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4th September 2020

Dear Sir or Madam

**Town and Country Planning Act 1990 (as amended)
Town and Country Planning (General Permitted Development) Order 2015
Town and Country Planning (Development Management Procedure)
(England) Order 2015**

Application for Prior Approval under Prior Approval CoU Agric to Dwelling C3

PROPOSAL: Prior notification for the change of use from an agricultural building to dwelling.

SITE ADDRESS; Trenchmore Farm Drungewick Lane Loxwood Billingshurst West Sussex RH14 0RS

In reference to your application, LX/20/01753/PA3Q, Chichester District Council hereby determines that **PRIOR APPROVAL REQUIRED HEREBY PERMITTED**

1) The development subject to this prior approval shall be completed within 3 years from the date of this prior approval.

Reason: To comply with the conditions of the GPDO.

2) The development hereby given shall only be carried out in accordance with the considered plans: 100 Rev 2, 201 REV 2, 000 REV 1

Reason: To ensure the development complies with the approval

3) **No development shall commence on the foul water drainage system** until full details of the maintenance and management of the foul water drainage system (including the on-site sewage treatment works where appropriate), set out in a site-specific maintenance manual, has been submitted to and approved in writing by the Local Planning Authority. The manual is to include details of the owner or management company, financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the foul water drainage system serving the development, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: The details are required to ensure the foul water drainage system is designed appropriately and properly maintained and managed as soon as it is installed to ensure its long-term effectiveness.

4) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a harmonious visual relationship is achieved between the new and the existing developments.

INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2) *Due to the former agricultural use of the structure, should any land contaminants or unexpected ground conditions be identified during the course of development then groundworks shall cease, and the Environmental Health Department shall be notified so that any required remediation can be approved in writing before implementation.

3) The applicant should have regard to the Control of Asbestos Regulations 2012, and be aware that it may be necessary to notify, or obtain a licence from, the relevant enforcing authority. Further information is available online at <http://www.hse.gov.uk/asbestos/detail.htm>.

4) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, sussex.surrey@english-nature.org.uk) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

5) The developer is hereby reminded to take measures to ensure that pollution/ contamination of the site does not occur during the removal of the oil tank from the site. Any residual oil should be properly disposed of under a waste oil license.

CIL Informative for 'Prior Approval' applications

Development commenced under general consent is liable to pay CIL if a new dwelling is being created (even if it is through a change of use); an extension is being created that is 100 sqm or more; or an annexe is being created to a dwelling. Any existing 'lawful in use' floorspace would be taken into consideration when considering the amount of CIL payable

'General consent' includes permitted development rights granted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). If you intend to commence development under general consent you must submit a Notice of Chargeable Development (Form 5 – Notice of chargeable development) to the local planning authority before you commence this development.

The only exception to the requirement to submit a Notice of Chargeable Development is if a new dwelling is not being created and the development in question is less than 100 square metres of net additional 'gross internal area'. If the development meets this requirement a Notice of Chargeable Development does not have to be submitted before the commencement of development.

Chichester District Council is satisfied that the development meets the criteria as permitted development provided the works are undertaken in accordance with the above condition(s) and in compliance with the relevant part of the General Permitted Development Order. However, you should ensure that all other consents necessary to construct the development, for example under the Building Regulations, are met.

If you wish to change the proposal, the details must be submitted to this Authority for consideration before development commences.

Yours faithfully



Andrew Frost

Director of Planning and the Environment
Chichester District Council

NOTES
Town and Country Planning Act 1990
Town and Country Planning (General Permitted Development) Order
2015

Your attention is directed to the following notes. They are for information only and do not pretend to set out the whole of the law on the subject. It would be well for you to consult your solicitor if you are in any doubt.

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse to grant prior approval for the development, or is aggrieved by a condition imposed on a Grant of Prior Approval, he may appeal to the Secretary of State in accordance with Section 78 of the Town and Country Planning Act 1990 within six months* from the date of notice or determination giving rise to the appeal. (All appeals must be made on a form which is obtainable from The Planning Inspectorate, Room 3/04A Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN. www.planning-inspectorate.gov.uk. Advertisements and ELD/PLD appeal forms are available from County House, Portland Square, Bristol; Tree Preservation Order appeals forms are available from Government Office from The Planning Inspectorate, The Environment Appeals Team, Trees and Hedges, Room 3/25 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Email – environment.appeals@pins.gsi.gov.uk Telephone – 0303 444 5584. One copy of the appeal form must be submitted to the Director of Planning and the Environment, Chichester District Council, East Pallant House, Chichester, West Sussex PO19 1TY). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements to the provisions of the development order, and to any directions given under the order.
2. In certain circumstances a claim may be made against the Local Planning Authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in the Planning and Compensation Act 1991 (as amended).
3. By Section 195 of the Town and Country Planning Act 1990 where an application is made to a District Planning Authority for a Certificate of Lawful Use or Development and is refused in part, the applicant may by notice under this sub-section appeal to the Secretary of State and on any such appeal the Secretary of State shall:
 - (a) if and so far as he is satisfied that the Authority's refusal is not well-founded, grant to the appellant a Certificate of Lawful Use or Development accordingly or, as the case may be, modify the certificate granted by the Authority on the application, and:

- (b) if and so far as he is satisfied that the Authority's refusal is well-founded, dismiss the appeal.
4. Applicants are advised to consult Regulation (15) of the Advertisements Regulations 1992 regarding appeals in respect of advertisements.
 5. Where this notice conveys approval or permission, conditional or unconditional please note that the decision given does not purport to convey any consent or approval which may be required under the Public Health Acts and Building Regulations. Additionally applicants are advised to check the need for notice to be given under the Party Wall etc. Act 1996.
 6. Where this notice conveys approval or permission subject to conditions, applicants are reminded that the onus is on them to ensure the conditions have been complied with. Under some circumstances a failure to comply with a condition may result in the whole development being unauthorised.

