



Appeal Decisions

Hearing held on 28 April 2026

Site visit made on 28 April 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 June 2026

Appeal A Ref: APP/J3720/X/25/3375547

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Gregory Besterman against the decision of Stratford-on-Avon District Council.
 - The application ref 24/00645/LDP, dated 18 March 2024, was refused by notice dated 21 June 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the proposed implementation of Class Q prior approval 22/01886/COUQ.
-

Appeal B Ref: APP/J3720/W/25/3376327

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Gregory Besterman against Stratford-on-Avon District Council.
- The application Ref is 25/02026/VARY.
- The application sought planning permission for the change of use of an agricultural building into a larger residential dwelling (C3) and associated building operations under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO) without complying with conditions attached to planning permission Ref 22/01886/COUQ, dated 26 August 2022.
- The conditions in dispute are No 3 and Q.2(4) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015, which state that:
 - 3. *Development shall not commence until clauses (a), (b) and (c) have been complied with:*
 - (a) *A Phase 1 Desk Study and site walkover shall be carried out. The Desk Study shall provide results of the site walkover; detail a full history of the site uses; and identify any unacceptable risks to human health and the environment. The Desk Study shall be submitted to and approved in writing by the Local Planning Authority.*
 - (b) *Where unacceptable risk is identified by the Desk Study, a detailed Site Investigation shall be carried out and a Site Investigation Report submitted to and approved in writing by the Local Planning Authority. The Report shall detail all investigative works and sampling on site, together with results of analysis and risk assessment to any receptors.*
 - (c) *Where unacceptable risk is identified by the Site Investigation Report, a proposed Remediation Strategy (including a Quality Assurance Scheme) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.*
 - Q.2(4). *Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b) or (c), if any, must be completed within a period of 3 years starting with the prior approval date.*

- The reasons given for the conditions are:
 3. *The approval of a Remediation Strategy prior to the commencement of development is fundamental to ensuring that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors having regard to Paragraph Q.2, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.*
 - Q.2(4). None given
-

Appeal C Ref: APP/J3720/W/25/3376853

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Gregory Besterman against the decision of Stratford-on-Avon District Council.
 - The application Ref is 25/01385/COUQ.
 - The development proposed is Prior Approval application for the change of use of an agricultural building into 2 no. dwellinghouses (C3) and associated building operations under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
-

Appeal D Ref: APP/J3720/W/26/3377907

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Gregory Besterman against Stratford-on-Avon District Council.
 - The application Ref is 25/02776/FUL.
 - The development proposed is conversion of agricultural building to single dwelling.
-

Applications for costs

1. An application for an award of costs has been made by Mr Gregory Besterman against Stratford-on-Avon District Council. That is the subject of a separate decision.

Appeals A

Main issue

2. The main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development is well-founded.

Background

3. On 26 August 2022, prior approval was granted for the change of use of an agricultural building into a larger residential dwelling under Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO)¹.
4. Following this, a prior approval application was submitted for the erection of an agricultural building under Part 6 of the GPDO on land adjacent to the appeal site.

¹ Council Reference 22/01886/COUQ

There is no dispute that both sites formed the same established agricultural unit. The Council determined that prior approval was not required².

5. The agricultural building was constructed before the Class Q conversion took place. As a consequence, the Council is of the view that the Class Q prior approval is 'null and void' by virtue of paragraph Q1.(g) of Class Q, which states that development is not permitted by Class Q if *'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 during the period which is 10 years before the date development under Class Q begins.'*

