

DELEGATED REPORT

Report by Helen Leach	Date of report: 20/07/2023	Ref: 69509/PMBPA
Registration: 28/03/2023	LDFC: 27/04/2023	Expiry Date: 23/05/2023
Site Visit:	Site Notice: 04/04/2023	Press Date: N/A
Objections: 15	Con Area: N/A	Adv Type: PI
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval of proposed change of use of agricultural building to 3 no. dwellinghouses (Use Class C3)

Location: Abbots Hall, Woodhey Road, Ramsbottom, Bury, BL0 9RD

Description

An application under Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended for the change of use of an agricultural building to a dwelling (Q(a)) and building operations (Q(b)) reasonably necessary to convert the building to a use falling within Class C3.

The application site relates to an agricultural building, which is constructed from on land at Abbots Hall, Ramsbottom. The agricultural building is located at the eastern end of the site and is accessed from Woodhey Road.

The farmhouse, known as Abbots Hall, is located adjacent to Woodhey Road and there is a track from the front of the farmhouse leading to the agricultural building.

There are open fields to to the north, south and west of the agricultural building. To the south and the southwest, there are residential properties beyond the fields.

Proposed development - The proposal is for the prior approval for the change of use of the agricultural building to three dwellings with building operations reasonably required to convert the building.

The building operations would consist of the installation of additional windows and the addition of a stone skin and slate roof.

Residential curtilage is indicated for each dwelling and the total area would not be more than the area of the building itself.

Relevant Planning History

Pre-application enquiries

02815/E - Change the use of Agricultural building to form 3no. dwellings (Class C3) - Enquiry completed 15/02/2023

Planning

C/23055/89 - Erection of rabbit farm buildings and farmhouse at land at Woodhey Road, Holcombe Brook. Approved with conditions - 14 September 1989.

C/27209/92 - Approval of reserved matters: erection of rabbit farm building and farmhouse at land at Woodhey Farm, Woodhey Road, Holcombe Brook. Approved with conditions - 9 July 1992

52941 - Application for non material amendment following grant of planning permission 27209 for change of window openings and door and alterations / infill to south elevation at Abbots Hall, Woodhey Road, Ramsbottom - Refused - 14 September 2010

54822 - Variation of conditions. New conditions to read No. 3. The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in aquaponics and/or agriculture. No. 5. The agricultural buildings hereby approved shall be used exclusively for aquaponics and/or agriculture at land at Woodhey Farm, Woodhey Road, Ramsbottom. Approved with conditions - 20 March 2012.

66045 - Extension to dwelling to provide quarantine area for fish in connection with existing business and a garage - Withdrawn by Applicant 25/01/2021

69054 - Removal of condition 3 of planning permission ref. 54822 - to remove the occupancy restriction -

13/0327 - Change of use to business - Case closed - no breach - 01/08/2013

13/0348 - Construction of a dwelling - Case closed - no breach - 28/10/2013

13/0569 - Occupancy Condition - Case closed - no further action - 01/01/2014

14/0237 - Breach of agricultural occupancy condition - Case closed - no breach - 29/07/2014

21/0114 - Unauthorised parking on land and caravan storage. Received - 19 March 2021.

Publicity

3 neighbouring properties were notified by means of a letter on 30 March 2023 and a site notice was posted on 4 April 2023.

16 letters have been received, which have raised the following issues:

- This is yet another effort at Green Belt housing by the applicant.
- The barn only exists as a result of previous planning abuse by the applicant. It was meant to be the operational hub of a rabbit farm that the applicant claimed he was going to establish.
- Contrary to statements to his application it has NEVER been in use with an established agricultural unit.
- The proposed development would be totally out of place in an area of green belt.
- Contrary to claims made in the application, in 30 years no meaningful agricultural activity of any description has ever taken place at the site. It is not clear to many why no action has yet been taken for planning FRAUD.
- Since the applicant seemingly has no need for the barn it should either be knocked down and the land restored to its original state or sold with his present house which is currently for sale.
- Access to the site would require 'concreting over' an existing public footpath passing through a field.
- The statement that the shed was in use in 2013 in connection with an established agricultural unit is wholly untrue and it is noticeable that it is not supported by any evidence.
- Woodhey Road is a single track lane used by vehicles, walkers, and school children. There has been a blatant disregard over many years for council rules this latest venture would simply be a foothold into more and more development.
- There are no designated passing places and no pavement which already make it hazardous for the many walkers and school children who use this lane.
- Green belt should be left as it is for wildlife.
- Contrary to the applicant's statement, they have never used the large shed (barn) as part of an established agricultural unit. Its principal use has been the storage of used

cars.