Delegated Decision Sign off Sheet

Case Number:	LX/20/01753/PA3Q	Case Officer:	William Price
Proposal:	Prior notification for the change of use from an agricultural building to dwelling.		
Site:	Trenchmore Farm, Drungewick Lane, Loxwood, Billingshurst West Sussex RH14 0RS		
Applicant/Agent:	Agent Details :		
	Phil Rowe Melton Lodge, Rusper Road, Newdigate RH5 5BX, ,		
Application Type:	Prior Approval CoU Agric to Dwelling C3		
Site Visit:	N/A		
Map Ref:	(E) 505657	(N) 129995	
Parish:	Loxwood	Ward: Loxwood	

Red Card?	N	Stat. Consultee Objections?	N	Parish Objection	Y
Third Party Representations?	1	Overall Publicity Expiry Date:	10 August 2020	CIL Liable	N/A
Legal Agreement?	N		Extension of Time?	N/A	
Recommendation:	PRIOR APPROVAL REQUIRED HEREBY PERMITTED			Expiry Date:	7 September 2020
Decided Plan(s):					
Recommendation Date:	3 September 2020				
Recommendation By:	William Price				
Signed Off by:	Martin Mew				

1. Site Description, Proposal and History

The Site and Surroundings

The application site (known as Trenchmore Farm) is located outside of any settlement boundary area, on the eastern side of Drungewick Lane. The specific site of development comprises an agricultural barn situated south of the main dwellinghouse.

The building for which prior approval is sought can be separated into 3 no. buildings; namely an north livestock barn to south, agricultural storage barn to the central portion and alpaca stalls to the northern side. The agricultural storage barn has an external masonry wall to the northern elevation, light-weight timber single storey lean to the eastern elevation and breeze-block western elevation. The agricultural storage barn is set on a concrete base, with a corrugated metal roof supported by timber roof purlins. An internal breeze-block wall separates the agricultural storage barn from the livestock barn. The Livestock barn comprises timber cladding to the eastern elevation, with block work and metal sheeting to the western elevation. The southern end of the eastern elevation and the southern elevation are open. The barn has a concrete slab floor, whilst the corrugated metal roof is supported by horizontal and vertical timber purlins. The alpaca stall is constructed from stone blockwork.

East of the barn is agricultural grazing land.

The Proposal

Prior notification for the change of use from an agricultural building to dwelling.

Application takes the form of a Class Q application.

Planning History

20/00813/PA3Q-Proposed change of use from an agricultural building to dwellings (C3 Use class).

Status: Planning Permission Required

19/03016/FUL-Proposed addition of cladding and cart shed doors to create a fully enclosed secure barn. Status: PERMIT

04/04292/FUL- Change of use of redundant agricultural buildings to form livery unit with storage and workshop facilities and renovation of Old Barly Mill to associated dwelling. Status; REFUSE

04/02036/FUL- Change of use of barley mill and associated cattle pens to holiday tourism accommodation. Status: REFUSE

01/01345/FUL- Proposed change of use from farmland to equestrian/polo centre comprising conversion of barn to form ancillary residential accommodation and conversion of adjacent cow barns to form stable block. Status: PERMIT

2. Representations and Consultations

Consultations and Representations

Parish Council

OBJECT- Application does not appear to be compliant with CDC Local Plan Policies 45 (para 2) as building used= for Llamas is being utilised & 46 (para 2 & 3) as no evidence that alternative economic uses are not viable has been provided . Not compliant with Loxwood Neighbourhood Plan Policies 12.

WSCC Highways

None received

CDC Environmental Health Officer

Our department has no objection to the proposed development, as presented.

We would suggest that the following infomatives are included on any permission that may be granted.

*Due to the former agricultural use of the structure, should any land contaminants or unexpected ground conditions be identified during the course of development then groundworks shall cease, and the Environmental Health Department shall be notified so that any required remediation can be approved in writing before implementation.

*Given the age of the buildings at the site there could be asbestos within the structures. The Control of Asbestos Regulations 2012 must be adhered to and informative INF38 should be applied.

Third Party Representations

1. letter of objection have been received concerning;

- o Egress of traffic along Drungewick Lane
- o Presence of nearby oil tanks/LGP tanks would have health and safety implications unless removed.
- o Construction traffic would have to be parked on agricultural land
- o Concerns that construction traffic would park on verge owned by the neighbour.

3. Relevant Planning Policy

The principal policies and neighbourhood plans relevant to the consideration of this application are as follows:

Chichester Local Plan 2014-2029:

Policy 1 Presumption in Favour of Sustainable Dev

Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

National Policy and Guidance

The relevant paragraphs of the NPPF 2019 and PPG have been considered.

4. Planning Considerations

The main considerations are:

An assessment of the proposal against the criteria, conditions and relevant considerations within Class Q and paragraph w and X of the GPDO 2015 (as amended)

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 or

(b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development is not permitted by Class Q if—

(a) the site was not used solely for an agricultural use as part of an established agricultural unit—

(i) on 20th March 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date when it was last in use, or

- (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;
- (b) in the case of—
 - (i) a larger dwellinghouse, within an established agricultural unit—
 - (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
 - (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;
 - (ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;
 - (c) in the case of—
 - (i) a smaller dwellinghouse, within an established agricultural unit—
 - (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or
 - (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;
 - (d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—
 - (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;
 - (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;
 - (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
 - (f) less than 1 year before the date development begins—
 - (i) an agricultural tenancy over the site has been terminated, and
 - (ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;
 - (g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit—
 - (i) since 20th March 2013; or
 - (ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;
 - (h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point
 - (i) the development under Class Q(b) would consist of building operations other than—
 - (i) the installation or replacement of—
 - (aa) windows, doors, roofs, or exterior walls, or
 - (bb) water, drainage, electricity, gas or other services,
 - to the extent reasonably necessary for the building to function as a dwellinghouse; and
 - (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);
 - (j) the site is on article 2(3) land;
 - (k) the site is, or forms part of—

- (i) a site of special scientific interest;
- (ii) a safety hazard area;
- (iii) a military explosives storage area;
- (l) the site is, or contains, a scheduled monument; or
- (m) the building is a listed building.

