

Prior approval application for the conversion of an agricultural building to form 2 dwellings at Eastham House Farm, Mitton, Clitheroe, Lancashire, BB7 9PH



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This application is made under part 3, Class Q (parts A and B) of The Town and Country Planning (General Permitted Development) Order 1995, as amended and as follows:-

Part 3

Class Q – agricultural buildings to dwellinghouses

Permitted development

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*
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.*

The application is made for a determination as to whether the prior approval of the authority will be required under Class Class QA as to—

- (a) transport and highways impacts of the development,
- (b) noise impacts of the development,
- (c) contamination risks on the site,
- (d) flooding risks on the site, or
- (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 (dwelling houses) of the Schedule to the Use Classes Order

and also

Under Class Q(b) for a determination as to whether the prior approval of the authority will be required as to the design or external appearance of the building

The use of the application building

The agricultural buildings has been in situ since 2010 and was used on the 20th of March 2013 exclusively for agricultural purposes as a cow barn

The established agricultural unit

The GPDO defines such a unit as follows:-

“established agricultural unit” means agricultural land occupied as a unit for the purposes of agriculture—

(a) for the purposes of Class R, on or before 3rd July 2012 or for 10 years before the date the development begins; or

(b) for the purposes of Class Q or S, on or before 20th March 2013 or for 10 years before the date the development begins;

The applicant farms some 50 acres immediately adjoining the application building. A plan of his established agricultural unit is submitted with the application. The farming enterprise includes cattle and sheep.

The application

The current application is for a change of use to two dwellings.

No windows or openings are to be made in the rear (West facing) wall which separates the proposed dwellings from an agricultural building used for hay storage.

A separate prior notice application is being made on behalf of the adjoining owner for the change of use of buildings immediately to the South (but not physically connected to the cow barn) into two dwellings.

The proposal conforms to Class Q of the GPDO:-

Conditions of the GPDO MB.1. Development is not permitted by Class Q if—	Conditions in relation to the application
(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 agricultural building was in use exclusively for agricultural purposes on the 20 th March, 2013.

(b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;	The proposed change of use would be less than 450 sq metres
(c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;	2 dwellings are proposed
(d) 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
(e) 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;	N/A
(f) 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;	N/A
(g) 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 such extensions

(h) the development (together with any previous development under Class Q) would result in more than 450 square metres of floor space of building or buildings within an established agricultural unit having changed use under Class Q;	Less than 450 sq metres is proposed. The amount of agricultural space to be converted is 168m ²
(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);	Conditions met. See submitted 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 SSI, safety hazard area or military explosives area
(l) the site is, or contains, a scheduled monument; or	It does not
(m) the building is a listed building.	The building is not listed

Interpretation of Part 3

“agricultural building” means a building used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse, and “agricultural use” refers to such uses;

“curtilage” means, for the purposes of Class Q —

(i) 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

(ii) 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 curtilage is defined on the plans and is no larger than the footprint of the existing agricultural building. .

Dimensions

	Unit 1 m2	Unit 2 m2	Total m2
Area of building changing use	84	84	168
Proposed curtilage	36.5	36.5	73

Application for a determination with regard to Class Q(a)

Transport and Highways Impacts of the Development

Part N(3) of the GPDO requires the LPA to consult the highway authority only where *“where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site”* It shall consult the local highway authority *“where the increase or change relates to traffic entering or leaving a classified road or proposed highway”*.

There is already good access to the building and it cannot be said that its conversion will result in a material increase or a material change in the character of traffic in the vicinity of the site

Noise impacts of the development

There will be no adverse noise impact

There will be no openings to the rear(Western facing) elevation

So far as the adjoining building to the west of the application building is concerned this is used for general storage purposes.

Planning Practice Guidance contains the following advice, which is a material planning consideration:-

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 source 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.

