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Planning Development

Class Q Compliance Statement:
Moor Top Farm, Moor Top Road, Kirkheaton, Huddersfield, HD5 0PJ

Introduction

This planning statement accompanies a Prior Approval application for the proposed change of use of agricultural buildings to five dwellinghouses (Class C3) at Moor Top Farm, Moor Top Road, Kirkheaton, Huddersfield, HD5 0PJ.

Moor Top Farm comprises a grouping of mixed agricultural buildings constructed mainly of red brick, timber and corrugated metal sheeting, and two residential cottages (No's 31 and 33 Moor Top Road). Access to the application site is via a tarmac driveway from Moor Top Lane. The application site is located at the north-eastern edge of Kirkheaton. The site is surrounded by open fields and countryside in all directions.

The Proposals

The group of agricultural buildings are proposed to be converted into five single storey dwellings, details of which can be found in the following table:

Unit No.	Floor Area (Sq.m)	Curtilage Area (sq.m)	No. Bedrooms	No. Parking Spaces
1	93	91	3	2
2	88	88	3	2
3	456	432	4	3
4	89	88	3	2
5	90	90	3	2

Access to the dwellings would be via the existing driveway from Moor Top Road. A shared turning area would also be provided within the application site adjacent to the parking spaces for units 2 to 5. One additional parking space for visitors is also proposed.

Regarding the conversion works, two sections of the grouping of buildings are proposed to be demolished in order to facilitate the development. The existing roof covering would be stripped off and replaced with insulated composite metal panels to suit a 15 degree pitch. The external brickwork and stone work would be retained with an independent insulated skin constructed on the inside. The

existing sections of timber cladding are also proposed to be replaced with vertical agricultural boarding, and a new insulated concrete floor would also be laid out. Existing barn openings are proposed to be utilised where possible with new window and door openings kept to a minimum.

Changes to Class Q legislation May 2024

This application seeks to apply under the pre-May 2024 Class Q legislation, by utilising the transitional arrangements available for 12 months (May 2024 – May 2025) under Article 10 of the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024.

As per the pre-May 2024 Class Q rules, any one of the following combinations can be applied for in terms of dwelling numbers and sizes:

1) 1 dwelling up to 465 sq.m floorspace.
2) A combination of up to 3 'larger' dwellings with a combined floorspace of 465 sq.m (each one being over 100 sq.m).
3) Up to 5 'smaller' dwellings of up to 100 sq.m each (total 500 sq.m).
4) A combination of 5 smaller and larger ones (the maximum achievable would be 1 x 465 and 4 x 100 - so 865 sq,m).
5) Other combinations, providing there are no more than three 'larger' dwellings totalling no more than 465 sq.m).

In this case, Option 4 of the above list is being pursued.

Class Q Permitted Development

Class Q of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) states the following:

Permitted development

Q. 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 C3 (dwellinghouses) of the Schedule to the Use Classes Order; or
(b) Development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouse) of that Schedule.

This application is made under part (b) above.

It is firstly noted that since the high court case in *Hibbitt and another v Secretary of State for Communities and Local Government and another [2016] EWHC 2853 (Admin),* Local Planning Authorities have focused more closely on the wording of the Clause B in relation to what constitutes a 'conversion' for the purposes of Class Q.

The *Hibbitt* case decided that Class Q introduces a freestanding requirement that must be met – i.e. if a development does not amount to a "conversion" as a matter of planning judgement, it falls at the first hurdle and as a result there is no need to consider the exceptions set out in Q.1.

In the *Hibbitt* case, the judge felt that the proposed works exceeded what might be described as a conversion and the development was in all practical terms starting afresh, with only a modest amount of help from the original building.

However, since this case, the Government's Planning Practice Guidance [1] has changed quite significantly in 2018 and this is commented on further below in connection with how the Class Q provisions should be interpreted in connection with Clause B above.

The reasons the proposals are considered to be permitted development are as follows, dealing with each of the conditions/restrictions in Class Q in turn (our responses in blue).

Development not permitted

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;

The site was solely used for an agricultural use as part of an established agricultural unit on 20th March 2013 and remains operational now.

(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;

The number of separate larger dwellinghouses proposed is 1 no. - with a floor space measuring 456 sq.m. The parameters above are therefore not exceeded.

(ba) the floorspace of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order exceeds 465 square metres;

Only 1 larger dwellinghouse is proposed with the floor space measuring 456 sq.m, thereby falling below the 465 sq.m threshold.

(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

[1] When is Permission Required

(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;

The number of separate smaller dwellinghouses proposed is 4. The smaller dwellinghouses would have floor spaces measuring 93 sq.m, 88 sq.m, 89 sq.m and 90 sq.m. As such, none of the floor spaces exceeds 100 sq.m.

(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 of 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;

No previous developments under Class Q have occurred at the application site. 1 larger dwellinghouse with a floor space measuring 456 sq.m and 4 smaller dwellinghouses are proposed, resulting in 5 separate dwellinghouses in total.

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

The site is not occupied 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;

There are no agricultural tenancy agreements in place relating to this site.

(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;

No development under Class A(a) or Class B(a) of Part 6 of this Schedule has been carried out on the established agricultural unit since 20th March 2013.

(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;

The Existing and Proposed Plans demonstrate that the development would not result in the external dimensions of the buildings extending beyond the external dimensions of the existing buildings at any given point.