Conditions

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.
 - c) Contamination risks
 - d) Flooding risks.
 - (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) External Appearance
 - g) Provision of adequate natural light in all habitable rooms of the dwellinghouses
- (2) Where the development proposed is development under Class Q(a) only, 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 the items referred to in sub-paragraphs (1)(a) to (e) and (g) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.
- (3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date

Assessment of Proposal against above Criteria

Q1 (a) (i) (ii) (iii) The Planning Statement advises that the site was solely used for agricultural purposes on 20th March 2013 and has been in agricultural use since that date.

(b) (i) (aa) (bb) There are no current dwellinghouses developed under class Q within the agricultural unit. The cumulative floor space of existing buildings or buildings changing to a larger dwellinghouse under class Q does not exceed 465 square metres. The floor space of the proposed conversion in this instance would amount to approx. 337.31 square metres.

(ba) The floor space would not exceed 465 square metres. The floor space of the proposed conversion in this instance would amount to approx. 337.31 square metres.

(c) (i) (aa) (bb) The total number of small dwellinghouses developed on the site is nil and accordingly this would not exceed the limit of 5 no. dwellinghouses

(d) (i) (ii) The proposal would not result in a larger dwellinghouse or dwellinghouses developed under class Q having more than 465 square metres of floor space. The cumulative number of dwellinghouses developed under class Q would not exceed 5 no.

(e) The Planning Statement does not expressly address this matter, however the LPA has been provided with no evidence to suggest that the site is occupied under an agricultural tenancy.

(f) (i) (ii) The LPA have been provided with no evidence to show that an agricultural tenancy has been terminated

(g) (i) (ii) There has been no development under Class A(a) or Class B(a) of Part 6 of the GPDO 2015 (as amended) on the established agricultural unit.

(h) The proposed development would be entirely constrained to within the existing envelope of the building.

(i) Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) in Q (a) allows 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 Q (b) together with the development referred to in Q(a) allows for; 'building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule' and Paragraph Q.1 sets out various circumstances in which development is not permitted by Class Q. Paragraph 105 of the PPG also offers guidance on these points.

The recent case law and updated guidance is that class Q assumes that the agricultural building is capable of functioning as a dwelling in the first instance and whilst this class permits some building operations and in some cases the works might be extensive, 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 for a conversion.

A structural survey has been provided in support of the application. This includes the main barn. The main barn comprises a concrete plinth, with approx. 3-4 courses of brick above and cladding elevations. The structural survey advises that the circular timber support columns are in good condition and form a well-constructed frame to this element of the building.

The Alpaca and Llama stall appears to be of robust construction; built from blockwork with timber purlins to the roof. The structural survey advises that the right flank wall is displaying some signs of cracking. The cause is given as being lack of tying to the adjacent barn frame. These works to remedy this would be minor and the main elements of this structure are suitable for conversion. The robust nature of the materials ensures the additional loading from insulation etc would be well-supported by the existing structural elements.

The pole barn to the southern end of the site has an open southern and eastern flank, with brick walls and timber supporting beams. This would be retained under the proposed conversion as a carport area. It is considered that due to the absence of need for the addition of insulation materials or enclosure, the conversion of this element of the barn to a car port would be entirely feasible and would not require extensive additions.

Whilst additional purlins maybe required to take the weight of additional roof lining (particularly within the main barn) it is notable that the PPG (paragraph 105) clarifies that internal works are not development. The works required for conversion would comprise installation of insulation, internal wall, modest windows, doors and cladding. These works are expressly allowed by the GPDO 2015 (as amended) in the process of conversion.

On balance, when considering the works required and the condition of barn, the proposal would ensure that the scope of the work would not amount to a rebuilding but instead would fall within what could be reasonably be considered a conversion in accordance with the Court Decision in the Hibbitt Case.

(j) The site is not situated within article 2(3) land

(k) (i) (ii) (iii) The site is not a SSSI, safety hazard area, or military explosives storage area

(l) The site does not contain a scheduled monument

(m) The site is not a listed building

Q2 1.(a) WSCC Highways have been consulted on the application however have not commented within the timeframe provided. It is notable that WSCC Highways previously did not raise an objection to the previous application 20/00813/PA3Q for a residential use of the building. The existing access to the site is considered to be operating in a safe manner and it is not anticipated that the increase in traffic serving the proposed residential use would result in an issue of highways safety. An area for parking could be provided within the redline, on the existing hardstanding to the east of the dwellinghouse and within the proposed car port.

(b) The proposal is not considered likely to suffer from noise disturbance to the extent that it would be of detriment to the future occupiers of the unit. CDC Environmental Health have not raised concerns with this aspect of the scheme.

(c) The CDC Environmental Protection Officer has reviewed the proposal and concluded that due to the nature of the former agricultural use and age of the building there is a low risk of contamination. These can be addressed via condition.

(d) The site is identified as being situated within flood zone 1, an area at lowest risk of flooding.

(e) Regard has been given to the advice contained within the NPPG. The proposed location is not considered to be in any way impractical or undesirable to change to a dwellinghouse with regard to the ongoing agricultural use of the surrounding land or the amenity of future occupiers

(f) The proposed external appearance is appropriate when considering the landscape character and would retain the visual appearance of a barn.

