

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/92601/E

Site Address	barn south east of, Lepton Lane, Lepton, Huddersfield
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Description	Prior notification for change of use from agricultural building to one dwelling with building operations
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Recommending Officer	Elenya Jackson
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DECISION - DETAILS APPROVED

**I hereby authorise the approval 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: 12-Dec-2024

Officer Report

Site Description

The application relates to a detached agricultural building. The barn is located in a relatively isolated location, surrounded by agricultural fields, a large equine area and the Little Lepton Settlement approximately 150m to the north. The barn comprises a steel frame with walls of blockwork with vertical boarding above. Access to the site is via a partly surfaced track which leads from the adopted highway, Lepton Lane. The access track is designated as a Public Right of Way footpath. There is a short gravel track which leads from the public footpath to the building.

The site is located on land allocated as Green Belt on the Kirklees Local Plan.

Description of Proposal

The proposal seeks change of use of the existing agricultural building to one dwelling and operations reasonably necessary to convert the building to residential use under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class Q.

The proposed drawings indicate that the residential accommodation would be provided on one floor. Several new openings would be inserted into the walls of the building to allow it to be used as a dwelling.

This is the third application under Class Q on the site with the most recent being 2021/CLASS Q/91415/W.

History of negotiations/amendments received

No amendments were sought by the case officer during the course of the application.

Relevant Planning History

2022/91004: Demolition of existing barn and erection of detached dwelling. Withdrawn.

2021/CLASS Q/91415/W: Prior notification for change of use from agricultural building to one dwelling with associated building operations. Approved.

2018/92201 – Prior approval for change of use of agricultural building to one dwelling with associated building operations. Granted.

2018/90481 – Prior approval for change of use of agricultural building to a dwelling. Refused (ridge extended upwards).

2007/93707 – Prior approval for erection of agricultural building. Details approved.

2007/90503 – Prior approval for erection of agricultural building. Details approved.

98/93253 – Restoration using inert material of existing void on existing landfill site and adjacent land to agricultural use and woodland. Refused.

Procedural Matters

This proposal previously received permission under application 2021/CLASS Q/91415/W.

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
- (i) 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.

However, due to there being updates to The General Permitted Development Order 2015, Schedule 2 Part 3 Class Q. Applications which have previously received permission (that is extant) benefit from a transitional period.

This is applicable where the development is permitted under Class Q immediately before 21st May 2024 and is, by virtue of any amendment made by article 3, no longer permitted under Class Q on and after 21st May 2024.

It is considered that the transitional period is applicable in this instance.

The application has previously been assessed as follows:

Prior notifications for 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; and
- a) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Proposals pursuant to Class Q are permitted subject to limitations set out in paragraph Q.1 and subject to conditions set out in Q.2.

What works are permitted under the Class Q permitted development right for change of use from an agricultural building to residential use?

The right allows either the change of use (a), or the change of use together with reasonably necessary building operations (b). Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) (as amended) Order 2015, as amended. 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.

For the proposals to be considered conversion, the nature and extent of the works need to fall short of a rebuild. None of the proposed works falls outside the operations listed in paragraph Q.1(i) of the GPDO or in the NPPG. However, in *Hibbitt, Green J* held that:

“...the concept of “conversion” is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that if a development does not amount to a “conversion” then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1.”

In this case, the proposal is considered to fall within the definition of “conversion” and would include operations that are reasonably necessary to convert the building to a dwellinghouse.

Outlined in Paragraph 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
- (i) 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
- (ii) 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;

Pass: The application form states that the use of the building on 20th March 2013 or the last use before that date was for agricultural purposes. The site appears to be of an agricultural nature and there is no evidence to dispute this.

(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;

Pass: The proposal seeks a dwellinghouse not exceeding 465 square metres.

(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;

Pass: The proposal is not a smaller 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;
- (i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

Pass: The proposal seeks one unit. Its floor area does not exceed 465 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 form states that the site is not 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
- (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 site is not under an agricultural tenancy, nor has been in the past year.

