the application, attracts significant weight. Nevertheless, the proposal remains subject to other considerations and planning policies.

Form and Character:

Back Drove comprises open agricultural field to the rear of residential plots along Croft Road, which is in the development boundary of Upwell.

The application site comprises a steel agricultural barn and small pig-stye building within a parcel of agricultural land of approx. 0.14ha in size. The wider parcel of land surrounding the application site is demarcated by rows of trees to the east and west of the parcel of land and low timber post and rail fence to the north and south of the parcel of land. The application site itself is not currently defined by any boundary treatment. The plans indicate that a post and rail fence along the north, east, south and west boundary, with indigenous native hedge planting to boundaries of Hawthorne, Blackthorn, Dog Rose and Field Maple, proposed

along the east of the site. To ensure the site remains in keeping with the character of the area, it seems appropriate to remove permitted development rights for the erection of new fences around and within the site.

The proposed dwelling would be built on the same footprint of the existing barn, measuring approximately 8.1m wide, 10.6m deep and 6m tall (1m taller than the existing barn). The utilitarian appearance of the existing barn is retained through the use of materials such as vertical cladding to the dwelling and vertically emphasised fenestration on the side elevation and to the front elevation. However, to ensure the dwelling is finished in materials appropriate for its rural location, a condition for material details will be included on the decision notice.

To retain the 'barn' aesthetics, permitted development rights for extensions, roof alterations, and dormer windows would be removed via condition. This would also be the case if the existing Part Q permission was implemented.

Around the northern part of the proposed dwelling, a patio area is proposed, with a gravel turning and parking area along the north-western boundary of the site. The rest of the site would be grassed. Hard and soft landscaping would be conditioned as part of the consent, to be carried out in accordance with the approved plans, to ensure the development remains sympathetic to the location.

Policy H3 of Upwell's Neighbourhood Plan seeks to ensure "all development will be designed to a high quality, reinforcing and complementing local distinctiveness and character, as captured in Appendix A (and any conservation area character statement where relevant). Design which fails to have regard to local context and does not preserve, complement or enhance the character and quality of its immediate area and the wider Parish will not be acceptable. Proposals should therefore be of an appropriate density, height, variety, scale and layout. This is not intended to discourage innovation, which will be welcomed... New residential development plots should not be over-developed and should ensure that the building footprint, including any outbuildings, provides for sufficient amenity space."

The proposed dwelling would be of a similar size and scale as the existing barn, built on the footprint of the barn. Subject to details of the materials, and details such as boundary treatments, soft and hard landscaping as per the approved plans, the proposal is considered to comply with Policy H3 of the Upwell NP and LP18 and LP21 of the Local Plan 2021-2040.

Impact on Neighbour Amenity:

As the application site lies outside of the built-up area of Upwell and the closest neighbour is over 100m to the northeast, east and southwest. There would be no impact on neighbours and the proposal would therefore meet LP21 of the Local Plan 2021-2040.

Highway Safety:

The proposal includes the creation of a new access along Back Drove. The Local Highway Authority (LHA) have not objected to the proposal given the fall-back position the site benefits from. The LHA have recommended conditions related to the laying out of the access, and parking/turning area on the site.

The proposal is for a three-bedroom dwelling. In accordance with LP14 of the Local Plan 2021-2040 and Norfolk's Parking Standards, two parking spaces are required and the Agent has shown sufficient parking can be achieved on site. Additionally, considering Policy H4

(Residential Car Parking Standards) of the Upwell Neighbourhood Plan, the site could reasonably accommodate 3 parking spaces on the site.

The Parish Council has raised concerns regarding refuse vehicles needing to reverse back on Back Drove as there are no suitable turning areas along the road. Waste collection on private drives is not standard practice in Norfolk. Waste collection points would be nearest to the adopted highway boundary. Therefore, it is not expected that refuse vehicles would have to reverse back onto the public highway, at the detriment to highway safety. The applicant would have to discuss the most appropriate collection point with the Borough Council once a dwelling has been constructed on the site.

In regard to highway safety, parking and refuse collection, the proposal complies with Policy H4 of the Upwell Neighbourhood Plan, LP13, LP14, LP18 and LP21 of the Local Plan 2021-2040.

Flood Risk:

The site is located in Flood Zone 1 and located in a Dry Island. The use of the site would change from less vulnerable to more vulnerable. In accordance with Environment Agency's standing advice, the residential development of this site would be considered acceptable. An informative may be placed on any decision regarding flood evacuation and signing up to the EA's flood warning system.

Regarding drainage, surface water drainage is proposed to soakaways, and foul water to a treatment tank within the front garden of the site. The proposal would comply with LP18 and LP25 of the Local Plan 2021-2040.

