

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/92646/E

Site Address	Falledge Farm House, Falledge Lane, Upper Denby, Huddersfield, HD8 8YH
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Description	Prior notification for change of use from agricultural building to one dwelling with building works
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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.

East Team

AUTHORISED OFFICER

Date: 07-Nov-2024

Application: 2024/92646

Site: Falledge Farm House, Falledge Lane, Upper Denby, Huddersfield, HD8 8YH

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

Site Description

The site relates to land associated with Falledge Farm House. Most of the land is hardstanding and five of the buildings associated with the site have been re purposed as dwellings. The most recent being under application 2021/93434 which relates to the application unit. The site is the final building within the agricultural unit to be converted.

The building measures 16.8 x 13.2m with a height of 6.5m, with an overall floor area of 221 square metres. The barn benefits from two pitched rooves. The barn is clad with metal sheeting to all elevations and benefits from openings in the north, west and south elevations

The agricultural buildings are set back from the highway of Falledge Lane by approximately 114 metres, accessed via a hard surfaced track.

The site is located within the Green Belt

Description of Proposal

The agricultural building is to be converted into a two-bedroom property.

The application is a re-submission of the previously approved scheme as the applicant is unable to complete the previously approved works within the allocated time frame.

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

Relevant Planning History

2018/92255 - Prior notification for change of use from agricultural building to one dwelling with associated building operations was Withdrawn.

2021/93434- Prior notification for change of use from agricultural building to one dwelling. Details approved.

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 suite of photographs to demonstrate that the structure had not significantly degraded since its previous permission.

Consultations

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

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

Representations

The proposal was advertised by neighbour notification letters which expired 22/10/2024.

One objection was received which raised the following concerns:

- Highway safety
- The building housing bats
- Proposed materials
- Lack of detail

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
- (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 dimensions of the proposal would fail condition (c) of paragraph Q.1 and the transitional period is applicable.

Procedural matters

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 or together with,

(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) 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 a discussion of the difference between conversions and rebuilding, see the case of [Hibbitt and another v Secretary of State for Communities and Local Government \(1\) and Rushcliffe Borough Council \(2\) \[2016\] EWHC 2853 \(Admin\)](#) as referenced in the NPPG.

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, as amended, is considered to fall within the definition of “conversion” and would include operations that are reasonably necessary to convert the building to a dwellinghouse. As the details provided match those of the previously approved scheme, the works are considered acceptable.

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
(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;

Pass: The application form and submitted information 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;
- (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;

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
- (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;

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
- (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;

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
- (ii) 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;
- (ii) a safety hazard area;
- (iii) a military explosives storage area;

Pass: The site is none of the above.

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

Pass: The site does not include a scheduled monument

(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
- 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 curtilage identified to serve the development would be located immediately to the 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

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,
- b) noise impacts of the development,
- c) contamination risks on the site,
- d) flooding risks on the site,
- e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural

use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and
f) 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

The proposal was advertised by neighbour notification letters which expired 22/10/2024.

One objection was received which raised the following concerns:

- Highway safety
- The building housing bats
- Proposed materials
- Lack of detail

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 and Flood risk of the site
- 4) The design or external appearance of the building(s)
- 5) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use
- 6) Impact on the amenity of future occupiers
- 7) Representations
- 8) Conclusion

1) Transport and Highways impacts of the development

The submitted plans show the proposed dwelling to have two bedrooms. Access to the site is via the existing access from Falledge Lane. Two off-street parking spaces are shown for the proposed dwelling. Waste storage can be kept adjacent to the parking spaces. Given that an existing access from Falledge Lane is to be utilised for the proposed dwelling will have sufficient off-street parking Highways Development Management have no objection to these proposals. The proposal is therefore considered to be acceptable with regard to highways.

2) Noise impact of the development

The site is situated in a relatively isolated location albeit set on a holding with a handful of existing dwellings. The construction and formation of an additional dwelling is unlikely to create a significant level of noise disturbance which would be harmful to neighbouring occupiers. This is subject to a condition regarding construction working hours. There are also no uses nearby which would be materially harmful to the future occupiers of the dwellings. There are no known noise pollutants which could harm the amenity of any future residents either.

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.

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. Records do not identify the site as being on potentially contaminated land, previous farming operations may have led to some contamination being present at the site. When taking this into consideration, it is thought that any issues of contaminated land can be reasonably addressed by a condition relating to unexpected contamination.

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 or replaced with like for like material. The overall appearance of the dwelling is considered to be sympathetic to original building and the surrounding rural character.

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

The building is situated on a historic farmstead which hosts five dwellings at present. Therefore, the formation of an additional dwelling is considered to be sustainable. KC Environmental Health raised objections to the proposal as the dwelling would be circa 500m away from the nearest sewer, meaning it is unclear whether mains drainage system is available for the development. Whilst officers acknowledge that KC Environmental Health stated that the application should not be determined until adequate provision for foul drainage has been demonstrated, officers consider the submission of this information can be secured appropriately via condition given it does not go to the heart of the proposal. Subject to the condition for the submission of foul drainage information, there are no reasons as to 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, two double bedroom dwelling should have a gross internal floor area of 70 square metres. The submitted block plan demonstrates that the dwelling 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. There is also sufficient outdoor amenity space.

