



St Edmundsbury  
BOROUGH COUNCIL

# DEV/SE/18/002

## Development Control Committee 1 February 2018

### Planning Applications DC/17/1763/FUL & DC/17/2606/VAR – Nunwick Farm, Rede Road, Wepstead

<b>Date</b>	25.08.2017 /	<b>Expiry Date:</b>	EOT until
<b>Registered:</b>	19.12.2017		08.02.2018 /
			13.02.2018
<b>Case Officer:</b>	Dave Beighton	<b>Recommendation:</b>	Approve Both Applications
<b>Parish:</b>	Wepstead	<b>Ward:</b>	Chedburgh

**Proposal:** DC/17/1763/FUL - Planning Application - Construction and part retention of a single storey outbuilding to provide garaging and storage associated with the residential occupation of the site

DC/17/2606/VAR - Planning Application - Variation of Condition 9 of DC/15/0426/FUL (Planning Application - Change of use of land from agriculture to domestic use) to read "The change of use hereby approved shall not be implemented unless and until the development approved under DC/15/0029/PMBPA2 has been implemented and the dwelling (shown as 'proposed house number one' on drawing 3A dated February 2015) occupied".

**Site:** Nunwick Farm, Rede Road, Wepstead

**Applicant:** Mr David and Owen Brown

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

#### **Recommendation:**

It is recommended that the Committee determine the attached applications and associated matters.

#### CONTACT CASE OFFICER:

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## **Background:**

**Application DC/17/1763/FUL is referred to the Development Control Committee following consideration by the Delegation Panel. It had been referred to the Delegation Panel at the request of Ward Member Councillor Mike Chester.**

**Application DC/17/2606/VAR does not otherwise require consideration by the Development Control Committee but has been presented at the same time noting the wider interest in application DC/17/1763/FUL.**

**A site visit is scheduled to take place on Thursday 25 January 2018.**

**The Parish Council have no objection to either application, both of which are recommended for APPROVAL.**

## **Proposal:**

1. **DC/17/1763/FUL** - Planning permission is sought for the construction and part retention of a single storey building for use incidental to the enjoyment of the dwelling on site that is presently under conversion within an existing barn.
2. The application has been subject to an amended description during its consideration. The application was originally described as –  
  
*Planning Application - Construction/retention of 1no. small barn as a domestic outbuilding associated with the residential occupation of the large barn.*
3. Concerns were raised that the description as originally consulted upon was inaccurate, and that such had the potential to lead to confusion amongst interested parties. There is an element of the original building standing and this will be retained and incorporated as a component of the new development so the revised description at the top of this report properly reflects this, albeit this change did not otherwise change the substance of the proposal, rather it simply clarifies in a more accurate way its nature. In any event, and in order to ensure no prejudice to interested parties, a full reconsultation process was undertaken, including with the Parish Council and through the posting of a new site notice, for a further period of 21 days. This revised description was the only change, with no amendments undertaken to the submitted plans or supporting documents.
4. The building is single storey in scale. To the west the proposal contains a two bay garage, whereas to the eastern end the building proposes a toilet, plant room, and a single room used for purposes incidental to the enjoyment of the dwellinghouse presently under conversion with the larger former agricultural building on the site.
5. **DC/17/2606/VAR** – Planning permission is sought to vary the wording of condition 9 of DC/15/0426/FUL. As originally worded this condition read as follows-

*The change of use hereby approved shall not be implemented unless and until the development approved under DC/15/0029/PMBPA2 has been implemented and the relevant dwellings occupied.*

*Reason: The development is only acceptable in connection with the development approved under DC/15/0029/PMBPA2.*

6. The revised wording sought by the applicant is as follows -

*The change of use hereby approved shall not be implemented unless and until the development approved under DC/15/0029/PMBPA2 has been implemented and the dwelling (shown as 'proposed house number one' on drawing 3A dated February 2015) occupied.*

7. The rationale behind this submission is explained in more detail below.

### **Site Details:**

8. The site is located within the countryside, outside of the Whepstead Conservation Area. There is a listed building (Black Horse Cottage) on the opposite side of the road to the proposals and other dwellings in the immediate vicinity of the site. The site is set back from the road behind a hedge.

