

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>16 AUGUST 2023</b>
<b>TITLE OF REPORT:</b>	<b>231926 - APPLICATION FOR THE PRIOR APPROVAL OF CHANGE OF USE OF AGRICULTURAL BUILDING TO SINGLE DWELLING. AT BARN AT WOOLNER HILL FARM, STONEHOUSE LANE, BRINGSTY, HEREFORDSHIRE,</b>  <b>For: Mr Buckley per Mr Rhys Bennett, 16 Royal Crescent, Cheltenham, Gloucestershire, GL50 3DA</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231926&amp;search-term=231926">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231926&amp;search-term=231926</a>
<b>Reason Application submitted to Committee – Staff Applications</b>	

**Date Received: 22 June 2023**

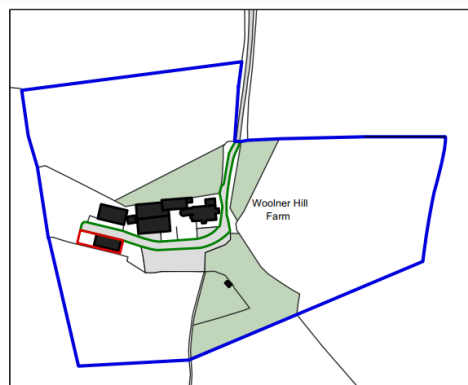
**Ward: Bishops Frome    Grid Ref: 367231,252694  
& Cradley**

**Expiry Date: 17 August 2023**

Local Members: Cllr Ellie Chowns

## 1. Site Description and Proposal

- 1.1 The application is submitted under Part 3 Class Q of the General Permitted Development Order for the conversion of an agricultural building to a single dwelling.
- 1.2 Woolner Hill Farm is located at the end of Stonehouse Lane, approximately 2 miles to the south east of Bromyard. The property is one of a small number of properties and smallholdings located sporadically along the lane, the closest being Stonehouse Farm, approximately 220 metres to the north.
- 1.3 Woolner Hill Farm itself is comprised of a farmhouse and a small group of four buildings immediately to its west as shown on the site plan below. The application relates to the westernmost of these buildings, sitting slightly apart from the rest. It is a modern, open fronted steel framed building, the remaining three sides enclosed with profiled metal walls and roof.



Further information on the subject of this report is available from Mr A Banks on 01432 383085

## **2. Planning History**

2.1 None Identified

## **3. Consultation Summary**

3.1 No Statutory Consultations

### *Internal Council Consultations*

3.2 Area Engineer (Highways)

No objections subject to conditions

## **4. Representations**

4.1 Brockhampton Group Parish Council

Brockhampton Group Parish Council considered this application at their meeting 19/07/23 and raised no objections or concerns with the proposals

The consultation responses can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=231926](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231926)

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## **5. Officer's Appraisal**

5.1 The application has been submitted under Part 3 Class Q(a) and (b) and is therefore seeking the change of use of the building and proposing building operations related to the change of use.

5.2 In order for a building to benefit from the permitted development rights contained within Class Q, it needs to be established that the proposed development is the conversion of a building and does not amount to a fresh build. As stated in the NPPG "it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".

5.3 Furthermore the National Planning Practice guidance (NPPG) directs attention to the case of *Hibbitt and another v Secretary of State for Communities and Local Government (1)* and *Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin) for a full discussion on the matter.

5.4 Critically the *Hibbitt* case asserts that the concept of conversion is found in the overarching provisions of Class Q as a whole and not simply in Q.1 and therefore it is, as stated above, the qualifying test to ensure the building would be considered to have the permitted development rights.

