

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00780/PRA56	Majid Mir	11/09/2023

Address: Bone Heys Farm Haugh Fold Newhey Milnrow Rochdale OL16 3SZ

Proposal: Prior approval for change of use from agricultural building to 2 no. dwellinghouses (Use Class C3) including installation of new windows and doors

PUBLICITY	Weekly list expired?	Y	Site notice expired?	Y
	Neighbour letters expired?	Y	Press Notice expired?	N/A

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

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

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

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: RG

DATE: 13 September 2023

SITE

The application relates to three buildings/structures adjoined to one another. The buildings are identified as non-designated heritage assets. The bottom element of the buildings are constructed out of stone, with the top half being constructed using corrugated sheets of steel and potentially asbestos boards. Timber sheets have also been used to enclose some of the buildings. Overall, the buildings are in a poor state of repair. To the north and to the east there are two barns. The barn to east is also in a state of disrepair. To the south there is the old farmhouse.

The site is located in the Green Belt and is accessed via a narrow lane.

PROPOSAL

This application seeks prior notification for the change of use of the agricultural buildings to two dwellinghouses. The application proposes to include alterations including new external openings. The application form states that

“The works will comprises installation and replacement windows doors and exterior walls as reasonably necessary to convert the buildings. They will also include the installation of utility services as well as the replacement of some cladding materials to the extent reasonably necessary to carry out the works detailed within the plans.”

Unit 1 will be set over a single floor and would have 2 bedrooms. Unit 2 would be set over two floors with 4 bedrooms.

RELEVANT PLANNING POLICY

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Conservation of Habitats and Species Regulations 2017 (as amended)

RELEVANT SITE HISTORY

Not applicable.

CONSULTATION RESPONSES

Conservation

Summary: Insufficient information and concerns regarding the conversion works and concerns regarding the domestication of the site.

Significance Assessment: This application seeks the prior approval of the local authority for the conversion of existing agricultural buildings into two dwellinghouses under Schedule 2, Part 3, Class Q of the GPDO 2015 (as amended). This Class allows for the change of use of the buildings and building operations reasonably necessary for the conversion.

If the proposed works fall to be considered under Class Q, then the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required with regards to various matters. This includes (f) the design and external appearance of the building.

Bone Heys and the associated buildings (shown as Cows Hey) are depicted on the 1851 OS map and appear to be a typical vernacular farmstead. Further information

is required to establish what remains of the original farm, as elements of it may meet the criteria for consideration as a non-designated heritage asset.

Three of the buildings to be converted are partly constructed in stone with a modern portal structure above, while the fourth is a portal framed structure. The stone structure likely pre-dates 1851, as it is shown on the OS map, but the cladding and portal are clearly much later addition.

A structural report has been submitted, but this does not detail how the buildings would be converted. It does not clarify how the buildings would be repaired and what elements would be replaced. Without knowing the extent of the works, it is not possible to conclude that they are reasonably necessary to facilitate the change of use.

The existing cladding has a functional appearance, which is indicative of their former agricultural use. From the submitted plans, the proposals for repair/replacement of the cladding are not evident. The conversion of these functional structures to a residential use raises concerns regarding the domestication of the structures and the potential for an incongruous development, which is no longer in keeping with its rural surrounds.

Drainage

The agricultural building is unlikely to already have any provision for private foul treatment, which will be required if the building(s) are converted to accommodation.

Private sewage guidance – for sites remote from public sewer system

If you are a small domestic site with small effluent volumes you do not need a permit from the Environment Agency, but you need to comply with the UK Government's Environment Agency's "General Binding Rules"

<https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>.

Foul discharges:- although there may be an existing Septic tank discharging to a 'soakaway', UK Government regulations must be complied with; one is no longer allowed to carry on using a Septic tank, unless a drainage field is provided. **Post January 2020, the General Binding Rules mean that septic tank discharges to stream or basic soakaway are not permitted and upgrades must be undertaken by any users of septic tanks.**

Traditionally a Soakaway is an undefined hole in the ground filled with rubble or more recently rainwater crates. Soakaways for treated foul effluent **are no longer permitted**. After January 2020 regulations require that they are replaced with a 'drainage field'.

A Drainage Field is a series of perforated pipes laid no deeper than 700mm into the ground, in trenches 300mm to 900mm wide and backfilled with 20mm gravel (see page 2). This ensures aerobic digestion can take place which allows the effluent to be treated. The minimum area covered by a drainage field is also prescribed by building regulations and ensures adequate drainage capacity.

