

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015 - Schedule 2, Part 3, Changes of Use**

DELEGATED DECISION FOR DISCHARGE OF CONDITION - NOTIFICATION OF A CHANGE OF USE UNDER THE ABOVE PROVISIONS

Reference no. 2024/CL/92111/W

Site Address	land opp, 104, Wakefield Road, Lepton, Huddersfield, HD8 0EA
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Description	Prior notification for change of use from agricultural building to one dwelling
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Recommending Officer	Lucy Taylor
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DECISION - REFUSED

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kevin Walton

AUTHORISED OFFICER

Date: 15-Oct-2024

Application: 2024/92111

Site: land opp, 104, Wakefield Road, Lepton, Huddersfield, HD8 0EA

Proposal: Prior notification for change of use from agricultural building to one dwelling

Site Description

The site relates to land located opposite to No.104 Wakefield Road. Most of the land is naturally surfaced in grass, with several single storey agricultural buildings erected, which are constructed from a variety of materials, including stone and wood. The agricultural buildings are set back from the highway of Wakefield Road by approximately 60 metres, accessed via a hard surfaced track.

The site is located within the Green Belt

Description of Proposal

The agricultural buildings are to be converted into a three-bedroom property, with a detached garage and store.

The existing access to the agricultural buildings will serve the dwelling.

Relevant Planning History

None.

History of Negotiations

The case officer entered into negotiations with the planning agent / applicant, to seek further information regarding the condition of the agricultural buildings.

In response, the planning agent submitted a short condition statement from a structural engineer via email, along with a specification of works that would be recommended to convert the building and ensure it is as stable as possible.

Consultations

KC Environmental Health – No objections, with conditions and informatives regarding unexpected contamination and construction site working times.

KC Highways Development Management – The proposals are acceptable from a Highways perspective.

Procedural Matters and Policy Context

The above-described proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. The General

Permitted Development Order 2015, Schedule 2 Part 3 Class Q permits the following development:

(a) a change of use of—

- (i) a building that is part of an established agricultural unit and any land within that building's curtilage, or
- (ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.

Outlined in Paragraph Q.1 development is not permitted by Class Q if;

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit— (i) on 24th July 2023, or (ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,	Pass: The site was part of an established agricultural unit on the 24 July 2023.
(b) in the case of a site that was (but is no longer) part of an established agricultural unit— (i) the site was part of an established agricultural unit on 24th July 2023,	N/A

(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or (iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,	
(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,	Fail: The garage store is considered to be a domestic adjunct to the primary living areas all falling within Class C3 and totalling a combined floor area of 200 sq. metres. Consequently, the proposed works to form a dwellinghouse, including the link extension and proposed garage/store, falling within Class C3 would exceed 150 sq. metres.
(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in— (i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or (ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,	

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained,	Pass: The application states the site is not within an agricultural tenancy.
(f) less than 1 year before the date development begins- (i) an agricultural tenancy over the site has been terminated, and (i) 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;	Pass: The application states the site is not within an agricultural tenancy, nor was one year prior.
(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 during the period which is 10 years before the date development under Class Q begins;	Pass: No development under Class A(a) or B(a) has taken place within the agricultural unit.
(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, other than- (i) extension of the building allowed by paragraph Q.1(i) (ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i);	Fail: The proposed and existing elevations indicate parts to the roof of the existing structure will be raised, particularly the northern building and the red brick wall forming the link between the southern and northern building. The raising of the roof exceeds 0.2 metres.
(i) the development under Class Q(b) would result in an extension that – (i) has more than one storey, (ii) is sited anywhere other than to the rear of the existing building (iii) extends beyond the rear wall of the existing building by more than 4 metres,	The existing and proposed plans indicate an existing profiled sheet roof covering an area between the southern and northern building is to be removed and replaced with a link extension between the two buildings.

(iv) has eaves the height of which exceed the height of the eaves of the existing building, (v) is higher than whichever is the lower of- (aa) the highest part of the roof of the existing building, or (bb) a height of 4 metres above the ground, (vi) extends beyond a wall that forms a side or principal elevation of the existing building, or (vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and – (aa) the hard surface was not provided on the land on or before 24th July 2023, or (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,	
(j) the development under Class Q(c) would consist of building operations other than- (i) the installation or replacement of- (aa) windows, doors, roof, or exterior walls, or (bb) water, drainage, electricity, gas or other service 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);	Fail: See below for further comment
(k) the site is on article 2(3) land;	Pass: The site is not article 2(3) land
(l) the site is, or forms part of-	Pass: The site is not one listed.

