

27th September 2024

Planning Service
Kirklees Council Offices,
Civic Centre 3,
Market Street,
Huddersfield

Dear Sir/Madam,

Notification for prior approval for a proposed change of use of agricultural building to form one dwelling – Popeley Farm, Gomersall

We write on behalf of our clients, Mr and Mrs Wood, to formally submit a notification for prior approval for the proposed change of use of an agricultural building into a dwelling (C3) and for associated operational development.

In support of this application, I hereby enclose the following documents:

1. Completed Prior Approval Application Form.
2. Coal Mining Survey.
3. Highway Note.
4. Ecology Report.
5. Existing Plans.
6. Proposed Plans; and
7. Structural Survey

The application fee of £258 has been paid to the local authority.

Application site and wider context

Popeley Farm and its wider landholding is owned by the applicants, Mr and Mrs Wood. The site is located in Gomersall, off a driveway which leads from the main throughfare of Muffit Lane. The site is located entirely within the Green Belt.

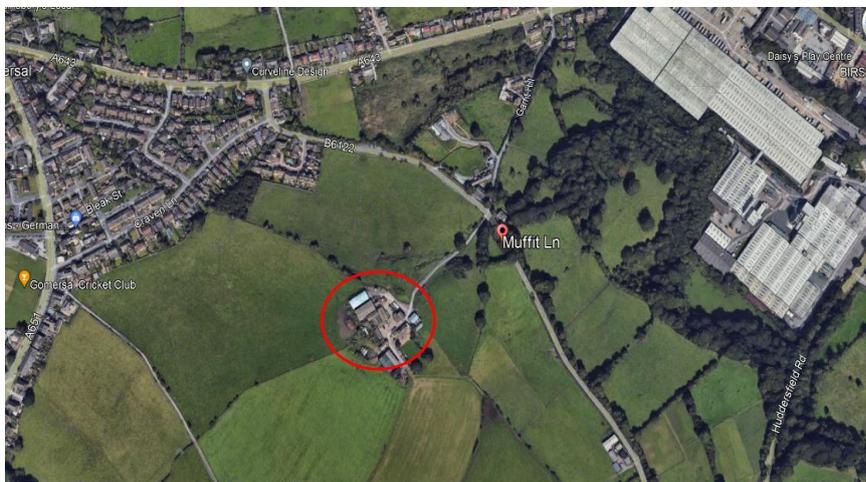


Figure 1: Aerial image showing proposed development site.



Figure 2: Aerial image showing agricultural building (circled).

Source: Google Earth

The agricultural building is located within an existing farmyard, which is adjacent to an existing residential dwelling. Additional agricultural buildings (not used for any livestock) are located immediately to the south of the building. Access to the site is via the existing access driveway from the B6122 and the proposal would not create any need for further highway changes to those which already exist in this landscape.

As noted, the site is located within the Green Belt. No buildings that make up Popeley are listed.

The site is remote from any area of ecological importance. Further, the site is located entirely within Flood Zone 1, as designated by the Environment Agency.

It is proposed to convert the barn into one residential dwelling.

Legislation

The legislation for Class Q development has recently been changed under the Town and Country Planning (General Permitted Development etc.) (England)(Amendment) Order 2024.

However, there are Transitional provision which exist until 2025 to use the Class Q permitted development rights under the 2015 Order. These rights are:

10.(1) Paragraph (2) applies where development (“previously permitted development under Class Q”)—

is permitted under Class Q immediately before 21st May 2024, and

(b)is, by virtue of any amendment made by article 3, no longer permitted under Class Q on and after 21st May 2024.

(2) Where this paragraph applies—

(a)a developer may, notwithstanding the amendments made by article 3, make an application for a determination as to prior approval in relation to previously permitted development under Class Q until the end of 20th May 2025, and

(b)the amendments made by articles 3 and 5 do not apply in relation to previously permitted development under Class Q in respect of which an application for a determination as to prior approval is made before 21st May 2025 (whether the application is made by virtue of sub-paragraph (a) or otherwise).

As such, this submission cites below and overleaf, how this scheme complies with the relevant legislation under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Part 3 Class Q (General Permitted Development) (England) (Amendment) Order permits:

‘A change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling houses) 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 (dwelling houses) of that Schedule.’

For ease the relevant criteria of Class Q have been set out below in a tabular format, with commentary on how the proposal meets these criteria; thus, resulting in a permitted form of development.

Agricultural Barn at Popeley Farm Compliance with Class Q:

Criteria of Q.1 (development is not permitted if...)	Response
<p>(a) The site was not used solely for an agricultural use, as part of an established agricultural unit –</p> <p>(i) on 24th July 2013; or</p> <p>(ii) where the site 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</p> <p>(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.</p>	<p>The barn has historically always been in agricultural use since its construction as part of an established agricultural unit at Popeley Farm. Google Earth Aerial Images show the barn being in situ in December 2002.</p>
<p>(b) In the case of—</p> <p>(i) a larger dwellinghouse, within an established agricultural unit—</p>	<p>The proposal seeks to convert the barn into a dwelling (of 465 sqm). The</p>

<p>(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;</p>	<p>floor space proposed to change therefore falls within the permitted limit Note: under the Transitional Rules.</p>
<p>(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;</p>	<p>The proposal seeks 1 x larger dwelling only. An alternate scheme provides for 3 x smaller dwellings. The floor space proposed to change therefore falls within the permitted limit.</p>
<p>(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</p>	<p>No separate dwelling houses have been developed thus far utilising Class Q on this agricultural unit. Additional residential units are proposed under a separate application (four in total) resulting into three small dwellings and one large one as defined within the regulations – the Transitional ones.</p>
<p>(e) The site is occupied under an agricultural tenancy unless the express consent of both the landlord and the tenant has been obtained.</p>	<p>The barn is not occupied under an agricultural tenancy.</p>
<p>(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.</p>	<p>The barn is not occupied under an agricultural tenancy nor has a tenancy agreement been terminated within the past year.</p>
<p>(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.</p>	<p>No development has been carried out on the agricultural unit under Part 6 of the GDPO since 20th March 2013</p>

