
Site Address:	The Loose Boxes, Adj Monlas, Northwood Lane, Hayling Island		
Proposal:	Prior Approval for proposed change of use from agricultural building to 2No. one bed dwelling houses.		
Application No:	APP/19/00206	Expiry Date:	10/05/2019
Applicant:	Mrs A Petley	Case Officer:	Daphney Haywood
Agent:			
Ward:	Hayling East		

Recommendation:

1 Site Description

- 1.1 The application site is located on the southern side of Northwood Lane, east of its junction with Castlemans Lane. This section of Northwood Lane terminates shortly to the east of the site. The area is predominantly agricultural in character and residential land use is generally sporadic in the locality, although density increases in a ribbon pattern along Northwood Lane to the west and Castlemans Lane to the south.
- 1.2 The proposal relates to the Loose Boxes, which lie adjacent to the dwelling at Monlas, and were erected in the 1930s for agricultural purposes. The holding extends to some 10 acres with the current main focus on sheep rearing.

2 Planning History

APP/12/00619 - Demolition of existing 2 bed detached bungalow and construction of 1No. 4 bed detached house., PERM,05/09/2012
APP/13/00081 - Discharge of Conditions 2, 3 and 4 of Planning Permission
APP/12/00619., PERM,29/01/2013

3 Proposal

Prior Approval for proposed change of use from agricultural building to 2No. 1 bed dwelling houses.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)
DM24 (Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Community Infrastructure, Planning Policy & Urban Design

The CIL 'Additional Information Form declares the agricultural barn proposed to be converted as still being in use and of greater area than that involved in the new dwellings. Providing this is correct then there will be no CIL Liability and this should be confirmed in the Officers Report and in writing to the applicant, post decision by the CI Team.

Usually, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy (SRMS) Unilateral Undertaking, based on the number of dwellings and their respective number of bedrooms. See <http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>

As this is a prior approval we would recommend that the applicant complies with the SRMS process, otherwise if they implement the prior approval once given, without recourse to Natural England then their development would be in breach of the Habitat Regulations and would therefore be unlawful. This recommendation should be put to the applicant by the Case Officer.

Engineering/Drainage

No comments received

Natural England

Thank you for consulting Natural England on the above Habitats Regulations Assessment and Appropriate Assessment.

Recreational disturbance

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution (Solent Recreation Mitigation Strategy / Bird Aware Solent) which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). The development proposal will need to be in accordance with the Definitive Strategy rates. Please note these rates were updated as of 1 April 2019.

It is Natural England's view that the Solent Mitigation Recreation Strategy contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Deterioration of the water environment

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The relevant designated sites include Chichester and Langstone Harbours Special Protection Area and Ramsar site, Solent and Southampton Water Special Protection Area and Ramsar site, Portsmouth Harbour Special Protection Area and Ramsar site, the Solent Maritime Special Area of Conservation and the Solent and Dorset Coast potential Special Protection Area.

As you are aware, the Partnership for Urban South Hampshire (PUSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

The proposal comprises new housing development and it is Natural England's view that the existing uncertainty about the deterioration of the water environment must be appropriately addressed in order for the assessment to be legally compliant in light of recent case law. The key pieces of case law are *Sweetman II (People Over Wind, Peter Sweetman v Coillte Teoranta)* judgement which was issued in April 2018 by the Court of Justice of the European Union (CJEU) and the CJEU case known as the Dutch case (*Joined Cases C-293/17 and C-294/17 Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others*).

It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC, pSPA) due to the increase in waste water from the new housing. As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess the implications of the proposal in view of the conservation objectives for the European site(s) in question within the appropriate assessment. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites. Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Natural England advises that the waste water issue is examined within the appropriate assessment. To address the existing uncertainty, Natural England recommends that the proposals achieve nutrient neutrality. It is appreciated that this may be difficult for smaller developments. Therefore, we advise that an interim approach is set up for the Borough that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications. Natural England will continue to work closely with Havant Borough Council and other PUSH planning authorities to help address this issue. We can also provide further advice to the applicant on mitigation options under our [Discretionary Advice Service](#).

Please note we advise that the competent authorities to whom Natural England gives its statutory advice on the environment will need to seek and rely upon their own legal advice on the interpretation of the Habitats Regulations and case law.

Environmental Health, Contamination

No objection subject to condition and inofrmatives:

The applicant to confirm that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To ensure the residential amenity of the property is not impacted upon by any internal or external noise levels.

Not clear that the building for conversion is on land which currently has an agricultural land use classification. The applicant should make clear what residential curtilage is to apply to the properties. This will assist in framing risk judgements.

Notwithstanding the above question over whether class Q applies, it is considered that prior approval is required for this development, and should be granted subject to the following conditions & informative;

Contamination [1]

Prior to the commencement of development hereby approved (other than site clearance, partial demolition and consequential works for the purpose of ensuring structural stability of retained buildings), an assessment of the nature and extent of contamination at the site, whether originating from within or outside the curtilage, shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken by competent persons, and the findings presented as a written report.