Ecology and Biodiversity Net Gain:

The application is for a self-build and custom dwellinghouse, which is exempt from BNG. A condition would be included related to this.

The Council's Ecologist has no objection to the scheme. The application was supported by an 'Ecological Appraisal with Full Water Vole Survey and Biodiversity Net Gain Assessment'. No irreplaceable or protected species were identified on the site, but water voles were present within the ditch along the north boundary of the site.

To mitigate impacts to the water voles found within the northern ditch, a European Protected Species Mitigation Licence (EPSML) would be required prior to the commencement of works which would be secured via condition.

THREE TESTS OF DEROGATION - LICENCE

The NPPG advises that the Local Planning Authorities (LPA) must be confident that Natural England (NE) will issue a licence before granting planning permission.

NE will only grant a licence if satisfied that the three statutory tests prescribed under the directive and regulations have all been met. The tests are:

1. There are imperative reasons of overriding public interest (IROPI);
2. There are no satisfactory alternatives; and
3. It would not be detrimental to the maintenance of the population of the species at favourable conservation status.

The obligation on the LPA is to consider the likelihood of a licence being granted by NE, not to determine definitively whether or not the licence will, in fact, be granted. It therefore has to review the three tests, in the context of a planning application, to then form a view on the likelihood of NE granting a derogation licence under the Regulations.

Taking each of the three tests in turn: -

1. Imperative Reasons of Overriding Public Interest (IROPI) - NE's guidance advises that IROPI can potentially include developments that are required to meet or provide a contribution to meeting a specific need such as complying with planning policies and guidance at a national, regional and local level. In this case, the principle of a replacement dwelling accords with the provisions of the NPPF and the Local Development Plan, public benefit. Furthermore, the proposed development is considered to accord with all other relevant planning policies and would cause no adverse effects upon the local environment or amenities. It is considered to provide a public benefit of an additional self-build and custom dwelling within the local community which would contribute towards the LPA's housing supply.

The dwelling is also likely to provide for a more sustainable development when compared to the barn converted dwelling approved under 24/00500/PACU3.

2. As a replacement of an existing building, the proposal cannot reasonably be re-located elsewhere.
3. It appears unlikely that the development of the site, subject to the appropriate mitigation and compensation measures, would affect the conservation status of the protected species. The effect of a proposal would be less significant to the species' national population.

Taking the above into account, the LPA cannot see any reason why NE would not be likely to grant a derogation license under the Regulations in relation to this development.

Lastly, the application site falls into the scope of The Wash and Brecks zone of influence. An appropriate Assessment was undertaken in this regard. The development proposes a net of one dwellinghouse, as such a mitigation fee of £304.17 is required to be paid to offset recreational impacts to Zols. Mitigation is taken at the point of determination and has been paid by the Applicant.

In regard to protected species, subject to conditions, the proposal is considered to comply with the provisions of Chapter 15 of the NPPF and LP19 of the Local Plan 2021-2040.

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

Climate Change:

LP06 of the Local Plan 2021-2040 requires all development to recognise and contribute to the importance of future proofing against the challenges of climate change to support the transition towards meeting the Government target of becoming a net zero economy by 2050.

The proposal includes the provision of solar panels on the southern roof slope, maximising on solar gains from the layout and orientation of the proposed dwelling. Furthermore, as a new dwelling, building control regulation for energy efficiency is stricter, therefore the resultant dwellinghouse would be more energy efficient, compared to a barn converted dwellinghouse.

CONCLUSION:

The application seeks the demolition of an existing barn, which has permission as a dwelling under planning ref 24/00500/PACU3, for a new three-bedroom dwelling along Back Drove in Upwell. The proposed dwelling would have the same footprint as the existing barn, albeit taller by approximately 1m.

Although the site lies outside the development boundary of Upwell, the proposal benefits from a fall-back position. There is a real prospect that the extant permission will be implemented if this current application were to be refused. As such the fall-back position should carry weight as a material consideration in the determination of this application.

Furthermore, the proposal is for a self-build and custom dwelling which holds significant weight in the determination of the application, where the Council it has met the need for Custom and Self-Build due to a change in legislation.

Whilst there is minor conflict with the development plan relating to the location of dwellings, there are material considerations advanced in the form of the part Q consent which is clearly capable of being implemented along with the provision of a custom and self-build dwelling that would outweigh that conflict.

As a result the proposal is considered to comply with the NPPF, Policies LP01, LP02 and LP03 of the Local Plan 2021-2040 and Policies H3 and H4 of the Upwell Neighbourhood Plan.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out using only the following approved plans:
 - Dwg no. P-23-2419-1.1-A. Location Plan
 - Dwg no. P-23-2419-3.1-B. Proposed Site Plan
 - Dwg no. P-23-2419.4.1-A. Proposed Floor Plan
 - Dwg no. P-23-2419-5.1-A. Proposed Dwelling Elevations, Roof Plan and Site Section
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation or use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.