7) Representations

One representation has been received which raised the following concerns:

- Highway safety

Officer response: KC Highways have been consulted on the application and have not raised any objections.

- The building housing bats

Officer response: Ecology is not a factor for consideration as part of the prior approval process. However, under The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice

- Proposed materials

Officer response: The submitted application form details that the proposal shall be finished in materials matching those used in the construction of the existing building. A note shall be added to the decision notice that , any works must not materially alter the external appearance of the building and must be carried out and completed prior to exercising any permitted development under the provision of Class Q. If replacement of materials is carried out as part of the proposed conversion, the works may be considered to constitute rebuilding the building rather than conversion thus negating the general planning permission under Class Q.

- Lack of detail

Officer response: This is not a full planning application and therefore the level of detail required is limited to officers being able to assess the following:

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

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

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

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. Prior to occupation of the dwelling, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle recharging point provided shall be retained thereafter.

Reason: In the interests of promoting modes of transport with ultra-low emissions and to accord with the aims of Policy LP51 and LP52 of the Kirklees Local Plan as well as the sustainability principles of the National Planning Policy Framework.

3. Notwithstanding the plans hereby approved and prior to the commencement of the development, detailed information to show the installation of a satisfactory *Drainage and Package Treatment Plant* for foul waste shall be submitted to and approved in writing by the Local Planning Authority. The submitted information needs to demonstrate that the requirements of the drainage and waste disposal can be met and if a small sewage treatment plant (i.e. septic tank or package treatment plant) is proposed and that the “General binding rules for small sewage discharges” can also be met. The details must include the following information:

- a) The location of the tank (which must not be so near to any inhabited building as to be liable to become a danger to health or a source of nuisance (a minimum of 7m is required but over 20m and down slope is preferable) or in an area where there is a risk of flooding).
- b) The discharge details for the tank (which must not present any risk of contamination to any watercourse, underground water or drinking water supply).
- c) Details showing how adequate means of vehicular access will be provided to allow the tank to be periodically emptied and maintained.
- d) Calculations demonstrating that the tank will be of adequate capacity for the highest number of persons that may use the tank.
- e) If an existing tank is to be used, details of its condition / state of repair demonstrating that it is operating correctly and is impermeable to liquids
- f) Details of the necessary porosity and percolation tests carried out to establish the suitability of land that is to be used for any soakaway/land drainage of effluent.

The approved Drainage and Package Treatment Plant for foul waste shall be fully installed and capable of use prior to the occupation of the dwellinghouse and shall thereafter be retained.

Reason: This is a pre-commencement condition to ensure that the proposed development does meet the Policies LP28 and LP52 of the Kirklees Local Plan in regard to drainage and environmental quality and to accord with the requirements for Class Q with regard to practicality of the development. The provision of an acceptable drainage and package treatment plant is fundamental to the sustainability of the proposed development whilst ensuring the proposal protects the environment.

4. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, 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. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved 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 that part of the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works 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 Chapter 15 of the National Planning Policy Framework.

Note: Noisy construction related activities shall not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays

Note: Specialist advice should be sought for the design and installation of a small sewage treatment system which should meet the relevant standards. These are currently:

- BS EN 12566:2016 - Small wastewater treatment systems for up to 50 PT.
- BS 6297:2007 +A1:2008 - Code of practice for design and installation of drainage fields for use in wastewater treatment.

Any discharge from a waste-water treatment system is likely to require a consent.

Note: A Standard electric vehicle charging point is one which is capable of providing a continuous supply of at least 16A (3.5kW). A 32A (7kW) is however more likely to be futureproof. Standard charging points for single residential properties that meet the requirements specified in the latest version of “*Minimum technical specification - Electric Vehicle Homecharge Scheme (EVHS)*” by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 sockets would be acceptable. The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity. The installation must comply with all applicable electrical requirements in force at the time of installation.

NOTE: To facilitate the proposed conversion, any works to replace the existing sheet cladding on the exterior of the building must not materially alter the external appearance of the building and must be carried out and completed prior to exercising any permitted development under the provision of Class Q. If replacement cladding is carried out as part of the proposed conversion, the works may be considered to constitute rebuilding the building rather than conversion thus negating the general planning permission under Class Q.

Plans and Specifications Table:-

Plan Type	Reference	Version	Date Received
Grouped plans and elevations	23_815 102		16/09/2024
Existing Site / Block Layout	23_805 100		16/09/2024

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.

Officers requested clarification regarding the structural stability of the existing building. A suite of photographs was provided showing the current state of the building and the application progressed.