- Rabbit farm never existed.
- There are several disputes over various planning issues with the council.
- Planning permission for the barn was granted for aquaponics or agricultural use. If planning permission was granted for 3 dwelling houses the agricultural purpose of the site is invalidated.
- Abbots Hall currently looks like a dumping ground for building and agricultural materials. There has also been extensive unauthorised development (part building of an extension to the main house and a large hardstanding area).
- The conversion of the prefabricated barn into 3 dwelling houses with garages would be another ugly and incongruous development in an area of green belt which is enjoyed by many.
- Concerned about the wear and tear on the private access road from construction vehicles.
- The works listed in the letter from a local farmer are not agricultural activities, but are only maintenance of the land. The storage of materials does not constitute an agricultural use.
- The operation of an aquaponics business is not accurate as the company sells fishponds and associated products. The aquaponics side of the business was a work in progress and there is no evidence to suggest that the business was trading as a viable aquaponic enterprise. Ponds4fish did not occupy the building on an agricultural basis.
- From the evidence available, and comments of other local people who have submitted objections to this application and the application to remove the agricultural occupancy condition, it is apparent that the building and associated land has not been used solely for an agricultural use as part of an established agricultural unit and the proposed development therefore fails to comply with criteria a).
- By virtue of the requirement that buildings are converted and not rebuilt under the provisions of Class Q it is expected that any external changes should be minimal with existing openings used where possible and the number of new openings minimised to retain an agricultural feel to the end development.
- This is disputed. The proposed scheme seeks to introduce significant changes to the elevations which are not in keeping with the rural setting and are considered to be harmful to the character and appearance of the countryside. The north eastern and south western elevations are dominated by large expanses of glazing and balconies and are modern in design and appearance which is not in keeping with this sensitive location
- Also of concern is the comment made within the covering letter regarding the need for a further planning application in relation to 'external works' in relation to the provision of adequate garden space and parking arrangements. The comment implies that the scope of works needed to complete the conversion ie. the landscaping, will extend beyond the immediate curtilage of the building which would be potentially harmful to the character of the Green Belt.

The agent has provided the following response:

- The comments provided appear to frame the applicant as a pantomime villain. Yet amongst these comments, there is little substance and a clear and obvious lack of understanding of the planning process. The applicant's legitimate use of the Class Q regime and associated legislation is hardly 'fraud', 'abuse' or 'misleading'.
- The lawful use of this building is agricultural, as established by 2 planning permissions. Evidence has been submitted and not one objector has provided any robust or reliable evidence to contradict this.
- In part, one letter is incorrect. The legislation, drafted by government officials, states that 'building operations reasonably required' are appropriate.
- One recent Class Q application in Oldham introduced large zones of glazing and contemporary alterations to agricultural buildings.
- In relation to the aquaponics, the gentleman who ran that business, has confirmed in recent correspondence to the Council that the building was used as such. How would an objector possibly know otherwise? In addition, the Enforcement team have

witnessed the aquaponics use of the building.

- If the building continues to be used for either (or both) agricultural/aquaponics use, that will generate traffic (by staff, visitors, customers, operational machinery/vehicles and deliveries/pickups). It could reasonably be anticipated that the traffic generated by the agricultural use would be significant in terms of both the amount of movements and the size of the vehicles.

Statutory/Non-Statutory Consultations

Traffic Section - Concern about access for emergency services.

Public Rights of Way Officer - No objections, subject to the inclusion of an informative relating to public rights of way.

Environmental Health - Contaminated Land - No objections, subject to the inclusion of conditions relating to contaminated land.

GM Ecology Unit - No objections, subject to the inclusion of an informative relating to bats.

