

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/01262/PRA56	Michael Atkinson-Smith	16 January 2024

Address: Barn at Red Well Farm, Lower Knowl Lane, Rochdale

Proposal: 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

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

DELEGATION	Significant departure from local plan?	N/A	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	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/A
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: RK

DATE: 16/01/2024

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

This application seeks prior approval for the change of use of the agricultural buildings to one dwellinghouse (Use Class C3). Building operations would include:

- 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 and private garden area to the side & rear; and
- Installation of water, gas, electricity and drainage services.

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

N/A

CONSULTATION RESPONSES

Public Protection (Noise/Odours) - No objection.

GM Fire Service - No comments received to date.

Highways and Engineering - The main concern regarding this application is the suitability of the access to support residential development.

The access to the site along Overtown Lane and Fordoe Lane are registered as a Definitive Rights of Way which also carries private vehicular rights which are in the main agricultural. In considering this development we would have to consider the impact of the additional vehicle movements and the condition of the existing route to assess and if it's up to residential standard. A view from the Councils Rights of Way Officer on the suitability of the route to accommodate additional access should also be sort. At this stage we would ask for a condition survey of the proposed access that identifies

improvement to this route to bring it up to an acceptable standard which must be approved by the Council.

The application plans include some new passing places along the single track access to the application site as well as identifying existing passing points outside the site edged red. Although the layout of the passing bays have been identified we would need to know the construction details of these passing bays to assess if they can accommodate residential vehicular access. We would therefore require construction details of the passing bays for approval.

As there are a number of farms and cottages served by Overtown and Fordoe Lane we would expect that these properties are serviced via this access. We would however need conformation from the applicant on the proposed servicing arrangements especially refuse collection.

Subject to the additional information requested, Highways are not likely to raise an objection to this application.

Lead Local Flood Authority/Drainage – Objection unless the Applicant provides details of the proposed packaged sewage plant and its location on a dimensional plan.

Public Protection (Environment) – Standard pre-commencement conversion condition to applied.

REPRESENTATIONS

Letters of notification were sent to surrounding properties. No representations have been received.

ANALYSIS

The application is for prior notification for the Change of Use of an Agricultural Building to a 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 Planning Statement states that ‘the site has been used solely for an agricultural use as part of an established agricultural unit on 20th March 2013.’ The statement then goes on state ‘No prior permitted development works have been carried out under Class A or Class B, Part 6 of Schedule 2, within the land forming part of the established agricultural unit since 20th March 2013.’

However, in considering the evidence of agricultural use there are discrepancies in the information provided in relation to the mapped land ownership and agricultural parcel data contained within the same document. For the avoidance of doubt, this relates to the blue line boundary of land parcel 10 forming the agricultural holding which appears to exclude the barn in question (Page 7 of the Supporting Planning Statement).

Furthermore, the resolution and reproduction quality of the images of receipts presenting financial transactions claimed to be in association with the agricultural use of the barn have resulted in these items of being impossible to read.

On this basis, it is unclear it is unclear if the site has been solely used as an agricultural unit since 20th March 2013.

(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;

One larger dwellinghouse is proposed not exceeding exceeding 465 sqm. The existing building has an internal floorspace of 166.6 square metres and this would remain unchanged.

(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;

One larger dwellinghouse is proposed not exceeding exceeding 465 sqm. The existing building has an internal floorspace of 166.6 sqm and this would remain unchanged.

(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 one larger dwellinghouse being proposed would have a total floor space of approximately 166.6 square metres. 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 application form indicates that the site is not currently occupied under any agricultural tenancy agreements. No contrary evidence has been provided or received 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 is not known to have ended less than 1 year before the proposed date to begin development.

- (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 one building that it is proposed will be converted to a single dwellinghouse. The submitted structural report has found the barn to be generally in a good structural condition with walls which are plumb, straight and level, with no evidence of movement, cracking or subsidence having been noted during the visual inspection. Internal haylofts would need to be removed and replaced with materials sufficiently robust for their intended purpose on the basis of the amount of deflection for structural members. Thermal insulation would be required throughout the building. Windows and doors would be installed as required to facilitate the conversion. It is considered that the works described above, along with installation of necessary services, are reasonably necessary to facilitate the conversion to a dwellinghouse. It is noted from the supporting plans that a small patio area would be laid within the curtilage of the proposed dwelling. Whilst not expressly described within Class Q as works reasonably necessary for conversion, these relate only to the building itself and it would not be considered unreasonable for a residential dwelling to be provided with a proportionate private garden area as indicated on the plans.

- (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. 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.

However, two key points are drawn to the attention of the applicant:

- The proposed passing places indicated on Fordoe cannot form part of the 'reasonably necessary' works to facilitate the change of use as these relate only to the building itself. The passing places themselves could be considered as engineering operations and thus are exempt from the forms of operational development permitted under Class Q. Should passing places be required, express planning permission would be required. This matter and any staging should be carefully considered prior to any resubmission. The Council offers a pre-application advice service for further advice; details of which can be found on the Council's website within the Planning & Building section.
- An objection has been raised by the Lead Local Flood Authority on the basis that appropriate details of a packaged sewage plant have not been provided which is required for discharge to a stream. A copy of the detailed consultation response has been forwarded to the applicant for consideration as part of any potential resubmission.

Consultation summaries regarding other relevant prior approval matters are provided in the report above.

RECOMMENDATION

REFUSE 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.

Procedure Statement

Notes for Applicant:

INFORMATIVES:

1. For the avoidance of doubt, this this decision relates to the following list of plans & drawings:-
 - Location Plan – Existing, drawing no. 22-051-001
 - Existing details, drawing no. 22-051-010
 - Location Plan – Application Site, drawing no. 22-051-101

- Location Plan – Proposed, drawing no. 22-051-301
- Proposed details, drawing no. 22-051-310