Planning Committee
2 June 2025

- 3 Reason: To ensure that the work is carried out within a reasonable period in accordance with the NPPF.
- 4 Condition: Notwithstanding the provisions of Schedule 2, Part 1, Class A, AA, B, C and D, and Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement, improvement or other alterations, enlargement of a dwellinghouse by construction of additional storeys, additions etc and other alterations to the roof of a dwellinghouse, porches and gates, fences and walls shall be allowed without the granting of specific planning permission.
- 4 Reason: To ensure a satisfactory external appearance and grouping of materials in accordance with LP18 and LP21 of the Local Plan 2021-2040, and the principles of the NPPF.
- 5 Condition: No works to ditches in any circumstance shall commence unless the Local Planning Authority has been provided with either:
- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or;
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- 5 Reason: The Habitats Directive requires a system of strict protection for certain protected species. It is a criminal offence to consciously harm European protected species without a licence, which would only be issued if the statutory licensing body is satisfied that the derogation criteria are met. However, the risk of criminal prosecution might not prevent harm from taking place. This condition therefore helps to ensure that a developer will apply for an EPS licence and, if they do not, can be prevented in advance from undertaking the activities that might jeopardise the protected species, before the species is harmed. This condition can be enforced by a temporary stop notice or by injunction. This condition ensures that the Local Planning Authority is complying with its statutory obligations with respect to the Habitats Regulations.
- 6 Condition: Self Build:
- (i) The dwelling hereby permitted shall be constructed as a self-build dwelling within the definition of a self-build and custom build housing in the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016), and
 - (ii) The first occupation of the dwelling hereby permitted shall be by a person or persons who had a primary input into the design and layout of the dwelling and who will live in the dwelling for at least 3 years, and
 - (iii) Prior to the first occupation of the dwelling the Council shall be notified of the person(s) who will take up first occupation of the dwelling.
- 6 Reason: To ensure the satisfactory development of the site as a genuine self-build and/or custom dwelling, in accordance with the NPPF (2024) and Schedule 7A of the Town and Country Planning Act 1990 for Biodiversity Net Gain.
- 7 Condition: Notwithstanding the details of the approved plans, no development shall take place on any external surface of the development hereby permitted until samples

of the materials to be used in the construction of the external surfaces of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 7 Reason: To ensure a satisfactory external appearance and grouping of materials in accordance with LP18 and LP21 of the Local Plan 2021-2040, and the principles of the NPPF.
- 8 Condition: Prior to the first occupation of the development hereby permitted the vehicular / pedestrian / cyclist access / crossing over the verge / ditch / watercourse shall be constructed in accordance with a detailed scheme to be agreed in writing with the Local Planning Authority and in accordance with the highways specification TRAD 5 and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- 8 Reason: To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety, in accordance with LP06 and LP18 of the Local Plan 2021-2040 and the NPPF.
- 9 Condition: Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 9 Reason: To ensure the permanent availability of the parking/manoeuvring areas, in the interests of satisfactory development and highway safety and in accordance with LP18 and LP21 of the Local Plan 2021-2040 and the NPPF.
- 10 Condition: The development hereby permitted shall not be occupied until details of agreed enhancement measures have been submitted and approved by the LPA. Enhancement measures will include:
 - a) The inclusion of a wildflower species rich grass mix and pollinator friendly and/or night scented plant species into any garden landscaping
 - b) Installation of minimum two signed hedgehog holes within impermeable boundary treatment
 - c) Installation of minimum one bird box
 - d) Installation of an integrated bat box into the new dwelling
 - e) New ditch as compensation for loss of water vole habitat
 - f) No night-time lighting of site during construction and only low-level, downward facing lighting on timers post-construction to limit disturbance to commuting and foraging bats. Any lighting should be in accordance with the Institute of Lighting Professionals guidance note on bats and artificial lighting.

The specific details of all of the required mitigation and enhancement measures aforementioned, including dimensions, location and construction methodology together with a scaled plan or drawing illustrating the requirements, shall be submitted to and approved in writing by the local planning authority prior to installation. The mitigation and enhancement measures shall be carried out in accordance with the approved details and thereafter retained in a suitable condition to serve the intended purpose.

- 10 Reason: In order to ensure the development does not result in the loss of habitat for protected species and to enhance biodiversity on the site in accordance with Paragraph 174 of the NPPF and LP19 and LP23 of the Local Plan 2021-2040.