Appeal A

6. There is no dispute that the building on the adjacent land was erected before the Class Q development took place. The crux of the matter is whether the building was permitted development under the provisions of Part 6, Class A of the GPDO.
7. Condition A.2(2)(v) of Part 6, Class A of the GPDO, states *'the erection, extension or alteration of a building... is permitted by Class A subject to the following conditions—...the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out— (aa) where prior approval is required, in accordance with the details approved; (bb) where prior approval is not required, in accordance with the details submitted with the application.'*
8. It was confirmed in the Hearing that prior approval was not required for the Part 6 agricultural building. There is no dispute that the agricultural building that has been erected is not in accordance with the details submitted with the prior approval application. The discrepancies between what was in the application and what has been built include a difference in the openings in the building and a difference in the colour of the external materials.
9. What is more significantly different is the siting of the building. The parties dispute how far off the footprint the building has been erected compared to the details submitted with the application. Even on the Council's measurements, the building has been constructed outside the approved footprint and therefore not in accordance with the submitted details.
10. The discrepancies between what has been constructed and what was in the details submitted with the application may be relatively small. Nevertheless, they are materially different. The Council may have agreed in writing to such changes had the developer sought such agreement. However, whether it would have been expedient for the Council to take enforcement action against the building due to it not being built in accordance with the details submitted is not the test of whether condition A.2(2)(v) has been complied with. As no written agreement was sought nor given by the Council, the development was not carried out in accordance with the details submitted, contrary to condition A.2(2)(v). It follows that the development was not permitted by Class A and therefore did not constitute permitted development.
11. As the agricultural building was not permitted development under Class A(a) or Class B(a) of Part 6, it does not engage the restriction in paragraph Q1(g) of Class Q. Accordingly, there is no breach of that provision. I note that planning

² Council Reference 22/00918/AGNOT

permission was subsequently granted retrospectively for the agricultural building³ and therefore my finding on the lawfulness of the Class Q development has no effect on the lawfulness of the adjacent agricultural building.

12. Having established that the erection of the adjacent agricultural building has not resulted in a breach of paragraph Q1.(g) of Class Q, the question now is whether the Class Q development commenced within 3 years from the date of the prior approval decision, ie before 22 August 2025.
13. On 1 November 2024, the appellant notified the Council that footings had been excavated on 26 October 2024 as part of the works permitted under the Class Q prior approval for the conversion of the building into a dwelling pursuant to prior approval 22/01886/COUQ. During my site visit, I observed the footings in situ.
14. The Council contends that these footings were excavated as part of the Class Q development that was the subject of the later prior approval application for the conversion of the building into 2 dwellings⁴, which is the subject of Appeal C.
15. The appellant contends that the footings were excavated to secure the Class Q prior approval decision, which they believed was still implementable, despite the Council's view on the matter.
16. The footings observed along the north-east elevation are likely necessary to support a new wall. Such works would be required for both the single-dwelling and two-dwelling Class Q schemes. Accordingly, the excavation of the footings constitutes the commencement of development for both proposals. I shall address the implications this has for Appeal C later in my decision.
17. Overall, I find that the adjacent agricultural building was not permitted development and did not prevent the conversion of the appeal building under Class Q of the GPDO.
18. Notwithstanding the above, the prior approval for the Class Q development was subject to a number of conditions, including condition 3 which is a pre-commencement condition. If development is in contravention of 'conditions precedent', it has not commenced in accordance with the planning permission. This is known as the '*Whitley* principle'⁵. There is no dispute that condition 3 is a condition precedent.
19. In *Whitley*, the Court recognised that, on its particular facts, the relevant scheme that was the subject of the condition precedent had been submitted for approval in time. The scheme was approved after the date for implementation of the planning permission had passed and before the enforcement notice was issued. In these circumstances, the works in breach of condition constituted the 'beginning' of development. If, as was the case, details were eventually approved, the planning permission had been implemented.
20. A further illustration of this approach can be seen in *R v Flintshire CC ex parte Somerfield Stores* [1998] PLCR 336. It was found that a condition had been complied with in substance, since the relevant scheme had been submitted and

³ Council Reference 25/00200/FUL

⁴ Council Reference 25/01385/COUQ

⁵ *F G Whitley & Sons v SSW & Clwyd CC* [1990] JPL 678; [1992] JPL 856

approved, but the formalities including the notice of approval had not been completed by the time that work began.