(g) All habitable rooms would be served by windows and therefore would have sufficient light available

(2) The net increase in dwellings has been confirmed as 1 no. and the criteria of paragraph W (2) (bb) has also been met. The curtilage would be acceptable under paragraph x

Other Matters

The Parish Council have objected to the scheme on the basis of lack of compliance with the development plan. Local policies are not a material consideration in the determination of a prior approval application. Instead, proposals are assessed against the criteria of the GPDO 2015.

The LPA has reviewed both the electronically available records for the site and the historic records available at the Council offices. There are no restrictive planning conditions limiting the future use of the barn subject to this application

One third party has raised concerns regarding contractors parking/using the verge area which, it is advised, is in the ownership of a neighbouring property. This is a third party land ownership matter.

One third party has raised concerns that the construction materials and plant would be stored on the adjacent agricultural land. This is not considered to be an inherent planning concern.

A third party has raised concerns that regarding health and safety of future occupiers as a result of the oil tanks adjacent to the northern elevation of the Llama stall. This matter cannot be addressed via condition, given that it falls outside of the proposed planning unit. The agent has, however, advised that such tanks are empty and will be removed from site prior to commencement of works. An informative will be added to remind the developer to ensure removal complies with relevant environmental legislation.

Conclusion

The proposal would fulfil the criteria of Class Q of Part 3, Schedule 2 of the GPDO 2015 (as amended) and the proposal is acceptable.

Officer Recommendation

PERMIT

Human Rights:

The Human Rights of all affected parties have been taken into account and the recommendation is considered justified and proportionate.

5. Recommendation

Officers Recommendation is to PRIOR APPROVAL REQUIRED HEREBY PERMITTED the following: Prior notification for the change of use from an agricultural building to dwelling. for the following reasons:-

1) The development subject to this prior approval shall be completed within 3 years from the date of this prior approval.

Reason: To comply with the conditions of the GPDO.

2) The development hereby given shall only be carried out in accordance with the considered plans: 100 Rev 2, 201 REV 2, 000 REV 1

Reason: To ensure the development complies with the approval

3) **No development shall commence on the foul water drainage system** until full details of the maintenance and management of the foul water drainage system (including the on-site sewage treatment works where appropriate), set out in a site-specific maintenance manual, has been submitted to and approved in writing by the Local Planning Authority. The manual is to include details of the owner or management company, financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the foul water drainage system serving the development, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: The details are required to ensure the foul water drainage system is designed appropriately and properly maintained and managed as soon as it is installed to ensure its long-term effectiveness.

4) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a harmonious visual relationship is achieved between the new and the existing developments.

INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2) *Due to the former agricultural use of the structure, should any land contaminants or unexpected ground conditions be identified during the course of development then groundworks shall cease, and the Environmental Health Department shall be notified so that any required remediation can be approved in writing before implementation.
- 3) The applicant should have regard to the Control of Asbestos Regulations 2012, and be aware that it may be necessary to notify, or obtain a licence from, the relevant enforcing authority. Further information is available online at <http://www.hse.gov.uk/asbestos/detail.htm>.
- 4) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, sussex.surrey@english-nature.org.uk) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

- 5) The developer is hereby reminded to take measures to ensure that pollution/ contamination of the site does not occur during the removal of the oil tank from the site. Any residual oil should be properly disposed of under a waste oil license.

Approved Plans

Details	Reference	Version	Date Received	Status
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Appeal Decision

Site visit made on 10 March 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2020

Appeal Ref: APP/L2820/W/19/3243571

Agricultural Barn, Harborough Road, Dingley, Leicestershire LE16 8PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr D Harding, Samuel Harding & Sons Ltd, against the decision of Kettering Borough Council.
 - The application Ref KET/2019/0618, dated 5 September 2019, was refused by notice dated 4 November 2019.
 - The development proposed is prior approval for change of use of agricultural building to 4 dwellings.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of agricultural building to 4 dwellings at Agricultural Barn, Harborough Road, Dingley, Leicestershire LE16 8PJ in accordance with the application KET/2019/0618 made on 5 September 2019, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr D Harding against Kettering Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed development meets the requirements of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

4. The appeal relates to a steel framed agricultural building comprising a central section with apex roof and two side sections with catslide roofs. The walls are profiled sheeting above blockwork and the roof is profiled sheeting, with some translucent sections, supported by steel purlins. The elevation of the central section facing Harborough Road is largely open, with double gates, and the two

side sections each have gate width doorways in their front and rear elevations. One side elevation includes a translucent section.

5. The proposed external works comprise the insertion of doors and windows, some adapting existing openings, with new sections of profiled sheeting to make good. The proposed internal works include a raised floor, resting on existing areas of concrete floor and over a central area that would be cleared and reinstated with hardcore and a new concrete slab. Other internal works include the creation of partition walls and the insertion of an inner frame, within the outer walls and under the roof, to support insulation, internal wall surfaces, ceilings and a damp-proof layer. This element would be fixed to the steel frame and the blockwork by metal studs. A Structural Investigation and Report commissioned by the appellant concludes that the steel frame will support the existing structure and the proposed inner frame and that the foundations are suitable for the proposed residential use.
6. The issue in contention relates to the requirement in paragraph Q.1(i) of the GPDO Schedule 2, Part 3 that the conversion works be no more than **"reasonably necessary for the building to function as a dwelling house"**. In this case, that turns on whether the elevational changes, the inner frame and floor constitute new elements that go beyond conversion and amount to rebuilding. Advice in paragraph 105 of the Planning Practice Guidance (PPG)¹ states "It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore 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".
7. Both parties have referred to the *Hibbitt* case², which involved four new external walls to a building that was entirely open on two sides and partly open on a third. It was held that "the works went a very long way beyond what might sensibly or reasonably be described as a conversion" and that "the development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building".
8. The appellant has drawn my attention to 5 other appeals where prior approval was granted between March 2018 and November 2019³ and which included changes to elevations.
9. The Council has referred to a further appeal⁴, dismissed in July 2019, in which another Inspector found the proposed works to be greater than allowed for by **paragraph Q.1 because "very extensive other works would be necessary including the installation of external wall sheeting, doors and windows and a new roof covering to provide the envelope for the new dwelling"**.
10. Having considered these appeal decisions and the nature and size of the existing openings in the building, particularly those in the front of the central section, and the damage evident to adjacent sections of sheeting, I do not find the proposed elevational changes to amount to starting afresh, as in *Hibbitt*, or

