

APPLICATION REPORT – 23/00486/P3PAO

Validation Date: 6 June 2023

Ward: Clayton West And Cuerden

Type of Application: Prior Approval from Agr to Residential

Proposal: Prior approval application under Schedule 2, Part 3, Class Q (a and b) of The Town and Country Planning (General Permitted Development) (England) Order 2015 for the proposed change of use of 2no. agricultural buildings to 5no. dwellinghouses and associated building operations

Location: Lower Wood End Farm Back Lane Clayton-Le-Woods Chorley PR6 7EX

Case Officer: Chris Smith

Applicant: Mr Andrew Suter, Cuerden Valley Park Trust

Agent: Mr Thomas Smith, Peter Dickinson Architects

Consultation expiry: 3 July 2023

Decision due by: 31 July 2023

RECOMMENDATION

1. It is recommended that prior approval is refused for the following reason:

The proposed works do not reasonably constitute conversion and do not amount to the partial demolition allowed under paragraph Q.1(i) of Schedule 2, Part 3, Class Q (a and b) of The Town and Country Planning (General Permitted Development) (England) Order 2015. Accordingly, it is considered that the proposed development does not accord with the requirements of paragraph Q.1(i) and does not, therefore, amount to permitted development.

SITE DESCRIPTION

2. The application site is located within the Green Belt as defined by the Chorley Local Plan 2012-2026 Policies Map immediately to the west of the settlement boundary of Clayton le Woods. The site is located at the end of an approximately 160m long private access track that leads from Back Lane.
3. The site contains 4no. detached rectangular agricultural buildings. It is surrounded by housing to the east and north beyond a dense belt of vegetation, and there is open agricultural land on all other sides. A public footpath (path no. 8) runs along the access road from Back Lane and passes along the front (north) and side (west) boundaries of the site.

DESCRIPTION OF PROPOSED DEVELOPMENT

4. The application seeks prior approval under the provisions of Schedule 2, Part 3, Class Q (a) and (b) of The Town and Country (General Permitted Development) (England) Order 2015 (as amended) (GPDO) to convert 2no. existing agricultural buildings into 5no. dwellinghouses including the building operations necessary to facilitate the conversion.

REPRESENTATIONS

5. No representations have been received.

CONSULTATIONS

6. Chorley Council's Waste & Contaminated Land Officer - Has stated that based on the available information, the Council currently has no concerns over ground contamination in relation to this site. The site is unlikely to be determined as Contaminated Land.
7. Clayton le Woods Parish Council – No comments have been received.
8. Lancashire Highway Services (LCC Highways) – Have stated that they do not have any objections in principle to the proposed development. However, they also stated that they have some concerns in relation to cars exiting the track onto Back Lane due to vegetation obstructing sight lines and they also requested more information regarding passing places along the private access track used to access the site. The land upon which the vegetation is located is owned by Chorley Council and so it would be unreasonable to require the applicant to maintain this.

PLANNING CONSIDERATIONS

Procedure

9. The application is submitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 which came into force on 15 April 2015. More specifically the application is made under Class Q of the Regulations.
10. Class Q makes provision for:
 - (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; or
 - (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.
11. This application seeks prior approval under Class Q (a) and Class Q (b) as detailed above.

Assessment

12. Under the provisions of the Regulations development under Class Q is not permitted where (assessment in bold):
 - (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 planning history of the planning unit within which the buildings are located is relatively limited. The Council did, however, receive a planning application in September 2022 for Lower Wood End Farm proposing the demolition of the existing farmhouse and the erection of a replacement dwelling as well as the conversion of two barns to form three dwellings and other associated works (ref. 22/01001/FUL). In their comments on the planning application Lancashire County Council Archaeology Service referred to the farmstead (at Lower Wood End Farm) and stated that:

“it is noted on the Lancashire Historic Environment Record, where it is suggested that it may well appear on William Yates’ map of Lancashire, dated 1786, and thus, be of 18th century or earlier origin. Within the farmstead itself are three traditional buildings, the farmhouse itself, a stone-built barn to its north and a brick-built barn range to its east. Of these the brick-built range is probably the earliest, being clearly identifiable on the OS 1:10,560 mapping of 1848 (sheet Lancashire 69, surveyed 1844-6)”.