(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);

As mentioned above, subsequent to the *Hibbitt* case, Government Planning Practice Guidance on Class Q conversions changed in 2018 as follows: (words in red swapped for those in purple):

"it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right"

was swapped for:

"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.

The revised guidance also included the following additional clause, which supports the above amended guidance:

"Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q".

The proposed development complies with the now revised Government Practice Guidance and Clause Q(b) as follows; the key tests being whether the buildings are *suitable for conversion* (Q[b]) and whether or not the building operations are *reasonably necessary* to convert the building – externally and internally.

As such, and crucially, there is consequently no longer a test requiring the building to be structurally sound, or any prohibition on the insertion of new structural elements: the only test is whether the building is *suitable for conversion*. In particular, the PPG confirms that insertions such as internal walls, floors, mezzanines etc. are allowed under Class Q.

1) The accompanying Structural Appraisal produced by Marsh Design Limited which concludes by stating that,

'The barn buildings are in a sound and stable structural condition, they are watertight, and in our professional opinion, they can be deemed to be of a substantial and permanent construction suitable and capable for their conversion into habitable dwellings.'

2) The accompanying Method Statement produced by Northern Design Partnership includes details of the external and internal conversion works which include:

- The existing roof covering will be stripped off and will be replaced with insulated composite metal panels.
- The external brickwork and stone work will be retained with an insulated skin constructed on the inside.
- The sections of existing timber cladding will be replaced with 'like for like' vertical agricultural boarding.
- The formation of a new insulated concrete floor.
- Formation of new window and door openings.

All these works are considered *reasonably necessary* for the conversion of the buildings to residential use and either fall within Class Q 1 (i) as acceptable external works, or do not comprise development and are therefore internal works not prohibited by Class Q.

Finally, Under Clause Q 1 (ii) above (partial demolition) it is also considered reasonably necessary to demolish two sections of the grouping in order to facilitate the buildings operations allowed by paragraph Q.1 (i)(i).

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

The site is not 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;

The site does not form part of any of the above.

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

The site is not and does not contain a scheduled monument.

(m) the building is a listed building.

The buildings are not listed.

Conditions

Q.2 – (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development 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 –

(NOTE, as per Paragraph 028 of Practice Planning Guidance 'When is Permission Required' the Government states: "The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system."

(a) transport and highways impacts of the development, - The proposed dwellings would be accessed via an existing surfaced driveway from Moor Top Road. The Location Plan shows the addition of one new passing place, which will allow the shared access road to be used safely by all vehicles. At present a bin lorry drives up to the existing dwellings and turns around. It is considered that this arrangement could continue for the proposed development or alternatively a bin collection point and storage area closer to the road could be included if the Council considered this to be a more favourable option. It is also considered that the additional 5 dwellings would not result in a material increase in traffic volumes in the vicinity of the site, particularly given that the site has been a working farm generating vehicle movements including heavy goods traffic.

(b) noise impacts of the development, - The proposed dwellings would be located adjacent to the other existing dwellings, and as such would neither cause any noise issues, nor be vulnerable to noise from other sources.

(c) contamination risks on the site, - The site has previously been used for agricultural purposes only and there are no known or suspected ground contamination.

(d) flooding risks on the site, - The site is in Flood Zone 1, therefore this is not applicable.

(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, -

Government Guidance [2] states that,

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

It goes on further to state:

[2] When is Permission Required Paragraph 109

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power or other services its conversion is impractical. Additionally, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

In this case, none of the above applies as the buildings are easily accessible via a tarmacked access road.

The units would also be connected to existing services in the form of electric, telecommunications and drinking water. Foul sewerage would be dealt with by a new package treatment plant which would be located in the field south of the turning and main parking area.

The buildings are also not located adjacent to other uses that would make the conversions undesirable, particularly as the agricultural use of the site has now ceased. There are no other known reasons relating to siting or location that would make it impractical or undesirable for the buildings to change to Class C3.

(f) the design or external appearance of the building, and – The conversion would remain true to the original character and appearance of the buildings in relation to materials, architectural detailing and the inclusion of the original openings. Additional openings proposed are also sympathetic in nature and would reflect the original character of the buildings.

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, - As the Proposed plans demonstrate, all habitable rooms within each of the 5 dwellings would have at least one opening to provide an adequate amount of natural light.

and the provisions of paragraphs W (prior approval) of this Part apply in relation to that application.

Relevant procedures are covered within the enclosed submission and details. Other procedures under Paragraph W relate to LPA requirements.

(2) Where the development proposed is development under Class Q(a) only, development 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 the items referred to in sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

Not applicable as the proposals in this case relate to Class Q (b).

(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

This is duly noted.

…./cont.

Curtilage

Permitted development under Class Q allows for the change of use of a building **and any land within its curtilage.**

Paragraph X of Part 3 defines curtilage for the purposes of Class Q as:

(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.

In this case criteria (b) has been applied. The Proposed Site Plan includes the floor areas for each unit alongside the areas of curtilage (garden and parking). It is also clear from the plan which parking spaces and garden areas relate to which unit. The plan demonstrates that each of the curtilage areas is no larger than the land area occupied by each of the units.

Conclusion

Based on fulfilling the above criteria, it is considered that the proposed development is acceptable under Class Q (permitted development) and we therefore respectfully request that this prior approval notification for five dwellinghouses is granted accordingly.

Please do not hesitate to contact us should you have any queries.

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