Details are also included of an appeal decision at Lighthurst barn in Hyndburn for the conversion of part of an agricultural building where the remainder of the building will continue to house animals and where no concerns of noise were considered to be material

Contamination risks on the site

The building already exists and it will not be necessary to disturb the adjoining land proposed as curtilage

The "Contaminated Land Statutory Guidance" published by Defra in April 2012 states:-

1.3 Part 2A (of the Environmental Protection Act 1990 (as amended) provides a means of dealing with unacceptable risks posed by land contamination to human health and the environment, and enforcing authorities should seek to find and deal with such land. Under Part 2A the starting point should be that land is not contaminated land unless there is reason to consider otherwise

2.1 Part 2A requires that local authorities cause their areas to be inspected with a view to identifying contaminated land, and to do this in accordance with this Guidance. Relevant sections of the Act include:

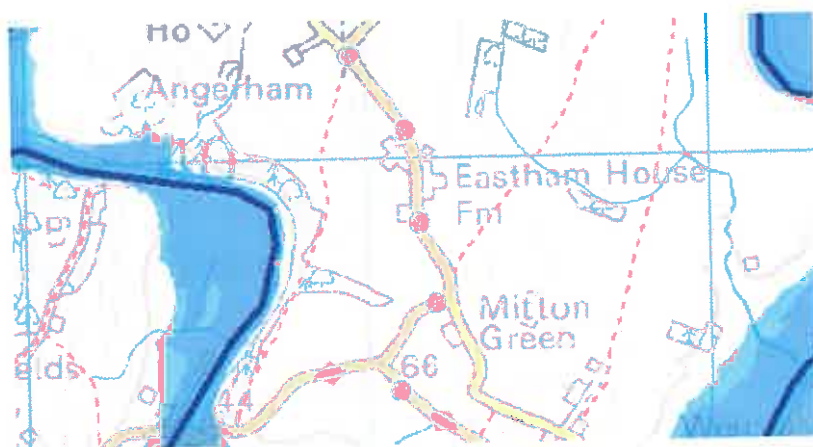
(a) Section 78B(1): Every local authority shall cause its area to be inspected from time to time for the purpose – (a) of identifying contaminated land; and (b) of enabling the authority to decide whether any such land is land which is required to be designated as a special site.

(b) Section 78B(2): In performing [these] functions... a local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State.

The site has not been determined as contaminated land under the Environmental Protection Act 1990. There are no recorded nuisance or pollution instances at or adjacent to this site in the last 12 months. There are no SSSI or Sites of Biological Importance within 250 metres of the site and it is understood that the site is not located within an air quality management area.

Flooding risks on the site

The buildings are not within a flood risk zone shown on the Environment Agency's map



Extract from EA Flood risk map – no flood risk

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 (dwelling houses) of the Schedule to the Use Classes Order

The building is structurally sound and there are no practical difficulties preventing its conversion to a dwelling.

The desirability of the conversion

A. Desirability in terms of providing rural housing and in diversifying the rural economy

Its conversion to dwellings will help to increase the supply of housing and will help with the rural economy. These accords with Explanatory Statement 2014/0564, prepared by the Department for Communities and Local Government and laid before Parliament by Command of Her Majesty. It states:-

*7.4 Under new Class MB(Now Class Q) **agricultural buildings** will be able to change to up to three **dwellinghouses** (C3), and carry out associated building works, so that rural businesses can diversify while increasing housing supply.*

The above reflects the DCLG Ministerial statement of the 6th March 2014 which states:-

New homes: agricultural to residential change of use

These reforms will make better use of redundant or under-used agricultural buildings, increasing rural housing without building on the countryside. Up to 450 square metres of agricultural buildings on a farm will be able to change to provide a maximum of 3 houses.

B. Desirability in terms of Planning Practice Guidance(PPG)

While the PPG is not policy it is a material planning consideration. PPG issued on the 5th March, 2015 states:-

Is there a sustainability prior approval for the change to residential use?

The permitted development right does not apply a test in relation to sustainability of location. This

is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house

What is meant by impractical or undesirable for the change to residential use?

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.

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 source 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.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant

Application for a determination with regard to Class Q(b)

Design

Development permitted under class Q includes building operations reasonably necessary to convert the buildingto a use falling within Class C3 (dwellinghouses) of that

Schedule.

The GPDO states that such operations include the following:-

- (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);*

The application accords with such requirements.

In addition Class Q allows for the change of use of associated curtilage land
The GPDO defines curtilage land as follows:-

Curtilage” means, for the purposes of Class Q

- (i) 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*
- (ii) 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 proposal has a curtilage which complies with the above requirements

Procedure for applications for prior approval under Part 3

W.— (1) *The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.*

(2) The application shall be accompanied by—

- (a) a written description of the proposed development;*
- (b) a plan indicating the site and showing the proposed development;*
- (c) the developer's contact address; and*

- (d) the developer's email address if the developer is content to receive communications electronically;*
- (e) where paragraph (4) requires the Environment Agency to be consulted, a site-specific flood risk assessment;*
- together with any fee required to be paid.*

The application is accompanied by the necessary information