GM Fire Service - Would not comply with Part B of the Building Regulations.

Pre-start Conditions - Applicant/Agent has agreed with pre-start conditions.

Unitary Development Plan and Policies

H1/2	Further Housing Development
H2/4	Conversions
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/5	Waste Water Management
RT3/3	Access to the Countryside
RT3/4	Recreational Routes
HT4	New Development
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
NPPF	National Planning Policy Framework
NPPG	National Planning Policy Guide

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations)

have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Class Q - Agricultural Buildings to Dwellinghouses

The proposed development would involve an application under Class Q of Part 3 of Schedule 2 of the General Permitted Development Order (2015) (as updated), which would allow the change of use of agricultural buildings to dwellings under a prior approval application.

Class Q states that development is permitted if it consists 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; 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.

Permitted Development Rights, Limitations and Conditions Under Class Qa and Qb

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;

Assessment - The statement submitted with the planning application confirms that the building has been in use as an agricultural building or for aquaponics, which is also classed as agricultural since it was constructed. This is evidenced by several enforcement cases relating to the use of the building and associated dwelling in 2013 and 2014. The agricultural building is shown on the 2011 aerial photographs. As such, it is clear that the building was present on 20 March 2013 and that the building is in agricultural use.

- 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

Assessment - The proposed plans indicate that there would be 2 larger dwellings and the floorspace would be 231.8 square metres for each dwelling, creating a total of 463.6 square metres. The proposed development would be under the respective thresholds of 3 large dwellings and 465 square metres.

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;

Assessment - The proposed plans indicate that the proposed floorspace of all of the proposed dwellings would be under the threshold of 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;

Assessment - The proposed plans indicate that there would be 1 smaller dwellings amongst the 3 proposed dwellings. The proposed floorspace of the smaller dwelling would be 100 square metres and as such, would not exceed 100 square metres.

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;

Assessment - As stated above. none of the 3 proposed dwellings would exceed 465 square metres and the proposed 3 dwellings would be below the threshold of 5.

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

Assessment - The owner and operator of the building is the same person and there are no agricultural tenancies in place and this condition is not relevant to this proposal.

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;

Assessment - As stated above, the owner and operator of the building is the same person and there are no agricultural tenancies in place and this condition is not relevant to this proposal.

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

Assessment - No works to the building have been carried out since since March 2013 and no works under permitted development have been carried out at the farm since March 2013.

- 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;

Assessment - The proposed plans confirm that the existing building would not be extended.

- a. 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);

Assessment - The proposed plans indicate that the proposed development would involve building operations, which are reasonably necessary to convert the building to residential use.

- b. the site is on article 2(3) land;

Assessment - The site is not located within Article 2(3) land.

- c. 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;

Assessment - The site is not a SSSI or a hazard or military explosives area.

- d. the site is, or contains, a scheduled monument; or

Assessment - The building is not a scheduled monument and there are none within the site.

- e. the building is a listed building.

Assessment - The building is not a listed building.

The proposed change of use would comply with the criteria above and the proposal would need to be assessed against the 6 specified matters under Q2 - (1), (a) to (f) to determine whether or not the development is permitted;

- 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,
- 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 (dwellinghouses) of the Schedule to the Use Classes Order, and
- F. the design or external appearance of the building.

Transport and highway impacts - The proposed development would be accessed from Woodhey Road, which is a Public Right of Way (PROW) and be over 250 metres from a single access point. GM Fire Service has objected as the proposed development would not meet the requirements of Approved Document B under the Building Regulations. However, the Building Regulations is a separate regime and it is clear that planning process should not seek to duplicate any controls. In addition, there is an existing building and dwelling on site that are currently served by GM Fire Service and the agent has agreed to the installation of residential sprinklers for all of the proposed dwellings.

The building has an existing use as agricultural and the existing use would generate traffic from visitors to the site, including staff and from operational machinery and deliveries. The number of movements associated with 3 dwellings is likely to be less than that of a working agricultural building and the size of vehicle would be smaller than those associated with a dwelling. As such, the proposed development would not lead to a rise in the number of vehicle movements and would not have a significant adverse impact upon the users of the public right of way.

