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/93408/E**
Site Address	**Windy Gap Farm, Little Lepton, Green Balk Lane, Lepton, Huddersfield, HD8 0LN**
Description	**Prior notification for change of use from agricultural buildings to 1 dwelling**
Recommending Officer	**Elenya Jackson**

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: 04-Mar-2025

Officer Report

Reference No. 2024/93408

Site Address: Windy Gap Farm, Little Lepton, Green Balk Lane, Lepton, Huddersfield, HD8 0LN

Proposal: Prior notification for change of use from agricultural buildings to 1 dwelling

Site Description
The application relates to an agricultural building situated within the grounds of Windy Gap Farm in Lepton. The buildings on site are highly varied in terms of size, architectural styles, and materials. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity.

Description of Proposal
The proposal seeks a change of use of the existing building to one dwelling along with external alterations. The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q allows for reasonable alterations required in order to facilitate the proposals development.

The existing building is currently finished in corrugated metal, with concrete blocks on the lower proportion and a metal roof.

The proposed plans have been amended since submission and demonstrate that the proposal would be finished with the existing metal roof retained, cedar cladding and stone slips on north west elevation with existing block work retained on all other elevations.

The proposal initially included the erection of a single storey extension on the southern elevation of the building; however this has been removed.

The existing building does not benefit from a large number of openings as it is currently a storage building, the proposal would require the creation of four windows in the north-east and south west elevation.

Relevant Planning History

91/02751: CONVERSION OF PART OF BARN AND DWELLING TO FORM 2 NO. DWELLINGS. Conditional full permission
2007/91108: Erection of stables. Conditional full permission
2013/93785: Conversion and alterations to barn to form extension to dwelling, erection of extensions. Conditional full permission.

History of Negotiations

Officers raised concerns with the proposed single storey side extension as it did not accord with the legislation, a reduction to the material alterations was requested and further details on the agricultural use of the building.

Officers have reviewed the information presented and are of the opinion that there is sufficient evidence to show the site was under an agricultural use as late as 2022.

Representations
The application was publicised on the council website. As a result of the above publicity, no comments were received.

Procedural Matters and Policy Context
The proposal is defined as development within Section 55 of the Town and Country Planning Act 1900. The General Permitted Development Order 2015 Schedule 2 Part 3 Class Q permits the following development:

(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 rights for change of use from an agricultural building to residential use?

The right allows either a 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 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 retention of materials forming the roof and three elevations is considered is considered to fall within the definition of "conversion" and would include operations that are reasonably necessary to convert the building to a dwellinghouse. On this basis, the works are considered acceptable.

Permitted Development
Q. Development consisting of –
(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) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

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

Development not permitted
Q1. 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— (a) on 24th July 2023, or (a) 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	***Pass:*** *The site is an existing agricultural unit*

development under Class Q begins,	
(a) 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, (i) 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 (ii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose	***Pass:*** *The site is an existing agricultural unit.*
(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,	***Pass:*** *Each dwellinghouse does not exceed 150 square metres.*
(d) the development under Class Q (together with any previous development under Class Q) within the original limits of an established agricultural unit 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 (i) 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,	***Pass:*** *The number of dwellings does not exceed 10 or 1000 square metres.*
(e) the site is occupied under an agricultural tenancy, unless the express	***Pass:*** *The application form states that the site is not occupied under an agricultural tenancy.*

consent of both the landlord and the tenant has been obtained;	
(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 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); (i) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),	***Pass:*** *The development would not result in the external dimensions of the building extending beyond the extensions allowed by paragraph Q1.*
(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, (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 (aa) a height of 4 metres above the ground,	***Pass:*** *The development would accord with the requirements of (i).*

(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 (aa) 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(b) would consist of building operations other than - (i) the installation or replacement of – (aa) windows, doors, roofs, or exterior walls, or (aa) 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.*
(k) the site is on article 2(3) land	***Pass:*** *The site not located on article 2(3) land.*
(l) 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.*
(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 a listed building.*

(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 as read with the notes dated 19th May 2016 which apply to it, or	***Pass:*** *The dwelling would accord with the Nationally Described Space Standards.*
(p) the building does not have suitable existing access to a public highway	***Pass:*** *The building has suitable existing access to a public highway.*

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 red line boundary includes land to the front and two sides of the building. This is not considered to represent the curtilage of the property and any land to be used for purposes incidental to the enjoyment of the dwellinghouse beyond an area no larger than the building is considered to require planning permission.

