

**Town and Country Planning (General Permitted Development) (England)—
Permitted Development Rights Class Q - Resubmission**

Proposal - Conversion of an agricultural building to 1 x 3 bed dwelling

Agent

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Applicant

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Site

Brook Hall Farm
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Single Business Identifier (SBI) number: 200396990

Introduction

This application addresses the reasons for refusal of previous application reference 3/18/2559/ARPN and requests that these issues are reviewed along with the information in support.

The reasons being as follows:

- 1. The proposed change of use under Class Q (a) from an agricultural use to C3 residential use does not meet the requirements of paragraph Q. 1 (a) (i) or (ii) as the building Barn 1 is not considered to benefit from Part Q permitted development rights as it does not comprise an agricultural building.*
- 2. Notwithstanding reason No 1 above, the size of the curtilage proposed exceeds the size of the existing agricultural building, which is the lesser of (a) and (b) of what can be considered to be the curtilage of the building according to 'X' - the interpretation of Part 3. The proposal is therefore contrary to criteria Q.(a) of Schedule 2. Part 3. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning permission is therefore required for the proposed development.*
- 3. Notwithstanding reason No 1, the drawings submitted with the application. the extent of the works required to create a dwelling goes beyond that which could be considered a conversion of the building. The proposal is therefore contrary to criteria Q.(b) of Schedule 2. Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning permission is therefore required for the proposed development.*

With respect to the other criteria set out within the current legislation, other than the three reasons noted above, in the officer's previous report it confirms that these other aspects of the criteria are acceptable. With this in mind, the applicant has listed those approved and addressed the reasons for refusal.

Planning History

3/18/2559/ARPN Change of use of agricultural building to No 1 dwelling house (Class C3) – Refused.

Previously and as listed in the officers report, application 3/84/1752/FP was approved - demolition of attached garage and erection of two storey side extension to provide garage playroom.

Proposal

This application is requesting permission to diversify an agricultural building to a 3 bed single storey residential dwelling.

The barn consists of bays/areas, each varying in width. The overall floor size is 120.5m² which was noted in the officer's previous report. No proposals are being made to the floor size or the height and remains the same as the previous application.

The structure is a timber frame and is enclosed to the back, sides and front with 7 doors which provide access to each of the internal areas aswell as internal interconnecting access.

The timber walls will be replaced with black wooden shiplap boarding. The roof is corrugated metal and will be replaced by tiles along with 5 skylights to the rear to allow for additional natural light. No additional windows or doors will be added to those which the current building already has other than glazed patio/bi-folding doors which replace a single window. All existing and the proposed patio/bi-folding doors are to be replaced with oak coloured wood, which is in keeping with the existing.

The current building has a brick plinth which will remain in place.

The building already has land drainage in place and a sewerage water treatment plant will be installed within he proposed curtilage area.

The site already benefits from electricity and mains water supply.

The surrounding is such that it will provide an adequate area for outdoor space allowing for small garden area, parking bays for 3 vehicles which will include an electric charging point, and a bicycle storage area.

The curtilage is shown on the plan attached and will be separated from the farm and its other buildings by native hedgerow.

A storage area for bins will be included and located on a flat level surface.

Existing barn below



Proposed materials below



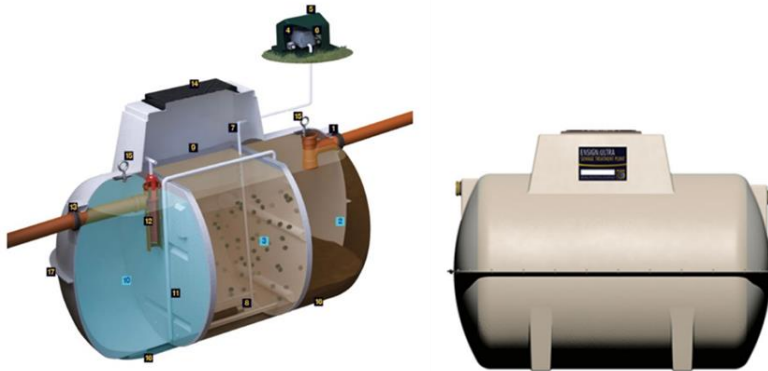
Proposed sewerage treatment plant

The proposed sewerage water treatment plant has an anaerobic digestion taking place in the primary settlement chamber. The unit allows the clarified water to pass into a second 'aeration' chamber where it is treated to remove the dissolved constituents. Here aerobic bacteria, supported by diffused air and mobile media, ensures full treatment is achieved before the treated effluent and 'sloughed off' bacteria flows to a final settlement chamber. The final effluent is then discharged to the drainage field or watercourse via a Polylok filter.

