

DELEGATED DECISION REPORT

DET/2024/0017 Valid 13/05/2024	STUBBINS FARM UNNAMED ROAD FROM STUBBINS LANE TO TITHE BARN FARM CHINLEY	APPLICATION TO DETERMINE IF PRIOR APPROVAL IS REQUIRED FOR A PROPOSED: CHANGE OF USE OF AGRICULTURAL BUILDINGS TO TWO DWELLINGHOUSES (USE CLASS C3), AND FOR BUILDING OPERATIONS REASONABLY NECESSARY FOR THE CONVERSION (NOTIFICATION - CHANGE OF USE PRIOR APPROVAL)
-----------------------------------	--	---

MAIN ISSUES

- Assessment of application for the change of use of an agricultural building to dwelling house (Class C3) under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class Q

DESCRIPTION OF SITE

The shed is of a typical modern agricultural design. Its utilitarian appearance amongst a cluster of other modern sheds and more traditional rural buildings is a characteristic feature of the surrounding landscape.

The building is a modern steel-framed agricultural shed with a sloping concrete floor. It has a full height blockwork gable separating it from an adjoining agricultural shed on its eastern side. The remaining elevations variously consist of areas of part-height blockwork, corrugated fibre-cement sheeting to the upper elevations and some openings. The roof has supplementary timber purlins supporting fibre sheeting.

The barn is situated within the wider curtilage of Stubbins Farm.

The building lies outside of the development boundary of Chinley, within the Green Belt and countryside designations of the High Peak Local Plan (2016).

PROPOSAL

The principle of the class Q conversion of this building was approved at an appeal (reference: APP/H1033/W/22/3295929) and by a subsequent application DET/2023/0007. The 2023 application had sought approval for two dwellings but the

description on the decision notice incorrectly referenced a singular 'dwelling' despite the approved drawings showing two dwellings.

This application seeks to rectify the administration error and secure approval for the conversion of the building into two dwellings.

The submitted existing plans show a cluster of 4 building labelled Building A, Building B, Building C and Building D. The proposed change of use relates to Building B which would be subdivided into two dwellings (noted as dwelling B and dwelling C on the drawings) :

Dwelling B: a single storey 3 bedroom property comprising 102sq.m

Dwelling C: a two storey 3 bedroom property comprising 151 sq.m

The proposed external changes include:

- Door on south elevation (dwelling c)
- Windows and bi-folding doors on the north elevation
- Bi-folding doors on western elevation (dwelling b)
- Rooflights rearranged and reduced in number

The submitted plans are identical to those that were submitted with application DET/2023/0007.

POLICY CONTEXT AND MATERIAL CONSIDERATIONS

- National Planning Policy Framework
- Planning Practice Guidance
- The Town and Country Planning (General Permitted Development) (England) order 2015 (as amended), Schedule 2, Part 3, Class Q, W and X (where relevant) (GPDO)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

The subject barn and adjacent barns at the property have been subject to various applications to change their use to residential:

Subject barn (building b)

DET/2023/0007 – Change of use of agricultural building to dwelling – Approved 23.05.23

DET/2021/0020 Change of use of agricultural buildings to dwellinghouse (C3) – Refused, Appeal Allowed 15.09.22 (APP/H1033/W/22/3295929)

Adjacent barn (building a):

DET/2021/0003 - Change of use of agricultural buildings to one dwelling house – Prior approval granted - 09.04.21

DET/2017/0010 Conversion of agricultural building to one dwelling – Approved – 30.10.17

Whole site:

DET/2020/0012 - The conversion of agricultural units to form 3 X dwellings under Class Q of The Permitted Development Order. The renewal of DET/2017/0010 and conversion of additional agricultural units to form a total of 3Nr dwellings. at Stubbins Farm Unnamed Road From Stubbins Lane To Tithe Barn Farm, Chinley – Refused 20.11.20

CONSULTATIONS

Publicity

Site Notice expiry date:
Neighbour consultation period ends: 05.06.24

Public Comments

Two letters of objection have been received raising the following concerns:

- The site is in the Green Belt
- The site is subject to flooding
- The site is home to a colony of bats
- There are two other development close at hand being built and further building will result in overdevelopment of a quiet rural setting

Increased traffic will also damage the access road which is already in a poor condition.

