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Planning Development

Class Q (Transitional Arrangements) Compliance Statement: Holt Farm, Holt Lane, Holmfirth, HD9 3BW

Introduction

This planning statement accompanies a Prior Approval application for the proposed change of use of an agricultural building to two dwellinghouses (Class C3) at Holt Farm, Holt Lane, Holmfirth, HD9 3BW.

Holt Farm is located approximately 0.4 miles north of the centre of Holmfirth. The site is accessed via an existing track from Holt Lane. The application site comprises an agricultural barn, an open fronted storage structure and a yard area. The farmhouse is located directly south of the application site with a separate access from Holt Lane. The building subject to this application has been constructed using concrete block and timber cladding with a fibre cement roof. The site is surrounded by open fields and countryside. The application site is located within the Green Belt in accordance with the Kirklees Local Plan Policies Map.



Agricultural Buildings (east elevation) – Holt Farm

Planning History

2002/92391 – Agricultural notification for the prior approval of details for erection of storage shed for straw and equipment – Details Approved

The Proposals

The agricultural building is proposed to be converted into two dwellings. Both units would comprise two-storey 3-bed dwellings with mezzanine first floors. Unit 1 would have an internal floor area measuring 215.5 sq.m and unit 2 would have an internal floor area measuring 249.2 sq.m.

The conversion works would include the following:

- Existing Yorkshire boarding to be retained and infilled from behind with matching timber to create rainscreen cladding.
- Existing fibre cement roofing to be made good as necessary and lined internally to living spaces.
- Concrete slab to be retained and infilled as required.
- New glazed screens with folding / sliding opening elements to be installed into existing door openings.
- Existing concrete blockwork / precast panels to be decorated with masonry paint.
- New party wall to be built between dwellings and new timber studwork internal walls to be built off existing structure.
- New timber mezzanine floor and associated stairs to be installed.

Both dwellings are proposed to have two allocated parking spaces and outdoor amenity spaces. The existing concrete yard is proposed to be retained to provide a vehicle turning area. The proposals also include the demolition of the lean-to timber shed storage structures.

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 – 20th 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

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(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 since. Upon the unfortunate passing away of the applicant's parents (the last occupants of Holt Farm), the buildings are now 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 2 and the cumulative floor space of both dwellings would measure 464.7 sq.m (215.5 sq.m + 249.2 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 larger dwellings are 215.5 sq.m and 249.2 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
(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 proposed.

(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 larger dwellinghouses proposed would have a cumulative floor space measuring 464.7 sq.m and the cumulative number of separate dwellinghouses proposed is 2.

(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 building extending beyond the external dimensions of the existing building 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 building 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 building – externally and internally.

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

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

2) The Methodology Statement produced by jg-d architecture and design (included on the plans as existing) includes details of the external and internal conversion works which include:

- Existing Yorkshire boarding to be retained and infilled from behind with matching timber to create rainscreen cladding.
- Existing fibre cement roofing to be made good as necessary and lined internally to living spaces.
- Concrete slab to be infilled as required.
- New glazed screens with folding / sliding opening elements to be installed into existing door openings.
- Existing concrete blockwork / precast panels to be decorated with masonry paint.
- New party wall to be built between dwellings and new timber studwork internal walls to be built off existing structure.
- New timber mezzanine floor and associated stairs to be installed.

All these works are considered *reasonably necessary* for the conversion of the building 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 the existing lean-to open fronted storage building in order to facilitate the Class Q conversion, as this structure is a later addition to the agricultural buildings and this area will be used for parking and amenity space in association with the residential use.

(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 Holt Lane. Due to the short length of the track and the width of shared circulation space available, passing places are not necessary in this case. A refuse collection point is proposed to be located where the track meets Holt Lane. It is also considered that the addition of two dwellings would not result in a material increase in traffic volumes in the vicinity of the site, particularly given that the site has been working farm up until recently.

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 1 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 Holt Lane. The building is also connected to existing services. A package treatment plant for foul drainage is proposed to serve the new dwellings. This would be located on land to the east of the building and would comprise Klargester BioDisc B8 (12 persons).

The building is also not located adjacent to other uses that would make the conversion 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 conversion would remain true to the original character and appearance of the building 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 2 dwellings would have at least one window to provide them with an adequate amount of natural light.

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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.

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.

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 external footprint of unit 1 measures 195.2 sq.m and the curtilage area measures 159.7 sq.m and the external footprint of unit 2 measures 188.1 sq.m and the curtilage area measures 158.5 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 two dwellinghouses is granted accordingly.

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

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

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