If you want to drain to a stream, you **must** have a 'packaged sewage plant', which provides better treatment by providing some aeration to the micro-organisms in the sewage - by the use of rotating disc(s) or an intermittent air blower. There are multiple options from different suppliers.

Guidance – Soakaways & Drainage Field

All types of soakaway, including 'drainage fields' are covered by **Building regulations 2010 Part H Drainage and Waste Disposal**.

The Applicant will need to carry out infiltration tests to determine the size(s) of the roof drainage soakaway(s) and the size of the 'drainage field' for the treated foul discharge.

Drainage Field – percolation and separation distances:-

Guidance on testing for soakaway suitability can be found in paragraphs 1.31 to 1.38 and 3.24 to 3.30 of Building Regulations Part H. Alternatively consult BRE digest 365 or BS EN 752-4. Paragraph 3.28 provides test details to obtain a soil infiltration rate.

Section 1.27 of Building Regulations Part H states that a drainage field should be located: (c) at least 15m from any building and (d) sufficiently far from any other drainage field or soakaway so that the overall soakage capacity of the ground is not exceeded.

According to paragraph 1.38 Drainage field use is only suitable if percolation tests indicate an average V_p value of between 12 and 100.

Roof drainage soakaway:-

Any roof drainage soakaway must be at least 5 meters from a building or public road and at least 2.5 meters from the boundary.

Septic/ Sewage plant separation distances

General guidance is that any septic tank or sewage plant shall be 5m away from trees, fence and hedge and at least 7m from a dwelling (for odour purposes) and 4m away from any wall or other building.

LLFA - Drainage Officer conclusion

If a Full application was made, conditions regarding drainage and private foul treatment would be required.

The Planning Officer will need to decide whether the Applicant needs to make a full planning application or whether he thinks that the requirements can be dealt with by building control.

Environmental Control (Landfill Gas)

Would require a PRA if the application went ahead.

Environmental Health

No response received to date.

Greater Manchester Ecology Unit (GMEU)

Summary

I recommend a bat (and bird) assessment prior to determination.

Bats

Whilst the roof structures for these buildings are very low risk for bats, frames of the building appear to be located on random stone walls, some of which appear to have a number of potential crevices a potential bat roosting opportunity for species such as common pipistrelle. The building is also in a relatively high risk location being a fairly isolated building in an open landscape.

European protected species are a material consideration for some types of prior approval including Class Q development conversion of agricultural to residential.

Where protected species are at risk of harm from the development, ecological surveys may be reasonably requested and pre-commencement conditions to secure necessary protection measures may be attached to a notice of prior approval. (This was supported through case law see APP/L3245/W/15/3004467 Bridgenorth, Shropshire.)

Greater Manchester Fire Service

No response received to date.

Highways

There are a number of highways issue arising from this application.

None of the submitted plans show any parking arrangements for the proposed dwelling and Council standards would require the provision of two parking spaces.

It is also unclear how the new dwelling would be serviced particularly refuse collection and bin storage.

We also have concerns regarding the access road into the site and if its current condition is of a standard required to support residential development. We would require details of any proposed access improvements that are required to bring the route into the development up to an acceptable standard in line with Council policies.

Until the above issues are resolved Highways cannot support this application.

Right of Way Officer

I have considered the associated papers to planning Application Number 23/00780/PRA56 and attach a map to show the right of way running adjacent to the property.



The development should not affect the right of way however it should not be obstructed by vehicles, materials or fencing, it must be accessible at all times, the surface should not be damaged by any activity at the property. The route should not be altered without the completion of a legal order.

Tree

No response received to date.

United Utilities

No response received to date.

REPRESENTATIONS

The application has been publicised with a site notice placed within the vicinity of the site. Sixteen objections have been received. The comments are summarised below:

Highways and road safety

- ☐ Increase in traffic
- ☐ Lane not capable of increased traffic
- ☐ Danger to pedestrians:
- ☐ Access lane is entirely ungritted in the winter and can be impassable in severe weather
- ☐ Haugh Fold can only accommodate traffic in one direction - this is a potential bottle neck
- ☐ potential danger to livestock
- ☐ Heavy vehicles travelling along the lane – damage to properties on the lane and degradation of the lane
- ☐ impact on pedestrians who use lane – no footpath
- ☐ noise and pollution is excessive due to use of heavy vehicles along the lane
- ☐ Have to pass Children's Park area which surely is a danger to young children often in the area.
- ☐ Larger vehicles often disturb local residents, particularly late at night and early in the morning
- ☐ ehicles create lots of dust which enters our houses when windows are open affecting air quality
- ☐ Congestion
- ☐ The lane is very narrow with insufficient space for vehicles to pass side by side;
- ☐ Cost of upkeep of lane

Officer comments: The GPDO limits what can be considered when assessing a prior approval application. The GPDO requires the local planning authority to assess whether prior approval is required in relation to the transport and highways impacts of the development and 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. If required, this has been considered in the report below.