Prior to installation the applicant will contact the Environment Agency to take advice on whether a permit is required but it is considered that the criteria of the EAs general binding rules will apply.

Model pop 4
Length 1600
Width 1332
Height 1575
Inlet invert 540
Inlet dia 110
Outlet invert 600
Outlet dia 110

1. Inlet
2. Primary settlement chamber
3. Aeration chamber
4. Compressor with alarm
5. Compressor housing (External or internal options)
6. RCD / Electrical connection
7. PVC pressure pipe for diffuser(s)
8. Bio-media
9. Stainless steel mesh
10. Final settlement chamber
11. Sludge return
12. Unique Polylok tertiary filter (Ensign:Ultra units)
13. Outlet
14. Access lid
15. Integral lifting eyes
16. Stabilising feet
17. Unique 'keying-in' lip



The site

Brook Hall Farm consists of a detached dwelling, 3 single storey wooden buildings of which one is the subject of this application. The site is accessed via Long Lane, located in Aston.

The 3 timber frames buildings are located next to the highway with the subject building being the detached of the three.



Class Q Criteria

We provide the following comments in respect to the criteria set out within the legislation and the comments taken from the previous decision report.

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.

The officer's comment was that the barn has not be genuinely proved to have been in agricultural use. This formed one of the 3 reasons for refusal (reason 1). - **We have addressed this issue separately under Response to reasons for refusal of application 3/18/2559/ARPN**

Q1 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;

The officer's comment being that there is no proof provided that would confirm that the barn on the site was used solely for an agricultural use. - **We have addressed this issue separately under Response to reasons for refusal of application 3/18/2559/ARPN**

(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; - PREVIOUSLY APPROVED

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

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

(e) less than 1 year before the date development begins—

(i) an agricultural tenancy over the site has been terminated, and - NA

(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; - NA

(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 - **NA***

*(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; - **NA***

*(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; - **PREVIOUSLY APPROVED***

*(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; - **PREVIOUSLY APPROVED***

(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);

The officer previously commented that there were concerns that the work goes beyond what is reasonably necessary to convert the building. - **We have addressed this issue separately under Response to reasons for refusal of application 3/18/2559/ARPN**

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

(k)the site is, or forms part of—

*(i)a site of special scientific interest; **NA***

*(ii)a safety hazard area; **NA***

*(iii)a military explosives storage area; **NA***

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

*(m)the building is a listed building **NA***

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 - **PREVIOUSLY APPROVED***

*(b)noise impacts of the development - **PREVIOUSLY APPROVED***

*(c)contamination risks on the site - **PREVIOUSLY APPROVED WITH CONDITION***

(d) flooding risks on the site - **NA**

(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 - **PREVIOUSLY APPROVED**

(f) the design or external appearance of the building, - **PREVIOUSLY APPROVED SUBJECT TO BUILDING OPERATIONS**

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

"agricultural building" means a building (excluding a dwellinghouse) used for agricultural and which is so used for the purposes of a trade or business and "agricultural use" refers to such uses. - **We have addressed this issue separately under Response to reasons for refusal of application 3/18/2559/ARPN**

"curtilage" means

(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 previous application requested a greater curtilage area and as such this was one of the three reasons for refusal. The curtilage aspect has now been addressed and we ask that the revised curtilage is given consideration as it meets the criteria and does not exceed the footprint of the building.**

Response to reasons for refusal of application 3/18/2559/ARPN

- **Agricultural use**

A requirement of Class Q is that the building was used solely in connection with an agricultural trade and business on 20th March 2013. The officer's previous report states that no agricultural history had been provided to confirm that the building was in agricultural use.