### **Planning History:**

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
DC/14/1351/PMBP A	Prior Approval Application - (i) change of use of two agricultural buildings to two dwellinghouses (Use Class C3) (ii) associated operational development	Prior Approval Required	15.09.2014
DC/15/0029/PMBP A2	Prior Approval Application - (i) change of use of two agricultural buildings to two dwellinghouses (Use Class C3) (ii) associated operational development	Application Granted	05.02.2015
DC/15/0426/FUL	Planning Application - Change of use of land from agriculture to domestic use	Application Granted	28.04.2015
DCON(A)/15/0029	Discharge of conditions 3 and 4 (land contamination) of DC/15/0029/PMBPA2	Application Refused	26.05.2015
DCON(B)/15/0029	Discharge of Conditions for Condition 1 (Facing and Roofing Samples), 2 (Boundary Treatment), 3 (site investigation scheme), 4 (verification report) 5 (remediation strategy), 7 (Surface	Application Granted	19.01.2016

	Water) and 8 (Manoeuvring and Parking details) of DC/15/0029/PMBPA2		
DCON(A)/15/0426	Discharge of Conditions application for Condition 2 (Soft Landscaping), 3 (Hard Landscaping), 4 (Boundary Treatment), 5 (Contamination), 6 (Refuse and Recycling Bins) of DC/15/0426/FUL	Application Granted	19.01.2016
SE/04/3092/P	Planning Application - (i) Change of use and alterations of two farm buildings to offices (Class B1 Business use); and (ii) provision of surface car parking (following demolition of single storey piggery) and alterations to existing vehicular access (resubmission) as amended by (1) letter and drawing nos. 2276/2C and 3B received 19th November 2004 indicating (i) alterations to conversion proposals for main barn; (ii) demolition of piggery building; (iii) reduction in office floor space within single storey cart shed (2) letter received 12th November 2004 confirming use of buildings as offices	Application Granted	09.03.2005
SE/04/2017/P	Planning Application - (i) Change of use and alterations of three farm buildings to Class B1 (Business) use; and (ii) provision of surface car parking and alterations to existing vehicular access	Application Withdrawn	01.07.2004
E/89/2525/P	Outline Application - Dwelling, garage and access	Application Refused	06.09.1989
E/76/1791/P	ERECTION OF ONE PRIVATE DWELLING	Application Refused	23.06.1976

## Consultations:

### DC/17/1763/FUL

- 9. Conservation Officer:** No objection.
- 10. Environmental Health – Contaminated Land:** No objection. Comments made in relation to the ongoing implementation of the conversion of the larger barn which are not material to the assessment of this proposal.
- 11. Development Implementation and Monitoring Officer:** The site area would trigger 30% affordable housing but only if the combined floor space exceeds 1000sq metres. *Officer Note – the proposal is for a building for use incidental to the enjoyment of the dwelling being constructed on site. In this context, consideration of affordable housing is not necessary.*
- 12. Environmental Health – Public Health and Housing:** No objection.

## Representations:

- 13. Whepstead Parish Council –** The Parish Council voted to accept the application on the condition that a S106 agreement be imposed to restrict the use of the small barn so that it can never be converted to a small dwelling. *Officer Note – a s106 agreement is not necessary to control this, since such a change of use requires planning permission, meaning the LPA has control in the event that such a change of use ever did take place without planning permission first having been granted.*
- 14.** The Parish Council reconfirmed this position in their response to the reconsultation on the amended description.
- 15. Neighbour representations –** This proposal was subject to a revised description part way through the consideration process. As a result the consultation period was extended by a further 21 days to take account of this revised description, albeit the proposal itself has not changed. As a result of this extended consultation period a total of 11 letters of objection were received across both consultation periods, which make the following summarised comments –
- The wording of this latest planning application remains mis-leading. The incidental reuse of a handful of beams does not constitute part-retention. *Officer Note – Officers are satisfied that the description is sound, and reasonable, and a full re-consultation was effected on the revised description. Please see report below – the building is partially a new build, noting the removal of significant elements of the former building, and partially a conversion / retention, noting that significant parts of the former building are retained.*
  - The structures are new, it is not therefore part retention but new construction. *Officer Note – see point above.*
  - The building is larger than the original footprint. *Officer Note – This matter is assessed in the main report.*
  - The proposed development is situated upon agricultural land. How is a planning application of a residential nature being considered upon

designated agricultural land? *Officer Note – See report below. The planning unit has the benefit of a consent for the change of use from agricultural to domestic use. Officers consider, on the balance of probability, and as a result of the implementation of the conversion of the larger barn, that this change of use consent has been implemented but, even if it has not, it remains extant and capable of implementation and is therefore a material fall back in either scenario.*