¹ Reference ID: 13-105-20180615, Revision date: 15 06 2018

² *Hibbitt & Another v SSCLG & Rushcliffe BC* [2016] EWHC 2853 (Admin)

³ APP/J3720/W/17/3179581, APP/V0510/W/18/3198442, APP/Z3825/W/18/3211612, APP/Y2810/W/19/3234721 and APP/Y2810/W/19/3234921

⁴ APP/L2820/W/19/3223350

to go beyond what would be reasonably necessary to convert the building to residential use.

11. The remaining question relates to the inner frame and the raised floor, which the Council describe as "a superstructure and its associated complete sub-structure layers". Paragraph 105 of the PPG confirms that internal works are not generally development and that "For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q." I consider the inclusion of insulation in the floor to be reasonably necessary for an agricultural to residential conversion.
12. The list of internal structural works provided in the PPG is not exhaustive and while the text does not mention elements like the inner frame, I consider it to be reasonably necessary to provide insulation that is appropriate to a new dwelling but which was not needed for agricultural use.
13. The existing and proposed sections drawing indicates that the raised floor would rest on existing concrete slabs, but it does not show the central section of the floor. The Structural Investigation and Report indicates that the current floor in this area would be cleared and replaced with a new concrete slab laid over hardcore. From my inspection of the building it was evident that the central section would need to be made level for domestic use, therefore some work must be reasonably necessary and within the scope of paragraph 105.
14. The Council considers that work below ground level would be required to install this section, whereas the Structural Investigation and Report indicates it would not involve excavation below the level of the existing structure.
15. While this new section of floor would support some of the lightweight partition walls, that would be a natural consequence of it lying beneath them. The key **wording in paragraph 105 is "to allow for a floor" which implies more than a floor alone.** In this context I find the laying of hardcore beneath the section of new concrete floor to be a reasonable action and I note there is no evidence that new foundations would be created.
16. Considering the inner frame and floor in the context of the *Hibbitt* case and the PPG I do not find them to be starting afresh or to go beyond conversion works but reasonably necessary for the building to function as 4 dwellings.

Conditions

17. Paragraph W(13) of Part 3 of Schedule 2 of the GPDO allows for the imposition of conditions reasonably related to the subject matter of the prior approval. I accept that conditions to allow any unexpected contamination to be dealt with and to avoid the new dwellings sharing the access to Harborough Road with farm vehicles would be appropriate for the welfare of the occupiers of the new dwellings and for reasons of highway safety, although I have not been provided with suggested wording.
18. The Council has also suggested a condition to exercise control over the **building's external materials.** While I have found the proposed external works to be reasonably necessary, I have noted that some new sheeting would be installed. Consequently, I consider it appropriate to impose such a condition to ensure the conversion works are visually acceptable.

Conclusion

19. For the reasons given above the proposal is a conversion permitted by Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO and the appeal is allowed.

Mark Harbottle

INSPECTOR

Schedule of Conditions

- 1) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the **Environment Agency's Model Procedures for the Management of Land** Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 2) Following the initial occupation of any dwelling, the vehicular access to Harborough Road shall not be used for any purpose other than in association with the residential occupation of the site.
- 3) No development shall commence until details / samples of the materials to be used in the alteration of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.



Costs Decision

Site visit made on 10 March 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2020

Costs application in relation to Appeal Ref: APP/L2820/W/19/3243571
Agricultural Barn, Harborough Road, Dingley, Leicestershire LE16 8PJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Harding, Samuel Harding & Sons, Ltd for a full award of costs against Kettering Borough Council.
 - The appeal was against the refusal of prior approval for change of use of agricultural building to 4 dwellings.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant claims that the Council's actions amount to unreasonable behaviour in 3 respects. The first of these is that the Council chose not to accept the advice of a structural engineer's **report** without the benefit of any alternative structural evidence.
4. The second respect is that it failed to properly assess the extent of the proposed works with reference to the facts of the *Hibbitt*¹ case and an appeal decision relating to another site in the Borough at Loddington Coppice Farm².
5. The third respect is that it disregarded paragraph 105 of the PPG in pre-application correspondence and when assessing the application, and also failed to refer to the correct version.
6. In response, the Council states that each case is assessed on its own individual merits and that it exercised the required planning judgement in determining whether the application represented a conversion or a rebuild. It also states that it did not disregard paragraph 105 and correctly referred to it in assessing the internal structural works. Finally, it considers the pre-application correspondence to represent customer service that helped the applicant understand the **Council's likely position**.