(i) a site of special scientific interest; (ii) a safety hazard area; (iii) a military explosives storage area;	
(m) the site is, or contains, a scheduled monument;	Pass: The site is not, nor does it contain, a scheduled monument.
(n) the building is a listed building	Pass: The building is not listed
(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 ⁶⁴ as read with the notes dated 19th May 2016 which apply to it, or	Pass: The dwelling would comply with the NDSS.
(p) the building does not have suitable existing access to a public highway.	Pass: The building has suitable existing access to a public highway.

Procedural Matters – Curtilage

Part 3, Class Q, allows change of use of a building “*and any land within its curtilage*”. Part 3 includes the following notes in the glossary of terms at the end, “*Interpretation 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, on an established agricultural unit or former agricultural building (as the case may be), or closely associated with serving the purposes of that building, and

(b) an area of land immediately beside or around the agricultural building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by the agricultural building.

In this case, it is considered that the red line boundary, as shown on the submitted site location plan would exceed the limitations of curtilage, as defined for the purposes of Class Q. This is because, the red line boundary would result in a significant extent of curtilage, with the submitted site location plan showing amenity space, parking space and access to have a total area in excess of 8500m².

In this case, it is considered that the area defined by the red line boundary on the submitted plan does not fulfil criterion as set out within the definition of

“curtilage’ for the purposes of Class Q. However, it is considered a prior approval cannot grant planning permission on land outside the scope of Class Q in any event.

Failure of (j)

Planning Policy Guidance, paragraph 105, provides clarification for Class 1 Q (j):

‘Building works are allowed under the change to residential use. However, the right assumes that the agricultural building is capable of functioning as a dwelling. 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.’

Whether the operations amount to works that are “reasonably necessary” to allow the building to function as a dwelling house or whether they exceed this and amount to “rebuilding work beyond what is reasonably necessary for the conversion” is a matter of fact and degree.

Reasonably necessary is indirectly expanded upon within PPG 105, stating that:

‘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’

This is concluded by the following:

‘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.’

As a result of an officer site visit, officers note that the existing structures to be converted for a garage and store are wooden and appear to be light weight in their construction style. Despite requested to do so, the applicant has not provided evidence of the garage/store structural capabilities or the materials

the proposed conversion would consist off. However, the plans indicate the thin timber clad walls are to be replaced with unspecified thicker material which would appear to be complete replacement of the existing structure. Consequently, and has the Local Planning Authority has no evidence to demonstrate otherwise it is considered the works to form garage and store go beyond development that could amount to conversions and as a matter of fact and degree, amount to a rebuilt of the existing light weight timber boarded structure.

With regard to the stone/brick build southern building, the applicant when questioned provided a short report with 6 points outlining “stabilising works. These works are listed as:

- 1) *remove internal cross-walls.*
- 2) *Install reinforced concrete raft, with re-bars resin-set into the external wall at close centres, say 200mm c/c*
- 3) *Re-build internal cross walls so as they are fully bonded / toothed into the existing external wall.*
- 4) *Possible inclusion of pattress plates and tie-rods for additional attachment to internal cross walls.*
- 5) *Internal 'leaf' (either masonry or structural studwork) installed inside the external wall so as to create a 'cavity wall'*
- 6) *Roof made-good / replaced as required so as to sit onto the new internal leaf.*

And

“The intention is that the weight of the roof will be taken off the existing external walls and transferred to the new inner leaf which in turn will be supported by the raft. This raft, by way of its attachment to the existing external walls will support the m by allowing some of their weight to transfer into the raft.”

From the description of necessary stabilisation works it is clear the works consist of the construction of a reinforced concrete raft on the existing ground internally in order for this to bear the weight of new internal studs walling and new cavity walling. The rational seems to build an entirely new internal structure to take weight from the existing external walling so the weight of the new and existing roof material can bear down on the new structural elements and not the existing external walling. While the construction of internal walling may be acceptable where it is, for instance, there to provide structural support for other internal works such as upper floors, in this instance it appears from the structural information that the internal works are necessary to provide support to the existing external walls. Consequently, it appears from the applicants evidence that the existing building is not capable of conversion without effectively building a new internal structure so as to not rely on the existing external walls for strength.

The applicant has not provided information relating to the northern building or link extension between the southern and northern building. The materials list on the existing elevation plan omit to specify the walling materials for the north

building although it appears this building is of light weight construction which would require significant structural works and rebuilding for it to be suitable for conversion. The steel profile sheet covering between the north and south building also appears to be removed leaving only the west flank wall for the link extension to the built. It is considered the works required to the north building and link extension would amount to a rebuilt of these structures.

Therefore, based on the evidence submitted, it has not been demonstrated that the buildings forming part of this application could be successfully converted to a dwelling, without works going beyond those allowed by Class Q.

Conclusion of the tests of A.1

For the reasons outlined above the proposal cannot be considered Permitted Development under Part 3 Class Q. However, in the interest of a fair assessment, consideration must be given to the next stage of assessment.