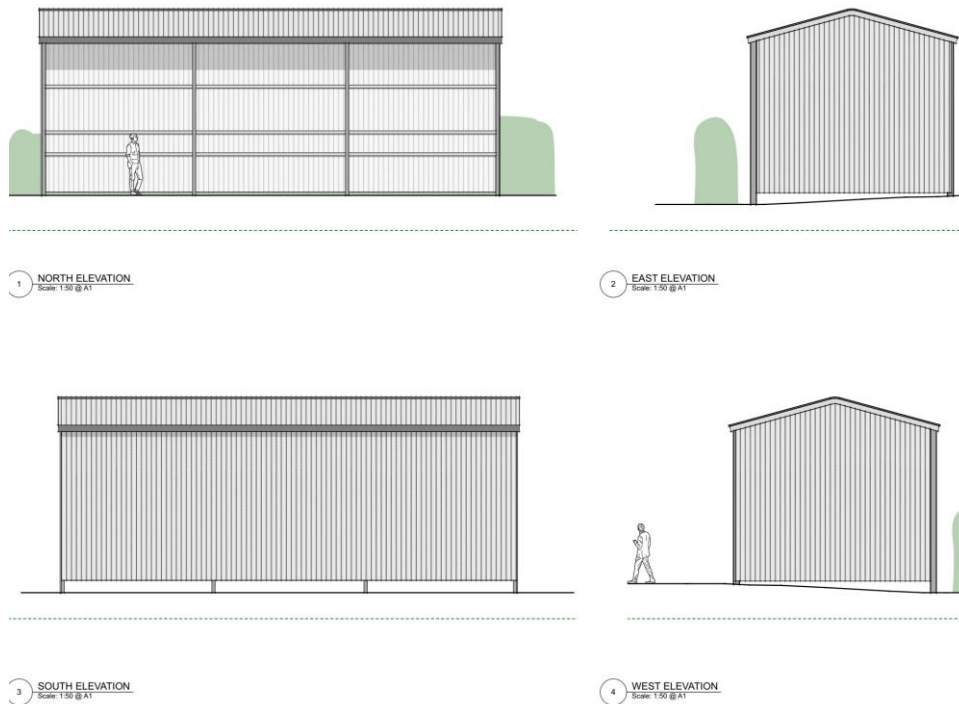
5.5 The building is of substantial construction and have been demonstrated to facilitate conversion without the need for additional structural support. The Planning Statement accompanying the submission advises that the building has been inspected by a qualified structural engineer who has confirmed that it is structurally sound and capable of conversion without structural alterations

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or reinforcements. The level of intervention required to convert the building is high for it to be considered a conversion. In this case the external materials will be re-used with insulation added to the internal face and the schedule of works appears appropriate to meet the 'Hibbitt' gateway test. Given this, the barn qualifies for permitted development rights and the proposal now falls to be considered against the provisions of Class Q.

### *Plans as existing*



### *Plans as proposed*



5.6 Having established that the building passes the first principles as set out by the 'Hibbitt' gateway tests, the proposal now falls to be considered against the remaining provisions of Class Q. For ease, these are set out in the left hand column of the table below, with a brief commentary in respect of the application in the right hand column. It should be noted that these are matters of fact and are not subject to a planning judgement in the same way as a typical planning application. If it can be shown that the proposal complies with all of the criteria then it should be concluded that the proposal is permitted development.

Criteria	Officer response
<p><b>a)</b> Was the site used solely for an agricultural use, as part of an established agricultural unit;</p> <ul style="list-style-type: none"> <li>• on 20th March 2013;</li> <li>• if the site was not in use on that date, when it was last in use; or</li> <li>• if the site was brought into use after that date, for ten years before the date the development begins?</li> </ul> <p>If NO planning permission is required.</p>	<p>Yes.</p> <p>Having visited the site it is clear that the site is part of an established agricultural unit. The application advises that the building was erected between 1973 and 1975 and that it has been used continuously since.</p>
<p><b>(b)</b> in the case of – a larger dwellinghouse, within an established agricultural unit where —</p> <p>(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or</p> <p>(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;</p> <p>Is the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit less than 450 square metres?</p> <p><i>If NO planning permission is required.</i></p>	<p>The proposal is for a single larger dwelling with a floor area of approximately 149m<sup>2</sup>. The proposal complies with Q.1(b)</p>
<p><b>(c)</b> in the case of—i) a smaller dwellinghouse, within an established agricultural unit—</p> <p>(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or</p> <p>(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;</p>	<p>Not applicable</p>
<p><b>(d)</b> Would the development under Class Q (together with any previous development under</p>	<p>There has not been any development previously under Class Q. The floor</p>

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<p>Class Q) within an established agricultural unit result in either or both of the following—</p> <ol style="list-style-type: none"> <li>i. a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;</li> <li>ii. the cumulative number of separate dwellinghouses having a use falling within Class C (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;</li> </ol>	<p>area proposed is 149m<sup>2</sup> and therefore falls below the 465m<sup>2</sup> threshold. The proposal complies with Q.1(d)</p>
<p><b>(e)</b> If the site is occupied under an agricultural tenancy has the express consent of both the landlord and the tenant been obtained?</p> <p><i>If NO planning permission is required</i></p>	<p>Not applicable. There is no agricultural tenancy</p>
<p><b>(f)</b> If less than one year before the date development begins an agricultural tenancy over the site has been terminated where that termination was for the purpose of carrying out development under Class MB, have both the landlord and the tenant agreed in writing that the site is no longer required for agricultural use?</p> <p><i>If NO planning permission is required.</i></p>	<p>Not applicable</p>
<p><b>(g)</b> Has development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) been carried out on the established agricultural unit since 20th March 2013, or within 10 years before the date development under Class MB begins, whichever is the lesser?</p> <p><i>If YES planning permission is required.</i></p>	<p>No. There is no planning history relating to the site to suggest that this is the case</p>
<p><b>(h)</b> Would the development result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point?</p> <p><i>If YES planning permission is required</i></p>	<p>On the basis of the drawings submitted the proposed development would not exceed the external dimensions of the building</p>
<p><b>(i)</b> Would development under Class Q(b) consist of building operations other than:</p> <ol style="list-style-type: none"> <li>1. the installation or replacement of - <ul style="list-style-type: none"> <li>• windows, doors, roofs, or exterior walls, or</li> <li>• water, drainage, electricity, gas or other services</li> </ul> </li> </ol>	<p>The plans indicate that all existing materials will be re-used and refurbished. The scheme will require the enclosure of the front elevation in order to facilitate conversion to a residential use. The ‘Hibbitt’ case has established that this level of intervention is considered to be reasonably necessary. No demolition</p>