The assessment may comprise separate reports as appropriate, but unless specifically excluded in writing by the Local Planning Authority, shall include;

- 1) Site investigation appropriate to both the previous & approved use of the site; to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to future occupants.
- 2) The results of an appropriate risk assessment based upon (1), and where unacceptable risks are identified, a Remediation Strategy that includes;
 - appropriately considered remedial objectives,
 - an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;
 - clearly defined proposals for mitigation of the identified risks.
- 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy (2) are complete, to include consideration of contingency action.

All elements shall be adhered to unless agreed in writing by the Local Planning Authority

Reason: Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], and para 178 of the NPPF 2019; Contamination may be present at the site as a result of both previous land uses (&/or activities) that could pose a risk to future residential occupants.

Verification [2]

Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with condition [1] shall be submitted to and approved in writing by the Local Planning Authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, and must demonstrate that site remediation criteria have been met &/or that the integrity of risk mitigation measures is adequate.

Reason: Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], and para 178 of the NPPF 2019; Contamination may be present at the site as a result of both previous land uses (&/or activities) that could pose a risk to future residential occupants.

Informative (Bespoke) [A]

The investigation referred to in **condition [1]** need (for these purposes) only be of such scope as to address risks to future residential occupants of the consented new dwellings. It is anticipated that the depth of investigations may be limited to 1.0m below existing ground levels, or the maximum extent of made soils encountered (if deeper).

The focus should be the characterisation of topsoils and made soils at the site, including those within the footprint of the existing building. Contaminants of concern are considered to be PAH congeners, Metals & Arsenic, Asbestos containing materials (ACM), and hydrocarbon species. For the latter, a screen may be acceptable initially, with speciated TPH CWG necessary only on receipt of adverse screening results. PID screening of soils for total VOC may be beneficial for assessment of vapour pathways. Sampling of soils for VOC may be necessary if initial investigations identify the probable presence of coal-tar or creosote, or if PID results are significantly elevated. Spatial coverage should ideally address soft-landscaped soils in the immediate vicinity of the building, whether or not deemed to comprise land changing use under class Q. It should be noted that the hydrogeological setting of this site is potentially sensitive, and the presence of contaminants may affect the degree of risk posed by use of infiltration drainage features.

Requirements have been pared-back in response to the nature & scale of the application, and to the context of the plot. An 'unexpected contamination' condition has been omitted due to the scale of the site & the nature of the development – it is considered unlikely that significant unexpected contamination (that would be readily identifiable by visual or olfactory means) could be present that would not be identified by the required intrusive investigation, assuming that the scope of assessment & sampling density is appropriate .

Subject to the inclusion of the above conditions on the approval, I have no objections.

Hampshire Highways

no objection to this proposal

6 **Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 5

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

7 **Planning Considerations**

- 7.1 This application is a prior notification under Schedule 2 Part 3 Class Q of the GPDO 2015.

Q. Development consisting of—

(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule

to the Use Classes 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.

The GPDO sets a series of tests under Q.1 stating that 'Development is not permitted by class Q ' unless a number of tests are met. The submission demonstrates that the development would meet tests (a) - (m).

- 7.2 A number of conditions then need to be met:

Q.2—(1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), 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—

(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,

(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 apply in relation to that application.

7.3 (a) transport and highways impacts of the development,

The site is accessed via the existing access , which runs past the site and serves the holding and its dwelling. The holding is small in size and generates a modest level of traffic. The proposal is expected to result in an average of 8 trips a day and the existing access is considered adequate to cope with the additional traffic.

In respect to parking, the proposal would provide 2no one bedroom dwellings and there would therefore be a parking requirement of 2 spaces. The red line for the application site has been drawn tightly around the building with the rest of the holding in blue. However, the existing lean to the north is proposed to be demolished, and there is opportunity to provide parking in this area or land to the south. Additionally further parking could be provided to the south. Further details in respect to parking could be conditioned.

In terms of the transport and highways impacts of the development the access to the highway is considered acceptable.

7.4 (b) noise impacts of the development,

The building adjoins the residential curtilage of Northwood Farmhouse, which lies approx.40m from the boundary. The submitted plans indicate there would be no windows on this boundary. In general terms it is considered that a residential use is likely to be less noisy than the potential agricultural uses that could take place within the building and residential amenity would be retained.

7.5 (c) contamination risks on the site,

Given the site's use as a working farm the Councils Environmental Control Officer has identified potential concerns in relation to the development. It is considered that prior approval is required for the proposed development in relation to the potential contamination risks to the occupiers of the buildings to be converted and their proposed curtilage, and should be subject to the recommended conditions and an informative to ensure that the land is either confirmed to be suitable for use in C3 class, or will be made suitable through a scheme of appropriate remediation or risk mitigation.

7.6 (d) flooding risks on the site,

The site lies within Flood Zone 1 an area of low flood risk. New drainage facilities would be installed and a condition in relation to foul and surface water drainage is recommended.

