

DELEGATED DECISION REPORT

DET/2022/0014
Valid 23/09/2022

**HIGHWOOD FARM,
MELLOR ROAD, NEW
MILLS, DERBYSHIRE, SK22
4QG**

**CHANGE OF USE OF
AGRICULTURAL BUILDING TO
A DWELLING UNDER CLASS
Q OF THE GENERAL
PERMITTED DEVELOPMENT
ORDER
(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)**

MAIN ISSUES

- Whether the proposed change of use satisfies the definition of permitted development under Schedule 2, Part 3, Class Q(a) and (b) of the General Permitted Development Order (GPDO) 2018 (As Amended) in the first instance and, if these criteria are met,
- Whether the proposed change of use meets the criteria set out under paragraph Q.1 where development is not permitted and, if these criteria are met,
- Whether Prior Approval is required with regard to:
 - a) Transport and Highways
 - b) Noise impacts
 - c) Contamination risks
 - d) Flooding risks
 - e) Whether the location of siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3
 - f) Design or external appearance of the building
 - g) the provision of adequate natural light in all habitable rooms of the dwellinghouseAnd if Prior Approval is required, whether it is granted
- Other matters to consider under the provisions of Paragraph W

DESCRIPTION OF SITE

The site lies within the Countryside and within the Green Belt, as confirmed by the Local Plan Policies Map. The application building is a stone built barn of traditional design. Access to the site is off Mellor Road with an area of manoeuvring space to the side of the building adjacent to the public highway.

PROPOSAL

This is an application for the determination as to whether the prior approval would be required for the conversion of a barn to dwelling. The application is made under

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

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2022/0367 - Change of use of agricultural building to a dwelling under class Q of the general permitted development order – Withdrawn – 26/09/22

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Paragraph W sets out the procedure for any prior approval application under Schedule 2, Part 3 of the GPDO. Paragraph (10) states that the local planning authority must, when determining an application have regard to the National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

Revised National Planning Policy Framework 2021

Chapter 2 - Achieving Sustainable Development
Chapter 5 - Delivering a sufficient supply of homes
Chapter 9 - Promoting Sustainable Transport
Chapter 12 - Achieving Well Designed Places
Chapter 15 - Conserving and enhancing the Natural Environment

CONSULTATIONS

Publicity

Site Notice expiry date: N/A
Neighbour consultation period ends: 18/10/22
Press Advert: N/A

Public Comments

None received

Town / Parish Comments

None received

DCC Highways - Whilst its appreciated the applicant has submitted plans demonstrating visibility sightlines, the full extents of the sightlines should be demonstrated and it appears likely that the splay in the Southern direction would likely require land outside the applicants control when measured to the nearside carriageway edge for a distance of 103m.

Therefore, the Highway Authority recommends that the entire site frontage be cleared, and maintained thereafter, clear of any obstruction exceeding 1m in height (0.6m in the case of vegetation) relative to the road level for a distance of 2.4m into the site from the carriageway edge in order to maximise the visibility available to drivers emerging onto the highway.

The proposed off-street parking bays demonstrated on the Proposed Block Plan are below recommended dimensions i.e., each parking bay should measure a minimum of 2.4m x 5.5m with an additional 0.5m of width to any side adjacent to a physical barrier e.g., wall, hedge, fence, etc. However, the existing/modified area of hardstanding is sufficient to serve acceptable levels of off-street parking associated with the proposed dwelling, along with manoeuvring space so that vehicles can both enter and emerge from the site in a forward gear.

The Highway Authority has no objections to the proposal subject to conditions.

Environmental Health - The Environmental Health Department has no objection to the proposed development subject to conditions.

OFFICER COMMENTS

Whether the proposal is Class Q development in the first instance

Class Q allows, as permitted development, development which consists of:

- (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and or*
- (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.*

The permission under the GPDO allows for the change of use of a building and any land within its curtilage to a Class C3 use. The definition of curtilage is provided within Paragraph X which provides interpretation of development under Part 3.

Under paragraph X, "curtilage" is defined as:

- a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
- (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,*
whichever is the lesser
(emphasis added)

The existing building is adjoined by land which is partially enclosed and partially unenclosed but closely associated with the building. However, the existing building occupies an area of 280sqm (including elements to be demolished). Any curtilage or land sought for change of use should therefore be no greater than 560sqm. The proposed size of the curtilage as indicated within the application forms is 730sqm. The Council's own measurements, based on the land indicated within the submitted block plans, indicate the curtilage to be in the region of 690sqm, which is more than twice the size of the existing building.

The size of the curtilage proposed exceeds that of the existing building, being the lesser measurement, by 130sqm, and as such the proposal would not be permitted development on this basis.

Matters relating to whether this is an agricultural building for the purposes of the GPDO and the extent of works to the building are covered below.

Whether the proposed change of use satisfies the criteria set out under paragraph Q.1 to Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2015 (As Amended)

Criteria Q.1 sets out when development under Class Q is not permitted. An assessment against these criteria is set out below.

Q1 (a) the site was not used solely for an agricultural use as part of an established agricultural unit—

- (i) on 20th March 2013, or*
- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or*
- (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begin*

Paragraph X contains the interpretations for Part 3 of the GPDO. An “established agricultural unit” means agricultural land occupied for the purposes of agriculture and “agricultural building” means a building used for agriculture and which is so used for the purposes of a trade or business; “agricultural use” refers to such uses.

No information has been submitted with the application which provides clear and substantive evidence that the site lies within an established agricultural unit or was last solely in use as part of such a unit.