This indicates that the site has been used for agricultural purposes for some considerable time as an agricultural farmstead and it is acknowledged, therefore, that the planning unit has historically been used for agricultural purposes. The regulations state that development is not permitted if the site was not used solely for an agricultural use as part of an established agriculture unit. For the purposes of this part of the General Permitted Development Order “site” means the building and any land within its curtilage. A determination, therefore, needs to be made as to whether or not the application site (the buildings subject of this application and their curtilage) would have been used solely for agriculture as part of a wider agricultural unit within the applicable time frames, i.e. that on 20th March 2013 the buildings were used solely for agriculture.

The design and access statement submitted with the application states that the existing site is a conventional farm with a mix of traditional buildings and modern agricultural structures surrounded by farm land and the existing buildings include a farmhouse, two traditional barn buildings and a collection of steel and timber agricultural buildings, which have been used to house various forms of farm plant and machinery, hay bales and general farm apparatus. It also describes the site as a well-established working agricultural farmyard.

The applicant’s agent has also confirmed on the application form that the site was used solely for agricultural activities on the 20 March 2013. Taking this into account along with the historic agricultural use and given the lack of any evidence to demonstrate any intervening non-agricultural use of the application site, it is considered that the site has been used solely for agricultural purposes as part of an established agricultural unit within the required time frames.

(b) in the case of—

(i) a larger dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;

(aa) The proposal would involve the creation of 3no. larger dwellinghouses (i.e. between 100sqm and 465sqm) and no other buildings within the application site have been converted for residential use.

(bb) The cumulative floorspace of the existing buildings changing use to larger dwellinghouses is less than 465 square metres.

(ba) The proposed development would lead to the creation of 3no. larger dwellinghouses each of which would have a floorspace of less than 465 square metres.

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or (bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

(aa) The proposal would involve the creation of 2no. smaller dwellinghouses (i.e. less than 100 sqm).

(bb) The floorspace of each of the smaller dwellinghouses would be 89 square metres.

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

(i) The proposal involves the creation of 3no. larger dwellinghouses, however, no individual larger dwellinghouse would have more than 465 square metres of floor space.

(ii) Cumulatively the proposal involves the creation of 5no. dwellinghouses with no other buildings within the application site converted for residential use under class Q.

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

The site is currently occupied under an agricultural tenancy; however, the applicant's agent has confirmed that an agreement has been reached between the landlord and tenant and consent has been granted by both parties. The agreement between both parties confirms that the existing buildings are no longer required for the existing agricultural use.

(f) 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;

N/A see above.

(g) 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;

No development under Class A or Class B of Schedule 2, Part 6 of the General Permitted Development Order has been carried out post 20th March 2013.

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

The proposed development would not result in the external dimensions of the buildings extending beyond the external dimensions of the existing buildings.

(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);

Paragraph 105 of the National Planning Practice Guidance (NPPG) states that:

'Building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for 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 the partial demolition of the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes from the external works to provide for residential use that the building would be considered to have the permitted development right'

This is supported by the judgement made between Hibbitt and Another and the SSCLG and Rushcliffe Borough Council (dated 09/11/2016), which concluded that for the purposes of Part Q a legitimate planning judgement must be made in defining the magnitude of development to enable the building to be converted for residential purposes. In this case, the barn was completely open sided with a corrugated mono-pitched fibre sheet roof. Mr Justice Green upheld the decision made by the Inspector in that the level of alteration reasonably necessary (the construction of four external walls) did not constitute conversion; rather it embodied a fresh build given the extent of works to transform the skeletal structure into a fully functioning dwellinghouse.

In this case the proposed development relates to two barns. The barns are steel framed structures with corrugated metal roofs. Barn 1 is located in the northern portion of the site and barn 2, the more elongated and slightly narrower of the two barns, is located in the southern portion of the site. Barn 1 does not have any external elevations and is open on all sides and whilst barn 2 does have some external elevations, this is lightweight timber boarding and the design and access statement submitted with the application states that the proposed works would involve the installation of new exterior walls. Given the open and skeletal nature of the existing buildings, it is considered that the installation of new external walls to all elevations of both buildings along with the other works required including the installation of new doors, window, roofs and removal of timber boarding, would amount to works which would be so extensive that they would go beyond what could be considered to be a conversion and would in effect amount to a 'fresh build' or rebuild of the existing buildings.

The building operations required to carry out the development would, therefore, be extensive and would involve rebuilding all elevations with the steel frames being the only existing features that would be retained, and it is uncertain as to whether they would be capable of supporting the fabric required of a residential property to meet current building regulations in its current state. In any event the level of building operations required would amount to the substantial reconstruction of the buildings, with very little of the original buildings remaining and the construction of entirely new elevations and roof.

