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.	**2025/CL/90727/E**
Site Address	**Popeley Farm, Muffit Lane, Gomersal, Cleckheaton, BD19 4QS**
Description	**Prior notification for change of use of agriultural building to one dwelling**
Recommending Officer	**Nicole Helliwell**

DECISION - REFUSED

I hereby authorise the refusal 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-May-2025

Officer Report

Reference No. 2025/CLASS Q/90727/E

Site Address: Popeley Farm, Muffit Lane, Gomersal, Cleckheaton, BD19 4QS

Proposal: Prior notification for change of use of agricultural buildings to one dwelling.

Site Description

The application relates to an agricultural building situated within the grounds of Popeley Farm in Gomersal, Cleckheaton. The site is currently a working farm which comprises numerous agricultural buildings and accommodation belonging to the owner. 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 agricultural building to one dwelling together with operations reasonably necessary to convert the building to residential use under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q. The submitted plans confirm that one dwelling is proposed across two floors. The dwelling would be faced in concrete blockwork with dark grey paint finish on the lower sections and existing vertical timber cladding to the upper walls. Furthermore, the roof would remain as existing and would feature 10 roof lights with the north facing roof plane. New timber doors would be installed within the east elevation to allow the application building to be used as accommodation. PPC Aluminium fenestration would also be installed within the north, east and west facing elevations to allow adequate light. The proposed domestic curtilage would be immediately surrounding the building outlined in red on the proposed site plan.

Relevant Planning History

- **2025/90593:** Prior notification for change of use of agricultural building to one dwelling. Planning application details | Kirklees Council – Refused
- **2024/92809:** Prior notification for change of use from agricultural building to 1 dwelling. Planning application details | Kirklees Council – Refused
- **2024/92808:** Prior notification for change of use from agricultural building to 3 dwellings. Planning application details | Kirklees Council - Details Approved
- **2024/90411:** Prior notification for change of use from commercial/business/service to one dwelling. Planning application details | Kirklees Council. – Refused

- **2024/90377:** Prior notification for change of use from agricultural building to three dwelling with associated works. Planning application details | Kirklees Council – Refused
- **2024/90376:** Prior notification for change of use from agricultural building to one dwelling with associated works. Planning application details | Kirklees Council - Refused
- **2023/92726:** Prior notification for change of use from agricultural building to one dwelling. Planning application details | Kirklees Council – Withdrawn
- **2023/92721**: Prior notification for change of use from commercial building to one dwelling. Planning application details | Kirklees Council – Refused
- **2023/92679**: Prior notification for demolition of agricultural barn. Planning application details | Kirklees Council – Demolition Details Approved
- **2023/92678**: Prior notification for change of use from agricultural building to 3 dwellings. Planning application details | Kirklees Council - Refused
- **91/00456**: Golf course and ancillary facilities. Planning application details | Kirklees Council – Conditional Full Permission
- **88/05139**: Change of use of agricultural buildings to 6 dwellings. Planning application details | Kirklees Council – Refused

History of Negotiations
No amendments were sought or received during the course of the application.

Representations
The application site has no adjoining neighbours, therefore, no neighbour notification letters were issued. However, the application was publicised on the council website. As a result of the above publicity, no representations have been 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."

The submitted plans confirm that some of the existing external walling will need to be removed as part of the proposal. Whilst the roof would remain as existing only on the north facing elevation, the submitted plans demonstrate that the dwelling would be faced in new concrete blockwork with dark grey paint finish on the lower sections with new material above on all elevations and new roofing on the north facing elevation. It is therefore considered, the building as it currently stands, would not be capable to function as a converted dwelling without the significant degree of proposed building works essentially taking the building to a minimalistic framed strcuture which are tantamount to a new build

as set out in Hibbitt. In this case, the proposed works would be considered so extensive as to comprise rebuilding and therefore cannot be considered within the definition of "conversion."

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— (i) on 24th July 2023, or (i) 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 development under Class Q begins,	***Pass:*** *The site is an existing agricultural unit.*
(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	***Pass:*** *The site is an existing agricultural unit.*

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	
(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:*** *Whilst the floor space of the dwelling would exceed 150 square metres, this is considered acceptable under transitional arrangements.*
(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 consent of both the landlord and the tenant has been obtained;	***Pass:*** *The application form states that 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 (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 external dimensions of the existing building.*
(i) the development under Class Q(b) would result in an extension that— (i) has more than one storey, (i) is sited anywhere other than to the rear of the existing building, (ii) extends beyond the rear wall of the existing building by more than 4 metres,	***Pass:*** *The development would accord with the requirements of (i).*

(iii) has eaves the height of which exceed the height of the eaves of the existing building, (iv) is higher than whichever is the lower of— (aa) the highest part of the roof of the existing building, or (bb) a height of 4 metres above the ground, (v) 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	***Fail:*** *It is considered that the proposed building operations would exceed the limit of those listed.*

reasonably necessary for the building to function as a dwellinghouse; and (i) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);	
(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; (i) (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 curtilage identified to serve the development would be located immediately to the north-west 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(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,
(a) noise impacts of the development,
(b) contamination risks on the site,
(c) flooding risks on the site,
(d) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,
(e) the design or external appearance of the building, and
(f) 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
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 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 Kirklees Highway Design Guide states that *"New development serving more than five dwellings (or any existing private road which will serve more than five dwellings after completion of new development) should be laid out to an adoptable standard and be able to be offered for adoption."* The council does not normally adopt developments of five dwellings or fewer. The existing farmhouse cumulatively with the proposed conversion of Unit A and the three dwellings approved under application reference no. 2024/92808 would take the total number of dwellings at this location to five, which would be acceptable.

