Planning Committee: 6 November 2018 **Item Number: 12**

Town/Parish Council: Kenilworth

Case Officer: Debbie Prince
01926 456529 debbie.prince@warwickdc.gov.uk

Land at New Kingswood Farm, Dalehouse Lane, Kenilworth, CV8 2JZ

Application for a Certificate of Appropriate Alternative Development.

LAND COMPENSATION ACT 1961, SECTION 17 AS SUBSTITUTED BY SECTION 63 OF THE PLANNING AND COMPENSATION ACT 1991

Conversion of agricultural building to 5 dwellings

.....

This application has been made by Mr Guy Minshull, the owner of New Kingswood Farm, a property which is being compulsorily purchased by HS2 Ltd.

RECOMMENDATION

Planning Committee are recommended to certify that the development proposed would be lawful for planning purposes and that the Prior Approval of the Local Authority is not necessary, subject to the conditions expressed in Class Q of he Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

BACKGROUND

The proposals the subject of this report arise from legislation which has been enacted to facilitate the delivery of the HS2 proposal and in particular are designed to assist homeowners in realising an appropriate financial return upon the compulsory purchase of a property by HS2 Limited.

A Certificate of Alternative Appropriate Development does not comprise a planning permission and does not permit development to be undertaken. Rather, it is intended to identify development which is considered to be acceptable and likely to obtain planning permission (were an application to be made) in order to assist in the valuation (for the purpose of compulsory purchase) of the property in question.

An application for a certificate can only be made by persons owning the land or property in question or the Authority making the compulsory purchase, in this case HS2. Where a Certificate is granted, it relates to the principle of a proposal only and for that reason the legislation does not require applicants to submit detailed plans.

Similarly, there is no requirement for the Local Planning Authority to undertake any consultation or publicity and the proposal should be considered under "normal" circumstances (i.e. without considering the HS2 proposal) taking

into account the relevant material considerations and in this case the Permitted Development Rights conferred by the Town and Country Planning (General Permitted Development) (England) Order 2015.

A Certificate of Alternative Appropriate Development was issued in 2017 for a conversion to 3 no. dwellings (the maximum permitted under the GPDO at that time. Subsequent changes to the GPDO now allow up to 5 dwellings and so further Certificate is now sought for this increased number of dwellings.

THE SITE AND ITS LOCATION

The application property is an agricultural building located close to the existing farmhouse surrounded by arable farmland on the south side of Dalehouse Lane. The site is within the Green Belt. The property is being Compulsorily Purchased by HS2 Ltd for the construction of the high speed railway line.

RELEVANT POLICIES

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q.

ASSESSMENT

Details of the Development

This is an application for a Certificate of Alternative Appropriate Development which is seeking confirmation that the property would be granted prior approval under Schedule 2, Part 3, Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 relating to a proposed change of use from an agricultural building to 5 no. dwellinghouses (Use Class C3).

The main issues relevant to the consideration of this application are as follows:

- whether the proposals comply with the limitations of Schedule 2, Part 3, Class Q of the GPDO;
- transportation and highways impacts of the development;
- noise impacts of the development;
- contamination risks on the site;
- flooding risks on the site;
- 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.

For future consideration under (b):

- the design and external appearance of the building.

NB. The GPDO restricts prior approval applications under Class Q to considering only the above issues.

The limitations of Class Q

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 permits development consisting of: (a) a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use 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, subject to certain limitations.

The proposal relates to Class Q (a) (principle) and under Class Q (b) (building operations). The application needs to comply with the following limitations:

(a) the site was used solely for an agricultural use on 20 March 2013;

There is no evidence to dispute this and no other permissions contradict this since the construction of the building.

(b) the cumulative floor space of the existing building or buildings changing use under Class Q within this agricultural unit does not exceed 450 square metres;

The total floor space proposed is 449m2

(c) the cumulative number of separate dwellinghouses developed under Class Q within the agricultural unit does not exceed five;

The total dwellings proposed is 5.

(d) the site is not occupied under an agricultural tenancy;

The site is not occupied under an agricultural tenancy.

(e) an agricultural tenancy has not been terminated within the past year;

No agricultural tenancy has been terminated within the past year.

(f) no development under Class A(a) or Class B(a) of Part 6 of the GPDO has been carried out on the agricultural unit since 20 March 2013;

There has been no other development under Part 6 of the GPDO.

(g) the development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

The conversion would be entirely within the existing envelope of the buildings.

(h) the development (together with any previous development under Class Q) would not result in more than 450 square metres of floor space of building or buildings within the agricultural unit having changed use under Class Q;

No other development has taken place.

(i) the development would not consist of building operations other than: (i) the installation of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; or (ii) partial demolition to the extent reasonably necessary to carry out these building operations (*reserved for Class Q (b)*);

The development would not consist of building operations other than (i) and (ii).

(j) the site is not on article 2(3) land;

The site is not on article 2(3) land.

(k) the site does not form part of a site of special scientific interest, a safety hazard area or a military explosives storage area;

The site does not fall within a designated Safety Hazard Area.

(l) the site is not, and does not contain, a scheduled monument; and

The site is not, nor contains a scheduled ancient monument.

(m) the building is not a listed building.

The building is not a Listed Building.

Furthermore the use of the premises has not been restricted by condition or an article 4 direction.

On the basis of the above, the proposal is considered to accord to Class Q of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

In making any assessment of a Class Q proposal, to be acceptable, an assessment must be made to ensure that the scheme complies with conditions as set out under Class Q.2. The relevant headings are considered below.

Noise impacts of the development

The isolated nature of the site is such that I am satisfied that there would be no adverse noise impact as a result of the development.

Contamination risks on the site

There are no known contamination risks associated with the application site.

Flooding risks on the site

The site is situated within Flood Zone 1 and consequently there is no undue flood risk.

Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to be used as a dwelling

The application site is well connected to the local highway network by a 5m wide track and clear visibility in both directions onto Dalehouse Lane. There are no other matters that would affect the occupation of the building as a dwellinghouse.

Overall, I am satisfied that it would not be impractical or undesirable for the building to be used as dwellings.

Design and external appearance of the building

The design and appearance of the buildings are considered appropriate and would not entail anything other than the installation of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services, to the extent reasonably necessary for the resultant buildings to function as dwellinghouses; or partial demolition to the extent reasonably necessary to carry out these building operations.

CONCLUSION

It is therefore concluded that prior approval would be given under Class Q for the conversion of the building into 5 residential units. It therefore follows that a Certificate of Appropriate Alternative development should be issued.