

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



Site

Brook Hall Farm
Long Lane
Aston
Herts
SG2 7HE

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Single Business Identifier (SBI) number: 200396990

Introduction

This application is a resubmission and addresses the reasons for refusal of previous application reference 3/22/2166/ARPN and incorporates application reference 3/18/2559/ARPN.

The reasons being as follows:

1. 1 The existing building does not comprise an agricultural building or agricultural unit, as defined in Part 3 X (Interpretation of Part 3). Therefore, the proposed change of use fails to accord with Schedule 2, Part 3, Class Q(a), and Q1 (a), (b), (c) and (d) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning permission is therefore required for the proposed development.
2. 2 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. 3 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) and Q.1 (i) 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.
4. 4 There proposed fails to demonstrate that all habitable rooms would receive adequate daylight, contrary to criteria Q.2 (1) (g) 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.

Reasons 1-3 given above are associated with the reasons for refused of the previous application (3/18/2559/ARPN), the fourth reason is an addition.

With respect to the other criteria set out within the current legislation, other than the four reasons noted above, in the officer's previous report/s, these will confirm that these four, other aspects of the criteria are acceptable. With this in mind, this statement lists those approved and has 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.

3/22/2166/ARPN Change of use of agricultural building to No 1 dwelling house (Class C3) – Refused.

Proposal

This application is requesting permission to convert 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 both previous reports. 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.

Albeit the first application decision made in January 2019 did not raise the number of windows as a reason to refuse, in view of the fourth reason to refuse of application 3/22/2166/ARPN, the applicant has added additional windows to the bedrooms and kitchen which are to the rear of the building. This addresses reason 4 for refusal and demonstrates that all habitable rooms would receive adequate daylight.

Otherwise, the design remains the same as the plans previously submitted. All existing and the proposed windows, doors, patio/bi-folding doors are to be replaced with oak coloured wood, which is in keeping with the existing which was accepted in the officer's report.

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 the proposed curtilage area.

The site already benefits from electricity, mains water supply and drainage.

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

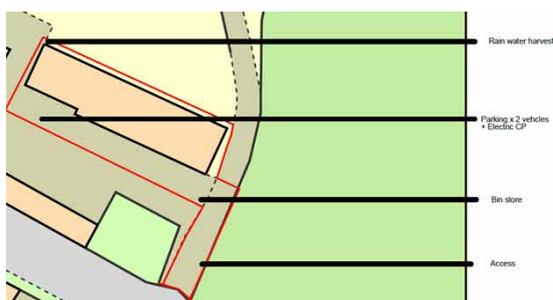


Curtilage

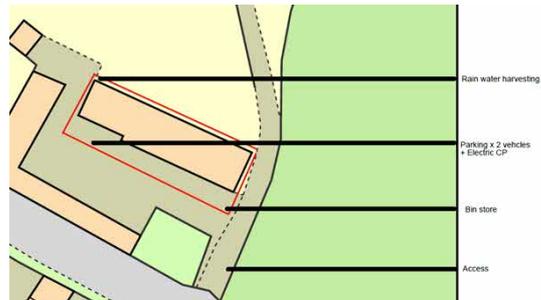
Reason 2 for refusal being that the size of the curtilage being proposed would exceed the size of the existing agricultural building, has been addressed and a revised site plan has been submitted.

When taking the curtilage into consideration of the previous and current applications, we wish to note that the access on both has been identified. However, this application has removed the access from the identified site (red line). In general terms, many farm buildings do not have a direct access from the highway and it was felt that the officer in the previous application had included the access as curtilage. In addition to this, the curtilage has been marginally reduced from that identified in the previous application. Below shows the previous plan submitted and current plan. The revised plan has been submitted along with this application.

Previous



Revised



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.



In the officer's report it describes the buildings as 'stable type buildings'. It is unclear why this description has been used as the applicant has maintain that the subject building is an agricultural building and not a stable building.

The building consists of a number of doors to the front of which 2 are half doors and the remaining being 3 double doors. Our assumption being that the officer associates stable doors with equestrian use but other than this, there is no indication of the building being a stable for horses.

It is not uncommon to have stable doors on agricultural buildings where livestock exists and this building was once used for cattle and as such, the bays with stable doors were used to pen bulls. Penning bulls allows the bull to be fed and watered from the outside of the pen and to incorporate a yoke or method of securing the animal by using the nose ring.

During the site visit the officer states that there was a small pony in the adjacent field. Later in her report, she states that that making of hay is not necessarily for agricultural given that there is a horse present in the adjacent field. It is understood that the officer refers to the one animal which is in fact a hinny and over 40 years old and is a pet which was a rescue animal which has never been ridden. This pet does not make an equestrian enterprise and she (the hinny) is not stabled and lives out in the field.

