

Nick Hiscox (agent)
Grove Shute Farm, Tadhill, Leigh Upon Mendip, Radstock, BA3 5QT

Design and Access Statement on behalf of
Thomas John Ayles, Southill Farm, Cranmore, Shepton Mallet, BA4 4QT

Planning History

This site was subject to a previous application under 2020/1238/PAA; this application was refused August 14th 2020. The officers reason for refusal is as follows.

The proposed change of use would require extensive building operations and no evidence has been submitted which would suggest that the conversion can be carried out with only internal works, and/or works that are considered to be permitted under the Regulations. It is clear that the change of use to form a residential dwelling would necessitate significant building operations both internally and externally to enable the building to function as a dwellinghouse. Without the necessary information to conclude that the works required to be undertaken to the building would be in accordance with Class Q(b) the proposal is contrary to Class Q, Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015 (as amended) and therefore, planning permission is required.

The officers report clearly demonstrates he determined the application on matters that are not relevant to applications made under Class Q (a) and were not applied for within application 2020/1238/PAA. Indeed he clearly states the matters on which he has refused the application are relevant to Class Q (b). This application is now subject to appeal along with an application for costs due to the officer acting unreasonably by introducing matters clearly beyond the scope of policy.

Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to a Dwellinghouse (Class C3) and for associated development.
Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 3, Class Q.

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.*

The 2015 Order above was amended in 2018 under 343 as follows, thus allowing applications under Class Q (a) “change of use” only, without the need to include “building operations” as defined under Class Q (b).

Amendments to Part 3, Class Q

10. In Class Q of Part 3 of Schedule 2 —

- (a) at the end of paragraph Q.(a) for “and” substitute “or”;**
- (b) in paragraph Q.(b) before “building operations reasonably necessary” insert “development referred to in paragraph (a) together with”;**

Article 11(a) of order 343 amends paragraph W of Part 3 (procedure for applications for prior approval under Part 3) to clarify that where development is proposed under paragraphs C.(b), M.(b), N.(b) or Q.(b) this should be described on the same application as that describing the relevant proposed development under paragraph C.(a), M.(a), N.(a) or Q.(a) respectively.

Further amendments to the Order were introduced in August 2020

These amendments are relevant to the provision of natural light in all habitable rooms, and the requirement to provide floor plans etc. These amendments have been dealt with as part of this application.

Site address - Southill Farm, Cranmore, Shepton Mallet, BA4 4QT

As per application 2020/1238/PAA, this is an application under Class Q (a) **ONLY** "Development consisting of 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 (dwelling houses) of the Schedule to the Uses Classes Order."

Building operations will be applied for as part of a future planning application at a later date should this application be approved.

The consideration of the structural integrity of the building does not form part of the considerations for applications under Class Q (a) "change of use" only, however for completeness, the building is of substantial and permanent construction of predominant (and substantial) steel frame construction, concrete floor, concrete block walls and fibre cement roofing. As such the barn meets the current NPPF requirement for an agricultural building to be of substantial and permanent construction, as such capable of change of use. The structural integrity of the barn in relation to specific "building operations" will be part of a future application relevant to its intended design as required under Class Q (b), not Class Q (a).

Site & Surroundings

The site consists of one agricultural barn used for the housing of livestock and storage of fodder, there is an additional building used for the same purposes but to be demolished as part of this application, the land is predominantly for grazing and fodder production for livestock and extends to approx 26 hectares. Access to the site is directly off the highway and existing farm entrance.

All applications under Q Class face the following "stress" test. The following are the relevant condition extracts, please see my response to each in red.

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

Criteria met - The site was used solely for agricultural use as of March 20th 2013 as part of an established agricultural unit under holding number 36/231/0044 . It continues to do so.

(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;

Note: Amendments to Class Q of Part 3 of Schedule 2 were made under Order 2018 (343), these amendments allowed for the size threshold to increase from 450 square meters to 465 square meters. Additional amendments allowed for up to 3 "larger dwelling houses" to be created with a maximum combined size of 465 sqm or 5 "smaller dwelling houses" each with a maximum size of 100sqm could be created, alternatively a mix of "larger and smaller dwelling houses" could be created as long as the total number of dwelling houses created was no more than 5 and the sizes of each respected the definition of "larger or smaller" dwelling houses with no more than 3 being "larger" dwelling houses.