- The development clearly contravenes a large number of policies in the Development Plan, including DM1, DM2, DM13, DM15, DM17, DM22, DM25, DM26, DM27, DM28 and DM33. *Officer Note – See Report.*
- The development is inconsistent with Policy CS3 and CS4 as well as paragraphs 58, 60, 61 and 64 of the NPPF. *Officer Note – See Report.*
- The development is an unacceptable feature within a special landscape area and is also within clear view of the Whepstead Conservation Area.
- The development is located in close proximity to listed building and has an adverse effect upon its setting. *Officer Note – see main report.*
- There is no material change in planning considerations since previous applications were refused. *Officer Note – there have been no refusals for any previous domestic outbuildings at the site. The relevance of any previous refusals for dwellings at the site is not material to the assessment of this proposal.*
- This development will create an undesirable precedent. *Officer Note – Policy DM24 allows for the provision of development related to a domestic dwelling. The 'precedent' for such development is already established through adopted policy.*
- Consider that the development is unsustainable contrary to Policy DM1 and should be located within a settlement boundary. Any occupiers of the development will need to be car borne and the distance between the application site and schooling etc is too far. *Officer Note – this is not an application for a new dwelling, where such considerations would of course be relevant. This is a proposal for a domestic outbuilding within the curtilage of a lawfully consented dwelling. Consideration of locational sustainability is not therefore relevant.*
- This is sporadic development in the countryside unrelated to agriculture. *Officer Note – the development is a domestic outbuilding on a site that contains a lawfully implemented building presently being converted to a dwelling, on a site that benefits from an implemented (or at least extant, in the alternative) consent for a change of use from agriculture to domestic use.*
- The development fails to respect the local landscape character and the character of the adjacent built development. *Officer Note – See report below.*
- The development will adversely affect views into and out of the Conservation Area. *Officer Note – See report below.*
- The development has a clear line of sight overlooking existing residential property and has an adverse effect upon residential amenity. *Officer Note – see report below. The building is single storey, with no windows above ground floor level. Officers are satisfied that the proposal will not lead to any material loss of amenity.*
- The development does not comply with Policy DM24. It fails to respect the scale and design of existing dwellings and is overdevelopment of the curtilage. *Officer Note – See report below.*
- It is unacceptable as it is not reasonably integrated into the use of the original dwelling. *Officer Note – See report below.*
- The size of the building is too large for the site. *Officer Note – See Report.*

- The proposal is outside of the settlement boundary. *Officer Note – See Report.*
- Whepstead is an infill village only. *Officer Note – this is not a proposal for a dwelling.*
- CS1 restricts development in the countryside. *Officer Note – See Report.*
- The development is not needed to house a key worker in the countryside. *Officer Note – the proposal is not for a dwelling.*
- The proposal will have an adverse effect upon the special landscape area, contrary to the provisions of Policy DM13. *Officer Note – See Report.*
- The proposal is an unacceptable and incongruous feature. *Officer Note – See Report.*
- The policy fails to comply with Policy DM27. *Officer Note – Policy DM27 relates to housing in the countryside. This is not a proposal for a dwelling.*
- The proposal fails policies DM28 and DM33. *Officer Note. This is not a proposal for a dwelling. See officer report below.*
- The proposal is not in keeping with the character and design of existing property. *Officer Note – See Report.*
- In Vision 2031, development of this nature is precluded. *Officer Note – See Report.*
- There is no development on the eastern side of Rede Road. There is no need to compromise the development structure of a whole village for the construction of a domestic outbuilding. *Officer Note – See Report.*
- This would be spasmodic development in the open countryside. *Officer Note – See Report.*
- Raise apparent inconsistency with a development elsewhere in Fornham. *Officer Note – that development was for a dwelling where none had previously existed. This proposal is for a domestic outbuilding, supported by Policy DM24, within the curtilage of a building under conversion to a dwelling. It is materially different therefore.*
- There is no occupation at present of the larger barn. *Officer Note – it is for that reason that this application is not submitted as a ‘HH’ householder application. Conversion of the larger building is however well advanced.*
- Calling this a small barn is a misnomer. *Officer Note – this is the reference used by the applicant on their plans. It is not repeated in the description of the proposal.*
- There is no need for a further bathroom within the outbuilding. *Officer Note – See Report.*
- The land is contaminated. *Officer Note – resolution of this matter was required through conditions imposed on the prior notification approval.*
- *The Authority should be enforcing against this. Officer Note – enforcement action is discretionary.*
- A ‘crystal palace’ is out of character. *Officer Note – it is assumed this comment relates to the larger barn, which has the benefit of a prior approval for conversion to a dwelling, and is not part of this application.*

16. Additionally, five letters of support have been received, which between them raise the following comments –

- Confirm support for the proposal.
- As residents of Whepstead for the past 35 years living a little further along Rede Road from Nunwicks Farm, my husband and I have watched development of this site with interest and as such would like to fully support the above application.
- I would like to register my full support for this application.

