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**NOTIFICATION OF A
PROPOSED CHANGE OF
USE OF AN AGRICULTURAL
BUILDING TO A DWELLING**

PREPARED FOR

Mr William Jury

20th October 2022

PREPARED BY:

Laura Wall
MRICS MBIAC
Associate

VERIFIED BY:

Mike Bamforth
MCIQB
Director

ADDRESS:

Acorus
Addlepool Business Centre
Woodbury Road
Clyst St George
Exeter
Devon
EX3 0NR

DIRECT LINE:

01392 873900

EMAIL:

planning@acorus.co.uk

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1. INTRODUCTION

- 1.1 We act on behalf of Mr W Jury in respect of a prior determination notification made to Torridge District Council in relation to the potential change of use of an agricultural building on land at Fathering Fields (adjacent to Craythorne Farm), Chilla, Beaworthy, EX21 5XG, into a dwelling.
- 1.2 Planning permission is not deemed necessary for the proposed development on the basis that the proposal conforms with the provisions set out formally in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. PLANNING POLICY BACKGROUND

- 2.1 In the 2013 Budget Statement the Government announced its intention to consult on allowing further flexibilities between use classes to support the change of use. Building on the changes introduced in May 2013, a consultation was undertaken on 'Greater flexibilities for change of use' and this included options for amending the Town and County Planning (General Permitted Development) Order 1995 (as amended) to grant permitted development rights for various situations including rights to assist change of use and the associated physical works from existing buildings used for agricultural purposes to residential use (C3).
- 2.2 The proposals were put forward to further enhance the Government's primary objective of supporting economic growth. The proposals strongly support key Government priorities for making better use of existing buildings, supporting the high street and rural communities and providing new housing.
- 2.3 February 2019 saw the publication of the Government's Revised National Planning Policy Framework (NPPF). This document, updated in July 2021, replaces all Planning Policy Statements. The document states that there is a presumption in favour of sustainable development.

- 2.4 Given the Permitted Development Rights which have come into effect on the 6th April 2018, the Government clearly believe that the change of use of agricultural buildings to dwellings is in line with the NPPF and therefore the development it allows is sustainable.
- 2.5 The changes allowed under the permitted development will make a strong contribution towards the provision of new homes, reducing some of the pressure for new green field development and allowing under-utilised buildings to be brought back into productive use.
- 2.6 Planning permission is not deemed necessary for the proposed development on the basis that the proposal conforms with the provisions set out formally in The Town and Country Planning (General Permitted Development) Order 1995 as amended by The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 and now reflected in the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 2.7 Class Q allows for 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 (dwelling houses) 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 (dwelling houses) of that Schedule.
- 2.8 The permitted development provisions do not differentiate between the age, type or condition of any buildings which might be suitable for conversion.
- 2.9 Given the variance in decisions being made by both LPAs and Inspectors, the Department for Communities and Local Government (DCLG) has published further guidance on the Planning Practice Guidance confirming that:
- LPAs are to consider the NFFP only where it is relevant to the matter on which Prior Approval is sought e.g. Transport/Highways and Noise etc.

- Confirmation that Permitted Development Rights do not apply a test in relation to sustainability of location. DCLG note this is deliberate as it is recognised many agricultural buildings are outside village settlements and may not be able to rely on public transport.
- LPAs can consider whether location and siting of the building would make it impractical or undesirable to change the use. However, they should apply a reasonable definition in making judgement. Impractical could reflect a location and siting that would not be 'sensible or realistic' and undesirable may reflect a position that is deemed 'harmful or objectionable'.
- LPAs should work on the premise that Permitted Development grants permission subject to Prior Approval and the fact that a building may be in a location where planning permission would not normally be granted is not sufficient reason for refusing Prior Approval.
- Consideration of location and siting should not require any tests within the NPPF to be applied. Factors such as whether the property is for a rural worker are unlikely to be relevant.
- 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.
- 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.

2.10 The Town and Country Planning (General Permitted development) (England) (Amendment) Order 2018 introduced the provision of 'larger' dwellings and 'smaller' dwellings into Class Q.

2.11 Larger dwellings are those with a floorspace of over 100m² and smaller dwellings cannot exceed 100m² each. The Legislation sets out limitations on the number of larger dwellings which can be created, with a maximum of three on one unit and the cumulative floorspace of these dwellings cannot exceed 465m². Up to 5 smaller dwellings can be provided on a unit. It is also possible to provide a mix of larger and smaller dwellings, providing the cumulative number of dwelling on a unit is no more the 5 in total.

3. THE SITE AND BUILDING

3.1 The proposal relates to the change of use of an agricultural building and the land within the curtilage to form 1no. dwelling (1no. smaller dwelling as defined within the GPDO 2015).