Where the proposal is development under Class Q(a) together with development under Class Q(b), the proposal 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,
- a) noise impacts of the development,
- b) contamination risks on the site,
- c) flooding risks on the site,
- d) 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,
- e) the design or external appearance of the building,
- f) Impact on the amenity of future occupiers in terms of light and internal floor space.

The provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The application for Prior Approval is to be submitted and assessed in accordance with the '*Procedure for applications for prior approval under Part 3*', as outlined in Section W of Part 3.

Representations

Neighbour Notification Letters Expired: 3rd September 2024.

No representations received.

Assessment

The following matters are considered in the assessment below –

- 1) Transport and Highways impacts of the development
- 2) Noise Impact of the development and Siting of the building(s)
- 3) Contamination on site
- 4) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use
- 5) The design or external appearance of the building(s)
- 6) Impact on the amenity of future occupiers in terms of light and internal floor space
- 7) Conclusion

1) Transport and Highways Impacts of the Development

The proposed access uses the existing vehicle access to the site and ample parking is proposed for the dwelling.

Internal turning is available to ensure vehicles can enter and leave the site in forward gear.

Upon formal consultation, KC Highways Development Management concluded that the proposals are acceptable from a highway's perspective.

1) Noise Impact of the Development

The site is located within a semi-rural location, immediately surrounded by fields, with residential properties to the south and south west. The buildings are set back from Wakefield Road by approximately 80 metres. Whilst it is noted that background noises caused by any animal occupiers of the fields, which could cause some level of level of background noise, the noise sources would not be likely to harm the amenities of future occupiers.

Upon formal consultation, KC Environmental Health did not raise any concerns with regard to noise.

2) Contamination of the Site

The formal consultation from KC Environmental Health drew the following conclusions with regard to contaminated land:

It is unclear from the documents whether groundworks are proposed. Where groundworks are proposed, we would recommend the following unexpected contamination condition and footnote be applied.

3) Whether the Location or Siting of the Building Makes it Otherwise Impractical or Undesirable for the Building to Change from Agricultural Use

The site is in very close proximity to the highway of Wakefield Road, a primary A road and there are other residential dwellings within the immediate vicinity of the site, meaning that there would be no severe difficulties in forming service connections.

4) The Design or External Appearance of the Building

The dwelling as proposed would be created via building operations not permitted by Class Q. Therefore, it is not deemed reasonable to comment on the design or external appearance.

5) Impact on the amenity of future occupiers in terms of light and internal floor space

Consideration is required to be given to the impact on the amenity of future occupiers in terms of the gross internal floor area and the adequacy of natural light to all habitable rooms.

The proposal has been considered against the Government's Nationally Described Space Standards (NDSS) for dwellings and it is considered that the total floor area would comply with the minimum floorspace deemed in the NDSS.

All habitable rooms are to be served by openings which are considered to offer an adequate amount of natural light.

6) Conclusion

The application fails to comply with the requirements of Q.1.

It is considered that, based on the information submitted, the area defined by the red line does not fulfil criterion as set out within the definition of "curtilage", the building operations for the buildings would go beyond works that could reasonably be described as development to convert existing agricultural buildings. However, the new dwellinghouse would exceed 150 square metres in total and the proposed external works would project, in places, beyond 0.2 metres from the dimensions of the existing buildings.

Therefore, the proposal cannot be considered under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Recommendation: Refuse

Application Number: 2024/92111
Decision Authorisation: Delegated Powers
Officer Recommendation: Refusal

Reasons for Refusal

1. The proposed alterations to the design and structure of the buildings would be so extensive to be within the reasonable definition of “conversion”. The proposed development therefore does not benefit from permitted development rights under the provisions of Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
1. The proposed change of use would result in a new dwellinghouse, including the proposed domestic garage/store, exceeding 150 square metres contrary to sub-paragraph Q.1(c) of Part 3, Class Q, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
2. The external dimensions of the proposed building would, in places, extend 0.2 metres beyond the external dimensions of the existing building contrary to sub-paragraph Q.1(h) of Part 3, Class Q, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received
Site Location Plan As Existing	001	-	26.07.24
Ground Floor Plan As Existing	002	-	26.07.24
Elevations As Existing	003	-	26.07.24
Elevations As Existing	004	-	26.07.24
Site Location Plan As Proposed	005	-	26.07.24
Ground Floor Plan As Proposed	006	-	26.07.24
Elevations As Proposed	007	-	26.07.24
Elevations As Proposed	008	-	26.07.24
Email from agent 30/09/2024 (13:34)	-	-	30.09.24

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

The case officer entered into negotiations with the planning agent / applicant, to seek further information regarding the condition of the agricultural buildings. In response, the planning agent submitted a short condition statement from a structural engineer via email, along with a specification of works that would be recommended to convert the building and ensure it is as stable as possible.

Report Dated: 11.10.24