

Design and Access Planning Statement on behalf of
Hackworthy Ltd, 82 St. Thomas Street, Wells, England, BA5 2UZ

Site address – Yew Tree Farm, Hembridge, East Pennard, Shepton Mallet, BA4 6TZ

Planning history

An application to create 4 dwellings under 2019/2996/PAA was approved 29th January 2020, this was for both the change of use and associated building operations under Class Q (a) and (b). A lawful development certificate was applied for and issued under ref 2020/0432/CLP on February 27th 2020 in relation to the above development. The approval of this development is a relevant factor when determining this current application.

An outline application to demolish the existing farm, buildings and build 5 new dwellings was submitted December 30th 2020 under 2020/2675/OTS, a decision on this application has not yet been made.

Development proposed under this current application

This application is a notification for prior approval **under Class Q (a)** of the Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 3, Class Q (as amended). It does not involve an application for building operations under Class Q (b), as such the application proposes the following.

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***

The proposed development is for the change of use of three barns to 5 dwellings, these will be made up of three smaller dwelling houses and two larger dwelling houses as follows.

Barn A will be separated into two units, one larger dwelling house of 127 square meters and one smaller dwelling house of 96 square meters. The curtilage proposed is 125 and 95.5 square meters respectively.

Barn B will be separated into two smaller dwelling houses each of 81 square meters with associated curtilage of 81 and 80.5 square meters respectively.

Barn C will create a single large dwelling house of 315 square meters with 310 square meters of associated curtilage.

The GPDO 2015 (as amended) states;

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

This application therefore seeks approval of items (a) to (e) and (g) of Sub-Paragraph (1) (as amended) as listed below.

- (a) Transport and highways impact of the development
- (b) Noise impacts of the development
- (c) Contamination risks of the development
- (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 (dwelling houses) of the Schedule to the Classes Order, and

We would draw the LPA's attention to the officers report in support of granting prior approval of application 2019/2996/PAA, the officer concluded

“Consideration has been given to transport and highway impacts, noise impacts, contamination risks, flooding risks, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to residential use, and having regard for the design and external appearance of the building. It is considered that prior approval is required for the change of use of the buildings and the proposed building operations necessary to convert the buildings to a use falling within Class C3 (dwellinghouse) of that schedule, and prior approval is given.”

A further condition was added through amendments in 2020 under condition (g) *“the provision of adequate natural light in all habitable rooms of the dwelling houses”*. The supporting plans show the development proposed can comply with this condition.

The following further submissions are made in support of this application; the relevant aspects were also considered under approval 2019/2996/PAA.

Site & Surroundings

The site is that of a former livestock farm and consists of numerous agricultural buildings used for the housing of livestock and storage of fodder and machinery. 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.

- (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 700M2 of floor space into a mix of 2 larger dwelling houses and 3 smaller dwelling houses. The proposed associated curtilage extends to 691.4M2 in total for all 5 dwellings.

- (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 buildings 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 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

(2) Where the development proposed is development under **Class Q (a) ONLY** (emphasis 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 prior approval of the authority will be required as to the items referred to in sub-paragraphs (1) (a) to (e) and (g) (below - as amended) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

- (a) Transport and highways impact of the development
- (b) Noise impacts of the development
- (c) Contamination risks of the development
- (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 (dwelling houses) of the Schedule to the Classes Order, and
- (g) the provision of adequate natural light in all habitable rooms of the dwelling houses.

Previous approval (29.01.2020) under application 2019/2996/PAA confirmed the site meets the above conditions by approval of the matters as follows *“Consideration has been given to transport and highway impacts, noise impacts, contamination risks, flooding risks, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to residential use, and having regard for the design and external appearance of the building. It is considered that prior approval is required for the change of use of the buildings and the proposed building operations necessary to convert the buildings to a use falling within Class C3 (dwellinghouse) of that schedule, and prior approval is given.”*

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

Criteria met – see supporting plans that demonstrate natural light could be achieved in all habitable rooms.

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.

Overall this application contains all the aspects listed (a) to (d); (e) as well as those amendments identified. The fee of £96 has been paid.

I can further confirm the application complies with all the requirements as laid out under W (above), in particular the requirement to include (a) a written description of the "proposed development" under Class Q (a).

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

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 2018 amendment allowed applications to be submitted under (a) **OR** (b).

There are no legislated conditions that prohibit an application to be made under (a) where a further application for building operations will clearly be required.

Appeal case study

Norwood Cow Barn, Norwood Farm, Bath Road, Norton St Philip, BA2 7LP

Application 2020/0384/PAA for development under Class Q (a) was originally refused on the basis of building operations required that go beyond what is permitted under Class Q (b), the refusal was appealed and the development allowed (Feb 4th 2021) under ref APP/Q3305/W/20/3259921.

DAES Summary

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 planning statement provided, and backed by the previous approval under 2019/2996/PAA demonstrates the application complies with the order as amended. 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.

Kind regards

Nick Hiscox
April 19, 21