7.7 (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order

Planning Practice Guidance 'Permitted development rights for the change of use of agricultural buildings' provided guidance on this matter.

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 right grants 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.

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 on the top of a hill with no road access, power source or other services its conversion is impractical. 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 or chemicals.

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. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.

The active holding area is located to the rear, and the existing access drive runs to the front of the application building. The applicant advises:

Amenity space for the dwellings will be a shared 2.5m strip along the front (west) elevation, this will be secured with a picket fence to define the area in relation to the farm yard. This is adequate space for a washing line, seated area and socialising area. Please remember the units are on a farm and would benefit from the open spaces available on the farm which is similar to multiple flats which would have communal spaces available. The intention is for the usage to be holiday lets, if the property was in the distant future to be sold as a separate dwelling (i.e. no longer linked to the farm yard) then a separate amenity area would be attached. I am willing for this to be conditioned on the application.

Parking - 1 car will be parked in the current pig pen next to the north of the dwelling, the 2nd car will be parked next to the south of the dwelling in a purpose made and fenced space in the corner of farm yard.

Given the above and that the holding is modest in size with limited traffic and there are no other agricultural buildings other than the farmhouse, it is considered that the siting is not such that it is 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.

7.8 f) the design or external appearance of the building

The existing building is of brick and tile construction. The submitted plans show the use of vertical timber cladding, brick and tiles and the proposed elevations are considered appropriate for the building and its rural setting.

7.9 Other matters

Whilst not relevant to the determination of a prior approval application, the Council, as competent authority under Regulation 63(1)(a) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations), has conducted a Habitats Regulations Assessment (HRA) of the proposed development.

Recreational Pressure

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations), Policy E16 of the Draft Havant Borough Local Plan 2036 and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. As such, in order to be lawful, the development will need to include a package of avoidance and mitigation measures. The applicant has been provided with details of a mitigation package based on the methodology in the Developer Contributions Guide. The scale of the proposed mitigation package would remove the likelihood of a significant effect. The applicant has not however, confirmed that they would be willing to enter into a legal agreement to secure the mitigation package in line with the requirements of the Habitats Regulations and Policy DM24.

Water Quality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing can be accommodated without having a detrimental impact on the designated sites within the Solent. Therefore a significant effect on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA cannot be ruled out. The applicant has not been able to provide enough information in order to undertake any assessment regarding the impact of the proposed development on water quality. As such, it is not possible to reasonably assess whether the application would achieve nutrient neutrality.

Overall conclusion

There remains a likely significant effect from the proposed development on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA. As such, it would not be lawful for the applicant to proceed with the development until this has been addressed under the requirements of the Habitat Regulations. The grant of prior approval does not override this requirement.

8 Conclusion

In conclusion, the proposed development is considered to require Prior Approval. In assessing the proposals it is considered that subject to conditions Prior Approval can be granted.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PRIOR APPROVAL** for application APP/19/00206 subject to the following conditions:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
OS location/site plan
Dwg1 Existing plans dated February 2019

Dwg2 Proposed plans dated February 2019

Reason: - To ensure provision of a satisfactory development.

- 2 The development shall not be occupied until the applicant has confirmed in writing that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To ensure the residential amenity of the property is not impacted upon by any internal or external noise levels.

- 3 Prior to the commencement of development hereby approved (other than site clearance, partial demolition and consequential works for the purpose of ensuring structural stability of retained buildings), an assessment of the nature and extent of contamination at the site, whether originating from within or outside the curtilage, shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken by competent persons, and the findings presented as a written report.

The assessment may comprise separate reports as appropriate, but unless specifically excluded in writing by the Local Planning Authority, shall include;
1) Site investigation appropriate to both the previous & approved use of the site; to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to future occupants.

2) The results of an appropriate risk assessment based upon (1), and where unacceptable risks are identified, a Remediation Strategy that includes; • appropriately considered remedial objectives,

- an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;

- clearly defined proposals for mitigation of the identified risks.

3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy (2) are complete, to include consideration of contingency action.

All elements shall be adhered to unless agreed in writing by the Local Planning Authority

Reason: Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], and para 178 of the NPPF 2019; Contamination may be present at the site as a result of both previous land uses (&/or activities) that could pose a risk to future residential occupants.

- 4 Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with condition 3 shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, and must demonstrate that site remediation criteria

have been met &/or that the integrity of risk mitigation measures is adequate.

Reason: Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], and para 178 of the NPPF 2019; Contamination may be present at the site as a result of both previous land uses (&/or activities) that could pose a risk to future residential occupants.

- 5 Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewers proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.

Reason: To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 No part of the development shall be first occupied until details of the type, siting, design and materials to be used in the construction of all means of enclosure including boundaries, screens or retaining walls, have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained.

Reason: To safeguard the amenities of the locality, future residents and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 8 No part of the development shall be first occupied until details of the provision for car and cycle parking have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained.

Reason: To safeguard the amenities of the locality, future residents and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

