

DELEGATED DECISION REPORT

DET/2024/0003
Valid 24/01/2024

BIG TREE FARM DOLLY
LANE
BUXWORTH

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR A PROPOSED
CHANGE OF USE OF
AGRICULTURAL BUILDING TO
DWELLINGHOUSES (USE
CLASS C3), AND FOR
BUILDING OPERATIONS
REASONABLY NECESSARY
FOR THE CONVERSION

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- The main issue for consideration is whether the LPA considers that prior approval is required, and granted in accordance with Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

DESCRIPTION OF SITE

This application relates to a stone barn attached to an existing property known as 'Big Tree Farm'. The building is one and a half storey reducing to a single storey on its western end. There are existing barn doors and stable door openings on the western and southern elevation with smaller openings on the northern elevation and a largely blank eastern elevation. A modest area of levelled hardstanding is located to the south and west of the building adjacent to the existing garden of Big Tree Farm. Access is taken from Dolly lane to a crushed limestone hardstanding and parking area to the north with parking and turning for 2 vehicles as existing. A public right of way runs along the northern boundary of the site.

This application is a resubmission of a previously approved Class Q application that nearly expired due to the time limit condition. (DET/2021/0001)

PROPOSAL

Prior approval is sought for the change of use of a redundant attached farm building to a three bedroom one and a half single storey dwellinghouse with single storey store room. Access and parking will remain as existing with minimal changes to the external walls. Roof lights will be inserted through the roof slopes to provide light and ventilation to the proposed bedrooms.

This application is a like for like of the previous approval.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

None relevant

National Planning Policy Framework

None relevant

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

DET/2021/0001- change of use of an agricultural building to a dwellinghouse- approved with conditions

CONSULTATIONS

Publicity

Site Notice expiry date: expired
Neighbour consultation period ends: expired
Press Advert: N/A

Public Comments

None received

Town / Parish Comments

The Parish Council have no objection

Derbyshire Wildlife Trust

No roosting bats were discovered in the bat survey and therefore no further survey work or mitigation is required. If bats are found at any time then as per the report recommendations works should cease and a bat ecologist should be contacted. We advise a condition regarding nesting birds and timings of the conversion works.

Derbyshire County Council Highways

No objections subject to conditions

OFFICER COMMENTS

1. 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).

Class Q allows for –

(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 (dwellinghouse) of the Schedule to the Use Classes Order; 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.

To be permitted, the development must not conflict with any of the criteria under

Paragraph Q.1. An assessment of the proposal against this criteria is undertaken below:

Q.1 Development is not permitted by Class Q if –

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

(i) on 20th March 2013, or

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

(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

It is accepted that the building has historically been used for the purposes of agriculture. There is no evidence to suggest that the building has been used for any other purpose and as such the proposal accords with criterion (a).

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;

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

For the purposes of Class Q, a “larger dwellinghouse” means 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 (dwellinghouses) of the Schedule to the Use Classes Order.

The proposal is approximately 143m² and is therefore a 'larger dwellinghouse'. As such the proposal complies with (i) parts (aa) and (bb).

(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;

Section c is not relevant as the proposal comprises a 'larger dwellinghouse'.

(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;

Section (d) is not relevant as the proposal comprises a single 'larger dwellinghouse' of approx. 143m² and does not exceed 465m².

(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 forms states the site is not occupied under agricultural tenancy.

(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;

As above, this is not relevant.

(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

There have been no developments carried out under Class A(a) or Class B(a) of part 6 of schedule 2.

(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 proposals do not include any extensions.

(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);

It is considered that the proposals comply with these requirements. Planning Practice Guidance para 105 outlines 'The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

From a site inspection the building appears suitable for conversion without extensive building work. Although there are a large number of roof lights proposed, the insertion of windows is a permitted alteration.

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

This site is not within a conservation area.

(k) the site is, or forms part of—

(i) a site of special scientific interest;

(iii) a safety hazard area;

(iv) a military explosives storage area;

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

(m) the building is a listed building.

The site is none of the above.

Conditions

Q.2: Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport and highways impacts of the development,**
- (b) noise impacts of the development,**
- (c) contamination risks on the site,**
- (d) flooding risks on the site,**
- (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order,**
- (f) the design or external appearance of the building , and**
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.**

(2) Where the development proposed is development under Class Q(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date. An assessment of this prior notification application has concluded, based on all information submitted by the applicant and other material considerations, paragraph 105 of the NPPG, that the proposed change of use amounts to a conversion of an agricultural building and complies with Q.1. As such the development constitutes permitted development under the provisions of Schedule 2, Part 3, Class Q of the GPDO.

Transport and Highways Impacts

The proposed dwelling will utilise the existing access that serves the agricultural building and Big Tree Cottage. The proposal would provide 2no. parking spaces which is considered sufficient to serve a three bedroom unit.

The highway authority had initially raised concerns about the sub standard visibility splays on this section of Dolly Lane. However, following the submission of additional details the highway authority have subsequently removed this objection.

The proposals are not considered to result in concerns regarding highway safety.

Noise Impacts & Contamination

The proposed building is attached to Big tree farm and is also within the applicants

ownership. There are no other residential properties in the immediate vicinity of the site. Taking account of the nature of the works proposed and the site circumstances it is not considered that the development would result in undue impacts of noise or impacts from contamination. Furthermore, there are no surrounding uses that would give rise to any adverse noise impacts to future occupants.

The Council's Contaminated Land Officer has raised no concerns.

Flooding

With regards to the matter of flooding, the Environment Agency flood map shows the site to be outside of a flood zone and there are no known local flooding issues. The proposed development is therefore considered to be acceptable in relation to this particular consideration.

Siting, Design and Appearance

In terms of design and appearance, the scheme has been appropriately designed to retain the character and rural appearance of the site. Existing openings are to be retained and utilised. New openings have been kept to a minimum and although there are a large number of roof lights, these are required for light to habitable rooms and are the less intrusive than high level windows in the walls. The proposal involves the sympathetic re-use of an existing building with limited elevational change, no extensions are involved and minimal curtilage areas within the existing farm complex are proposed.

Protected Species

The safeguarding of protected species and their habitats would be dealt with under the other legislation where set procedures apply before the commencement of development. In response to comments received from Derbyshire Wildlife Trust a Supplementary Bat Survey has been submitted for consideration. DWT have commented that the survey adequately demonstrates there are no bats present. An appropriately worded condition has been recommended to secure the timing of works to avoid nesting birds.

As set out in paragraph X of Part 3, "curtilage" means, for the purposes of Class Q, R or S only—

(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;"

It is noted that some appeal decisions consider that access, parking and turning facilities should not be included within the area calculation for curtilage. As such, the the private amenity space associated with the proposed dwelling would not exceed the requirements of paragraph X and parking and turning space has been minimised. It is considered that the scheme is compliant with paragraph X

OFFICER RECOMMENDATION : That prior approval be granted

Case Officer: Rebecca Bowers

Recommendation Date: 29.05.2023

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council