Criteria met – the application is for the change of use of 539 sqm of floor space into a mix of 2 larger dwelling houses of 225 and 140 sqm respectively and 2 smaller dwelling houses each of 87 sqm. The proposed curtilage is 520 sq metres, as such less than the area for conversion.

- (c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;

Note: Amendments to Class Q of Part 3 of Schedule 2 were made under Order 2018 (343), these amendments allowed for the cumulative number of separate dwelling houses developed under Class Q to increase from 3 to 5, with separate definitions for “larger” and “smaller”.

Criteria met – the total number of dwelling houses developed under Class Q is zero. This application relates to the change of use of a building to TWO larger dwelling houses and TWO smaller dwelling houses.

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

Criteria met – the site is not occupied under and 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;

Criteria met – the site has not been subject to an agricultural tenancy there the above does not apply.

- (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;

Criteria met – no development has been carried out under Class A (a) or Class B (a) since 20 March 2013.

- (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;

Criteria met – this application is under Class Q (a) “change of use” only and does not involve building operations or proposals to extend the building at any given point.

- (h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

Note: Amendments to Class Q of Part 3 of Schedule 2 were made under Order 2018 (343), these amendments allowed for the size threshold to increase from 450 square meters to 465 square meters along with other amendments as outlined in response to paragraph (b) above.

Criteria met – no other buildings have been previously developed under Class Q and the proposed sizes meet the criteria as amended in 2018 under Order 343.

- (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);

This application does not include development under Class Q (b) so Para I is not applicable.

(j) the site is on article 2(3) land;

Criteria met - 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;

Criteria met – the site is not any of the above nor forms part of any of the above.

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

Criteria met – the site is not, nor contains a scheduled monument.

(m) the building is a listed building.

Criteria met – the building is not a listed building.

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,
- (g) the provision of adequate natural light in all habitable rooms of the dwelling houses

This development proposed is NOT Class Q (a) together with development under Class Q (b), it is development proposed under Class Q (a) only.

(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 (as amended) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application|

The development proposed under this application is development under Class Q (a) only. As such determination by the authority on the “conditions” is limited to the items in sub-paragraphs (1) (a) to (e) and (g) only, as follows.

(a) transport and highways impacts of the development,

The site has direct access onto the highway and meets relevant standing advice

(b) noise impacts of the development,

When comparing existing use with proposed change of use, as well as the location of the site in relation to neighboring properties, the proposal will not result in a negative noise impact.

(c) contamination risks on the site,

The site has always been in agricultural use with no known previous use, a thorough inspection of the ground conditions within the site has taken place, and confirm no contamination was found.

(d) flooding risks on the site,

The site is within a level 1 flood 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, and

The proposed change of use is both practical and not undesirable as it meets the tests as detailed below.

Planning guidance was published alongside the 2018 (343) legislation; key aspects relative to (e) above are contained within PPG. Para 109 of planning practice guidance states:-

“Impractical” or “undesirable” are not defined in the regulations but the council should apply a “reasonable ordinary dictionary meaning”. Impractical would mean “not to be sensible or realistic” and undesirable would be “harmful or objectionable”.

“Impractical” - guidance states when “when looking at location, local planning authorities may for example consider that because an agricultural building “on top of a hill with no road access, power source or other services, its conversion is impractical.”

The site is not in a remote location with no road access or services, indeed there is road access and is connected to the mains electric and mains water supply suitable for a dwelling as such the change of use would be practical.

“Undesirable” – guidance states “the location of the building whos use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage buildings with dangerous machines or chemicals.

The site is not in the proximity of any of the above as such the change of use would not be undesirable

(g) the provision of adequate natural light in all habitable rooms of the dwelling houses

There is a provision for natural light in all the habitable rooms as demonstrated on the supporting plans.

Planning guidance further clarifies:-

- (1) That an agricultural building is in a location where planning permission would not normally be granted is **not** sufficient reason for refusing prior approval.
- (2) The permitted development right does **not** apply a test in relation to sustainability of location.

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 must be accompanied by—

- (a) a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must include any building or other operations;
- (b) a plan indicating the site and showing the proposed development;
- (c) the developer's contact address;
- (d) the developer's email address if the developer is content to receive communications electronically; and
- (e) where sub-paragraph (6) requires the Environment Agency(a) to be consulted, a site-specific flood risk assessment,

together with any fee required to be paid.