Parish Comments

Chinley, Buxworth & Brownside Parish Council wish to reiterate concerns expressed in their previous objection to application DET/2023/0007, namely that the scale, roof pitch, construction materials, design and overall appearance of this building is inappropriate for conversion to domestic dwellings at this location and would be harmful to the character and appearance of the local area, especially as they would be visible from public viewpoints. They are also concerned about the potential overdevelopment at this location which would result in a total of three dwellings in this relatively small area, including the current proposal and the traditional stone barn conversion on the road frontage.

Environmental Health

No comment received.

Derbyshire County Council Highways

The premises to be converted to residential dwellings are located on a road/track which serves a small number of residential dwellings and other converted former agricultural buildings as well as, what is assumed to be, a working farm at the end; the road is a dead end at the far west of Stubbins Lane. DCC records show that the road is publicly maintained highway up to the location of the application site.

Considering the small scale of the development, the use of an existing vehicular access to serve one of the dwellings and the expected low vehicle flows and speeds on this part of Stubbins Lane, as well as taking in to account the vehicular traffic which could have been generated by the former use of the site as farm, it is considered that the proposals will not have an unacceptable impact on the highway network.

It is noted that the application proposes the creation of a new vehicular access to serve plot B which will provide access to a parking and turning area behind. One of the two indicated parking spaces does appear to be inaccessible due to its alignment with the access; however, the overall area indicated as parking/turning is of sufficient size to allow two vehicles to park and manoeuvre.

Derbyshire Wildlife Trust

Up to date bat and bird surveys should be carried out for the buildings to be affected to determine the presence / likely absence of protected species. This should comprise a Preliminary Bat Roost Assessment, including checks for nesting birds, in the first instance. However, if nocturnal bat surveys are necessary, these must be completed prior to determination.

This comment has been queried with DWT as it is not clear if they have assessed the 2023 bat survey. See ecology section below.

OFFICER ASSESSMENT

This application is for the change of use of agricultural buildings to form one 'larger' dwellinghouse (Use Class C3), and associated operational development, under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class Q.

This application was submitted before 21 May 2024 and therefore the assessment is made under the previous class Q regulations and not the new Class Q regulations which came into effect on 21 May 2024.

Class Q relates to development consisting of:

- (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; 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 above legislation allows for the conversion of an agricultural building and any land within its curtilage to a use falling within Class C3 (dwellinghouses). Curtilage is defined in Schedule 2, Part 3, Class V, Paragraph X of the GPDO 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 The procedure required for applications for prior approval is specified in Schedule 2, Part 3, Class V, Paragraph W of the GPDO:

W.1 The following provisions apply where under this Part the developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.	
W.2 The application must be accompanied by -	Y/N
(a) a written description of the proposed development, which, in relation to development proposed under Class Q of this Part, must in the same application include any building or other operations	Y
(b) a plan indicating the site and showing the proposed development.	Y
(ba) a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, “net increase in dwellinghouses” is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development)	Y
(bb) 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	Y
(bc) in relation to development proposed under Class 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	Y
(c) the developer’s contact address;	Y
(d) the developer’s email address if the developer is content to receive communications electronically; and	Y
(e) where sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment	Y
together with any fee required to be paid	Y

Q.1 Development is not permitted by Class Q –
<i>(a) if the site was not used solely for an agricultural use as part of an established agricultural unit –</i> <i>(i) on 20th March 2013; or</i> <i>(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</i> <i>(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.</i> <i>The Town and Country Planning Act 1990 defines “agriculture” as: includes horticulture, fruit growing, seed growing, dairy farming, the</i>

breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly

The building was last in agricultural use and has been so since before 20th March 2013.

***(b) if in the case of –
(i) a larger dwelling house, 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 465m²***

“Larger dwellinghouse” being defined as a dwellinghouse that has a floor space of more than 100m² and no more than 465m² (GPDO Sch 2, Part 3, Class Q, Q.3 Interpretation of Class Q) and “floor space” means the total floor space in a building or buildings (GPDO Sch 2, Permitted Development Rights, Interpretation, page 6)

Both of the proposed dwellings (b & c) are over 100sqm and are therefore classified as larger dwelling house. There has been previous Class Q prior approvals at the site including proposals for building A (ref. DET/2021/0003). However, this was approved on 09.04.21 with 3 years for implementation and has deemed to be a lapsed permission. As such the two dwellings total 253 sqm below the 465sqm floorspace limit.

