

DELEGATED REPORT

Report by Mark Kilby	Date of report: 22/06/2022	Ref: 68324/PMBPA
Registration: 11/04/2022	LDfC: 18/05/2022	Expiry Date: 06/06/2022
Site Visit: 01/06/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for the change of use and associated operational development required to change an agricultural building into 1no. dwelling

Location: 344 Bradley Fold Road, Radcliffe, Bolton, BL2 6RL

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 one bedroom dwelling (Q(a)) and building operations (Q(b)) reasonably necessary to convert the building to a use falling within Class C3.

The building is rectangular in planform with a dual pitched roof oriented east to west approximately 11.5 m x 5.5 m with a ridge height of 4.5 m and an eaves height of 3.3 m. It has masonry blockwork to approximately 1.6 m and profiled metal sheets to the eaves and roof. It is accessed via a gated track with a dropped kerb from Bradley Fold Road approximately 60 m to the south.

The structure of the building is a timber frame with an internal masonry wall on which the external corrugated sheets are attached with a post frame supporting roof trusses and purlins. The floor is concrete slab. It is proposed to build up internally the existing block work.

Operational development would comprise of additional door and window openings and the habitable rooms created would have adequate natural light. The submitted plans indicate that the existing roof is to remain as are the external profiled metal sheets. It is not proposed to extend the building. Blockwork would be built up internally from the existing blockwork with insulation. An internal insulated flat ceiling would constructed.

The building is currently unoccupied.

The applicant has stated that the land was in use as an agricultural unit before the 20th March 2013 (the qualifying date).

Relevant Planning History

55746 - Relocation of existing storage tank no. 2 and installation of additional 50 tonne storage silo - Approve with Conditions 18/12/2012.

Publicity

Letter to adjacent addresses dated 26/4/22. No comments or objections received.

Statutory/Non-Statutory Consultations

Traffic Section - No comments received.

Environmental Health - Contaminated Land - No objection.

Building Control - No comments received.

Pre-start Conditions - None.

Unitary Development Plan and Policies

Issues and Analysis

Class Q – Agricultural Buildings to Dwellinghouses

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 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.

Development not permitted

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;

(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;

(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;

(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;

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

(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;

(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;

(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;

(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);

(j) the site is 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;

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

(m) the building is a listed building.

It is considered the proposed change of use would not be contrary to the exclusions referred to above and as such the proposal will be assessed against the 7 specified matters under Q.2 - (1), (a) to (g).

Specifically with regard to Q.1(a) above it should be noted that there is no prescribed period of time the building must remain in an agricultural use after the 20th March 2013. The combination of article 3(5) of the General Permitted Development Order (lawfulness of a building to benefit from a permitted development right) and the heading of Part 3 Class Q require the lawful use of the site. For example, this would be the case if at this time either 1) the site is occupied for an agricultural use and this use is lawful, or 2) the site is unoccupied but was last occupied for an agricultural use and this use remains lawful. The building is stated as having been in use as an agricultural building before 20th March 2013.

Evidence submitted by way of valuation report for the purposes of Probate and a conveyance document from the sale of the land from 1987 where the building is sited both refer to the land as agricultural land and the conveyance document has a covenant restricting the land to agricultural use. There is no evidence of abandonment or any other intervening use. With no other known evidence to the contrary the building is considered to be, on the balance of probability, lawfully an agricultural building on agricultural land.

Conditions

Q.2— (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required 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,

(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, and

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class Q(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

Analysis -

(a) transport and highways impacts of the development - There would be no adverse impact on transport and highways use as there is an existing dropped kerb access to the site with good visibility.

(b) Noise impacts of the development - There would be no noise impact from the proposed development.

(c) Contamination risks on the site - The Council's Environmental Health section reported that there is no contaminated land risk at the site and Preliminary Risk Assessment was not required.

(d) Flooding risks on the site - The application site is not in a flood risk zone.

(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 - By virtue of the siting and location of the building there are no issues such as the storage or movement of agricultural plant or middens that would make it impractical or undesirable for the building to change from an agricultural use to a use falling within Class C3.

(f) The design or external appearance of the building - The design and external appearance would be acceptable as it would have the appearance of an agricultural building.

(g) The provision of adequate natural light in all habitable rooms of the dwellinghouses - All habitable rooms would have adequate natural light by virtue of the proposed window openings.

In order to benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must involve only building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i).

Paragraph 105 of What are Permitted Development Rights of the National Planning Practice Guidance (NPPG) states -

Building works are allowed under the change to residential use. The permitted development right 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. It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.

Whilst the NPPG is guidance and not policy it is a material consideration.

Reasonable necessity can constitute any number of building operations. Given the context of Q(b), the extent of any demolition and therefore the reasonableness of any proposed works, should be viewed with regard to what would be required to meet the minimum building standards required to convert an agricultural building to a habitable use.

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The evidence submitted by way of structural drawings and a site visit does suggest that the building is suitable for conversion and that the required works would be limited to building operations reasonably necessary to convert, so as to be permitted development under Class Q. In reaching this conclusion, regard has been had to the High Court Judgement in the case of *Hibbitt v SSCLG* [2016] EWHC 2853 (Admin).

The timber frame could be included within the new structure. As such it is considered the amount of operational development required to convert the building to a habitable use would be what is reasonably necessary and as such it would comply with the requirements of Q(b) and would not be contrary to the practice guidance laid out in paragraph 105 of the NPPG.

As such the proposed operational development would be permitted development.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Mark Kilby	22/6/22		