- This project needs completion and the stop start nature so far is disappointing as I feel it
- will be a great asset to the village once complete.
- We note that the footprint of this building is pretty much the same as the original.
- The majority of the original building appears to have been retained.
- We think that the part at the western end that has been removed would have been very difficult to retain because it had been in a very poor state of repair for a long time.
- The impact of this building on us and our property is negligible. When the hedges and trees are in full leaf, we can't see it. Even in winter, we can still barely see it because of our thick yew and pyracantha hedge. The building is also lower (in altitude) than us which further reduces the impact.
- The building is to become a garage and store, not residential. Buildings like this exist all over the village.
- We do not feel that we have been misled by the expression "construction and part retention...." It is as plain as a pikestaff that this accurately describes the application.
- We have noted from the information published on your website about this application, that far from it being opposed by a large number of local residents, there are only four properties whose occupiers have written to you, two of which are not local. Trying to spin this as opposition by a large number of local residents does not cut it, and we object to the implication (as the only property in the vicinity apart from Nunwick Farm itself), of us being part of this fabricated/spurious 'large number'.
- If this application is approved, the odds of you encountering stiff local opposition are probably close to zero unless there is a vexatious litigant, and if that is the case, we feel that the Council has every right to defend its position with all resources available to them.
- We have not seen amongst the correspondence any coherent reason why this application should be refused.
- From our observations, the work being carried out across the road from us will vastly improve the amenity of the village and we (the local residents) will all gain from it.
- In short, we have no objections to this application and hope that the Council approves it.
- As a Whepstead resident I fully support planning applications DC/17/2606/VAR and DC/17/1763/FUL at Nunwicks Farm Barns, Rede Road, Whepstead. My wife and I walk past the site on a regular basis and in my view, there is no doubt that what was a rather scruffy and neglected site will be greatly enhanced once the building works are complete.

17. All responses are available to view in full on the West Suffolk website using the links at the foot of this report.

### **DC/17/2606/VAR**

**18. Whepstead Parish Council** - *At a meeting of the Whepstead Parish Council on January 3rd, the planning application DC/17/2606/VAR for Nunwick Farm was discussed.*  
*It was also noted that the Development Control Committee have rescheduled a meeting to discuss Nunwick on February 1st.*



*Three councillors voted in favour of supporting the application on the basis that it would be very difficult to put, what appears to be, no more than one acre of land to agricultural use. There were four abstentions.*

**19. Suffolk County Council Highways** - The Highway Authority has no objection to the proposed variation of Condition 9 of planning permission DC/15/0426/FUL.

**20. Environment Team** - Thank you for consulting the Environment Team on the above application. We have no comment on or objection to the proposals.

**21. Neighbour Representations** – Three letters of representation have been received (two objections and one in support) which make the following comments

- *I would like to strongly object to this planning application.*

*Why? Well, with normal planning applications, plans are passed and then the house is built. Not so with Nunwick Farm.*

*The applicants have erected an unlawful residential development on agricultural land. Then, with help from St Edmundsbury Borough Council, they have submitted a retrospective planning application to seek legitimacy. (Officer Note – the dwelling under construction is not unlawful, see report)*

*This application is the latest in a string of failures by the planning department of St Edmundsbury Borough Council. My family were never notified or consulted upon DC/14/1351/PMBPA. (Officer Note - However regrettable, this fact is not material to the consideration of this proposal).*

*DC/17/1763/FUL is to be put before the Development Control Committee, and remains unresolved since August 2017. DC/17/2606/VAR should not be entertained until this has been resolved and exposed by a proper committee. (Officer Note – noted and agreed, and it is for this reason that these proposals are presented for consideration together).*

*DC/15/0029/PMPBA2 is received, processed and passed in three efficiency busting days, supposedly under non-material amendments to permitted development. (Officer Note – this is not relevant to the consideration of this application. There is no requirement to consult on applications for Non Material Amendments).*

*Permitted development, and the supposed rights afforded to it, have allowed one solitary planning officer to operate as judge, jury and executioner of a highly controversial planning site that dates back to the 1960s. My family's amenity of their home has been destroyed. (Officer Note – this is not material to the assessment of this proposal).*

*Thank you St Edmundsbury Borough Council for your complicity in this destruction .*

- *I strongly object to this application for the following reasons:*

*The council acted unlawfully in not notifying adjoining neighbours of the original application DC/15/0426. (Officer Note – this is not material to the assessment of this proposal).*

*The council also acted unlawfully in not notifying adjoining neighbours of the connected application DC/15/0029. (Officer Note – this is not material to the assessment of this proposal).*

*The council also failed to notify the parish council of application DC/15/0029. The parish council objected to earlier proposals. (Officer Note – this is not material to the assessment of this proposal).*

*The development does not fulfil the Class Q legislation and is therefore unlawful. The reasons include:*

- i) the site not being in sole agricultural use as part of an established agricultural unit on the relevant date of 20th March 2013.*
- ii) the development does not constitute a conversion but rather a rebuild. The extent of the works involved go a very long way beyond what could reasonable be considered a conversion. The development is in all practical terms starting afresh with only modest help from the former agricultural building.*
- iii) paragraph 105 of the planning practice guidance states in relation to Class Q that "it is not the intention of the permitted development right to include the construction of new structural elements for a building". This development includes significant new structural elements and therefore involves a degree of rebuild and is not a conversion. (Officer Note – this is not an application under Class Q of the GPDO, it is an application for planning permission for the change of use of the land from agricultural to garden land. The provisions of the GPDO are not relevant therefore).*

*The company commissioned by the council to produce two structural engineer reports was working with / for the applicant at the time the second report was commissioned. They are therefore conflicted. The reports cannot be relied upon. The council should commission new reports from a truly independent source. (Officer Note – the Authority has no concerns about the integrity of the advice received in this regard).*