<p>(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.</p>	<p>No additional development beyond the building line is proposed. The footprint will remain as existing.</p>
<p>(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 dwelling house; and partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).</p>	<p>Amended plans have been provided which identify that the proposed scheme for conversion would involve minimal alteration and would comply with the criteria under Q.1 (i). Please see the accompanying existing and proposed floor plans and elevations for more details.</p>
<p>(j) the site is on article 2(3) land.</p>	<p>The site is not on article 2(3) land.</p>
<p>(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.</p>	<p>The site is not or does not form part of any of the listed areas.</p>
<p>(l) the site is, or contains, a scheduled monument.</p>	<p>The site is not or does not contain a scheduled ancient monument.</p>
<p>(m) the building is a listed building.</p>	<p>The building is not listed.</p>

In the *Hibbitt v. SSCLG* [2016] EWHC 2853 (Admin) High Court case, it outlines that there are three components of significance when considering Class Q permitted development. The first is the assumption that the building must be capable of functioning as a dwelling. Second, that the development includes no new structural elements. Third, that the existing building must be sufficiently structurally strong to bear the loading from the external work.

Since this decision, in allowing an appeal¹ for the change of use of an agricultural building to a dwelling within the Suffolk Coast District an Inspector has stated:

9. The GPDO and National Planning Policy Guidance confirm that the permitted development right allows for the installation or replacement of windows, doors, roofs, exterior walls...and partial demolition to the extent reasonably necessary to carry out these building operations. **As the basic structural framework of the building in the concrete floor and steel frame would be retained, and those**

¹ APP/J3530/W/ 17/3169488

elements to be installed or replaced are referred to specifically within Class Q.1, I consider that in respect of the extent of building works proposed in Appeals A and B, the provisions of Class Q (b) would be satisfied. (our emphasis)

A structural report prepared by Noriker Consulting has confirmed that the building is a significant barn that has been well-constructed, entirely suitable for conversion, there being no necessity for any structural reconstruction.

In light of the above, the barn is entirely capable of functioning as a dwelling, and the structural reports demonstrate that the barn is sufficiently strong enough to accommodate the proposed scheme with no new structural elements.

Agricultural Barn at Popeley Farm Compliance with Conditions:

In addition to meeting the above criteria of Class Q, it is also a requirement to address matters (a) – (f) below which are included as conditions of the legislation. Again, for ease, each matter has been addressed in a tabular format below:

- 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 (dwelling houses) of the Schedule to the Use Classes Order; and
- f) The design or external appearance of the building.
- g) The provision of adequate natural light in all habitable rooms of the dwellinghouses.

Conditions Q.2 - (1)	Assessment
<p>Transport and highways impacts of the development.</p>	<p>The site benefits from an existing access on/off the public highway at B6122 Muffitt Lane to the northeast of the site. A transport note is provided as part of this submission which provides visibility splays of 2.4m x 43m to the left of the access road and 2.4m x 48 m to the right of the access drive when egressing the access driveway.</p> <p>The addition of an additional residential unit will not create an unacceptable level of intensification of the use of the site access or the road.</p> <p>A safe means of access can be achieved. The site plan identifies a large open space which can provide a swept path for any emergency vehicle.</p> <p>Bin storage for the dwelling will be at the entrance to the site.</p>

<p>Noise impacts of the development.</p>	<p>The site is considered to have an acceptable relationship with adjacent residential uses and its use is compatible so that no unacceptable noise impacts would arise that would impact on existing neighbours, or the occupiers of the proposed dwellings.</p>
<p>Contamination risks on the site</p>	<p>There are no contamination risks of developing this site.</p>
<p>Flooding risks on the site.</p>	<p>The site lies within Flood Zone 1, as designated by the Environment Agency. This is classified as an area with the lowest risk from flooding, and as the site area is under one hectare, a flood risk assessment would not be required.</p>
<p>Whether the location or siting of the building makes it otherwise impractical or undesirable of the building to change from agricultural use to a use falling within Class (dwelling houses) of the Schedule to the Use Classes Order.</p>	<p>The site is served by an existing access. The visibility splays for this access have been shown as significantly enhanced. and has access to water and power; the re-use of this building to provide residential accommodation is both practical and efficient.</p> <p>The adjacent uses are compatible with the proposed residential use of the barn.</p> <p>The proposal (as shown on the accompanying proposed site plan) includes a small area of domestic curtilage and car parking which is no greater in area than that of the footprint of the barn, in line with the Legislation.</p>
<p>The design or external appearance of the building.</p>	<p>As shown within the accompanying drawing package, modern alterations including the insertion of glazing and roof lights will enhance the character.</p> <p>The proposed scheme for conversion complies with the criteria under Class Q.1 (i).</p>
<p>The provision of adequate natural light in all habitable rooms of the dwellinghouses</p>	<p>As shown within the accompanying drawing package, the proposed scheme provides adequate natural light to all habitable rooms.</p>

Conclusion

It has been demonstrated above and within the planning submission, the proposed conversion of this agricultural barn accords with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020.

It is therefore our considered view that the proposal meets the legislative criteria and its conditions of the transitional provisions as such there is no requirement for the prior approval of the council to convert the building into a residential use.

We trust that you have everything you require to ensure a swift validation of this application. However, if you have any further questions or would like to discuss any aspects of the above, please do not hesitate to contact me.

Yours sincerely,

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