***(c) if in the case of –
(i) a smaller dwelling house, 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 100m²
“Smaller dwellinghouse” being defined as a dwellinghouse that has a floor space of no more than 100m² (GPDO Sch 2, Part 3, Class Q, Q.3 Interpretation of Class Q)***

No smaller dwellinghouses are proposed.

(d) if 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>(i) a larger dwellinghouse or larger dwellinghouses having more than 465m² of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;</i> <i>(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</i>
As noted above DET/2021/0003 relating building A is deemed to have expired. The two proposed dwellings have a combined floorspace of 253sqm.
<i>(e) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained.</i>
The proposal is compliant with the above section of the legislation.
<i>(f) if less than 1 year before the date development begins:</i> <i>(i) an agricultural tenancy over the site has been terminated, and</i> <i>(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</i>
See (e) above
<i>(g) 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 –</i> <i>(i) since 20th March 2013; or</i> <i>(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date the development under Class Q begins</i>
Development has not been carried out under Class A(a) or Class B(b) of Part 6 of this Schedule during the period specified. The proposal is therefore compliant with the above section of the legislation.
<i>(h) if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.</i>
The proposal would not extend the size of the barn at any given point and is therefore compliant with the above section of the legislation.
<i>(i) if the development under Class Q(b) would consist of building operations other than –</i> <i>(i) the installation or replacement of -</i> <i>(aa) windows, doors, roofs, or exterior walls, or</i> <i>(bb) water, drainage, electricity, gas, or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and</i> <i>(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i)</i>

The barn subject of this application is a modern steel-framed shed constructed from concrete breeze blocks, profiled cement sheet walls and a profiled cement roof. A structural survey has been submitted with the application which confirms that the building is sound condition. The submitted plans show insertion of new windows and doors on the eastern and northern elevations and partial infill of the southern elevation. Other internal fitout is proposed which is all permitted and in accordance with criterion (i) above.
(j) if the site is on article 2(3) land
The proposal site is not within a designated Conservation Area, or Area of Outstanding Natural Beauty.
(k) if 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 proposal site is not within a SSSI, safety hazard area, or military explosives storage area
(l) if the site is, or contains, a scheduled monument.
The proposal site does not contain a scheduled monument.
(m) if the building is a listed building
The building is not a listed building.

Conditions

Class Q(a) and Class Q(b) development is permitted subject to the determination of the Local Planning Authority as to whether any of the following require the prior approval of the authority.

<i>Q.2 (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), the 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 -</i>
(a) transport and highways impacts of the development;

The highway officer confirms that given the scale of the development with expected low traffic flows, also having regard to its former agricultural use, it is considered that the proposals will not have an unacceptable impact on the highway network.

Although local residents raise concerns over the impact on the highway, for the above reasons it is not considered that the use of the building for residential purposes would have any greater impact on the operation of the highway, when compared to the established agricultural use of the building as its associated vehicle movements.

The proposal includes four car parking spaces, two for each dwelling, which is the same proposal as DET/2023/0007 (dwg 404) which accords with High Peak parking standards. The Highway officer comments about the inaccessibility of one of the parking spaces for dwelling B due to its alignment with the access but then comments that there is sufficient manoeuvring space for parking/turning.

Accordingly the proposals are considered acceptable on traffic and highway grounds.

(b) noise impacts of the development;

The design and siting of the proposal would not cause significant harm to the amenities of adjacent occupiers through the generation of additional noise over and above the existing situation

(c) contamination risks on the site;

None anticipated. The inspector proposed a watching brief condition when allowing the appeal ref: 3295929, this will be replicated.

(d) flooding risks on the site;

The site is within Flood Zone 1 with no notified critical drainage problems. As such, the proposed development is considered acceptable in terms of flood risk.

(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 ClassC3 (dwellinghouses) of the Schedule to the Use Classes Order;

Planning Practice Guidance defines 'impractical' as reflecting that location and siting would not be sensible or realistic, whilst 'undesirable' reflects that it would be 'harmful or objectionable'. These criteria require the Local Planning Authority to make an assessment of the impacts or risks inherent in the change of use. This includes whether the proposal would provide satisfactory living conditions for future occupants of the proposed dwelling in terms of noise and disturbance and/or health and safety.