The proposed development would be accessed from the access road to the front of the existing dwelling and the use of the access road to the north east is being investigated by the enforcement section.

Therefore, the proposed development would not have a significant adverse impact upon highway safety.

Parking - SPD11 states that the maximum parking standards for a 3 and 4 bed dwelling in a high access area is 3 spaces per dwelling. This equates to 9 spaces.

The proposed development would provide 2 spaces per unit and 3 visitor spaces, which would total 9 spaces. The proposed development would comply with the maximum standards and would be in accordance with Policy HT2/4 of the Bury Unitary Development Plan and SPD11.

Noise impacts - The proposed development of residential dwellings would not create a significant level of noise and would not generate any more noise than the existing use. Therefore, the proposed development would not have a significant adverse impact upon the amenity of the neighbouring properties in terms of noise and would be in accordance with Policy EN7/2 of the Bury Unitary Development Plan.

Contamination risks on site - A preliminary investigation report has been submitted as part of the application. Environmental Health - Contaminated Land have no objections, subject to the inclusion of conditions relating to contaminated land. Therefore, the proposed development would be in accordance with Policy EN7 of the Bury Unitary Development Plan.

Flooding risks on site - The application site is not located in a flood zone. However, there is a need to ensure that surface water drainage is dealt with appropriately and this would be conditioned.

Ecology - A bat survey was submitted with the application and a emergence survey was submitted. The survey concludes that no evidence of bat roosting was recorded with moderate levels of bat activity around the building. GM Ecology Unit have no objections, subject to the inclusion of an informative relating to bats. Therefore, the proposed development would be in accordance with Policies EN6 and EN6/3 of the Bury Unitary Development Plan.

Design, external appearance and siting - The proposed dwellings would be recessed into the building, which would create a patio area at the front and rear of each dwelling.

Based on the submitted plans, all of the proposed dwellings would be larger dwellings for the purpose of Class Q and would comply with the national space standards for living accommodation.

The proposed development would retain the existing materials and large windows would be created to ensure sufficient light within the proposed units. The existing openings on the eastern elevation would be utilised and similar openings would be created on the western elevation. The design of the proposed development is considered to be appropriate and would not be a prominent feature in the streetscene.

The proposed development would provide private amenity space internally (patio areas) and externally and the amount of private amenity space would be acceptable. Bin stores would be located within the footprint of the existing building and would be of sufficient size.

Therefore, the proposed development would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

Impact upon residential amenity - The proposed dwellings would be set back from the northern and southern elevations. The proposed dwellings would have large floor to ceiling windows and as such, there would be adequate natural light in all of the habitable rooms within the proposed dwellings.

There would be 49 metres between the proposed dwellings and the existing farmhouse, which would be in excess of the aspect standards within SPD 6.

There would be between 7.4 and 11.4 metres between the proposed dwellings and the boundary of the site, which would exceed the 7 metre aspect standard within SPD 6.

Overall, the proposed development would not have a significant adverse impact upon the amenity of the future occupiers or the neighbouring properties.

Response to objectors

- The use of the building for agricultural/aquaponics use has been investigated 3 times by the enforcement section and the building was in use for agricultural purposes. The lawful use of the building is as an agricultural building.
- The issues relating to design, access to the dwellings, impact upon the PROW have been addressed in the report above.
- Class Q of Part 3 of Schedule 2 of the General Permitted Development Order (2015) (as updated), allows the change of use of agricultural buildings to dwellings under a prior approval application.
- The land and building have been used unlawfully for the storage of caravans and an enforcement notice is being prepared to deal with this matter.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

- 1 No development shall commence unless and until:-
 - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation

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Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 2 Following the provisions of Condition 1 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 3 Prior to first occupation of the development hereby approved, a sprinkler/misting system to meet the requirements of BS 9251:2014 or other subsequent standard that meets the requirements of Greater Manchester Fire and Rescue Service and deemed suitable to overcome the site's emergency access deficiencies and a fire detection and alarm system shall be installed in each of the dwellings hereby approved and shall thereafter be maintained at all times.

Reason. In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design

- 4 The external finishing materials for the proposal hereby approved shall match those of the existing building.

Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL	20/7/23	DM	20/7/23