

**Prior Notice application for the change of use and associated operational
development relating to an agricultural building to form 1 dwellings at Tottington
Manor Farm, Turton Road, Bury**

GR 375382;414655



March 2022

Prepared by Hartley Planning and Development Associates Ltd

This application is made under Schedule 2, part 3, class Q of the Town and Country Planning (General Permitted Development) Order 1995, (as amended).

It concerns the change of use of an agricultural building and associated operational development to form 1 dwelling

The internal floor area of the agricultural building involving the proposed change of use would be 38.5m², and the associated curtilage, at 31.2m², is the smaller of either the building footprint or the existing associated space around it.

Use of the agricultural building on the 21 March 2013 in association with an agricultural unit

The agricultural building was used exclusively on the 20 March 2013 for agricultural purposes in association with an agricultural unit of some 18 acres. 6.6ha. It continues to be used for this purpose.

The agricultural building has been present on the land since at least 2000. See Google Earth images of 2000, 2005 and April 2013

A plan of the agricultural unit is submitted with the application.

The applicant has an agricultural holding number (registration SBI N' 122078090
CHP land register N' 44/690/0566)

The application

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

- (a) transport and highways impact 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 proposal conforms to Class Q of the GPDO: -

Class Q

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 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.

Conditions of the GPDO Q. Development is not permitted by Class Q where—	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 buildings were used solely as such in association with the agricultural unit
(b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 465 square metres;	The gross external floor space of the building changing use, at 38.5m ² is less than 465m ² allowed under the GPDO amendment of 2018

(c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 5;	1 dwelling is proposed in accordance with the GPDO amendment of 2018
(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	No such termination
(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;	No such development has taken place
(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	The proposal does not extend beyond the external dimensions of the existing building
(h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings 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;	The limit is not exceeded

(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 are met In addition, the proposed development meets the requirement for daylight to be available to all habitable rooms
(j) the site is on article 2(3) land;	It 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;	It is not within any of the areas
(l) the site is, or contains, a scheduled monument; or	The site is not a scheduled monument
(m) the building is a listed building.	It is not listed

Interpretation of Part 3

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

“curtilage” means, for the purposes of Class Q, R or S only—

(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

“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

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

Transport and Highways Impacts of the Development

Part W of the GPDO requires the LPA to consult the highway authority only

“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 existing access to the building from. Tottington Road

The use of the building for a dwelling is unlikely to *‘result in a material increase or a material change in the character of traffic in the vicinity of the site or to an increase or change relating to traffic entering or leaving a classified road or proposed highway’.*

Noise impacts of the development

There will be no adverse noise impact. The proposal is for the change of use of the whole of the building.

Contamination risks on the site

A. 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.

B. The General Permitted Development Order, states as follows (Schedule2, Part 3, Paragraph W(9) (c)

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

(c) in relation to the contamination risks on the site—

(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and
(ii) if they determine that the site will be contaminated land, refuse to give prior approval.

A. The site has not been determined by the LPA to be contaminated as described in Part 2A of the Environmental Protection Act, 1990(b)

B. The Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance, April 2012 states as follows:-

"Normal" presence of contaminants

3.21 The Part 2A regime was introduced to help identify and deal with land which poses unacceptable levels of risk. It is not intended to apply to land with levels of contaminants in soil that are commonplace and widespread throughout England or parts of it, and for which in the very large majority of cases there is no reason to consider that there is an unacceptable risk.

3.22 Normal levels of contaminants in soil should not be considered to cause land to qualify as contaminated land, unless there is a particular reason to consider otherwise. Therefore, if it is established that land is at or close to normal levels of particular contaminants, it should usually not

be considered further in relation to the Part 2A regime and the local authority should have regard to paragraphs 5.2 to 5.4 of this Guidance.

3.23 For the purpose of this Guidance, “normal” levels of contaminants in soil may result from:

(a) The natural presence of contaminants (e.g. caused by soil formation processes and underlying geology) at levels that might reasonably be considered typical in a given area and have not been shown to pose an unacceptable risk to health or the environment.

(b) The presence of contaminants caused by low level diffuse pollution, and common human activity other than specific industrial processes. For example, this would include diffuse pollution caused by historic use of leaded petrol and the presence of benzo(a)pyrene from vehicle exhausts, and the spreading of domestic ash in gardens at levels that might reasonably be considered typical.

3.24 In deciding whether land has normal levels of contaminants, the local authority should consider whether contamination is within the bounds of what might be considered typical or widespread:

(a) locally, if there is sufficient information to make a reasonable consideration of what is normal within a local area; and/or (b) regionally or nationally in broadly similar circumstances, having due regard to similarity in terms of land use and other relevant factors such as soil type, hydrogeology, and the form of the contaminants.

3.25 The local authority should decide that normal levels of contaminants exist in relation to land where: (a) those levels are not significantly different to those likely to be typical or widespread within the authority’s area, or in other similar areas; and/or (b) those levels are common or usual in similar land use situations across England or parts of it; and (c) there is no specific reason to consider that those levels of contaminants are likely to pose an unacceptable risk.