*The unlawful development destroys the residential amenity of our family home. Over ten floor to ceiling windows on the south side and a five metre wide by six metre wide glass atrium on the west side directly overlook our house and garden. This is unnecessary, obscene and intrusive. Despite conditions, the council did not invite the applicant to place screening between the properties. (Officer Note – this is not relevant to the consideration of this proposal, although as an aside, the development being implemented is not unlawful).*

*The Local Government Ombudsman has found fault with how the Council have processed these applications. The council should now do the right thing and reject the original applications. (Officer Note – the Authority has accepted its failings in failure to notify in relation to earlier proposals. However, that is not now relevant to the assessment of this present proposal).*

*For these reasons, it is recommended that this amendment along with the original applications should be rejected and enforcement action commenced to remove the unlawful development. (Officer Note – as advised, the conversion of the building to a dwelling is not unlawful, and in any event this matter is not material to the assessment of this present proposal.)*

- *We have been instructed on behalf of Stuart Hill a local resident to lodge a formal objection to the Application to Vary Condition 9 of the above Application. The ninth condition ought not to be varied or removed. There was a good planning reason for imposing the planning condition on the original planning permission of 2015. The reason stated:-*

*"The development is only acceptable in connection with the development approved under DC/15/0029/PMBPA2".*

*There have been no changes in material planning considerations between 2015 and 2017. The reason stated for the condition remains valid. The condition cannot therefore be removed nor varied.*

*Please therefore refuse the application for the variation of the condition.*

*We understand that the application must be referred to the Development Control Committee owing to a referral request from the Ward Councillor.*

- *As a Whepstead resident I fully support planning applications DC/17/2606/VAR and DC/17/1763/FUL at Nunwicks Farm Barns, Rede Road, Whepstead. My wife and I walk past the site on a regular basis and in my view, there is no doubt that what was a rather scruffy and neglected site will be greatly enhanced once the building works are complete.*

22. **Policy:** The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy December 2010 have been taken into account in the consideration of this application:

23. Joint Development Management Policies Document:

- Policy DM1
- Policy DM2
- Policy DM5
- Policy DM13
- Policy DM15
- Policy DM17
- Policy DM22
- Policy DM24
- Policy DM25
- Policy DM26
- Policy DM27
- Policy DM28
- Policy DM33

24. St Edmundsbury Core Strategy December 2010

- Policy CS3
- Policy CS4

## **Other Planning Policy:**

25.National Planning Policy Framework (2012) and core principles.

## **Officer Comment:**

### **Site Context**

26.Before consideration of the merits it is important to understand the nature of these proposals.

27.As noted in the revised description, the application under DC/17/1763/FUL is for the part construction and part retention of a building for use incidental to the enjoyment of the dwelling presently under conversion within the 'large' barn on the site.

28.The outbuilding proposed sits on a similar footprint to a former building of similar scale. Part of this former building was removed and has been replaced whereas part of this proposal utilises an element of the former building. It is for this reason that the application is considered to be a part retention of that building, with elements of new construction, as the following photograph shows.



29.The left of this photograph shows the western end of the building, with new floor, foundations, stud work and supporting steels apparent. This is plainly not a conversion. On the other hand, the right hand side of this photograph shows the eastern end, which includes the original roof of the building, including internal structural elements, as the following picture shows.



30. In any event, this is a proposal for an incidental domestic outbuilding. As a result, even if it were considered that no elements of the former building were retained (which is strongly disputed, and as the photographs above clearly show) the planning considerations would not be materially different, with the effect upon character, appearance and amenity being principal considerations, all of which are assessed robustly below.
31. The 'larger' barn on site benefits from a prior notification approval to convert to a dwelling (as in fact did the smaller barn which is now the subject of this application). This is in the process of being implemented. Enforcement investigations relating to the conversion of such concluded that the larger barn was being 'converted' in accordance with the provisions of the regulations and the provisions of the approval granted. It should be noted that this is contextual to these present decisions but is not material.
32. At the same time as the conversion of the larger barn was being investigated, investigations in relation to the 'smaller' barn revealed that significant removal and provision of additional structural elements had taken place. This smaller barn had previously also been granted a prior notification approval for conversion to a dwelling under the same consent as the larger barn. The view reached in relation to this was that the smaller barn building could not be considered a 'conversion' and that any consent for change of use to a dwelling could therefore no longer be effected.
33. In response, the site owner has elected to seek permission to construct and part retain (where relevant) this structure for use for purposes incidental to the enjoyment of the further dwellinghouse being lawfully implemented within the larger former agricultural building on site.
34. The smaller barn was originally considered capable of conversion under Class Q. However the developer chose to introduce new structural elements to the barn and also to remove existing structural elements, thereby rendering this a breach of planning control as no longer being a 'conversion' within the provisions of the GPDO. However, this failure to correctly implement the smaller barn as a dwelling does not contradict, affect or otherwise invalidate the conversion of the larger barn to a

dwelling. Where there is no conflict between them, developers are able to implement individual elements of a wider proposal at their discretion.