¹ Hibbitt & Another v SSCLG & Rushcliffe BC [2016] EWHC 2853 (Admin)

² APP/L2820/W/19/3223350 dated 4 July 2019

7. The **structural engineer's** report concluded that the **building's** steel frame and foundations can support the proposed works and are suitable for the proposed residential use. In my view, the Council's **assessment did not** contradict this; rather it shows that it considered the extent of the proposed works, including non-structural matters. Given this, I see no reason why the Council should have commissioned alternative structural evidence and find that it acted reasonably.
8. In the *Hibbitt* case, the building was open on 3 sides and the works involved construction of 4 external walls, held to be "in all practical terms starting afresh, with only a modest amount of help from the original agricultural **building**". In the Loddington Coppice Farm appeal decision, the installation of features including external wall sheeting and a new roof covering were found to be very extensive and greater than allowed for by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)³.
9. The drawings from *Hibbitt* and the Loddington Coppice Farm appeal are not before me but the written descriptions in the judgement and the appeal decision indicate that both involved more extensive external alterations than in this case. However, the Council also took account of internal works, including flooring, that do not appear to have a parallel in the descriptions in *Hibbitt* or Loddington Coppice Farm. It was reasonable for the Council to also consider these internal works when forming its view.
10. However, the Council also noted the PPG's advice that internal works are not generally development and may be appropriate in agricultural to residential conversions. The PPG gives examples, including works to allow for a floor, and the wording indicates that the list is not exhaustive. As to the extent of the internal works, it is to be expected that agricultural buildings will often require the installation of ceilings, internal wall surfaces and improved flooring, all with appropriate insulation, in order to enable residential occupation.
11. Given this, and the greater extent of external works in *Hibbitt* and at Loddington Coppice Farm, it is difficult to understand why the Council concluded that **"the whole building would be likely to be demolished and re-built with the frame being retained as feature only"** and that there would be **"substantial or total demolition of the existing building and reconstruction or replacement"**. Those statements were central to the Council's decision to refuse prior approval and I find that it has not adequately substantiated its reasoning in this regard, a form of unreasonable behaviour set out in paragraph 049 of the PPG.
12. The Council referred to some wording from the superseded 2015 version of paragraph 105 of the PPG in its assessment. However, it paraphrased the part of the current version that gives guidance on internal works, which was critical to its assessment of the proposal. Accordingly, I am satisfied that the error had limited effect and did not amount to unreasonable behaviour.
13. Pre-application advice is given without prejudice and cannot pre-determine the outcome of a subsequent application. The pre-application exchange of email correspondence followed a meeting held on 16 April 2019. I have not been given a record of that meeting, so I cannot tell whether the emails fully record

³ Article 3(1) and Schedule 2, Part 3, paragraph Q.1(i)

the Council's advice. Nevertheless, the exchange included an extract from paragraph 105 that the applicant had asked the Council to consider and this indicates that the paragraph was not disregarded. Furthermore, an opportunity existed for the applicant to seek to discuss any perceived failings in the **Council's** advice before submitting the application, well in advance of the appeal process. For these reasons, I do not find unreasonable behaviour on the Council's **part** at the pre-application stage.

Conclusion

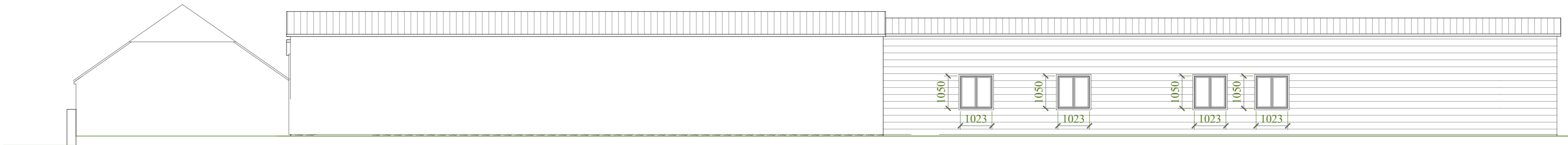
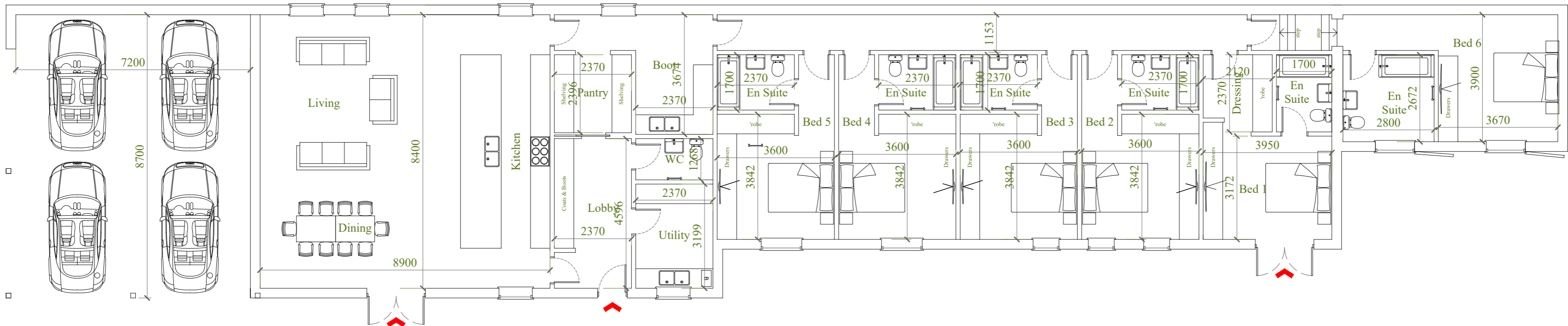
14. For the reasons set out in paragraphs 10 and 11 above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Kettering Borough Council shall pay to Mr D Harding, Samuel Harding & Sons Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Kettering Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mark Harbottle

INSPECTOR



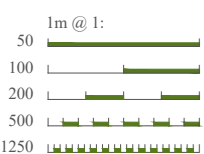
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Loxwood Billingshurst
West Sussex RH14 0RS

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Proposed:
Plans & Elevations

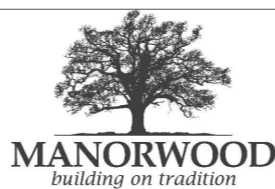
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Issue Date
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Job No. 200116	