(b) in the case of—

(i) a larger dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres

Paragraph Q.3 provides the definition for a “larger dwellinghouse” as meaning a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres, having a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order.

The proposed dwelling would be larger than 100sqm, however the application does not provide full details of the proposed floorspace which would be created. The application form indicates that a floor area of the building for change of use is 255sqm. This appears to be inaccurate as the building to change use to would have a retained footprint of 216sqm and would have floorspace over two floors. The residential floorspace (net) which could be created would not exceed 432sqm, which falls below the 465sqm threshold.

Notwithstanding the above, limited information has been provided with regard to the extent of the established agricultural unit and whether there have been conversions approved under the Class Q permitted development elsewhere within the extent of the land within the unit. Established Agricultural units can often comprise many hectares of land and include other clusters of buildings which are detached or remote from the main farming complex. Therefore, the LPA have not been able to establish whether these thresholds would be exceeded.

(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres

The development would comply with this criteria.

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres

Not applicable

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5

As set out above with regard to Q1(b) limited information has been provided which demonstrates what the established agricultural unit is or was and therefore it is unclear whether further development under Class Q has been carried out elsewhere in that unit.

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained

The application form indicates that the site is not under agricultural tenancy. The development complies.

(f) less than 1 year before the date development begins—

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use

The application form indicates that the site has not had an agricultural tenancy terminated. The development complies.

(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit—

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins

The extent of the established agricultural unit has not been provided and as such the LPA is unable to determine whether any development under Part 6 has been carried out since 20th March 2013.

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point

The submission indicates that the proposals would not result in the external dimensions of the building exceeding the external dimensions of the existing building.

(i) the development under Class Q(b) would consist of building operations other than—

(i) the installation or replacement of—

(aa) windows, doors, roofs, or exterior walls, or

(bb) water, drainage, electricity, gas or other services,

to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i)

The application has been supported by plans only with no further detail of what works are likely to be reasonably necessary for the development to be able to function as a dwellinghouse. While the building has the appearance of being structurally robust it is not clear whether the development can be carried out without significant works. In the absence of a structural survey the LPA cannot determine the full extent of works which may be reasonably necessary to convert the building to a dwellinghouse.

(j) the site is on article 2(3) land;

The site does not lie within article 2(3) land, the development complies.

(k) the site is, or forms part of—

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

The site is not and does not form part of a SSSI, safety hazard area or military explosives storage area. The development complies with this criteria.

(l) the site is, or contains, a scheduled monument;

The site is not or does not contain a scheduled monument. The development complies with this criteria.

(m) the building is a listed building.

The building is not a listed building, the development complies.

Conclusions on Paragraphs Q.1

Insufficient information has been provided to enable the Local Planning Authority to determine that the development satisfies the criteria set out in section Q.1, of Part 3, Class Q. Insufficient information has been provided to demonstrate that the development satisfies Paragraphs Q.1(a), Q.1(b), Q.1(d), Q.1(g) and Q.1(i).

Therefore, the LPA cannot determine that the development would be permitted development.

As the LPA cannot establish that the development is permitted development, it is therefore not necessary to proceed to the next stage of the Prior Approval conditions set out in Paragraph Q.2.

Other Considerations

Paragraph W sets out the procedure for applications for prior approval under Part 3. Paragraph W (2) states that an “application must be accompanied by” certain statements and information. Some of the requirements of this are considered below:

(bb) in relation to development proposed under Class Q of this Part, a statement specifying—

- (i) the number of smaller dwellinghouses proposed;*
- (ii) the number of larger dwellinghouses proposed;*
- (iii) whether previous development has taken place under Class Q within the established agricultural unit and, if so, the number of smaller and larger dwellinghouses developed under Class Q*

The above is linked to the requirements of Q.1(b) – (d) which relates to the size of dwellings proposed etc. While an assessment has been carried out, no such statement has been provided. This is largely due to the submission of an incorrect application form. The form submitted relates to an earlier Class MB, of Part 3 of the 1995 GPDO which has been superseded by Part 3, Class Q of the 2015 GPDO. The updated Class Q application form includes questions on such criteria. Had the correct form been provided then such a statement as required by W(2)(bb) could have been construed to have been provided.

(bc) in relation to development proposed under Class G, M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses

The application has been accompanied by proposed floorplans, however these floorplans do not indicate the total floor space of the proposed dwelling. Furthermore, the floorplans only indicate the use and dimensions of some of the rooms. Therefore the application fails to provide the information required by W(2)(bc).

CONCLUSION / PLANNING BALANCE

Paragraph W(3) confirms that *“The local planning authority may refuse an application where, in the opinion of the authority— (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions except for conditions in paragraph M.2(1)(f), G.1(d)(iv), paragraph M.2(1)(f), paragraph MA.2(2)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g), limitations or restrictions specified in this Part as being applicable to the development in question”.*

The submitted details have been found to not be permitted development as the proposals fail to comply with Class Q insofar as the extent of curtilage proposed for change of use exceeds that which is permitted.

Furthermore, the application has been accompanied by insufficient information for the LPA to determine whether the development complies with limitations and restrictions of Q.1(a), Q.1(b), Q.1(d), Q.1(g) and Q.1(i).

Finally, the application has not been accompanied by the relevant statements and information as required by Paragraph W(2) (bb) and W(2)(bc) of the GPDO.

In light of the above, the application is not permitted development and the application should be refused in accordance with Part 3, Paragraph W(3) of the GPDO.

OFFICER RECOMMENDATION: REFUSE

Case Officer: Declan Cleary

Recommendation Date: 18/11/2022

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council