The previous application was validated on 19th November 2018 and a decision was made on 14th January 2019. Whilst the then agent confirms that the use has only been an agricultural use, on 11th December 2018 the applicant writes to the planning officer and details the use of the building. This letter was not displayed on the planning portal along with the application documents, therefore we submit it again in support of this resubmission.

History of the barn informs that the current owners (applicant) purchased the farm, land and buildings in 1982 from the previous owners who farmed that site as a livestock farm, being mainly cattle and the rearing of pigs.

The barn which is subject of this application was used as a cattle barn, thereafter as storage for equipment which included a tractor, harrow and general agricultural equipment, hay & feed and fencing/netting materials which were used when the sheep were grazing (strip grazing).

The barn has remained in agricultural use in conjunction with the land which since their purchase in 1982, have used the site to rear cattle (both bullocks and heifers) pre sale. In addition, the land and the barn have been utilised for the rearing of sheep. The barn has been used for lambing and both barn and the yard which is in front of the barn, were used to round up the sheep.

Present day, the barn is now used for the storage of the hay which is cut from the owner's land. Whilst the farming activity is no longer as it once was, the land is nevertheless still farmed, and the building has supported that.

In support of the farming activity and the use of the subject building, the applicant has provided two statutory declarations.

The first has been provided by Mr Palfreyman who is a local sheep farmer who has annually grazed his livestock of approximately 100, on the land at Brook Hall Farm and has done so for some 20 years. Mr Palfreyman confirms the use of the barns on site which he has used each year for lambing. When the livestock were moved to grazing land, he made use of the buildings for storage of hay and feed which was required for overwintering which grazing was in short supply.

The second has been provided by Mr Roger Dodson who has been visiting Brook Hall Farm for some 30 years. Mr Dodson harvests the land during the spring and summer, cutting the hay before its baled and stored in the farm buildings for animal fodder.

Turning once again to the officer's previous report, it is unclear as to why the officer has suggested that the subject building was used for stabling. The applicant has made no indication that the site has been used for horses but appreciates that the agricultural use required evidence of and therefore with the statutory declarations and the detailed use of the barn being provided by the applicant, it is considered that this provides sufficient evidence of the use along with a Single Business Identifier (SBI number) which is a unique nine digit number given by DEFRA to a farmer or business that is involved in an agricultural activity.

- **Building operations**

It is noted that the criteria allows for building operations as set out below:

*(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);*

In the previous application, the officer refuses permission based on a concern that most of the internal frames and walls of the building were to be removed such that the building

would appear with the external brick plinth, new walls, external cladding, new roof, fenestration and doors to be a rebuild and not the conversion of the building retaining its existing internal structure.

Evidence to the contrary is required which we provide and so will alleviate any concerns that may have preceded this application. The applicant's architect has annotated the drawings which have been resubmitted with this application. From these drawings it can be seen that the existing structure will remain in place as it is capable of supporting the building which is a single storey.

In addition, a structural report has been commissioned by the applicant which has been provided in support of this application.

In terms of new walls, new roof etc, the criteria allow for partial demolition to the extent reasonably necessary in order to achieve a residential dwelling.

Paragraph: 105 Reference ID: 13-105-20180615

What works are permitted under the Class Q permitted development right for change of use from an agricultural building to residential use?

The right allows either the change of use (a), or the change of use together with reasonably necessary building operations (b). Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes 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 allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

*For a discussion of the difference between conversions and rebuilding, see for instance the case of *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).*

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.

Whilst the *Hibbett vs SOS* favoured the LPA, the building in question was open on two sides and partially on the third. The barn at Brook Hall Farm is enclosed and all sides and therefore falls within the criteria.

In reading the *Hibbett* case, when reaching his conclusion, Justice Green added that *“In many permitted developments the work might be extensive yet that does not thereby disqualify a development from automatic permission.”* From this is clear that each application is to be taken on its own merits and that it is a matter of planning judgement.

- **Curtilage**

The previous curtilage area has been revised and no longer exceeds the footprint of the building.