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Planning Development

Planning Statement: Moss Edge Farm, Moss Edge Road, Holmbridge, HD9 2SD

Introduction

This planning statement accompanies a Prior Approval application for the proposed change of use of two agricultural buildings to three dwellinghouses (Class C3) at Moss Edge Farm, Moss Edge Road, Holmbridge.

Moss Edge Farm is located in an upland location, accessed along a mostly metalled (surfaced) road (Moss Edge Road) from Hollin Brigg Road, and approximately 1km south of Holmbridge. The property comprises of a farmhouse, two large stone built barns, a portal framed agricultural building, and around 97 acres of land (mostly grazing land with some woodland). The application site is located within the Green Belt, the Strategic Green Infrastructure Network and the Holme Valley Neighbourhood Development Plan area in accordance with the Kirklees Local Plan Policies Map.



Application Site

The Proposals

The building known as The West Barn is proposed to be converted into a two-storey 4-bed dwelling. The ground floor of the building has a floor area measuring 129 sq.m with the first floor measuring

113 sq.m resulting in a total floor area measuring 242 sq.m. A curtilage adjacent to the building is also proposed. This area would measure 123 sq.m and would incorporate two parking spaces located directly east of the building and a private outdoor amenity space located directly north of the building.

The second agricultural building is proposed to be converted into two dwellings. The section of the building known as The North Barn is proposed to be converted into a single storey 4-bed dwelling. The floor space of this building has a floor area measuring 220 sq.m. A curtilage adjacent to the building is also proposed. This area would measure 147 sq.m and would incorporate two parking spaces adjacent to the front of the building and an area of private outdoor amenity space located to the rear of the building.

The section of the building known as The Stables is proposed to be converted into a single storey 2-bed dwelling. The floor area measures 98.7 sq.m with the curtilage measuring 95.3 sq.m. The curtilage would incorporate an area of private outdoor amenity space at the rear and two car parking spaces to be located opposite the front of the building. One visitor car parking space is also proposed.

It is also considered reasonably necessary to demolish part of the existing agricultural building adjacent to the North Barn, in order to facilitate the Class Q conversion, as this structure adjoins the north barn.

Changes to Class Q legislation

Various Statutory Instruments have amended the original Class Q provisions through, for example SI's 2018/343 and 2019/907. In relation to number and sizes of dwellinghouses, the legislation now permits ¹:

- up to 3 larger homes, to be greater than 100 square metres, and within an overall floorspace of 465 square metres; or
- up to 5 smaller homes each no greater than 100 square metres; or
- up to 5 homes comprising a mixture of larger and smaller homes, with neither exceeding the thresholds for each type of home.

Class Q Permitted Development

Class Q of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) states the following:

Permitted development

Q. 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 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 (dwellinghouse) of that Schedule.**

This application is made under part (b) above.

¹ PPG when is Permission Required Paragraph 104

It is firstly noted that since the high court case in *Hibbitt and another v Secretary of State for Communities and Local Government and another* [2016] EWHC 2853 (Admin), Local Planning Authorities have focused more closely on the wording of the Clause B in relation to what constitutes a 'conversion' for the purposes of Class Q.

The *Hibbitt* case decided that Class Q introduces a freestanding requirement that must be met – i.e. if a development does not amount to a "conversion" as a matter of planning judgement, it falls at the first hurdle and as a result there is no need to consider the exceptions set out in Q.1.

In the *Hibbitt* case, the judge felt that the proposed works exceeded what might be described as a conversion and the development was in all practical terms starting afresh, with only a modest amount of help from the original building.

However since this case, the Government's Planning Practice Guidance ² changed quite significantly in 2018 and this is commented on further below in connection with how the Class Q provisions should be interpreted in connection with Clause B above.

Referring back to the current Class Q legislation, the reason the proposals are considered to be permitted development are as follows, dealing with each of the conditions/restrictions in Class Q in turn (our responses in [blue](#)).

Development not permitted

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

- (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 begins;

[On 10th May 2022, the site was sold at auction as a freehold stock rearing farm of approximately 97 acres, which included the farmhouse and the other agricultural buildings on site. Prior to that date and on 20th March 2013, the site was used solely for an agricultural use as part of an established agricultural 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;

² When is Permission Required

The cumulative number of separate larger dwellinghouses proposed is 2 and the cumulative floor space of both these dwellings would measure 462 sq.m, which therefore does not exceed 465 sq.m.

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

The floorspaces of the proposed two larger dwellings are 242 sq.m (West Barn) and 220 sq.m (North Barn), thereby falling below the 465 sq.m threshold.

- (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;

The number of separate smaller dwellinghouses proposed is 1 (The Stables).

- (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 of 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;

Both of the larger dwellinghouses proposed would have floor spaces measuring less than 465 sq.m and the cumulative number of separate dwellinghouses proposed is 3.

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

The site is not occupied under an 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;

There are no agricultural tenancy agreements in place relating to this site.

- (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;

No development under Class A(a) or Class B(a) of Part 6 of this Schedule has been carried out on the established agricultural unit 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 Existing and Proposed Plans demonstrate that the development would not result in the external dimensions of either of the buildings extending beyond the external dimensions of the existing buildings at any given point.

- (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);

As mentioned above, subsequent to the *Hibbitt* case, Government practice guidance on Class Q conversions changed in 2018 as follows: (words in red swapped for those in purple):

“it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right”.

was swapped for this: “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.

The revised guidance also included the following, which supports the above amended guidance:

“Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q”.

