

APPLICATION NUMBER: 24/00350/CPL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00350/CPL

CASE OFFICER

Rosalind Gralton

DETERMINATION DATE 14.06.2024 EXT OF TIME

Address: Exiting Barn To The South Side Of Fordoe Lane At The Junction With Lower Knowl Lane, 365M Meters From East Knowl Farm

Proposal: Certificate of lawfulness for proposed change of use from agricultural barn to dwelling (C3)

PUBLICITY	Weekly list expired?	NA	Site notice expired?	NA
	Neighbour letters expired?	NA	Press Notice expired?	NA

DELEGATION	Significant departure from local plan?	NA	Contrary to national policy?	NA
	Applicant a Council Member or officer?	NA	Contrary to previous decision?	NA
	Major with 10 or more objections and recommending approval?	NA	Called in or Planning Panel objection?	NA

COMMENTS	Planning Panel comments received?	NA
	Neighbour comments received?	NA

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	NA
	Pre-commencement conditions agreed (or notification period expired)?	NA

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: RK

DATE:14/06/2024

SITE

The application relates to an agricultural building set within open countryside to the north of the Wolstenholme settlement of Norden within Rochdale North Township. The site is located approximately 0.19 miles along Fordoe Lane (an unadopted road) and is 0.38 miles from the connection to the adopted highway at Over Town Lane. The details within the application state that Fordoe Lane is currently maintained by the present owners of the site to which this application relates. Neighbouring farms and residential properties are located within the immediate context. The barn is of traditional stone construction with steel purlins to the roof, supporting a profiled insulated metal sheet roofing material which has been later added. The site is located within the Green Belt.

Procedural Note: The barn in question could be more accurately be described as being located on Fordoe Lane as opposed to Lower Knowl Lane which is located to the West of the site (ref. PROW RocAFp32).

PROPOSAL

The application seeks a certificate of lawful development for the proposed change of use of an agricultural barn to a dwelling (C3), following the previous prior approval application '23/01262/PRA56'.

The proposed change of use would involve the following building operations:

- Insertion of windows and doors;
- Internal conversion works to make the building habitable;
- Re-roofing in natural stone slates;
- Creation of hardstanding capable of accommodating two vehicles to the front, a private garden area to the side & rear; and
- Installation of water, gas, electricity and drainage services.

Within the supporting information for this certificate of proposed lawfulness, the applicant has set out the case a certificate of proposed lawfulness should be granted on the basis the Council providing notice of the decision outside of the 56 day period. This is assessed within the analysis section of the report.

RELEVANT PLANNING POLICY

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – The GPDO hereafter.

Conservation of Habitats and Species Regulations 2017 (as amended)

RELEVANT SITE HISTORY

23/01262/PRA56 - Prior approval application for change of use from agricultural building to dwellinghouse (Class C3) including alterations to fenestration on all elevations and formation of residential curtilage with driveway to the front and patio area to the rear – Refuse 16/01/2024

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, this application has not been publicised.

ANALYSIS

The application seeks a Certificate of Lawfulness on the basis that the previous application for prior approval for the conversion of a building under Class Q, Part 3, Schedule 2 of the GPDO should be granted as the Council failed to notify the applicant of their decision within 56 days.

The main issues therefore are whether the Council determined the original prior approval application Ref. 23/01262/PRA56 within 56 days, and whether the proposed change of use accords with the provisions of Class Q, Part 3, Schedule 2 of the General Permitted Development Order 2015 as amended ("The GPDO").

Whether the prior approval application was determined within 56 days

The Council concur with the submitted documents provided by the applicant which state a decision was made outside of the 56 days as denoted under Paragraph (W) of the General Permitted Development Order 2015 (as amended), and that the notification of the decision was outside of those 56 days, as this was received outside of business hours on the 56th day, and therefore this notification is not sufficient to comply with the requirement in W(11)(c) to notify the applicant within 56 days. It is accepted that the business hours of the agent acting on behalf of the applicant are generally until 17:30 and given that the decision was only issued after this time it is accepted that the decision would have only been practically received on the morning of the 57th day once business hours resume.

Whether the proposed conversion would comply with the provisions of Class Q, Part 3, Schedule 2 of the GPDO

The requirement for the Council to notify the applicant of the decision as to whether prior approval is required, granted or refused arises within paragraph 11 of Class W, Part 3, which establishes the procedure for the prior approval process.

The requirement for prior approval itself is established within Paragraph Q.2(1) of Class Q, part 3, which is explicit that the developer must apply to the local planning authority for a determination as to whether the prior approval will be required in relation to a number of matters only where the development proposed is development under Class Q(a)&(b).

Therefore, the requirement for the Council to notify the applicant of their decision within 56 days of receipt only relates to the prior approval process itself, which is only triggered where the development is permitted under Class Q. Therefore, the proposals must comply with the requirements of Class Q to which matters are reassessed:

The prior approval application 23/01262/PRA56 was refused for the following reason:

- 1. Insufficient information has been provided within the application to demonstrate that the existing barn has been used solely for an agricultural use as part of an established agricultural unit as required by paragraph Q.1(a) of Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). For the avoidance of doubt, this relates to the resolution of the supporting information*

provided electronically in support of the application contained within the 'Supporting Planning Statement' ref. 23-018 dated 14th September 2023 insofar as it relates to the receipts demonstrating financial transactions in association with the barn. Furthermore, there are discrepancies in the information provided in relation to the mapped land ownership and agricultural parcel data contained within the same document.

Class Q.1 (a) states

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;

Within this certificate of proposed lawfulness, an amended supporting statement has been submitted. A clearer blue line application was submitted. However, the land summary, showing the blue edged line, provide from Rural Payments Land summary, (page 6 of 11 of the applicant's Supporting Statement) shows the agricultural building in question clearly outside the blue edged line of the agricultural holding.

The drawings accompanying this current application for a certificate of proposed lawfulness does not include the application site within the blue line of ownership of the applicant. As such, it is not indicated the land has been solely in the use as part of an established agricultural unit as defined within (i), (ii) or (iii) as copied above.

A number of appeal decisions were submitted by the applicant in support of their case. In the case of Grasslands Nursery, Knutsford (APP/R0660/X/17/3175487), for the appeal to be allowed the inspector considered whether the development proposed complied with the relevant contents of the GPDO, and if the decision was issued within the 56 days from the date the application was received. In light of the above, despite the Council's failure to provide notification of the decision within 56 days of the date on which the application was received, the provisions of Class W, Part 3 were not relevant as the development did not comply with the requirements of Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

RECOMMENDATION

REFUSE for the following reason:

- 1. Despite the failure to provide notice of the decision within 56 days of the receipt of the application, the proposals do not constitute permitted development as the application fails to demonstrate that the existing barn has been used solely for an agricultural use as part of an established agricultural unit as required by paragraph Q.1(a) of Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). In light of this, requirement for the Council to determine whether or not prior approval is required or granted, and the provisions of*

Class W, Part 3 are not triggered and the requirement for the Council to notify the applicant of the decision within 56 days is not relevant.

Notes for Applicant:

INFORMATIVES:

For the avoidance of doubt, this this decision relates to the following list of plans & drawings:-

22-051_Structural appraisal
22-051_Supporting Planning statement
22-051-001_Location Plan
22-051-010_Existing
22-051-101_Application Site
22-051-301_Proposed Location Plan
22-051-310_Proposed

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