The officer continues to state during a site visit, the inside of the barn appeared to be used to store hay and other domestic objects such as ladders, a ride on lawnmower, and building rubble. This statement is somewhat ambiguous as hay is stored within the building as the applicant has stated and therefore the officer should expect to see it during the site visit.

In respect to the ride on lawn mower, this is used to cut the outer edges of the land where the temporary fencing is installed which is used when the sheep are grazing.

The officer continues to add that other items described as 'domestic' such as ladder and rubble. The officer would have seen that the rubble is a tidy pile of bricks. A ladder is not necessarily domestic and ladders are found in barns for general use as and when. In addition, and not noticed by the officer, is the fencing equipment, electric and wooden gates which are used on the land when the sheep are grazing. These have been stored in the barn waiting to be erected on the land for the 62 sheep which are now grazing on the land.

We have provided photographs below of items which are stored inside the building as the officer would have seen.

The photographs show the fencing required for the fields when the sheep are grazing, otherwise its stored in the barn. The remaining bales of hay from 2022 hay making and a ladder and the neat pile of bricks stored. Below we have also shown the sheep grazing with the fencing. The second outside photo shows the applicants house adjacent to the her land.



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's.

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 been genuinely proved to have been in agricultural use. This formed one of the 4 reasons for refusal (reason 1). - We have addressed this issue separately within this statement.

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 within this statement.

(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 within this statement.

(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, - We have addressed this issue separately within this statement.

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 within this statement.

"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 – We have addressed this issue separately within this statement.

Response to reasons for refusal

- Agricultural use

The reason for refusal has been partially addressed in this statement under the section titled Site. In addition, the applicant had previously provided 2 statutory declarations, one from ██████████ who has been visiting Brook Hall Farm for some 30 years, harvesting the land during the spring and summer, cutting the hay before its baled and storing it in the farm buildings for animal fodder.

Another was provided by ██████████ who is a local sheep farmer and who annually grazed his livestock of approximately 100, on the land at Brook Hall Farm and has done so for some 20 years. ██████████ also confirmed the use of the barns on site which he has used each year for lambing and for the storage of hay and feed which was required for overwintering which grazing was in short supply.

██████████ has provided a second statutory declaration as the officer's report states that his use of the barns for the farming of sheep and associated uses, provided no clear dates when it began and ended. ██████████ second statutory declaration confirms his use of the land, the barn and that he had been doing so since 2002. The barn is still being used for the sheep present day.

The applicant has herself has provided a statutory declaration in which she confirms the use of Brook Hall pre 1982, her purchase, the use of the land and the use of the barn.

In addition to this, we also provide a letter which was written to the planning officer in 2018 by the applicant.

Further evidence as to the use has been provided by [REDACTED] who confirms the use of the land for cattle and the building to which she describes the subject barn as 'the large barn', being used to house cattle and sheep when lambing.

[REDACTED] statutory declaration has been resubmitted as the officer commented on the storage of hay in the barn in that it did not evidence an agricultural use given the horse present in the adjacent field. We have addressed the hinny which is a family pet under section titled Site.

The officer questions the need for hay given the lack of livestock. Should the officer visit the site at the time of writing this application, the sheep would be present grazing and this supports the use of the barn for livestock during specific periods during the year. The officer also questions the fields which [REDACTED] has fertilised. All the fields are fertilised. [REDACTED] statutory declaration provides a picture of how the land and the buildings are utilised for the agricultural activities.

All provide the history of the barn and informs that the current owner (applicant) purchased the farm, land and buildings in 1982 from the previous owners who farmed that site as a livestock farm, being mainly a cattle enterprise along with other livestock.

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. The land and the barn have been utilised for the rearing of sheep with the barn being used for lambing and the yard which is in front of the barn, being 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 supports this through its use for storage of equipment and livestock (sheep).

The applicant has also a Single Business Identifier [REDACTED] which is a unique nine digit number given by DEFRA to a farmer or business that is involved in an agricultural activity. This was previously provided but the officer does not appear to have acknowledged to.

- 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 provided within the recent application and was hoped that this would have alleviate any concerns that may have preceded the application.

The applicant's architect had annotated the drawings which were resubmitted, and those drawings have once again been submitted 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 had been commissioned by the applicant which was provided in support of the application. However, the recent decision questions this report and so the applicant has commissioned Hace Consultancy Structural Engineer (Paul Carruthers) who has endorsed the report, confirming that the structure is capable of the conversion proposed.

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 *Hibbett 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.

- Design or External Appearance

As previously noted, the design and appearance is acceptable in terms of the layout of fenestration and doors, and the materials. However, the officer has refused the design due to the lack of natural light in the bedrooms to the rear of the building. The applicant has since revised the plans which will now show that 3 windows have been added to the rear of the barn for the two bedrooms and the kitchen area. This complies with Q. 2 (1) (g) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- Curtilage

The previous curtilage area has been revised and as the site plan shows, the curtilage has been reduced. We have also addressed this in detail under the section titled Curtilage within this statement.