Damage

- ☐ Detrimental effect on the cobbles on Haugh Fold (a historic area of Newhey)
- ☐ Damage to stone wall
- ☐ United Utilities land with important mains water feeds and valve access - damage to this would have serious consequences for many local residences
- ☐ cobbles are becoming more damaged

Officer comments: The GPDO limits what can be considered when assessing a prior approval application. The GPDO requires the local planning authority to assess whether prior approval is required in relation to the design or external appearance of the building, If required, this has been considered in the report below.

Flooding and drainage

- ☐ surface water and waste drains run under this area which are in danger of collapse.
- ☐ the ongoing tipping at Bone Heys Farm is causing blockages to drains and the remodelling of the land is altering the flow of water

Officer comments: The GPDO limits what can be considered when assessing a prior approval application. The GPDO requires the local planning authority to assess whether prior approval is required in relation to flooding risks on the site. If required, this has been considered in the report below.

Other

- ② there could potentially be plans for more homes and other business involving caravans, containers, stables or the like, being operated from there that could generate even more traffic which will worsen the access further.

Officer comments: The application is for a change of use from agricultural to dwellinghouse. The application does not include an application to site caravans, containers or stables. The application also does not include a change of use of the rest of the site.

- ② there are of course merits to this site being developed after an extensive period of dilapidation can support if includes include an alternative access road and appropriate flood prevention/alleviation.
- ② impact on businesses and property
- ② This property has been purchased to dump rubble and waste on by the properties owner.
- ② There are already multiple wagons travelling up through the Haugh. . This is a major cause of concern to all the residents.
- ② The property should not be given planning permission in a green belt area and only the footprint of the exiting building should be built on or improved Extra buildings should not be given planning permission in such so close to an area of scientific interest

Officer comments: The GPDO limits what can be considered when assessing a prior approval application. The GPDO requires the local planning authority to assess whether prior approval is required in relation to noise impacts of the development. If required, this has been considered in the report below.

ANALYSIS

The application is for prior notification for the Change of Use of an Agricultural Building to C3 Dwellinghouse under Schedule 2 Part 3 Class Q (*agricultural buildings to dwellinghouses*) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Part Q relates to 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 Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and 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 (dwellinghouses) of that Schedule.

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;

“Agricultural Unit,” is not defined in article 2(1) of the GPDO, however paragraph X of Part 3 defines an “established agricultural unit” as “agricultural land occupied as a unit for the purposes of agriculture (and which was in use for that purpose on or before the relevant qualifying date under Classes Q, R and S respectively).

Furthermore, in Part 6, “agricultural unit” is defined in paragraph D.1 as “agricultural land which is occupied as a unit for the purposes of agriculture, including —

- (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or*
- (b) any dwelling on that land occupied by a farmworker*

The supporting report states that ‘the application site was part of a working farm and solely used in agriculture as of 20th March 2013 and continuously thereafter.’ However, the applicant has stated that the previous applicant used the site as an asbestos removal business. The comments are contradictory and it is unclear whether the site was solely used for agricultural unit on 20th March 2023.

Further to the above, it is noted that a number of comments have been made in regards to complaints about lorries travelling up and down the lane. This also does not necessarily mean that the site has not been used solely as an agricultural units since 20th March 2023.

In conclusion, taking note of the comments made by the applicant and the statement in the supporting report, it is unclear if the site has been solely used as an agricultural unit since 20th March 2023, and no further evidence has been provided to confirm that the site has been used solely as an agricultural unit since 20th March 2023.

- (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;

Two larger dwellinghouses are proposed. According the existing plans, there is a ground floor. The floor space of the existing buildings to be converted would not exceed 465 sqm.

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

- (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 to 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 2 larger dwellinghouses being proposed would have a total floor space of approximately 227 square metres. The total number of dwellinghouses being created is 2. There are no previous developments under Class Q.

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

The supporting report states that 'The site is within freehold ownership and is not subject to an agricultural tenancy'. No evidence has been provided to indicate that the site is currently occupied under 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;

An agricultural tenancy over the site has not been ended less than 1 year before the proposed date to begin development. The supporting report states that 'The site is within freehold ownership and is not subject to an agricultural tenancy'.

- (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;

The supporting report states that no development has taken place on the site under Class A or B of Part 6 since 20th March 2013. The site does not include any planning history to suggest otherwise.