21. There is no dispute the appellant submitted an application for the discharge of condition 3 on 28 November 2023⁶ before the excavation of the footings had taken place. However, the Council considered the discharge of conditions application to be invalid on the basis that the Class Q prior approval was 'null and void' due to the adjacent agricultural building being constructed. Notwithstanding whether the Council had the power to make such an application invalid on this basis, their position on the adjacent building being constructed under Part 6 of the GPDO is not well-founded.
22. The appellant confirms that the fee for the discharge of condition application was not refunded and no decision was made on the application. In the absence of a decision or refund of the fee, I proceed on the basis that the application remains undetermined. These circumstances bear similarities to those considered in *Whitley*, in that the details required by the condition precedent were submitted within time and before any development had commenced. Whilst those details have not been approved there is no indication from the Council that, were they to determine the discharge of condition application, they would not be. Indeed, they have no objection to the findings of the Preliminary Environmental Risk Assessment Phase 1 Desk Study prepared by Trendrevel Services Limited, dated January 2022.
23. While the condition is expressed as a pre-commencement requirement, the appellant submitted the required details for approval before any works began. The Council declined to determine that application based on an erroneous view that the Class Q prior approval was no longer valid. In these circumstances, the failure to obtain formal approval before works commenced was not due to any inaction on the part of the appellant.
24. Drawing on the approach in *Whitley* and *Somerfield*, including circumstances where compliance has been achieved in substance or where procedural irregularities have affected formal compliance, I attach significant weight to the fact that the details were submitted in time and are not substantively disputed.
25. In the particular circumstances of this case, I am satisfied that the works carried out were sufficient to constitute the lawful commencement of development notwithstanding the absence of formal approval of the details pursuant to condition 3 of the Council's prior approval decision 22/01886/COUQ.

Conclusion on Appeal A

26. I find therefore, on the date the LDC application was made, the Class Q development had lawfully commenced in accordance with prior approval 22/01886/COUQ and could have lawfully been carried out. As such, the Council's refusal to grant a certificate of lawful use or development in respect of the proposed implementation of Class Q prior approval 22/01886/COUQ was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

⁶ Council Reference DISCE/00106/23

Appeal B

Main Issue

27. The main issue is whether it would be reasonable to grant planning permission without compliance with condition 3 attached to prior approval 22/01886/COUQ and condition Q.2(4) of the GPDO that is implicitly attached to that permission.

Reasons

28. During the Hearing, the Council confirmed that in the event Appeal A is allowed, they raise no objection to planning permission being granted without compliance with condition 3 attached to prior approval 22/01886/COUQ and condition Q.2(4) of the GPDO, in accordance with the details submitted with the s73 application.
29. There is no objection to the findings of the Preliminary Environmental Risk Assessment Phase 1 Desk Study prepared by Trendrevel Services Limited, dated January 2022 nor the contaminated land report completed by Trendrevel Services Limited, dated 2 February 2024. I find no reason to conclude otherwise. Therefore, I am satisfied that condition 3 attached to prior approval 22/01886/COUQ could be varied so that it requires the development to be carried out in accordance with the findings of the desk study. As a consequence of the findings of the desk study, the requirements of condition 4 are not necessary.
30. S73 of the Act states '*This section does not apply if the previous planning permission was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun.*'
31. The Council initially argued that this provision prevented the variation of condition Q.2(4) of the GPDO. However, condition Q.2(4) stipulates when development must be completed by, not when it must be begun. Therefore, I am satisfied that this condition can in effect be varied through s73.
32. The development has not been completed due to the ongoing dispute between the appellant and the Council on the issue of whether the Class Q prior approval could be carried out lawfully. It is therefore no fault of the appellant's that the development has not been completed in accordance with condition Q.2(4). I find therefore that it would be reasonable to grant planning permission subject to a condition allowing a further 3 years for the development to be completed.

Conclusion on Appeal B

33. I find therefore, on the evidence before me, it is reasonable to grant planning permission subject to conditions differing from those subject to which the prior approval 22/01886/COUQ was granted, which would require the development to be carried out in accordance with the findings of the contaminated land report and that it must be completed within 3 years.