This goes beyond what could reasonably be described as conversion, and even if the existing frames were capable of being used as the main structural element for the

buildings, the works, requiring the removal of the existing boarding and blockwork and the building up of all the external and internal walls and laying of a new roofs, would be so extensive as to comprise rebuilding. As such it is considered that the proposed works do not reasonably constitute conversion and do not amount to the partial demolition allowed under paragraph Q.1(i) of the GPDO.

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

The site is not in a Conservation Area.

- (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;
- (l) the site is, or contains, a scheduled monument; or
- (m) the building is a listed building.

None of the above considerations apply.

Further assessment required by paragraph Q.2- (1)

13. 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 impact 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,
- (f) the design or external appearance of the building, and
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouse

14. Considering each of the above in turn:

(a) Transport and highways impact of the development

LCC Highways have stated that they do not have any objections in principle to the proposed development. They also stated that they have some concerns in relation to cars exiting the track onto Back Lane due to vegetation obstructing sight lines and they also requested more information regarding passing places along the private access track. However, the land upon which the vegetation is located is owned by Chorley Council and so it would be unreasonable to require the applicant to maintain this. This approach was taken in the determination of planning application 22/01001/FUL which was approved by the Council's Planning Committee on 28 March 2023. It is also noted that in their comments for planning application 22/01001/FUL LCC Highways did not request the provision of any passing points. It is considered, therefore, that it would be unreasonable to require the applicant to provide this now.

The 3no. larger dwellinghouses would each contain four bedrooms and the 2no. smaller dwellinghouses would each contain three bedrooms generating a requirement for thirteen car parking spaces under *Policy ST4 'Parking Standards' of the Chorley Local Plan 2012-2026*.

The site layout plan demonstrates that there would be a shared car parking courtyard within the curtilage of the proposed dwellings, which would provide a total of sixteen car parking spaces and the proposed development would, therefore, be in accordance with the parking standards specified in policy ST4 of the Chorley Local Plan 2012 – 2026.

(b) Noise impacts of the development

The proposed development would be located approximately 21m to the west of the nearest neighbouring residential property at no. 43 Blackthorn Croft and it is considered that this degree of separation would be adequate to ensure that the proposed development would have no unacceptable adverse impacts on the amenity of the occupiers of this neighbouring property or any other neighbouring properties as a result of noise. It is also noted that Blackthorn Croft is located within a well-established and sizeable residential housing estate where a degree of noise associated with domestic activities is already commonplace and to be expected.

(c) Contamination risks on the site

The contamination risks on the site, based on the currently available information, are such that the site is unlikely to be determined as contaminated land as described in Part 2A of the Environmental Protection Act 1990.

(d) Flooding risks on the site

In terms of the flooding risks on the site, in accordance with criteria (6) of Paragraph W of Part 3 the site is not in Flood Zone 2 or 3.

(e) Location and siting

Is there a sustainability prior approval for the change to residential use?

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. 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.

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.

What is meant by impractical or undesirable for the change to residential use?

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.

The buildings have road access that is sufficient for vehicles and as such is suitable for the additional dwellinghouses. It is not considered there are factors in this case that would make the change of use undesirable taking into account the advice in the NPPG.

(f) the design or external appearance of the building

It is considered that the design and external appearance of the buildings would be acceptable as they would display a functional appearance comprising timber and corrugated cladding and an overall form that would reflect the design style of functional agricultural buildings common to the area and therefore enabling the buildings to remain in keeping with the character of the locality. The site is well screened along its eastern boundary from the neighbouring housing estate by dense vegetation.

Overall, it is considered that the proposed development would have no adverse impact on the character of the area.

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

It is considered that the habitable rooms would receive adequate levels of natural light as shown on the plans submitted with the application titled: 'Steel Barn Conversion - 2 Dwellings' (ref: 4117-23-06) and 'Steel Barn Conversion – 3 Dwellings (ref: 4117-23-05).

CONCLUSION

15. It is recommended that prior approval is required and is refused.

RELEVANT POLICIES: Schedule 2, Part 3, Class Q (a) and (b) of The Town and Country (General Permitted Development) (England) Order 2015 (as amended)

RELEVANT HISTORY OF THE SITE

Ref: 79/01107/OHL **Decision:** PEROHL **Decision Date:** 17 March 1980
Description: Overhead line

Ref: 22/01001/FUL **Decision:** PDE **Decision Date:** Pending
Description: Demolition of existing farmhouse and erection of a replacement dwelling, conversion of two barns to form three dwellings and other associated works