(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

- (i) 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;

Pass: No development under Class A(a) or Class B(a) has been carried out on the established 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;"

Pass: The application form and proposed plans indicate that the building would not extend beyond 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

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

Pass: It is considered that the proposed building operations would not exceed the limit of those listed above.

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

Pass: The site not located on article 2(3) land.

- (k) the site is, or forms part of –

- (i) a site of special scientific interest;
 - (i) a safety hazard area;
 - (ii) a military explosives storage area;

Pass: The site is none of the above.

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

Pass: The site does not include any of the above.

(m) the building is a listed building.

Pass: The building is not a listed building.

Curtilage

The following is the definition of 'curtilage' taken from Part 3 Class X;

“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*
- a) 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 curtilage identified to serve the development would be located immediately to the front and side of the building and would not be larger than the land area occupied by the building. This is consistent with the definition of curtilage as prescribed in Part 3 of Class X.

Conditions for Class Q Development

It is considered that the proposal would be permitted under Class Q.

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, and

- e) the design or external appearance of the building, and 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

As part of the notification procedure, the Local Planning Authority consulted relevant bodies in accordance with paragraph W and the proposal was advertised on the councils website.

As a result of the above publicity, no representations have been received.

Kirkburton Parish Council: not comments received.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

KC Highways DM – further details requested; however, HDM previously requested conditions regarding the provision of parking as well as details of waste storage and collection.

KC Environmental Health – Have requested conditions requiring the submission of a Phase 1 contamination survey and Phase 2 report if required.

KC PROW – No comments received.

KC Building Control – Have confirmed that a building regulations application would be required. (Under the previous application, it was considered that there was no reason that the building could not be converted as proposed).

Assessment

The following matters are considered in the assessment below –

- 1) Transport and Highways impacts of the development
- 1) Noise Impact of the development and Siting of the building(s)
- 2) Contamination and Flood risk of the site
- 3) The design or external appearance of the building(s)

- 4) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use
- 5) Impact on the amenity of future occupiers
- 6) Representations
- 7) Conclusion

1) Transport and Highways impacts of the development

The submitted plans show the proposed dwelling to have three bedrooms. The Council's Highways officer has requested a condition requiring details to demonstrate that two parking spaces could be provided within the site. It is noted that the curtilage of the site remains the same as the previously approved application (2018/92201 and 2021/91415), as part of which it was considered that the curtilage was of a suitable size to fit two vehicles plus manoeuvring space. As such, it is not considered appropriate to require additional information to be provided and a condition shall be attached in line with the previous approval requiring two parking spaces to be provided within the site.

The proposed area for bin collection was previously located at the end of the access lane. Details have not been provided as part of this application. As the collection point would not be under the ownership of the applicant, this would be difficult to condition. However, Lepton Lane is an adopted road, and there is considered to be no reason that bins could not be presented here for collection. It is acknowledged that the distance of the presentation point from the dwelling is considerably above the bin drag distance. It is therefore recommended that the presentation point is also the storage area and therefore a condition has been requested for additional information to be provided to this effect. Again, as this area of land is not under the ownership of the applicant, this would be difficult to condition, and it is considered that it would not be a substantive reason for the application to be refused given that the application is for a prior approval and is in principle acceptable, established by the previous applications (2018/92201 and 2021/91415). As established under the previous application, it is considered that there would be adequate space within the curtilage for the storage of bins. This shall be conditioned to ensure that the storage of bins would not obstruct the access track which is a designated public right of way.

Whilst not a matter than can be considered under the Class Q development, the Highway's officer has noted that the dwelling would be accessed via an existing public right of way. It is advised that applicant checks that vehicular access is permitted by the owner of the land and that it will continue to be available for the lifetime of the development.