As such, and crucially, there is consequently no longer a test requiring the building to be structurally sound: the only test is whether the building is suitable for conversion. In particular,

the PPG confirms that insertions such as internal walls, floors, mezzanines etc. are allowed under Class Q.

Clearly, this case has the obvious initial advantage of the buildings being of solid stone construction, and the proposed development complies with the now revised Government Practice Guidance and Clause Q(b) as follow, the key tests being whether the buildings are *suitable for conversion* (Q[b]) and whether or not the building operations are *reasonably necessary* to convert the building – externally and internally.

- 1) The accompanying Structural Appraisal produced by Marsh Design Limited which concludes by stating that,

‘both of the barns are in a sound and stable structural condition and in our opinion, each of the buildings can be deemed to be of a permanent and substantial construction *suitable for conversion into habitable dwellings.*’

- 2) The accompanying Methodology Statement produced by Hinchliffe Architecture & Design Ltd includes details of the external and internal conversion works which include:

- re-use, and (minimal) insertion of, windows and doors
- inner skin of insulated plasterboard constructed
- installation of breathable roofing membrane and insulation
- installation of insulated solid floor at ground floor level
- re-introduction of first floor in the west barn using existing timber beams present

All these works are considered *reasonably necessary* for the conversion of the buildings to residential use and either fall within Class Q 1 (i) as acceptable external works, or do not comprise development and are therefore internal works not prohibited by Class Q.

Finally, Under Clause Q 1 (ii) above (partial demolition) it is also considered reasonably necessary to demolish part of the existing agricultural building adjacent to the North Barn, in order to facilitate the Class Q conversion, as this structure adjoins the north barn.

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

The site is not on article 2(3) land.

- (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 does not form part of any of the above.

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

The site is not and does not contain a scheduled monument.

- (m) the building is a listed building.

The buildings are not listed.

Conditions

Q.2 – (1) 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 –

(NOTE, as per Paragraph 028 of Planning Practice Guidance ‘When is Permission Required’ the Government states: “The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.”

- (a) transport and highways impacts of the development, - The proposed dwellings would be accessed via an existing surfaced access road (Moss Edge Road). The Location Plan shows that there are three passing places along Moss Edge Road which allows the lane to be used safely by all vehicles. Existing bin collections are carried out at the bottom of the lane by the gate serving the farm. However, in our opinion, whilst we consider this to be an acceptable arrangement for the new dwellings, there is no reason why the small refuse vehicle that currently serves the farm could not come right up to the proposed dwellings. It is also considered that the additional 3 dwellings would not result in a material increase in traffic volumes in the vicinity of the site, particularly given that the site was previously a working farm.
- (b) noise impacts of the development, - The farm is no longer in operation. The proposed dwellings would therefore be located adjacent to the other proposed dwellings, and as such would neither cause any noise issues, nor be vulnerable to noise from other sources.
- (c) contamination risks on the site, - The site has previously been used for agricultural purposes only, so there is no known or suspected ground contamination.
- (d) flooding risks on the site, - The site is in Flood Zone 1, therefore this is not applicable.
- (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, -

Government Guidance ³ states that,

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”.

³ When is Permission Required Paragraph 109

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

It goes on further to state:

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power or other services its conversion is impractical. Additionally, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

In this case, none of the above applies as the buildings are easily accessible via a tarmacked road (other than the flat area in the valley serving a small handful of houses which is partially surfaced and over there are legal obligations enforceable by the applicant to uphold maintenance on this stretch of road).

The barns would also be connected to existing services (currently serving the farmhouse) in the form of electric, telecommunications and drinking water (via a borehole). Foul sewerage is via a septic tank.

Moreover, the applicant (who owns the existing farmhouse) has snow clearing equipment (plough and gritting equipment) for the rare occasions when the road is affected by snow (this was only one day in the 22/23 winter and climate change is lessening the impact of winters generally).

The buildings are also not located adjacent to other uses that would make the conversions undesirable, particularly as the agricultural use of the site has now ceased. There are no other known reasons relating to siting or location that would make it impractical or undesirable for the buildings to change to Class C3.

- (f) the design or external appearance of the building, and – the conversions would remain true to the original character and appearance of the buildings in relation to materials, architectural detailing and the inclusion of many of the original window and door openings. Additional openings proposed are also sympathetic in nature and would reflect the original character of the buildings.
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, - As the Proposed Plans demonstrate, all habitable rooms within each of the 3 dwellings would have at least one window to provide them with an adequate amount of natural light.

and the provisions of paragraphs W (prior approval) of this Part apply in relation to that application. Relevant procedures are covered within the enclosed submission and details. Other procedures under Paragraph W relate to LPA requirements.

(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.

Not applicable as the proposals in this case relate to Class Q (b).

(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.

This is duly noted.

Curtilage

Permitted development under Class Q allows for the change of use of a building **and any land within its curtilage**.

Paragraph X of Part 3 defines curtilage for the purposes of Class Q 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.

In this case, the criteria in (b) has been applied in this case, with the coloured shaded areas shown on the Proposed Site Layout plan indicating the curtilage areas for gardens and parking for each of the proposed dwellings. Individually, the three separate areas of curtilage for the 3 dwellings are no larger than the land occupied by the agricultural buildings.

Conclusion

Based on fulfilling the above criteria, it is considered that the proposed development is acceptable under Class Q (permitted development) and we therefore respectfully request that this prior approval notification for three dwellinghouses is granted accordingly.

Please do not hesitate to contact us should you have any queries.

Robert Halstead Chartered Surveyors & Town Planners

May 2023