Appeal C

Main Issue

34. The main issue in this appeal is whether the proposed change of use constitutes permitted development pursuant to Class Q of Part 3 of Schedule 2 to the GPDO.

Reasons

35. Paragraph W(11) of Schedule 3 of the GPDO states '*The development must not begin before the occurrence of one of the following— (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required; (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or (c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.*'
36. In my findings on Appeal A, the excavation of the footings constitutes the commencement of development for both the single-dwelling and two-dwelling Class Q schemes. There is no dispute these works took place before the application for prior approval was submitted to the Council for the two-dwelling Class Q scheme, which is the subject of Appeal C. As the development had begun before the submission of the application for prior approval, it cannot be regarded as permitted development.
37. Given my conclusion above there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion on Appeal C

38. For the reasons given above and having regard to all matters raised, the appeal is dismissed.

Appeal D

Main Issue

39. The appeal follows the Council's failure to determine the planning application. In response to the lodging of the appeal, the Council confirms that had it determined the application they would have refused it.
40. Accordingly, the main issues in this appeal are:
- Whether the development would be located in a suitable location, having regard to local and national planning policy; and,
 - Whether there are material considerations sufficient to outweigh any conflict with the development plan and any other harm arising from the development.

Reason

41. Policies CS.15 and CS.16 of the Stratford-on-Avon Core Strategy 2011-2031 (SACS) set out the Council's strategy for the distribution of new housing throughout the district. There is no dispute the appeal site is located outside any of the identified areas for new housing and therefore, for the purposes of the development plan, the site is located within the countryside.
42. Policy AS.10 of the SACS provides a list of different types of development in the countryside that are acceptable. In *Stratford on Avon District Council v Secretary of State for Levelling Up, Housing and Communities* [2022] EWHC 445 (Admin) the

Court found that if Policy AS.10 is a closed list of what is acceptable in principle, the necessary inference is that a development proposal which falls outside one of the categories on the list is not acceptable in principle, and so is in conflict with the policy. It was confirmed that it is a closed list.

43. One type of development permitted by Policy AS.10 is the conversion of a redundant or disused building in open countryside. However, this only applies if the building is constructed of brick or stone; is listed; or of local historic, architectural or other merit. The appeal building is not constructed of brick or stone. Its design is typical of a modern agricultural building and therefore it has no architectural merit. Moreover, it is not listed nor of local historic merit. Accordingly, the proposed development would not fall within any of the specific types of development permitted by Policy AS.10.
44. The penultimate paragraph within Policy AS.10 states '*All other types of development or activity in the countryside, unless covered by a specific policy in the Core Strategy, will need to be fully justified, offer significant benefits to the local area and not be contrary to the overall development strategy for the District*'.
45. While the proposal would provide modest economic benefits during construction and make a limited contribution to housing supply, these benefits would be modest in scale and would not amount to the "significant benefits" required by Policy AS.10
46. Paragraph 84 of the National Planning Policy Framework (the Framework) seeks to avoid new isolated homes in the countryside unless there are special circumstances. Whilst the Framework provides no definition of 'isolated', it connotes a dwelling that is physically separate or remote from a settlement, and it is for the decisionmaker to determine in relation to the specific circumstances of the case.
47. The appeal site is some distance from any defined settlement boundary, it does not form part of an immediate cluster of buildings, and its setting and siting are such that it is closely related to the surrounding countryside. Furthermore, it is accessed via a rural road with no pavement or streetlighting. In respect of paragraph 84 of the Framework, I therefore find it to be isolated.
48. Paragraph 84(c) allows development that would re-use redundant or disused buildings and enhance its immediate setting. The appellant is not currently undertaking any agricultural activity within the appeal building. At the time of my site visit, there were a couple of agricultural type trailers, what looked like a large grass mower, piles of road planings and some used tyres stored within the confines of the appeal site. However, the building itself was entirely empty. Whilst the building might have been used to a limited degree in the recent past for the storage of some items, overall, I find that the building is redundant.
49. In terms of enhancing its setting, the existing building is largely open on two sides and has a typical agricultural, utilitarian design that is commonly found in such rural locations. The building is no longer in use and retains its structural form and agricultural appearance. The proposed development would introduce a domestic form and appearance that would contrast with the prevailing agricultural character. Whilst the reuse of the building would remove its current redundancy, the overall effect on the immediate setting would be, at best, neutral rather than beneficial. I therefore do not consider that it would enhance its immediate setting.