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Status
For Comment

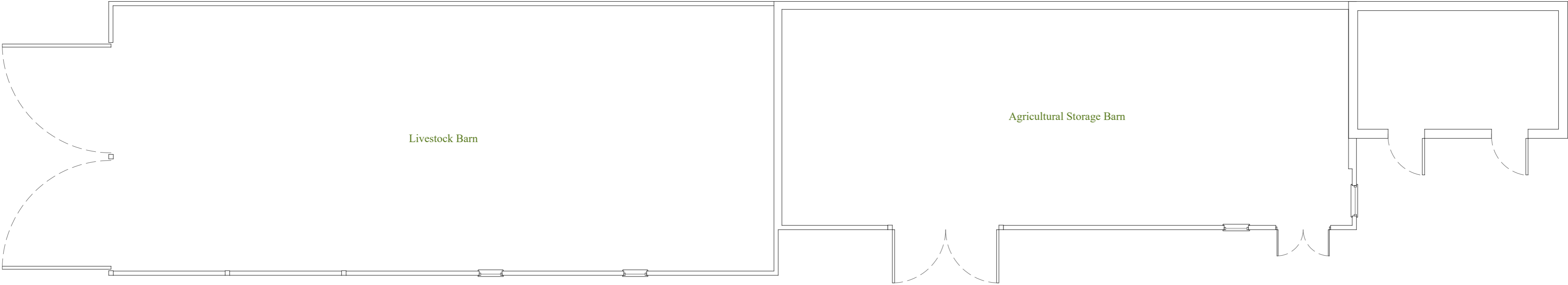


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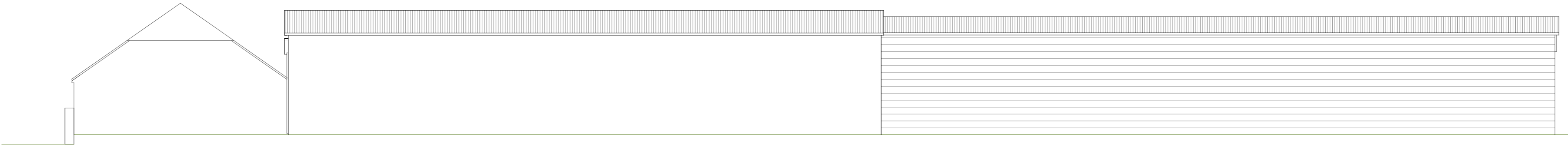


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Floor Plan
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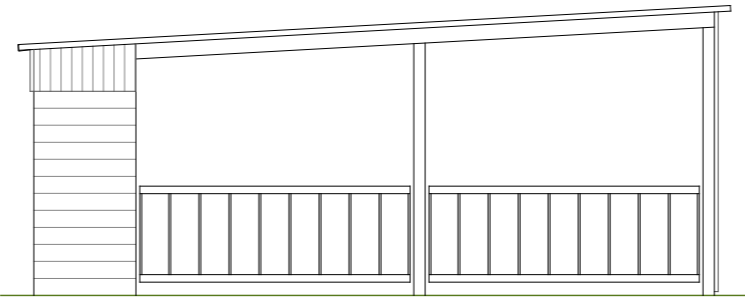
West Elevation
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East Elevation
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North Elevation
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South Elevation
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Address
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Farm Drungewick Lane
Loxwood Billingshurst
West Sussex RH14 0RS

Drawing
Existing:
Plans & Elevations

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Date
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Issue Date
02.09.2020