There are no reasons as to why the conversion would be impractical or undesirable. While the development is located outside of any development limits, there is an existing building in place, and it is located close to other buildings already on site, and therefore no significant visual impact upon the open countryside would arise.

(f) the design or external appearance of the building;

The proposed design is considered functional and strikes the balance of creating two residential units whilst reflecting the agricultural character and wider landscape setting of the surrounding area. Furthermore, they are the same plans which were approved by DET/2023/007.

and (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses

Schedule 2, Part 3, Class V, Paragraph X of the GPDO interprets "habitable rooms" to mean any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms. The conversion as proposed meets the requirements of this section of the legislation.

Change of use under this part includes curtilage, which is defined as follows.

X. curtilage" means, for the purposes of Class Q—

(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;

The proposed site plan 404 notes garden areas for both properties as being:

Dwelling B: 117 sqm

Dwelling C: 121 sqm

This is considered to be the combined curtilage figure for properties including driveways and parking spaces. The curtilage area for Dwelling B and Dwelling C is identical to the building footprint size for both dwellings.

The land for curtilage is closely related to both properties, albeit dwelling B garden area has an unusual form which is partly contrived by the car parking arrangement.

OTHER MATTERS

Ecology

For Permitted Development under Class Q (agricultural buildings to residential) a range of factors should be considered before agricultural buildings are converted to residential use - not least of which is whether protected species, such as bats, are present and how they might be harmed or affected.

The application was submitted with a bat survey (May 2023) identified no evidence that the building is used by roosting bats. As such, no significant ecological impacts are associated with its conversion and there are no licensing requirements. However, precautionary measures should be implemented during conversion works. This would involve the careful removal of the fibre cement roof and the eastern concrete block gable wall should be subject to artificial illumination in advance of works commencing to deter bats from using crevices and prevent them being entombed. In the event of a bat being encountered, work should stop immediately, and a licensed bat ecologist contacted for advice.

Unlike in 2020, two blackbird nests were recorded on steel frames within the building including an active nest at the western end of the building. As such it will be conditioned that Conversion works should take place between September and February inclusive to avoid the breeding bird season, this approach being recommended to avoid infringement of the Wildlife and Countryside Act 1981 which protects all wild birds and their nests. If this approach is not possible, pre works checks should be undertaken no more than 48 hours in advance. Should active nests be present, works within 5 m of the nests would need to be postponed until chicks fledged.

As an informative the applicant will be warned that: A patch of Japanese rose is located several metres to the east of the building, this species being listed on Schedule 9 of the Wildlife and Countryside Act 1981, which makes it an offence to cause such species to spread or grow in the wild. Care will need to be taken to ensure that Japanese rose to the east of the building is not inadvertently spread during construction. The CEMP should therefore include specific measures to reduce the risk of this occurring.

Additional informatives will suggest appropriate mitigation measures and relate to:

New bat roosting and bird nesting features should be incorporated within the scheme design. This can be achieved by installing one integral bat unit and one integral bird (sparrow and swift) unit within each external elevation at a height of at least 3 m.

New lighting should be kept to an absolute minimum, particularly in the vicinity of artificial bat roosting features.

Gardens associated with the two dwellings should include native trees (e.g. rowan, silver birch, fruit trees) and native species hedges should be planted on boundaries as opposed to fences. If fencing is installed in combination with hedges, 130 x 130 mm gaps should be included at the base to allow hedgehogs to move freely through the site.

CONCLUSION / PLANNING BALANCE

Having regard to the assessment under Q2, it is concluded that prior approval is not required.

The comments from local residents and the Parish Council are noted and the reference made to the planning history associated with the building, this is an application under Class Q of the General Permitted Development Order 2015, which permits the change of use of agricultural buildings to a residential use subject to compliance with the criteria set down in Q1 and Q2 of the order.

Although concerns have been raised in terms of the condition of the lane, this is not a matter which can be addressed under this application as the development in effect comprises permitted development. It is also noted that the highway officer has not raised an objection on highway matters commenting that the proposed dwellings would not result in a significant increase in vehicle movements.

The proposal is considered compliant with the conditions, limitations and restrictions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provision) (England) Order 2015 and the guidance contained within the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG), therefore, it can be considered as permitted development as described by the Class Q provisions.

OFFICER RECOMMENDATION : Prior Approval Required and Given

Case Officer: Rosie Dinnen

Recommendation Date: 04.07.24

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council