35. In this light, the proposal under DC/17/1763/FUL is best considered as a proposal for an outbuilding for uses incidental to the enjoyment of a dwellinghouse (the larger barn presently under conversion) on land (assuming a concurrent approval of DC/17/2606/VAR and a subsequent implementation) benefitting from use as a garden.
36. This is the context under which DC/17/1763/FUL will be assessed. Any matters relating to the conversion of the larger barn are not relevant, noting the view of Officers, following detailed enforcement investigations, that such a conversion is taking place correctly, in accordance with Class Q. This proposal is also assessed in light of the fact that the smaller barn is no longer capable of conversion to a dwelling and this element of the Class Q consent is in effect extinguished. As advised, this does not detract from the ability of the site owner to implement still the conversion of the larger barn, as is ongoing.
37. Furthermore, the fact that the conversion of the larger barn is not complete at the time of writing does not detract from the ability of the Authority to consider this proposal as an outbuilding for use for purposes incidental to that dwelling in the larger barn. The conversion is at an advanced stage, and detailed assessments have concluded that there is no breach of planning control. If for any reason (and this is not anticipated) the larger barn is never fully converted and occupied, then this present proposal, whilst physically capable of implementation, would not be able to be used without representing a breach of planning control, noting that in such a scenario, there would be no host building for it to be used incidental to the enjoyment of. This would be a risk of the developer in choosing to implement any such approval in advance of completion and occupation of the dwelling under conversion within the larger barn.
38. In relation to application DC/17/2606/VAR the previous site history is relevant to the context of this proposal. The planning unit benefits from a permission granted in 2015 to change its use from agricultural to domestic use. This consent was limited by condition such that it could not be implemented until such time as the dwellings (Note, plural) approved under the prior notification had been converted and occupied. It became apparent therefore that there was a technical conflict in that the change of use to domestic land under DC/15/0426/FUL could not now be implemented in those terms since both of the dwellings can no longer be provided.
39. It was for this reason that DC/17/2606/VAR was submitted. Consideration of this VAR proposal does not re-open the principle of the development, rather it can only be assessed against the reason why the condition was imposed in the first instance. If approved, it would allow the change of use of the wider land within the site to take place under DC/15/0426/FUL once the dwelling presently under conversion within the larger barn has been completed and occupied.

**DC/17/1763/FUL**

40. Turning to the planning merits of DC/17/1763/FUL in this light, Policy DM33 permits the re-use of buildings in the countryside and DM28 permits the re-use of such, subject to meeting the criteria within the policy, for residential purposes. However, DM33 only relates to the re-use of buildings for employment purposes, tourist accommodation, recreational uses, community facilities, or residential use where justified in accordance with DM28. DM33 is not therefore relevant to this proposal. Additionally, DM28 is not relevant either since the proposal is not for 'residential' purposes, rather it is proposed for use incidental to the enjoyment of an already approved residential dwelling.
41. Turning to other policies listed by third parties, in particular Policies DM22, DM25, DM26, and DM27, these are not considered relevant to the assessment of this proposal. Policy DM22 relates to residential design but this is not a 'residential development proposal'. Policy DM25 relates to extensions to domestic gardens within the countryside. This Policy was assessed when consideration was given to the garden use of land at this site but is no longer relevant to this proposal, albeit will be considered later in relation to the 'VAR' application. Policy DM26 relates to agricultural and essential workers dwellings and Policy DM27 relates to housing in the countryside and neither relate to this proposal for a domestic outbuilding within the curtilage of a dwelling
42. Furthermore, on a strict interpretation of Policy DM24 it is not relevant either. DM24 relates to development within the curtilage of a dwellinghouse, which the proposal is not (noting that the 'curtilage' of the dwelling in the larger barn as approved through the provisions of the GPDO is tightly defined as an area no greater than the footprint of the building) and only where that dwelling is located within a settlement boundary, which the application proposal is not. Within the countryside, DM24 only covers alterations or extensions to an existing dwelling. The proposal is not an alteration or extension, is not within any curtilage and, in any event, it is moot if, at present, there is an 'existing' dwelling. However, Officers consider that the spirit and intention of DM24 remains relevant in relation to proposed development within what will be (assuming approval and subsequent implementation of DC/17/2606/VAR), the wider garden area of the dwelling under conversion within the larger barn, whether or not that dwelling is within a settlement boundary.
43. In particular, DM24 seeks, inter alia, to protect the character of the host dwelling, the character and appearance of the site, not lead to over development of the curtilage and to not adversely affect amenity. All of these matters are sound planning considerations that would fall for consideration under a general assessment against Policy DM2 in any event. DM5 relating to development in the countryside is also relevant noting the general provisions of that Policy to protect the countryside from unsustainable development.
44. The proposed structure is modest in scale relative to the plot size and to the host dwelling, and will not lead to overdevelopment of the otherwise generous curtilage. In design terms it is considered intrinsically unobjectionable, appearing as a subservient and modestly scaled domestic outbuilding serving the wider plot and dwelling under conversion.