2) Noise impact of the development

The site is situated in a relatively isolated location. The only nearby development is an equine riding arena; however this is unlikely to create a significant level of noise disturbance which would be harmful to future occupiers. There are no known noise pollutants which could harm the amenity of any future residents.

3) Contamination and flood risk of the site

The site is within Flood Zone 1 and is not within an area which is identified as having critical drainage problems.

The site has been identified as forming part of a historic landfill site and as such, there are concerns regarding contamination at the site.

It is noted that paragraph W (c) (ii) allows the Council to refuse an application if they determine that the site will be contaminated land. The definition of contaminated land is described in Part 2A of the Environmental Protection Act 1990(b) this should take into account any proposed mitigation.

Under the previous Class Q application (2018/92201), a discussion was held with the Council's Environmental Health officer who advised that the site was not one which, subject to mitigation measures if required, would be defined as contaminated land.

KC Environmental Health have commented on the submitted application that additional details are required.

Officers consider it would be unreasonable to refuse the application for these reasons due to it previously being approved; therefore, a phase 1 contaminated report, and a phase 2 report if required. When taking this into consideration, it is thought that any issues of contaminated can be reasonably addressed by suitable conditions.

4) The design or external appearance of the building(s)

The design of the dwelling would be determined primarily by the existing building, the form of which is to be mostly retained. The overall appearance of the dwelling is considered to be sympathetic to original building and the surrounding area.

5) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use

Whilst the building is situated in an isolated location which is considered not to be sustainable, this is not a matter which should be assessed under the Class Q development. By their very nature, most agricultural buildings are located in rural locations. There are no other reasons why the conversion of the building would be impractical or undesirable in this location.

6) Impact on the amenity of future occupiers

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. The proposal has been considered against the Government's Space Standards for dwellings which suggest that a one storey, three bedroom dwelling should have a gross internal floor area of 74 square metres. The submitted block plan demonstrates that the dwelling would have a gross internal floor area which would exceed these dimensions which would provide an adequate level of internal accommodation for future occupiers. All rooms are to be served by openings which are considered to offer an adequate amount of natural light.

7) Representations

No representations have been received.

8) Conclusion

The proposed development is considered to benefit from a general planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in accordance with Part 3, Class Q of Schedule 2 of the Order.

Recommendation: Grant Prior Approval

Decision Authorisation - Delegated Powers

Application Number: 2024/92601

Recommendation: Grant Prior Approval

Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP22 and LP24, of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

2. Before development commences, details of storage, bin presentation points and access for collection of wastes from the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interests of amenity and highway safety and to meet the requirements set out in Local Plan Policy LP24 part d(vi).

3. Before the dwelling is first occupied a dedicated parking area for two vehicles to serve the dwelling hereby approved shall be provided within the indicated curtilage as shown outlined in red on the submitted block plan and retained thereafter.

Reason: In the interests of amenity and highway safety and in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

4. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 178 and 179 of the National Planning Policy Framework.

5. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 4, development (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 178 and 179 of the National Planning Policy Framework.

6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 5, development shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 178 and 179 of the National Planning Policy Framework.

7. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 6. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 178 and 179 of the National Planning Policy Framework.

8. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 178 and 179 of the National Planning Policy Framework.

NOTE: Public footpath KIR/89/10 is the access to and adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works

The Council's public rights of way unit may be contacted by telephone 01484 221000 and ask for Sharon Huddleston. Public rights of way is based at Flint Street, Fartown, Huddersfield HD1 6LG and the email address is publicrightsofway@kirklees.gov.uk

NOTE: The type and number of bins required should be in accordance with guidance supplied by the Kirklees Cleansing Department in the document "Waste Storage and Collection Guidance for New Developments" which is

available at <https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx>).

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays 08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	-	-	1/10/2024
Existing Elevations	-	-	1/10/2024
Proposed Elevations	-	-	1/10/2024
Proposed Floor Plans	-	-	1/10/2024

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 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. No discussions or negotiations with the agent were necessary during the course of the application.