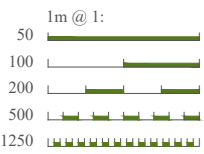
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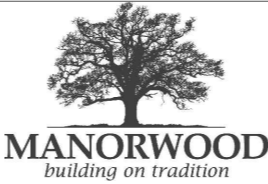
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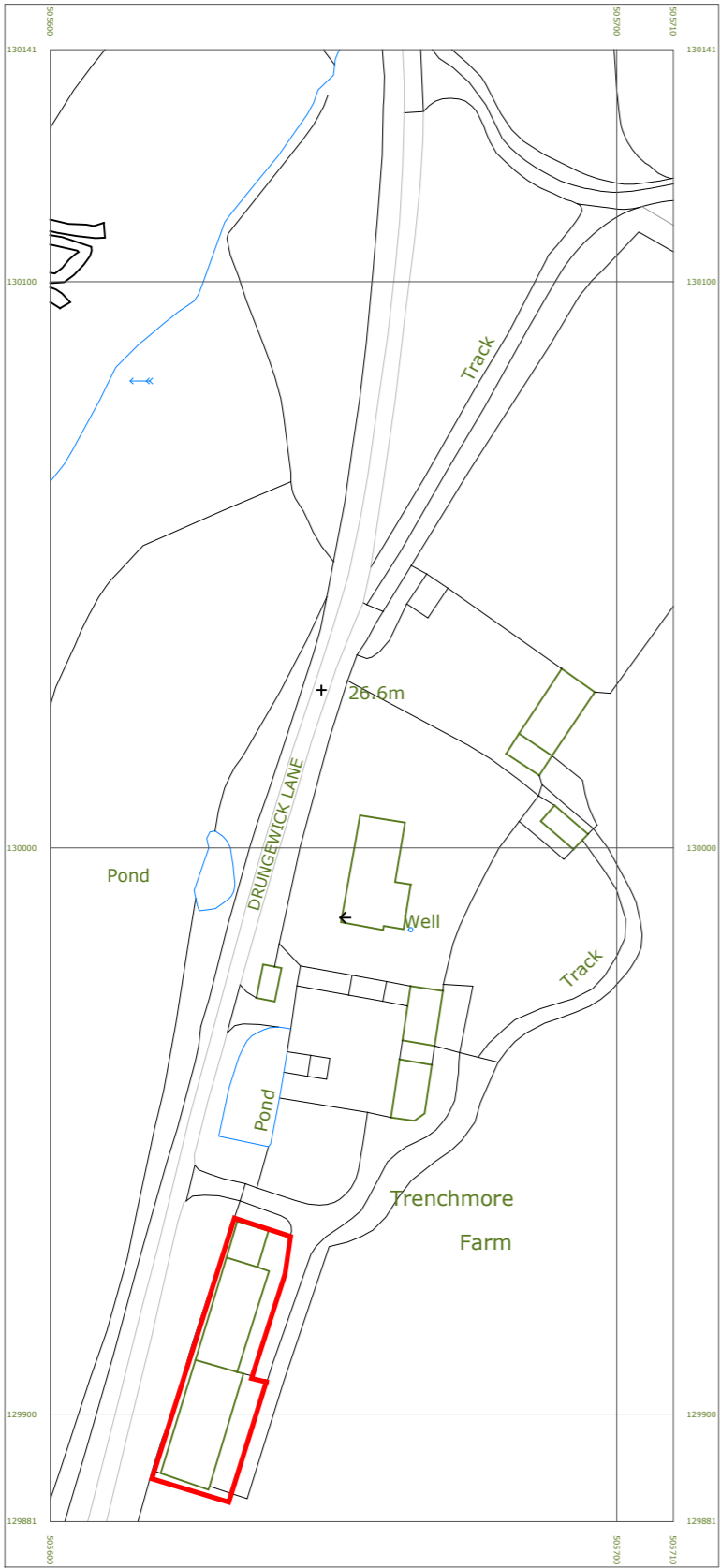
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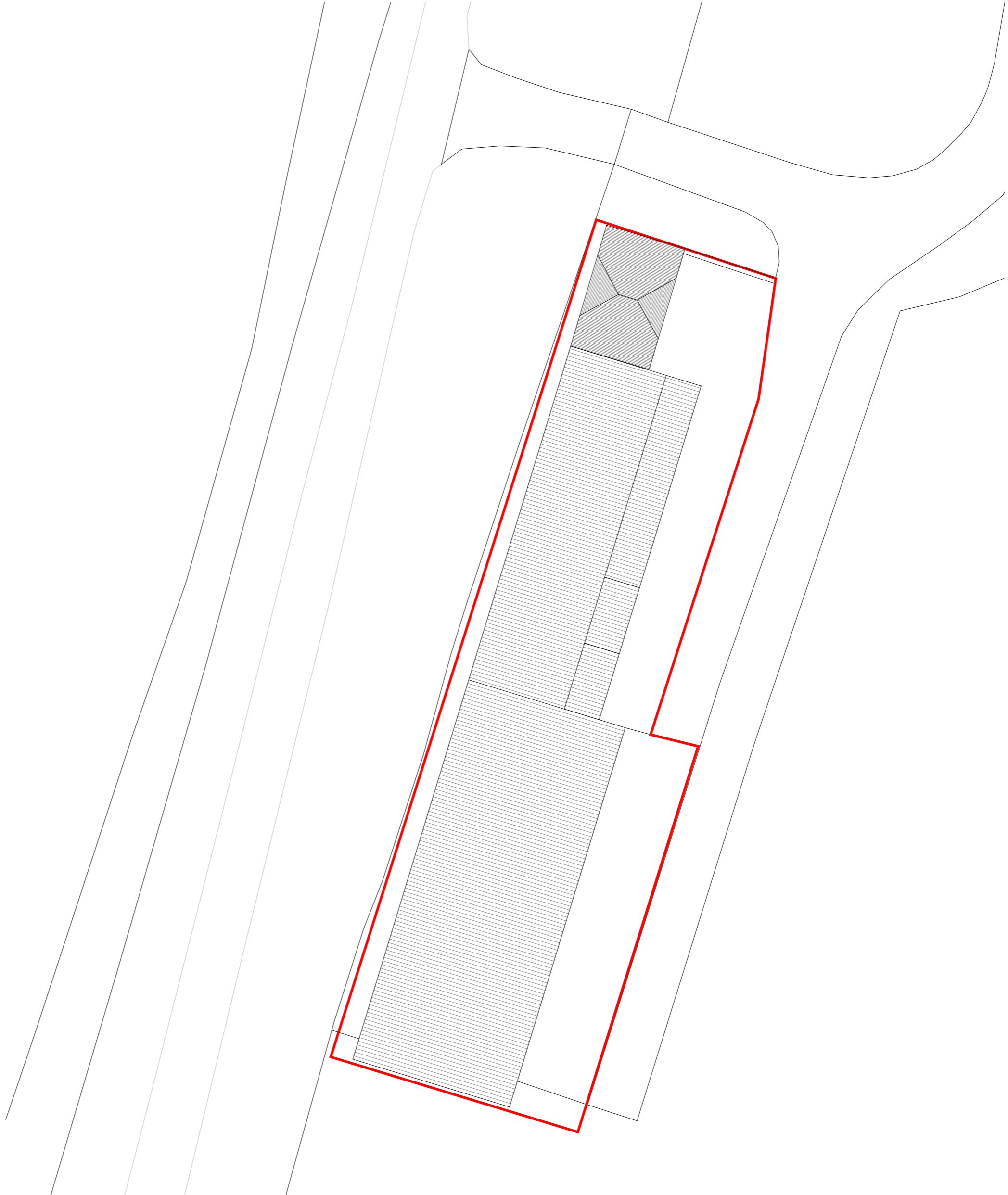


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Location Plan
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Block Plan

1:200



Numbers:

Footprint:
304m²
Curtilage:
6608m²

Address

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Loxwood Billingshurst
West Sussex RH14 0RS

Drawing

Site:

Location & Block Plans

Scale @ A2

As Indicated

Date

10.07.2020

Issue Date

10.07.2020

Drawn By

MD

Checked By

BK

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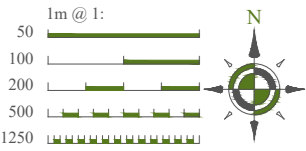
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