- (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;

No development would 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 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);

The National Planning Practice Guidance outlines that building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations.

The NPPG guidance adds that ‘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’ (Paragraph: 105 Reference ID: 13-105-20180615). In effect, it is only when the existing building is already suitable for conversion to residential that the building would be considered to have this permitted development right as it is not the intention of the right to allow rebuilding work beyond what is reasonably necessary for a conversion. Internal works are not generally development. The NPPG adds that 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.

*This requirement is clarified further through the case law *Hibbitt v. SSCLG* [2016] EWHC 2853 (*Hibbitt case*). The judgement found that an agricultural building must be capable of conversion to residential use without operations that would amount to complete or substantial re-building of the original building. Whether or not a development goes beyond the scope of conversion is a matter of fact and degree and requires an element of judgement.*

The application site includes three buildings that it is proposed will be converted to dwellinghouses. The supporting structural report has identified these as ‘open end gable workshop’, ‘stable’ and ‘steel framed barn’. There are also assessment of the Independent Portal Framed Shed, however this not a part of this application. In regards to the steel framed barn, the structural report concluded:

“We feel this building would be acceptable for development providing

- 1. Suitable strengthening works are undertaken to the steel frame to support a new roof construction.*
- 2. Foundations are checked and confirmed.*
- 3. Floor slab thickness checked.*
- 4. The sump is diverted/removed and water has not been detrimental to the foundations.*
- 5. Battering back of the land behind to remove the retained earth.”*

In regards to the stable, the structural report concluded:

“We feel this building would be acceptable for development providing

- 1. The timbers to the roof are replaced.*
- 2. Foundations are checked and confirmed.*
- 3. Floor slab thickness checked.*
- 4. Re-mortar to the walls.*
- 5. Replacing damaged lintels.*
- 6. Battering back of the land behind to remove the retained earth.”*

In regards to the open gable end workshop. The structural report concludes:

“We feel this building would be acceptable for development providing:

- 1. The upper wall panelling and roof are removed and replaced, including the support structure. The trusses may be able to be cleaned, strengthened and re-used.*
- 2. Foundations are checked and confirmed.*
- 3. Floor slab thickness checked.*
- 4. Battering back of the land behind to remove the retained earth.*
- 5. Localised wall repairs and re-mortar.”*

It is noted that the battering back of the land to the rear of the buildings has already been undertaken. The report states that the buildings would be acceptable for development providing additional assessments are made. The structural report and the supporting report provides insufficient detail on how the buildings would be converted. Insufficient information has been provided in regards to the materials being proposed and the extent of works to structural elements of the buildings. It is noted that a new floor is also being proposed. Although, this is not prohibited under class Q, it is unclear how this would be constructed. Furthermore, it is also unclear what loads would be placed on the existing structures by the alterations and whether in fact the structures or the foundations are capable of taking the additional loads. As such it is not clear whether the buildings are capable of conversion with the extent of the work required would not go beyond what is reasonably necessary for the building to function as a dwellinghouse.

(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 a SSSI, safety hazard area or a military explosives storage area.

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

The site is not, nor does not contain a scheduled monument.

- (m) the building is a listed building.

The building proposed to be developed under Class Q is not a listed building.

Prior approval Matters

Under Part 3 Class Q, the developer must apply to the LPA for a determination as to whether the prior approval of the LPA will be required for the transport and highways impacts of the development, the noise impacts of the development, the contamination risks of the site, flooding risks on the site, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to residential use, the design or external appearance of the building and the provision of adequate natural light in all habitable rooms of the dwellinghouses. Nonetheless, the application has failed to clearly establish that the site has been used solely for an agricultural use as part of an established agricultural unit on 20th March 2013 and insufficient information has been provided to demonstrate that the building can reasonably converted within the provisions of criterion (i) into dwellinghouses. As such the application is not a valid submission under the prior notification process it is not considered appropriate to consider these matters at this time.

RECOMMENDATION - REFUSE

1. It has not been demonstrated that the buildings were used solely for an agricultural use as part of an established agricultural unit on 20th March 2013 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). The proposal therefore does not constitute permitted development and planning permission is required.
2. Insufficient details and evidence has been provided to demonstrate that the buildings to be developed under Class Q can be reasonably converted within the provisions of criterion Q.1(i) into dwellinghouses. The proposal therefore does not comply with the above requirement and cannot be considered to benefit from permitted development rights under Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Informative:

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

Site Plan – Lumb

Site Plan – Lumb

Site Plan. Drawing no: P 100

Existing Plan & Elevations. Drawing no: P 001

Proposed Plans & Elevations. Drawing no: P 200