50. There is some tension between Policy AS.10 and paragraph 84(c) of the Framework, insofar as Policy AS.10 imposes additional requirements (such as construction in brick or stone) which are not found in national policy. As the Framework is more recent, it carries greater weight where conflict arises. However, even applying paragraph 84(c), the proposal would fail to enhance the immediate setting and would therefore conflict with national policy.
51. I find therefore, the proposed development would not be located within a suitable location as envisaged by Policies CS.15, CS.16 and AS.10 of the SACS. Moreover, it would fail to comply with paragraph 84 of the Framework.
52. The Council also refer to Policy H1 of the Parish of Brailes Neighbourhood Development Plan, which supports development within the built-up boundary. However, Policy H1 makes no reference to development in the open countryside. Therefore, it is not relevant to the appeal proposal and carries limited weight in the determination of this appeal.

Other Considerations

53. As a result of my finding on Appeals A and B, there is an extant planning permission for the change of use of the agricultural building into a larger residential dwelling (C3) and associated building operations under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO). I have also found that the development that is the subject of Appeal A and B has commenced.
54. Consequently, if I were minded to dismiss this appeal, the conversion of the building in accordance with the extant planning permission is more than a theoretical proposition. As the Council's principal objection to the proposal is its location, the fallback position would result in the conversion of the building in any event. Accordingly, as a fall-back position, the extant planning permission is attributed substantial weight.

Planning Balance and Conclusion

55. Paragraph 11 of the Framework sets out the "presumption in favour of sustainable development", and goes on to explain what this means for decision-taking. Sub-section (d) addresses what to do in situations where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date. This includes situations where the Council cannot demonstrate a 5 year supply of housing sites. In these situations, planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
56. The presumption in favour of sustainable development enshrined in the Framework does not displace the statutory requirement of determining planning applications in accordance with the development plan, unless material considerations indicate otherwise. This appeal should be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise. The presumption in favour of development is one such material consideration.

57. There is no dispute that the Council cannot demonstrate a five-year supply of deliverable housing land. During the Hearing the Council confirmed that they currently only have a 2.21-year supply of deliverable housing land. This is a considerable shortfall. Therefore, paragraph 11(d) of the Framework applies. It is therefore necessary to consider whether any adverse impacts of allowing permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
58. There are economic benefits through the construction of the development and there would be a positive contribution to the supply of housing, for which there is a considerable shortfall. However, given that it is for a single dwelling, such benefits would be modest.
59. The proposed development would not be located within a suitable location, as envisaged by the development plan and national policy. This conflict undermines the spatial strategy and attracts significant weight.
60. Overall, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development would not apply in this case.
61. Notwithstanding the above, the fallback position is also a material consideration, to which I have attributed substantial weight in favour of the development. In the event the extant permission is built out, which based on the evidence before me appears to be more likely than not to happen, there would be a dwelling in this location, regardless of the Council's objection to the proposal. Accordingly, I find that the fallback position is a material consideration that outweighs the conflict the development would have with the development plan.

