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Planning Development

Class Q (Transitional Arrangements) Compliance Statement: Meltham Grange Farm, Slaithwaite Road, Meltham, HD9 5PT

Introduction

This planning statement accompanies a Prior Approval application for the proposed change of use of two agricultural buildings to three dwellinghouses (Class C3) at Meltham Grange Farm, Slaithwaite Road, Meltham, HD9 5PT.

Meltham Grange Farm is located approximately 1.3 miles north-west of the centre of Meltham. The site is accessed via an existing track (the eastern section of Deer Hill End Road). The application site comprises two agricultural buildings. The wider site contains the farmhouse, one barn building, an additional outbuilding building and surrounding land. The buildings subject to this application have been constructed using concrete block and corrugated metal sheeting. The site is surrounded by open fields and countryside with Deer Hill reservoir located approximately 0.7 miles north-west of the site. The application site is located within the Green Belt in accordance with the Kirklees Local Plan Policies Map.

Agricultural Buildings – Meltham Grange Farm

Planning History

There is no planning history relating to the agricultural buildings subject to this application. On the wider site, there is the following planning history:

2023/91267 – Partial demolition of existing outbuilding and alterations to form office/gym/garage/trailer store/stables/tack room/feed store and change of use of agricultural building for horse schooling arena - Approved

The Proposals

Barn 1

A section of barn 1 (13.8m x 7.4m) is proposed to be demolished. The remaining building measuring 13.8m (l) x 8.6m (w) x 4.4m (h) is proposed to be converted into one dwelling with a floor area measuring 118 sq.m. Internally, the accommodation would comprise open plan kitchen-lounge, three bedrooms and one bathroom.

The existing large opening on the north-east elevation would be altered to a glazed door and windows. One new square window opening is proposed on the north-west elevation; two new square window openings are proposed on the south-west elevation and three new square window openings are proposed on the south-east elevation.

Two car parking spaces are proposed to be located adjacent to the north-east elevation with an outdoor amenity space/garden proposed to be located adjacent to the south-east elevation.

Barn 2

Barn 2 which measures is proposed to be converted into two dwellings, each with a floorspace measuring 152 sq.m. Internally, the accommodation in both dwellings would comprise kitchen, lounge, two/three bedrooms, W.C and one bathroom.

The existing large openings on the north-east and south-west elevations would be altered to glazed door and windows. Two new rectangular windows are proposed on the north-west and south-east elevations.

Two car parking spaces and outdoor amenity spaces/gardens are proposed for each dwelling. The parking spaces would be located adjacent to the north-east elevation of the building with the garden areas located adjacent to the north-east and south-east elevations.

Other conversion works for both buildings include the following:

- Original steel frame to remain but cleaned and treated with protective paint where necessary.
- Existing cladding to be retained and any defective sheets repaired and replaced where reasonably necessary.
- Minimal alterations to existing openings to accommodate new glazed frames. Minimal additional new window openings.
- Existing solid floor to remain with a layer of insulation laid over.
- Internal insulated timber frames to be constructed to the external walls and insulated timber ceilings to be suspended from the existing steel roof structure.

Changes to Class Q legislation

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 2 of the above list is being pursued – i.e. up to 3 'larger' dwellings of no more than 465 sq.m in total.

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] 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.

Referring back to the Class Q legislation, the reason 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. Upon a recent change of ownership of the property, the buildings are now largely vacant (and have had no intervening use).

(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 cumulative number of separate larger dwellinghouses proposed is 3 and the cumulative floor space of the three dwellings would measure 422 sq.m.

(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;

The floorspaces of the proposed dwellings are 118 sq.m, 152 sq.m and 152 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;

No smaller dwellinghouses are being applied for.

(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;

The dwellinghouses proposed would have a cumulative floor space measuring 422 sq.m (118 sq.m, 152 sq.m and 152 sq.m respectively) and the cumulative number of separate dwellinghouses proposed is 3.

(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 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 this: "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, 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".

As such, and crucially, there is consequently no longer a test requiring the building to be *structurally sound*: 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.

Clearly, this case has the obvious initial advantage of the buildings being of sound construction, and the proposed development complies with the now revised Government Practice Guidance and Clause Q(b) as follows, the key tests being whether the building is *suitable for conversion* (Q[b]) and whether or not the building operations are *reasonably necessary* to convert the buildings – externally and internally.

1) The accompanying Structural Appraisals produced by Marsh Design Ltd conclude by stating that,

   'the barn building is in a stable structural condition, and in our opinion, it can be deemed to be of substantial and permanent construction suitable and capable for its proposed conversion into a habitable dwelling.'

2) The accompanying Methodology Statement produced by S. Ingram & Associates includes details of the external and internal conversion works which include:

- Original steel frame to remain but cleaned and treated with protective paint where necessary.
- Existing cladding to be retained and any defective sheets repaired and replaced where necessary.
- Minimal alterations to existing openings to accommodate new glazed frames. Minimal additional new window openings.
- Existing solid floor to remain with a layer of insulation laid over.
- Internal insulated timber frames to be constructed to the external walls and insulated timber ceilings to be suspended from the existing steel roof structure.

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 part of Barn 1 in order to facilitate the Class Q conversion. The demolition involves a later addition and its removal would leave both barns as originally built.

(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 building is 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 track from Slaithwaite Road. There is ample space for cars to pass one another along the track. It is also considered that the addition of three dwellings would not result in a material increase in traffic volumes in the vicinity of the site, particularly given that the site has previously been working farm.

b) noise impacts of the development, - The proposed dwellings 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, so there is no known or suspected ground contamination.

d) flooding risks on the site, - The site is in Flood Zone and 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:

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 building is easily accessible via an existing track from Slaithwaite Road and connecting the buildings to existing services (electric, telecoms,

[2] When is Permission Required Paragraph 109

water) would not be problematic given its close proximity to other buildings/dwellings and existing service connections. Foul drainage would be disposed of via a sewage treatment plant which would be located west of Barn 1.

The buildings are not located adjacent to other uses that would make the conversions undesirable. 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 conversions would remain true to the original character and appearance of the buildings in relation to form, roof style, materials and architectural detailing.

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 3 dwellings would have at least one window to provide them with 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.

<u>Curtilage</u>

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.

The proposed curtilage areas for each house are shown on the Proposed Site Layout plan. The calculated areas include the parking areas, and the garden areas located adjacent to each of the plots

[3]. As can be seen from the annotation on the Proposed Site Layout plan, the curtilage area for each plot is no larger than the land occupied by the agricultural building for each plot. E.g. the footprint for Barn 1 is 118 sq.m (plus external Walls) and the external area is 109 sq.m; the footprint of Unit A in Barn 2 is 152 sq.m (plus external walls) and the external area is 123 sq.m; and the footprint in Unit B in Barn 2 is 152 sq.m (plus external walls) and the external area is 132 sq.m.

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 three dwellinghouses is granted accordingly.

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

Robert Halstead Chartered Surveyors & Town Planners

20th May 2025

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[3] Shared access / hardstanding areas are not counted as curtilage under Class Q rules / guidelines, as confirmed through numerous appeals.