<p>where such works are restricted to those reasonably necessary for the building to function as a dwelling; and</p> <p>2. partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1.1(i)(i)?</p> <p><i>If YES planning permission is required.</i></p>	is proposed and on this basis the proposal is considered to comply with Q.1(i)
<p><b>(j)</b> Is the site on article 2(3) land?</p> <p><i>If YES planning permission is required.</i></p>	No
<p><b>(k)</b> Is the site or does the site form part of—</p> <ul style="list-style-type: none"> <li>• a site of special scientific interest;</li> <li>• a safety hazard area; or</li> <li>• a military explosives storage area?</li> </ul> <p><i>If YES planning permission is required.</i></p>	No
<p><b>(l)</b> Is the site or does the site contain a scheduled ancient monument?</p> <p><i>If YES planning permission is required.</i></p>	No
<p><b>(m)</b> Is the building a listed building?</p> <p><i>If YES planning permission is required.</i></p>	No
<p>Does the proposal comply with the definition of 'curtilage' (Interpretation of Part 3) as follows:</p> <p>(i) The piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or</p> <p>(ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,</p> <p>whichever is the lesser;"</p>	Yes

5.7 The proposed development is therefore considered permitted development.

5.8 As such the proposal is now required to be assessed against the conditions found in Q.2. Given the application follows approval under Q(a) the proposal has already been assessed against subparagraphs 1(a) to (e), nevertheless the provisions of Class Q does not limit the assessment of Q(b) solely to the remaining sub-paragraphs and as such the proposal will be assessed against all sub-paragraphs.

*(a) Transport and highways impacts of the development*

The proposal has been assessed by the Council's Highway Engineer who has confirmed that there are no objections to the proposal from a highway perspective. Conditions have been recommended relating to the provision of appropriate parking and turning areas, the provision of cycle storage facilities and the need for a construction management plan. Given the limitations of Class Q in terms of identifying a curtilage, the requirements for parking and turning are not necessary. Class Q does not facilitate the provision of other operational development and therefore a requirement by condition of secure cycle storage facilities would fundamentally fall foul of the provisions as set out. Therefore a condition to require such facilities cannot reasonably be imposed. Finally, the requirement for the submission of a construction management plan is considered to be disproportionate to the development proposed.

*(b) Noise impacts of the development*

The proposal will not give rise to any noise impacts. The remaining buildings on the site will continue to be used for agricultural purposes, but their scale and relationship with the subject building mean that any noise impacts are unlikely

*(c) Contamination risks on the site*

There are no known contaminative sources on the site.

*(d) Flooding risks on the site*

The site is not contained within any identified flood hazard area and did not appear to be at risk of surface water flooding.

*(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.*

Given the site is in an isolated open countryside location there are inherent landscape and environmental impacts. However, the barn is part of an established farm group and is unlikely to create adverse effects in this regard.

*(f) The design or external appearance of the building*

The design and external appearance of the resultant dwelling is typical of a conversion of a modern agricultural building. The proposal includes the retention of existing external materials. The design and external appearance of the proposal is considered to be acceptable

*(g) The provision of adequate natural light in all habitable rooms of the dwellinghouses*

All habitable rooms have windows or doors and will have adequate natural light.

## **Conclusion**

- 5.9 After assessing the above matters, it is considered that the change of use of the agricultural building to a dwelling would amount to permitted development under the Town & Country (General Permitted Development) (England) Order 2015. It is recommended that prior approval for the change of use and associated building operations be granted.

## RECOMMENDATION

That Prior Approval be granted subject to the following conditions (as required by the Town & Country (General Permitted Development) (England) Order 2015)

1. 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 date of this permission.

Reason: In accordance with Condition (3) as outlined under Conditions of Class Q under Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. The development shall be carried out strictly in accordance with the approved plans (drawing nos. 4439 (P) 001, 4439P (0) 106 & 4439 P (0) 107), except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of the National Planning Policy Framework and to ensure compliance with the provisions of Class Q of Part 3 of the General Permitted Development Order.