3.26 It is possible that specific pieces of land at or slightly above normal levels of contamination with regard to specific substances may pose sufficient risk to be contaminated land, and that remediation of such land may bring significant net benefits. However, such cases are likely to be very unusual and the authority should take particular care to explain why the decision has been taken, and to ensure that it is supported by robust scientifically-based evidence.

In the case of the application, site uses have not been the base for intensive ‘modern’ farming practices or any other activities with potential to result in the presence of contaminants to any significant extent

There is nothing on the land likely to cause significant pollution other than ‘standard agricultural practices.

The buildings have solid floors

Flooding risks on the site

The building is not within a flood risk zone shown on the Environment Agency's map.



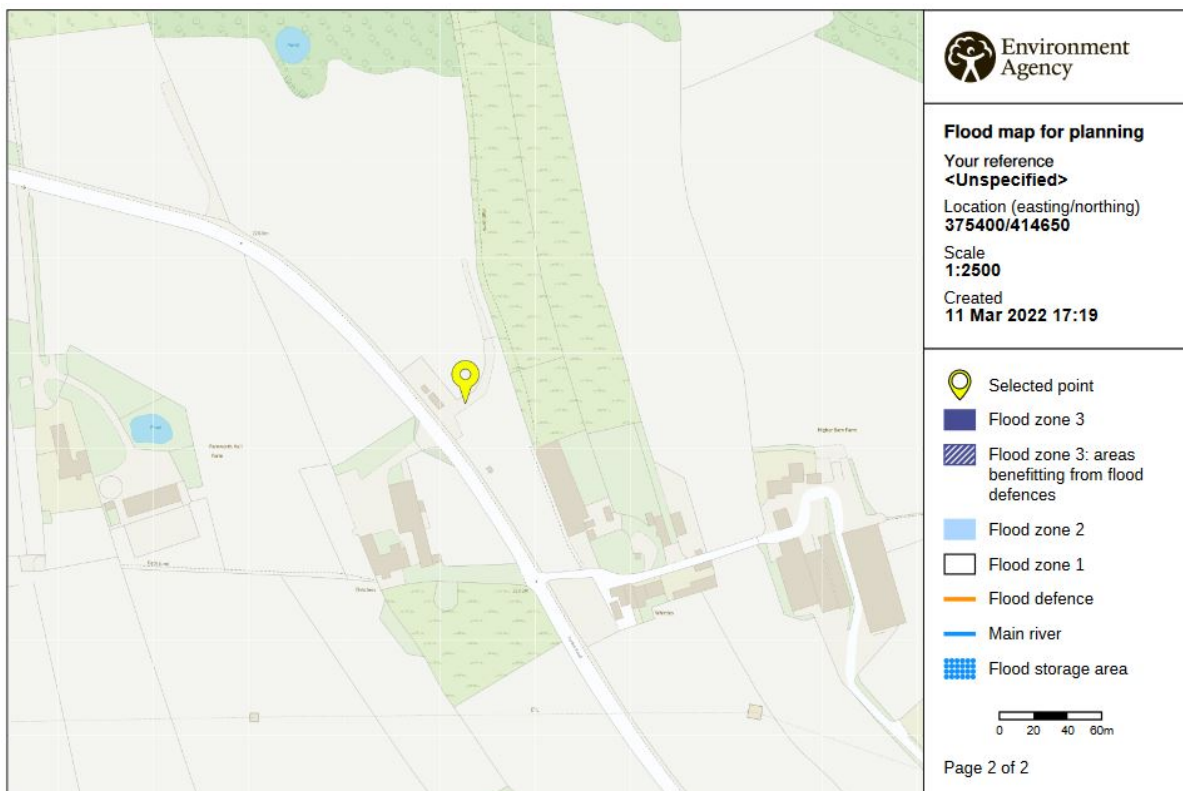
Flood map for planning

Your reference
<Unspecified>

Location (easting/northing)
375400/414650

Created
11 Mar 2022 17:19

Your selected location is in flood zone 1, an area with a low probability of flooding.



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

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

(Should any structural works be necessary in order to comply with Building Regulations then internal works can be undertaken, so far as planning requirements are concerned, under permitted development rights by virtue of section 55(2)(a). Such works do not, if required, form part of the prior notice application and would occur prior to any change of use.

Any such internal changes are not required to give extra structural support for the proposed change of use.

The proposed change of use would not occur, of course, until the building was first occupied as a dwelling.

Planning Practice guidance issued on the 5th March, 2015 states:-

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.

The desirability of the conversion

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

The conversion to a dwelling will help to increase the supply of housing and will help with the rural economy. This 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), (now 5 dwellings) 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.

The above is especially advantageous when the Council concedes that it cannot demonstrate a 5-year supply of deliverable housing land

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 Qb 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 allowed by paragraph Q.1(i)(i);

PPG also states: -

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.

Paragraph: 105 Reference ID: 13-105-20180222

Revision date: 22 02 2018

The application accords with such requirements.

In addition, the proposed plans show daylight to all habitable rooms and in accordance with the Government requirement

See submitted plans

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, R or S only—

(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 proposal has a curtilage which complies with the above requirements. The area of the building to be converted is 38.5m² and the associated amenity space is 31.2m².