3.2 The subject building is situated on an established agricultural unit and was occupied for the purposes of agriculture on and before 20th March 2013, having been used for milking goats and subsequently shelter for sheep until 2016. In more recent times the barn as been used for the storage of feed and shelter for chickens when required.

3.3 The subject building duo pitched agricultural building with a lean to area (South Elevation), constructed with timber frame walls clad with Plywood sheeting and vertical timber cladding. The roof is clad with corrugated metal sheeting.

3.4 The change of use proposal relates to the conversion of the subject building to provide 1no. dwelling; 1 no. smaller dwelling as defined by the legislation with a resultant internal floor area of 66m².

3.5 The curtilage for the dwelling will not exceed the footprint area of the building.

4. PERMITTED DEVELOPMENT CRITERIA

4.1 It is confirmed that the following criteria is satisfied:

- the site was used for agricultural purposes on and immediately before 20th March 2013 or when it was last in use;
- the cumulative floor space of the existing building changing use to 'larger' dwellings does not exceed 465 square metres;
- the cumulative number of dwelling houses developed does not exceed five;
- the site is not occupied under an agricultural tenancy, nor has one been terminated within the last 12 months.
- no development utilising other agricultural PD rights has been undertaken on the unit since 20th March 2013.
- the development would not result in the external dimensions extending beyond the external dimensions of the existing building at any given point;
- no more than 465 square metres of floorspace have changed use to 'larger' dwellings on the unit under Class Q;
- The total number of dwellings on the holding (formed under Class Q) will not exceed 5.
- the building is not on article 2(3) land;
- the site does not form part of a safety hazard area or military explosives storage area;
- the building is not a listed building or scheduled monument;

Q.1(i) Building operations

4.2 Under the GPDO, permitted development is development consisting of building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses).

4.3 In February 2018 the PPG guidance was amended and now states:

'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'.

- 4.4 In addition, the guidance now confirms that *‘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’.*
- 4.5 Included with this submission are further details including a Schedule of works, enabling a detailed appraisal of the proposal to be considered, particularly in relation to the works proposed to the building.
- 4.6 The building appears to be structurally sound and capable of conversion. The majority of the existing structure will remain, with building operations undertaken considered reasonably necessary to bring the building up to the required Building Regulation standards.
- 4.7 Taking the above into consideration, the proposed works are deemed to be acceptable under the legislation and the proposal remains a conversion of the existing building.

5. PRIOR DETERMINATION

- 5.1 Given that permitted development rights apply, in accordance with the Order, we request a determination as to whether the prior approval of the LPA is required for the Class Q development in this instance in regard to:
- **Transport** and highways impacts of the development
 - **Noise** impacts of the development
 - **Contamination** risks on the site
 - **Flood risks** on the site
 - 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 Use Classes Order.
 - **Design and External Appearance.**
 - **Adequate provision of natural light**

5.2 Transport

The site lies to the north of Halwill Junction (approximately 2.0 miles to the south) in a rural location. Access to the highway is via a private track onto the adjoining classified, unnamed road, which then leads to the wider area. Access to Okehampton is via the A3079 and Holsworthy via the A3079 and A3072. The adjoining public roads are capable of accommodating any potential additional traffic.

The width and alignment of the road are not uncommon when considering the typical nature of many rural roads in the district. Considering an average of 4 trips per day per dwelling, it is deemed that the highways impact of the proposal will be minimal, and that the local highways network is capable of supporting the minimal increase in traffic movements.

As a result, there is unlikely to be a significant detrimental impact following the proposed change of use to a dwelling.

5.3 Noise and Contamination

The building is situated away from any other properties in the vicinity which will be affected by any potential noise generated from the proposal. There is considered to be no adverse impact on residential amenity.

The pollution and contamination risk is deemed to be low given the history of the building.

Therefore, in light of this, prior approval in relation to noise and land contamination should be granted or deemed not to be required.

5.4 Flood Risk

Reference to the Flood Map for Planning confirms the site is not within an identified flood risk zone and there is no history of flooding issues on the site.

New foul drainage facilities will be installed during any change of use. Any newly created drainage for surface water will ensure that any discharge will not increase the chance of flooding elsewhere.

Prior approval should not be required in relation to flood risk.

5.5 Location and Siting

The very nature of agricultural buildings generally leads to their siting within a countryside location. Whilst this may be the case, the Government have recognised this when considering the sustainability and suitability of introducing these permitted development rights.

The location and siting of the building does not make it undesirable or impractical to change the use. The site, although in a rural location, is situated close to the village of Halwill Junction and also a number of other small villages.

The small scale nature of the proposal, i.e. the creation of one dwelling through the conversion of the existing building, will not have an adverse effect through any significant increase in traffic generation or impacts on existing or future residential amenity. The existing access from the public highway will be utilised to service the proposed dwelling.

The principle of development is accepted under permitted development.

The prior approval process is required to ensure that the change of use and any associated works do not create unacceptable impacts.