Conditions

62. In the interests of clarity, a condition is necessary requiring compliance with the approved drawings.
63. In the interests of protecting the character and appearance of the area, conditions are necessary regarding external materials, landscaping and external lighting.
64. In the interests of highway safety, conditions are necessary requiring suitable visibility splays, improved access, car parking spaces and cycle storage, and suitably hung entrance gates.
65. In the interests of public safety, a condition is necessary requiring the development to be carried out in accordance with the recommendations of the Preliminary Environmental Risk Assessment Phase 1 Desk Study. As the Study found no unacceptable risk, a condition requiring a Remediation Strategy is not necessary.
66. In the interests of protecting and enhancing biodiversity, a condition is necessary requiring an ecological mitigation and enhancement plan. It is necessary that this is a pre-commencement condition to ensure no works are carried out that could adversely effect biodiversity. The appellant agrees to this.
67. In the interests of encouraging the re-use of water resources, a condition is necessary requiring the installation of a water butt.

68. In the interests of providing essential infrastructure, a condition is necessary requiring suitable waste and recycling facilities.
69. In the interests of promoting sustainability measures, a condition is necessary requiring the compliance with the Climate Change Checklist.

Conclusion on Appeal D

70. I conclude that while the proposed development conflicts with the development plan, the other material considerations in this appeal – which include the fallback position – are of such weight as to overcome that conflict and justify granting planning permission.

Formal Decision

Appeal A

71. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Appeal B

72. The appeal is allowed and planning permission is granted for the change of use of an agricultural building into a larger residential dwelling (C3) and associated building operations under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO) at Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ in accordance with the application Ref 25/02026/VARY dated 21 August 2025, without compliance with condition numbers 3 and Q.2(4) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 previously imposed on planning permission Ref 22/01886/COUQ, dated 26 August 2022 and subject to the conditions contained within Schedule 1 attached to this decision letter.

Appeal C

73. The appeal is dismissed.

Appeal D

74. The appeal is allowed and planning permission is granted for the conversion of agricultural building to single dwelling at Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ in accordance with the terms of the application, Ref 25/02776/FUL, dated 12 November 2025, subject to the conditions contained within Schedule 2 attached to this decision letter.

A Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

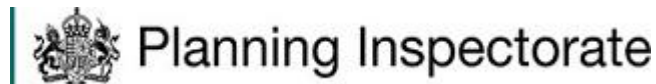
Paul Cairnes KC	No5 Chambers, counsel for the appellant
Neil Warner	Director, JPPC
Matt Chadwick	Associate, JPPC
Gregory Besterman	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Anna Stein	No5 Chambers, counsel for the Council
Stuart McIver	Senior Planner, Stratford on Avon District Council

INTERESTED PARTIES:

Councillor Sarah Whalley-Hoggins	District Councillor for Brailes and Compton
Martin Cole	Chair of Brailes and Winderton Parish Council



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 18 March 2024 the operation described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development shown in the details accompanying prior approval reference 22/01886/COUQ would have been development permitted by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and would therefore have been granted planning permission by Article 3(1) of the GPDO. Furthermore, the development permitted had commenced.

Signed

A Walker

Inspector

Date: 8 June 2026

Reference: APP/J3720/X/25/3375547

First Schedule

Proposed implementation of Class Q prior approval 22/01886/COUQ

Second Schedule

Land at Tallifields, Brailes Road, Warwickshire, CV36 5EJ

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in this decision dated: 8 June 2026

by A Walker

Land at: Tallifields, Brailes Road, Warwickshire, CV36 5EJ

Reference: APP/J3720/X/25/3375547

Scale: Not to Scale



SCHEDULE OF CONDITIONS 1 – APPEAL B

- 1) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
 - Dwg no: 22023-L0001-A (Site Location Plan)
 - Dwg no:22023-PE0010-B (Proposed Elevations)
 - Dwg no:22023-PE0011 (Proposed Elevations)
 - Dwg no: 22023-PP0010-A (Site Layout)
 - Dwg no: 22023-PP0030-A (Proposed Floor Plans)
- 2) The development shall not be occupied until parking spaces for 4 cars and a turning area has been provided within the site so as to enable cars to leave and re-enter the public highway in a forward gear in general accordance with Drawing Number 22023-PP0010, Rev A, dated 17th June 2022 and until secure storage for 3 bicycles has been provided within the site in accordance with SDC SPD standards.
- 3) The development shall be carried out in accordance with the findings of the contaminated land reports prepared by Trendrevel Services Limited, dated 2 February 2024.