## INFORMATIVES:

1. The applicant is advised that it in accordance with Regulation 75 of the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, it is a condition of any planning permission granted by a General Development Order that is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), that works should not commence until the developer has received written notification of the approval from the local planning authority under Regulation 77. The applicant should therefore be satisfied before commencing works that the development will not have any likely effect on any European Site. In addition, applicants are advised that they can, if they choose to, apply to Natural England as the appropriate Nature Conservation body, under Regulation 76 of Regulations (as amended) prior to making any necessary application to the Local Planning Authority under Regulation 75.

2. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

3. The proposed development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality)



Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant. Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

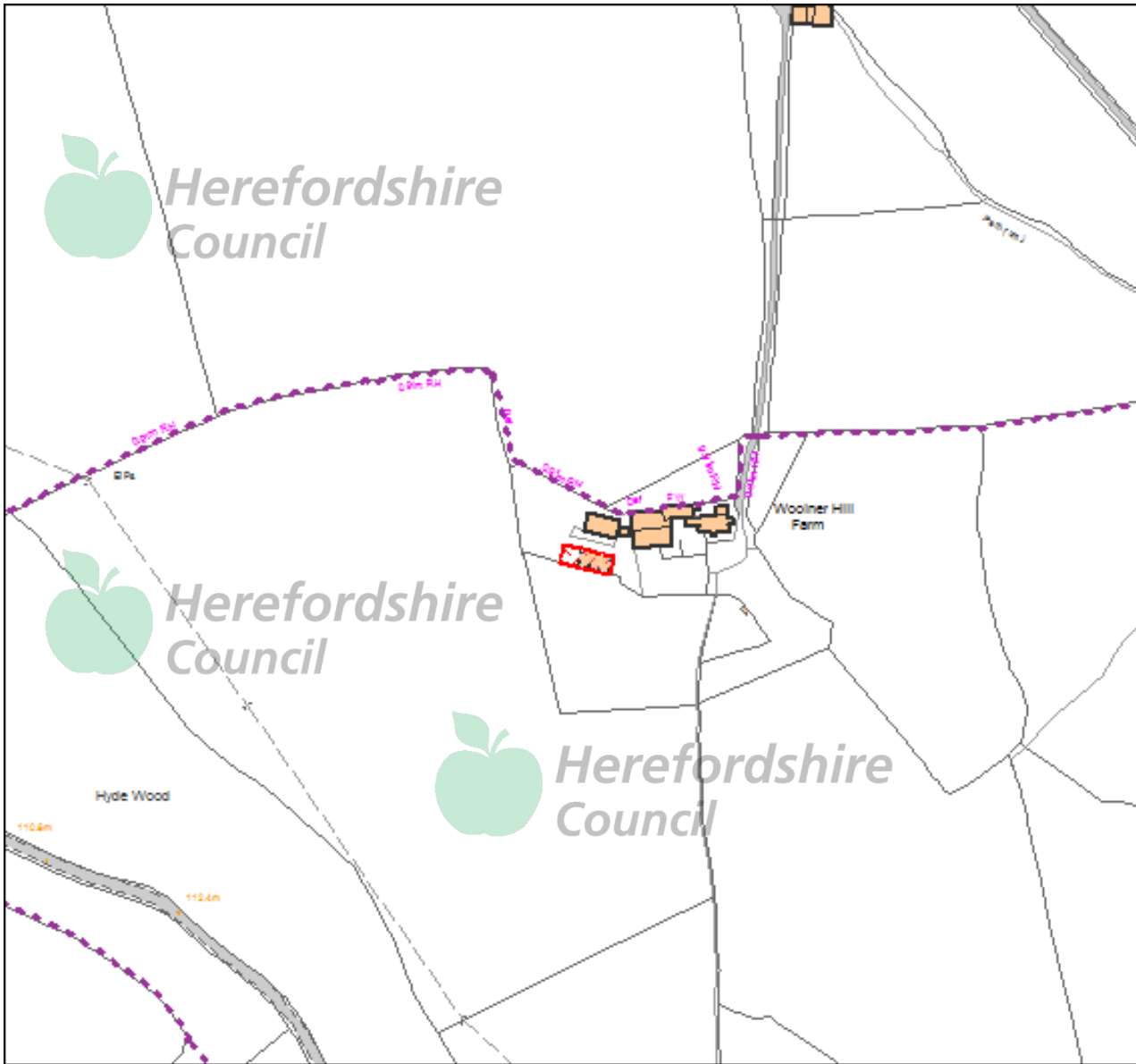
Decision: .....

Notes: .....

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**Background Papers**

None identified.



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**APPLICATION NO:** 231926

**SITE ADDRESS :** BARN AT WOOLNER HILL FARM, STONEHOUSE LANE, BRINGSTY,  
HEREFORDSHIRE

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