Conditions for Class Q Development

Where the proposal is development under Class Q(a) together with development under Class Q(c), 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 Schedule 1 to the Use Classes Order,
(f) the design or external appearance of the building, and
(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

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.

Consultation Responses
KC Environmental Health - No objection subject to recommended conditions.
KC Highways Development Management – No objection subject to recommended conditions

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 proposal seeks prior notification for the change of use of an existing agricultural building to one dwelling which would intensify the domestic use on site. Therefore, KC Highways Development Management were formally consulted on the proposal.

The site layout and number of parking spaces proposed are acceptable and sufficient turning and manoeuvring space is available to serve the proposed development. The approved vehicle parking areas will need to be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded.
www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens

Waste Storage and Collection
The bin stores have not been provided and must not obstruct the adopted highway or the driveway

Details for waste storage requirements can be found in the document "Waste Storage and Collection Guidance for New Developments" which is available from waste.planning@kirklees.gov.uk.
Or at https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx).

As such, the proposals are acceptable to Highways Development Management subject to details of waste collection being provided, with the

location of a waste collection presentation point being clearly marked on a drawing.

1) Noise impact of the development

The site is situated in an isolated location with no immediately adjoining residential properties. Therefore, the proposal is unlikely to create a significant level of noise disturbance which would be harmful to any neighbouring occupiers. Furthermore, there are also no uses or noise pollutants nearby that could be materially harmful to the amenity of any future occupants.

2) Contamination and flood risk of the site

The site does not fall within a flood risk zone and there is no known flood risks associated with the site.

The site has been shown on our mapping systems as being adjacent to potentially contaminated land. Conditions are recommended for any unexpected contaminated land encountered. It is also within a Coal Authority high risk development area and there is a risk posed by the agricultural legacy at the site and buildings. All of which have the potential to cause contamination at the site, including potential ground gas which could pose a risk to future occupiers.

Whilst KC Environmental Health do not object to the development, they have recommended contaminated land conditions to ensure the site is safe and suitable for the proposed development moving forward. The applicant is reminded that any outdoor space associated with the dwellings must be included within the investigations.

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

The design of the dwelling would be somewhat determined by the existing building. The submitted plans confirm that the dwelling would have the facing materials changed on one elevation. It is considered that following revisions, the appearance of the proposed dwellings would be sympathetic to the original building and the surrounding rural character.

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

The dwelling would be situated in a remote location on land within a complex of agricultural buildings. The site is also located reasonably close to bus routes. Therefore, it is considered that the location is sustainable.

5) 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 suggests that a two storey, two bedroom dwelling should have an internal floor area of 61m2 for 2 people, 79m^2 for 4 people.

The proposed floor plans demonstrate that dwelling would have two double bed spaces and would have an internal floor space of 145m^2. Furthermore, each of the habitable rooms would benefit from a sufficient amount of natural light and off road parking would also be provided on site.

6) Representations
N/A

7) Conclusion
The proposed development is considered acceptable subject to conditions and as such condition Q.2(1) can be discharged.

Recommendation: Grant Prior Approval

Decision Authorisation - Delegated Powers
Application Number: 2024/93408
Officer 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, LP21, LP22, LP24 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

2. 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 Verification 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 Verification 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 paragraph nos. 183 and 184 of the National Planning Policy Framework.

3. Before development commences, details of suitable storage, bin presentation points and access for collection of wastes for the dwellings 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 retained thereafter.
Reason: This pre-commencement condition is necessary in the interest of amenity and highway safety and to accord with the requirements outlined within Local Plan Policy LP24 and the National Planning Policy Framework.

4. The development shall not be brought into use until the areas to be used by vehicles and/or pedestrians have been surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 2009 (ISBN as amended or any successor guidance. The parking space shall be so retained, free of obstructions and available for the use thereafter.
Reason: In the interests of highway safety and to ensure satisfactory surface water drainage of the site in accordance with Policy LP21 and LP28 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

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**	**Revision**	**Date Received**
Proposed Plans		A	25/02/2024
Existing Plans		-	2/12/2024
Tree Survey			2/12/2024
Structural survey			2/12/2024

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 has, 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 raised concerns with the proposed single storey side extension as it did not accord with the legislation, a reduction to the material alterations was requested and further details on the agricultural use of the building.

Officers have reviewed the information presented and are of the opinion that there is sufficient evidence to show the site was under an agricultural use as late as 2022.