END OF SCHEDULE

SCHEDULE OF CONDITIONS 2 – APPEAL D

- 1) The development to which this permission relates must be commenced not later than the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings: 22023-L0001-E, 22023-PP5010-, 22023-PP5011-, 22023-PP5012-, 22023-PE5010-, 22023-PE5011-.
- 3) Prior to the progression of any part of the development hereby permitted above slab level, samples and trade descriptions of the external facing and roofing materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved materials.
- 4) Prior to occupation or use of any part of the development hereby permitted, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include:
 - (a) planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - (b) the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - (c) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
 - (d) existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted (where appropriate);
 - (e) existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate);
 - (f) the means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
 - (g) location, type and materials to be used for hard surfacing where applicable;
 - (h) the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;
 - (i) car parking layout and any other vehicular and pedestrian access and circulation areas;
 - (j) historic landscape features to be retained, removed or restored (where appropriate); and
 - (k) a timetable for the implementation of the soft and hard landscaping scheme.

If within a period of five years from the date of the soft planting pursuant to this condition that soft planting is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

- 5) Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on the building itself), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowl of all external lights to the building and other parts of the application site and the hours at which such lighting is to be operated. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be retained in that form.
- 6) The development shall not be occupied until visibility splays have been provided to the vehicular and pedestrian access to the site with an 'x' distance of 2.4m and 'y' distances to the near edge of the public highway carriageway of 112m to the east and to the crossroads junction between the D6640 and Brailes Road (D6630) to the west. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6m above the level of the public highway carriageway.
- 7) The development shall not be occupied until the access to the site for vehicles and pedestrians has been modified in general accordance with Drawing Number 27424-01, dated November 2025 and has been surfaced with a bound macadam material for a distance of no less than 5.5m as measured from the near edge of the public highway carriageway. The access shall be retained and maintained as such thereafter.
- 8) The development shall not be occupied until vehicle parking spaces and secure cycle storage facilities meeting in full Stratford-on-Avon District Council Development Requirements Supplementary Planning Document standards in respect of capacity and design have been provided on-site together with a turning area to enable the largest vehicles expected to access the development to turn within the site and to leave and re-enter the public highway in a forward gear, with details to be approved in writing by the Local Planning Authority.
- 9) Gates erected at the entrance to the site for vehicles shall not be hung so as to open to within 5.5m of the near edge of the public highway footway, should only open inwards to the private land and should not block any part of the public highway when opened.
- 10) The development shall be carried out in accordance with the recommendations set out in the Preliminary Environmental Risk Assessment Phase 1 Desk Study prepared by Trendrevel Services Limited, dated January 2022 and the Contaminated Land Report completed by Trendrevel Services Limited, dated 2 February 2024.

- 11) The development hereby permitted (including site clearance) shall not commence until an Ecological Mitigation and Enhancement Plan including the location and specification of proposed enhancements (e.g. planting measures, barn owl box and any other appropriate ecological enhancements such as additional bat and bird boxes) has been submitted to and approved in writing by the Local Planning Authority. Such measures will be shown on all applicable annotated site plans and elevations, and such approved mitigation and enhancement measures shall thereafter be implemented in full and maintained in strict accordance with the approved details in perpetuity.
- 12) The development hereby permitted shall not be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to a downpipe. The water butt shall be retained and maintained as such thereafter.
- 13) Prior to occupation of the development hereby permitted the developer shall provide 3 bins for the dwelling for the purposes of refuse, recycling and green waste, in accordance with the Council's bin specification. The bins shall be retained and maintained as such thereafter.
- 14) Prior to first use of the development hereby permitted, the sustainability measures set out within the supporting 'Climate Change Checklist' submitted to the LPA on 13th November 2025 shall be incorporated into the design of the development and/or site layout as relevant. The approved sustainability measures shall be retained and maintained as such thereafter.

END OF SCHEDULE