Further amendments were made in August 2020 as follows.

"(bc)in relation to development proposed under Class M, N, O, PA or Q of this Part, a floor plan indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;"

"(2A) Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses."

Criteria met; this application contains all the aspects listed (a) to (d); (e) as well as the requirements as introduced under (bc) and (2A), a flood risk is not required as the site is in flood zone 1 and not in a flood zone 2 or 3. The fee of £96 has been paid.

Guiding principles of permitted development.

The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended 2018 (343) establishes the guiding principle of the order and the "**relevant exception limitation or condition in Schedule 2**" as extracted below. Ref – Content - Permitted Development.

Permitted development

3.—(1) Subject to the provisions of this Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (general development orders)(b), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.

(2) Any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2.

Applications made under Class Q (a) v Class Q (b).

The 2018 amendment allowed applications to be submitted under (a) **OR** (b). There are multiple examples of applications being submitted under Class Q (a) for the change of use, in some cases the relevant LPA has sought to refuse prior approval of applications made under Class Q (a) due to no description or inclusion of detailed building operations despite the 2015 Order (as amended) stating these elements are not relevant to applications made under Class Q (a). I would draw the LPAs attention to the following appeals cases that demonstrate the view of the appeals inspector when considering appeals where prior approval of an application under (a) has been refused for matters only considered under (b). The full appeals have been included in the supporting information. Note; all appeals we have sourced (applicable to the matters in this application) have been allowed, we have not been able to source a single relevant appeal that was dismissed.

Appeal Ref: APP/Y2736/W/18/3196384
Former Grain Drier, Old Manor Farm, Helperthorpe, Malton, North
Yorkshire YO17 8TQ

Appeal Ref: APP/B3410/W/17/3170228
Agricultural Building at Popinjay Farm, Stafford Road, Uttoxeter,
Staffordshire ST14 8QA

I would draw your attention to the statement below as made by the following appeals inspector – this appeal was allowed.

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

| Decision date: 3rd July 2017

7. It is evident from the current condition of the building that a further application would be required. However, the GPDO does not state that where building operations are clearly intended or required that a Class Q(a) only application cannot be made. The approach of applying for Class Q(a) only is permissible under the regulations of the GPDO and the appellant can seek approval for the change of use without dealing with building operations. I have therefore considered the appeal on this basis.

DAES Summary

This application replicates the original application made under 2020/1238/PAA as well as dealing with the amendments introduced August 2020 related to natural light and supporting information under W. In addition matters introduced by amendments in August 2020 have been included within this application and demonstrated to comply as required.

This application is for Class Q (a) “**change of use**” only, as such is subject to determination against sub paragraphs (a) to (m) of Q.1 excluding sub paragraph “i”, as this sub paragraph refers directly to applications under Class Q (b) “building operations”. Thereafter the development is subject to determination against sub paragraphs (a) to (e) and (g) only in Q.2 as this application does not involve “building operations” as defined under Class Q (b) “building operations”.

The majority of Q Class applications are considered in the context of Class Q (a) change of use and (b) building operations. The 2018 amendment (343) specifically changed the basis of applications so that applications could be made under Class Q (a) only, with the obligation to submit applications under Class Q (a) and (b) amended so as to simplify the process.

The planning statement provided demonstrates the application complies with the order as amended. If approved, this application will then be followed by a detailed application relevant to the building operations required to implement the change of use; at this juncture the local authority can determine such matters. The ability of the LPA to grant prior approval whilst simultaneously limiting the extent of that approval to the matters applied for is dealt with under Para W (13) below. As such an LPA can approve an application under Class Q (a) with the knowledge and certainty that development under Class Q (b) is not approved by default, this can be done by way of conditional approval.

(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

I would draw the LPA attention to the following application that was correctly considered under Class Q (a) with the officer attaching the following condition as permitted under (13) above.

2020/0638/PAA approved with officers report stating

- 4. This decision does not include operations development under Part 3 Class Q (b) and any operational development requires Full Planning Permission prior to commencement.**

This applicant would accept such a condition attached to approval of this application.

Nick Hiscox

October 29, 20