45. The plans indicate the use of a terracotta clay pantile for the roof and painted timber boarding to the walls to match the larger barn. This is considered appropriate, and can be controlled via the 'compliance with plans' standard condition.
46. The proposed building is set back within the site, behind a hedge along Rede Road. Views into and through the site are available but the building will be seen within its context as being visually appropriate, and appearing as a domestically scaled and subservient outbuilding serving the wider planning unit. The provision of a subservient building within the curtilage of a dwelling for incidental domestic purposes such as parking, storage, or as hobby or games room for example, is in principle a common and readily supportable development concept.
47. The barns are not listed and are located some distance from the Conservation Area. There is a listed building opposite but the proposed development will not adversely affect the setting of the listed building due to the modest scale of the proposal and the separation distances, as well as the intervening vegetation and road.
48. On this basis the effect of the proposal upon the character and appearance of the area, including as a special landscape area, is not considered objectionable. The wider impact upon the countryside as a result of this outbuilding can be considered appropriate. In reaching this conclusion it is noted that the building proposed may, or may not, be on a different and / or larger footprint than the former building which it partially replaces.
49. The building is single storey with no accommodation above ground floor level. Regardless, even if there were windows within the roof space of the proposed structure it is not considered that this would raise any material issues of amenity at third party property, given the generous stand off distances, and no conditional control on such in relation to restricting permitted development rights is considered necessary. The use of the building will be incidental to the enjoyment of the dwelling under conversion. It is not considered that any effects arising from its use, for example vehicle comings and goings, would affect the amenities of any third party properties to any material extent.
50. Any subsequent use of the building for purposes that are not incidental to the enjoyment of the host dwelling at the site may trigger a material change of use of the building and in such a case, enforcement action could be considered. It would not ordinarily be appropriate to impose a condition limiting the use of the building therefore, since control would already exist through the use of enforcement powers if necessary and expedient. However, in this case, and to remove any doubt or confusion, and noting that the conversion of the 'host' dwelling is not yet completed, it is considered reasonable to impose a condition that limits use of the building to purposes incidental to the enjoyment of the dwelling under conversion within the 'large' barn.
51. The elements of the barn to be retained previously had the benefit of a prior notification approval for conversion. Consideration of any biodiversity related matters must be made in this light. No concerns relating to such were raised at the time of the approval of the prior notification, and it is



not considered that this should otherwise preclude development as presently proposed.

52. There are no trees or other landscape features that will be adversely affected by this proposal.
53. In assessing this matter the Authority is also of the opinion that the planning policy statement on Green Belt protection and intentional unauthorised development which came into force on 31st August 2015 must be considered material.
54. The consent that exists in relation to this part of the site was a conversion of an existing building. By any objective measure the works undertaken without the benefit of permission go some way beyond this, as is discussed above. This was an error made by the developer and the LPA asserts that this indicates intentional unauthorised development. The nature of the works undertaken do not fall within the parameters, in the opinion of the LPA, of development which might otherwise have been undertaken by mistake, or in ignorance, noting how, in effecting a 'conversion', significant parts of the smaller barn were removed and replaced in their entirety. The only conclusion that can be drawn in this position therefore is that the development that this application is now seeking to retain is 'intentional unauthorised development'.
55. In presenting this matter the ministerial statement (reference HCWS423) advises that *'the government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.'*
56. The materiality of this statement in the balance of considerations is a matter for the decision maker. In the opinion of the LPA the development undertaken on this site can be considered as nothing other than intentional unauthorised development, noting the circumstances. It follows consequentially that weight against this proposal must therefore be attached to this fact in the balance of considerations. However, noting the conclusions reached above with regards to the acceptability otherwise of the proposal, it is not considered that the weight to be attached to this conclusion should be of such weight so as to justify a refusal of planning permission.
57. The standard time limit condition will still be required notwithstanding that this proposal is partially for the conversion of an existing building, noting that structural elements are proposed that are not presently completed.

**DC/17/2606/VAR**

58. As set out above, the assessment of this application does NOT call for a reassessment of the principle of the development. Rather, consideration must only relate to the matters for which a change is requested. In this case, the condition as worded on the extant consent seeks to ensure that the change of use to garden land only takes place once both dwellings have been occupied. The condition was imposed in the interests of clarity,

to ensure that the change of use only occurred in conjunction the residential conversion of the two former agricultural buildings. This was considered reasonable, in order to prevent the implementation otherwise of a garden area in an area where no dwellings existed.

