

Consultees

Consultee	Summary of Comments received
Council's Contaminated Land Officer	Based on the available information, the Council currently has no concerns over land contamination in relation to this site. The site is unlikely to be determined as Contaminated Land.

Proposal

1. This is a prior approval application under Part 3, Class Q (a and b) of The Town and Country (General Permitted Development) (England) Order 2015 (as amended) for the proposed change of use of an agricultural building to 2 no. dwelling houses and associated building operations.

Site History

2. The building was erected under agricultural permitted development rights (application ref: 07/00969/PAR). It was the replacement of a barn that stood on the same site.

Procedure

3. 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.
4. Class Q makes provision for:
 - (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.
5. This application seeks prior approval under Class Q(a) and Class Q(b) as detailed above.
6. For the purposes of this part of the General Permitted Development Order "*agricultural building*" means a building used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse, and "*agricultural use*" refers to such uses.

Assessment

7. 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 **N/A**, 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; **N/A****In terms of (i) the building was erected under an agricultural prior notification application in 2007 ref: 07/00969/PAR and the Council have no evidence to the contrary to dispute this.**
 - (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;
The existing floor space of the building is approximately 310m² (below the 450m² threshold);
 - (c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;
Two dwellinghouses will be developed under Class Q and no other dwellings have already been developed under this class.

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

The agent has confirmed that the building is not subject to an agricultural tenancy agreement and no such agreement has been terminated in the last year.

(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;

N/A see above

(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; **the agent has confirmed that that no development under these classes have been carried out since then 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;

N/A

(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;

The conversion will not result in the external dimensions of the building extending beyond the external dimensions of the existing 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;

No other development has taken place under Class Q therefore this threshold will not be exceeded.

(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 proposal does not consist of works that are not included in the above.

(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 k-m apply.

8. In accordance with Class Q 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 the items referred to in sub-paragraphs (1)(a) to (f) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

9. Sub- paragraphs (1)(a) to (f) are as follows:

(a) transport and highways impacts 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.

10. Considering each of the above in turn:

- a) **The two dwellings would be accessed using the existing access to the site from Wood Lane. This is also used to access the fishery which has 33 fishing pegs. At the date of writing, Lancashire County Council Highways have not responded to the consultation, if they do, their comments will be placed on the addendum. It is not however considered that the increase in vehicles for two dwellings would result in a material change in the character of the traffic in the vicinity of the site.**
- b) **It is not considered that the proposal will result in unacceptable noise impacts. The nearest property is owned by the applicant. There is sufficient separation between the building and the nearest residential properties of High Heys Farm and Sierra Villa being over 30m away.**
- c) **In relation to the contamination risks on the site, the Council must determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990, The Council's Contaminated Land Officer has no concerns over ground contamination in relation to this site. This site has not been determined as Contaminated Land, and is unlikely to be determined as Contaminated Land. As such the site is unlikely to be contaminated land as described in Part 2A of the Environmental Act 1990.**
- d) **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. Although it is in Flood Zone 1 it is not in an area which has been notified to the authority by the Environment Agency to have critical drainage problems. The Council is not, therefore, required to consult the Environment Agency on the application.**
- e) **Requires determination as to whether the prior approval of the authority will be required as to 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. This is assessed below.**
- f) **The design or external appearance of the building. This is assessed below.**

Assessment of Criterion 'e'

11. Central Government have updated the Planning Practice Guidance (5th March 2015) in respect of this type of prior approval application. The updated guidance states:

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.

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

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.

12. The building has road access which although not up to adoptable standards, is sufficient for vehicles and as such is sufficient for two 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.
13. In terms of design and external appearance, the only changes externally would be window and door openings and these would be powder coated aluminium in blue black or similar. The design and external appearance is therefore considered acceptable.
14. Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.
15. In accordance with paragraph W there is a requirement to provide a written description of the proposed development, which must include any building or other operations. In this regard the agent has confirmed that the change of use utilises all existing openings for doorways, glazing and ventilation. New windows are proposed on the south east elevation and the south west elevation along with the inclusion of roof lights. The agent has confirmed that there may be partial demolition of areas, however this will only be to the extent reasonably necessary to carry out the above building works. This accords with Class Q.
16. **Assessment of criterion 'f' - the design or external appearance of the building.**
17. The proposed conversion utilises the existing cladded external walls and roof covering. The lower level blockwork walls will be retained and painted. Internal stud walls will be added to perimeter walls with insulation and the roof will also be insulated (with new roof lights added). New window and doors will be added and where existing openings are filled, then the same cladding as used on the rest of the building will be used. Internally the existing floor will have another floor and insulation added on top, with the upper end of the existing slab being cut out to get the depth for slab and insulation. Surface water drainage will remain as exists with new foul drains connected into the existing drain that runs across the front of the building. Connections will be run under the new raised floor construction. Apart from the insertion of new fenestration, the building will remain largely as exists externally and the design and external appearance is considered acceptable.

Curtilage

18. Paragraph X of Part 3 of the GPDO confirms that "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;

19. The proposed curtilage of the dwellings is an area immediately around the building which is currently occupied by hardstanding, associated with the building. As such the curtilage accords with the provisions of paragraph X.

Overall Conclusion

20. It is recommended that prior approval is required and is granted. The conditions required by the GPDO are recommended.

Planning Policies

In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

Suggested Conditions

No.	Condition
1.	The development under Class Q (a) and Class Q (b) must be completed within a period of 3 years starting with the prior approval date. <i>Reason: Required by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).</i>
2.	The development must be carried out in accordance with the details provided. <i>Reason: Required by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).</i>