Visibility Splays

The existing visibility splays are substandard and will need improving. However, the Applicant has submitted a drawing showing that the recommended visibility splays can be met at this access. KC Highways DM have confirmed that these will need to be conditioned for the lifetime of the development.

Emergency Access

A swept path analysis has been provided to show that a Kirklees fire service vehicle can both access and turn within the site in the case of an emergency and is acceptable.

Internal Layout

The site layout and number of parking spaces proposed is 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 are over the minimum carry distance for the refuse collectors and as such a bin collection/presentation point should be located adjacent to the public highway. The bin collection/presentation point must not obstruct the adopted highway or the driveway. Details of the waste collection for the proposed dwelling should be provided, with the location of a waste collection presentation point being clearly marked on a drawing in such a location that is easily accessible to the collection team and where it will not obstruct the access or the adopted highway for road safety reasons.

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.

2) Noise Impact on the Development

The site is situated in an isolated location with no 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.

3) Contamination and Flood Risk of the Site

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

The site has been shown on our mapping systems as being in close proximity to a former sandstone quarry (site ref:175/2), which appears to have been infilled, 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.

In support of the application a Desk Top Coal Mining Risk Assessment by Worms Eye Limited (dated 30th November 2023, reference no. Muffit Lane/BD19 4QD/2023 has been submitted. The report confirms coal seams exist beneath the site, including the presence of coal at shallow depths. The report is based on desktop information only and uses language such as "about, unlikely, not generally worked." At this stage, the information presented is not specific enough to draw complete conclusions.

No information has been supplied to appraise the other potential contamination risks from the agricultural/commercial business legacy at the site or nearby quarries which may have been infilled. Whilst KC Environmental Health do not object to the development, Officers recommend 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.

4) The Design or External Appearance of the building(s)

The design of the dwelling would be somewhat determined by the existing building, the form of which is to be mostly retained. The submitted plans confirm that the dwelling would be faced in concrete blockwork with dark grey paint finish on the lower sections and existing vertical timber cladding to the upper walls. Furthermore, the roof would remain as existing and would feature 10 velux roof lights with the north facing roof plane. Although this material palette is not typical for the site and wider area, it is considered that the appearance of the proposed dwelling would be sympathetic to the 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 dwelling would be situated in a remote location on land within a complex of agricultural buildings. The buildings are served by an existing metalled access track albeit relatively steep but accessible by vehicle or foot. The site is also located reasonably close to bus routes and local services in Gomersal that can be accessed via a network of public rights of way. Therefore, it is considered that the location is sustainable.

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 suggests that a two storey, four bedroom dwelling should have an internal floor area of 97m^2 for 5 people, 106m^2 for 6 people, 115m^2 for 7 people and 124m^2 for 8 people.

The proposed floor plans demonstrate that property would have four double bed spaces and would have an internal floor space of 465m^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. Furthermore, private outdoor amenity space is proposed to the south-west. For these reasons, it is

considered that the proposal would provide an acceptable standard of living for future occupants.

7) Representations

No representations have been received during the course of the application.

8) Conclusion

The proposed development is not 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: Refuse Prior Approval

Decision Authorisation - Delegated Powers
Application Number: 2025/90727
Officer Recommendation: Refuse Prior Approval
Reasons for Refusal:

1. The building operations described in the application are considered to go beyond works that could reasonably be described as development to convert an existing agricultural building and as thus considered as a matter of fact and degree to constitute a re-build and therefore cannot benefit from a general planning permission by virtue of Article 3(1) and Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	1101	A	14/03/2025
Unit A Floor Plan As Existing	1103	-	14/03/2025
Site Plan Unit A As Proposed	1106	-	14/03/2025
Unit A (B2) Floor Plan As Proposed	1107	-	14/03/2025
Unit A (B2) Mezz Floor Plan As Proposed	1108	-	14/03/2025
Unit A (B2) North & West Facing Elevations	1109	A	14/03/2025
Unit A (B2) North & East Facing Elevations	1110	-	14/03/2025
Barn 2 Structural Inspection for Planning	-	1.0	14/03/2025
Coal Mining Risk Assessment	Muffit Lane/BD19 4QD/2023	-	14/03/2025
Addendum to Structural Inspection Report for Planning (Barns 1 & 2)	-	1.0	14/03/2025
Letter from Bombus Ecology	-	-	14/03/2025
Fire Tender Swept Path Analysis	2301703	-	14/03/2025

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 2024 and otherwise actively engaged with the applicant in dealing with the application. In this instance, the alterations required would be beyond the scope of the application. As such, no amendments were sought thereafter.