In this instance, the location and siting of the building does not make it undesirable or impractical to change the use. The proposal will not create unacceptable impacts.

The Government Guidance issued on 5th March 2015 clearly states that *the permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs.*

It goes on to say however that... *Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.*

Therefore in looking at what is meant by 'impractical' or 'undesirable' it confirms the following:

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements.

That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical.

Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval.

So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.

In light of the above guidance and in applying the 'reasonableness' test, it is considered that the siting or location is both sensible and not objectionable and therefore the criterion is satisfied.

5.6 Design and External Appearance

The legislation requires that the developer seeks a determination as to whether the prior approval of the authority is required as to the external and internal design.

Enclosed with the submission are planning drawings that detail the design and external appearance of the existing building and the proposed dwellings.

The finished external materials will reflect materials appropriate to the rural nature and location of the building.

The installation/replacement of the roof covering, walls, windows, doors and detailing will take place only where necessary, therefore the proposal relates to conversion of the existing building rather than a rebuild.

In seeking to convert the existing building and utilise existing materials as much as possible, it is considered that the extent of the building operations are well within the allowed building operations reasonably necessary to convert the building to a use falling within Class C3 (dwelling houses) in line with the GPDO 2015 Class Q.

A Schedule of Works is likewise provided which further details the works proposed.

5.7 Adequate Provision of Natural Light

Legislation, which came into force as of 1st August 2020, introduced a new prior approval consideration relating to the provision of natural light. The amendments to the GPDO now require consideration/confirmation as to whether all habitable rooms have adequate natural light.

It is considered that all the rooms created within the dwelling, that are main habitable rooms (in accordance with the definition provided in the legislation), have natural light through the use of glazed windows or doors, as shown on the accompanying proposal drawings.

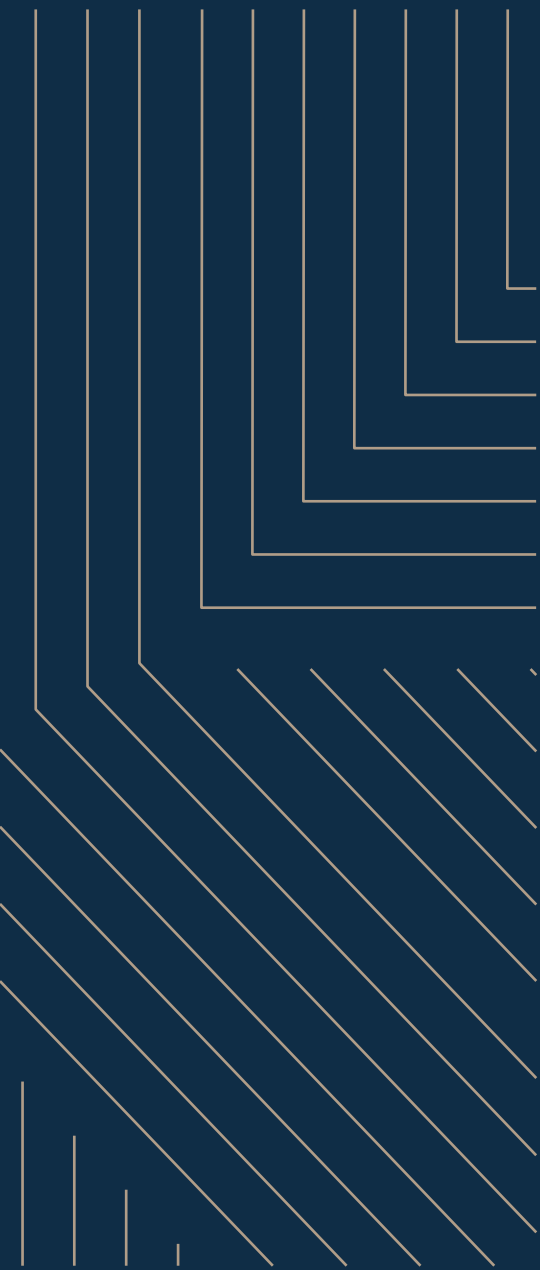
Prior approval should therefore not be required in relation to this issue.

6. CONCLUSION

- 6.1 It is deemed that the proposal for the change of use of the subject building one dwelling shall be considered permitted development, under Class Q of the Town and County (General Permitted Development) (England) Order 2015.
- 6.2 The proposed change of use will not lead to any detrimental adverse effects on traffic, flood risk, noise or contamination. The siting and location of the building are deemed to be acceptable for the proposed use, given the confirmation in government guidance that no sustainability test is required.
- 6.3 In terms of design and external appearance, the proposal in this instance is deemed to meet the limitations of the legislation and therefore should be acceptable.
- 6.4 We trust this proposal can be fully supported and that the LPA confirm that the development is acceptable.
- 6.5 If further information is required to enable the LPA to make a determination then Acorus will be willing to provide further details upon request.

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