59. Noting that the condition presently requires both dwellings to be occupied, and noting that the dwelling previously proposed within the smaller building is no longer capable of implementation, the condition at present effectively prevents the implementation of the change of use of the wider site to garden land. Officers consider that this is largely a technicality, noting the reason expressed above for the condition. However, consideration must still be given to whether there has been any change in circumstances that might otherwise be material to the matter. Plainly, the failure to 'convert' the smaller building to a dwelling, leaving the site with a single dwelling rather than two may be considered material and requires careful assessment.

60. In this regard Officers remain of the view that the proposal is acceptable, notwithstanding this changed circumstance. The wider site is generous, but it remains easily defensible to all existing plot boundaries, with well-defined edges. It is not considered that the proposed garden area otherwise now sought to serve only the dwelling in the larger barn will otherwise be excessive, not least when assessed against the provisions of Policy DM25. DM25 allows garden extensions in the rural area where they are small and unobtrusive and which do not adversely affect the character and rural amenities of the site and wider countryside. In this case, whilst the overall extent of area to be used for garden purposes relative to a single dwelling could not necessarily be judged to be small, it is well enclosed and otherwise unobtrusive. In this regard, any conflict with DM25 based on the size of the area cannot be considered sufficient reason to withhold consent, noting the wider lack of harm.

61. On this basis, it is considered that the requested revised wording to condition nine is acceptable and that permission should be granted. Because this is a new planning permission it must reimpose any previously relevant conditions, amended where necessary to reflect any matters already agreed in the meantime. The previously imposed condition in relation to boundary treatments is no longer necessary since these details have been agreed pursuant to the original PMBPA approval so this is not included. This permission also cannot allow for an extended time frame for implementation. Other than the revised wording to condition 9, other previously imposed conditions are proposed to be re-imposed on this fresh consent.

### **Conclusions:**

62. The principle of the provision of a domestically scaled incidental outbuilding within the garden of a dwelling (as will be the case assuming the approval and subsequent implementation of the permission under DC/17/2606/VAR) is satisfied in spirit by Policy DM24 and does not conflict with the in-principle provisions of Policy DM5 or the design and appearance considerations set out in Policy DM2. The proposal will not affect residential amenity nor will it adversely affect the character and appearance of the site or area, including the Whepstead Conservation Area. There will be no effect upon any listed buildings, nor upon any

biodiversity interests. Any weight to be attached to the fact that this is intentional unauthorised development is modest and insufficient to outweigh the policy support and other material considerations noted above. Accordingly, as a matter of balance, the proposal under DC/17/1763/FUL is considered acceptable.

63. In relation to the DC/17/2606/FUL there is no reason to withhold consent. The reason for the condition was to prevent implementation of the garden land approval where there was no dwelling for it to serve. The revised wording has the same effect, albeit linking it to the occupation of the now single dwelling within the larger former agricultural building on site. There are no visual or amenity concerns arising from this proposal otherwise.

### **Recommendation:**

64. **DC/17/1763/FUL** - It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. Time limit.
2. Compliance with plans.
3. Building to be used for purposes incidental to the enjoyment of the dwelling under construction within the large' barn on the site.

65. **DC/17/2606/VAR** - It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun not later than 28<sup>th</sup> April 2018.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

2. The soft landscaping shown on drawing 2276/102 Revision D shall be implemented not later than the first planting season following commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: Landscaping of the site goes to the heart of the permission and to ensure therefore that the appearance of the development is enhanced.

3. The hard landscaping shown on drawing 2276/102 Revision D shall be implemented within six months from first occupation (or within such extended period as may first be agreed in writing with the Local Planning Authority).

Reason: Landscaping of the site goes to the heart of the permission and to ensure therefore that the appearance of the development is enhanced.

4. The development shall proceed in accordance with the contents of the letter dated 20<sup>th</sup> April 2015 (ref KO/46348) and The Remediation Method

Statement dated November 2015 (ref 46348), both documents produced by Richard Jackson Ltd.

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation method statement referred to above has been submitted to and approved in writing by the Local Planning Authority.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants associated with current and previous land uses.

5. The bin storage area shown on drawing 2276/102 Revision D shall be implemented before first occupation and thereafter retained.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

6. Gates shall be set back a minimum distance of 5 metres from the edge of the carriageway and shall open only into the site and not over any area of the highway.

Reason: In the interests of road safety.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no development permitted by Article 3 and Part 1 Class E and Part 2 Class A - B of Schedule 2 to the Order shall be erected/carried out within the site other than any expressly authorised by this permission.

Reason: To ensure that the satisfactory appearance and amenity of the development/locality is maintained.

8. The change of use hereby approved shall not be implemented unless and until the development approved under DC/15/0029/PMBPA2 has been implemented and the dwelling (shown as 'proposed house number one' on drawing 3A dated February 2015) occupied.

Reason: The development is only acceptable in connection with the development approved under DC/15/0029/PMBPA2.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

**DC/17/1763/FUL**

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OV717PPDIV700>

**DC/17/2606/VAR**

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P0SH9YDDL2U00>