

Delegated Report

Planning Ref: 25/00089/P3CQ
Applicant: Mrs Hughes
Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Clares Barn Farm, 26 Sheepy Road, Twycross

Proposal: Notification to determine if Prior Approval is required for the change of use of an agricultural building to a dwellinghouse (Class C3)

1. Recommendations

1.1. Refuse prior approval subject to:

- Reasons detailed at the end of this report.

2. Planning Application Description

2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of an existing agricultural building into a three-bedroom dwellinghouse (Use Class C3) with accommodation in its roof-space on land to the southwest of Clares Barn Farm, 26 Sheepy Road, Twycross. This is a resubmission of prior approval application 22/00555/P3CQ.

2.2. Within this application, the existing two-sided structure attached to the agricultural building is removed. The external faces are to be retained and improved by means repointing the mortar and reusing all existing openings for new windows. One additional window is proposed for the kitchen. Vehicular access is taken from the existing public highway via a new farm track which was approved via 21/00772/FUL.

3. Description of the Site and the Surrounding Area

3.1. The application building is an agricultural barn outside of any identified settlement boundary within the open countryside. The application site is 393.2m southwest of Clares Barn Farm, which is an established dairy farm. The application site is wholly surrounded by open countryside and there is a pond 66.2m to the northwest of the structure.

3.2. Based on the submitted plans, the agricultural barn comprised a central brick-built barn, a single storey mono-pitched extension to the eastern front elevation and an open timber attached extension to the western rear elevation of the property. All the elements of the building utilise metal profiled roofing sheets.

- 3.3. The existing building externally measured 18.5m in width by 8.5m in depth, which created a total footprint of 139sqm. These measurements included the 13m wide and 3.1m deep mono-pitched extension on the front elevation of the property. The structure had a pitched roof with a ridge height of 6.9m and an eaves height of 3.9m. The mono-pitched extension has a maximum height of 3.7m.
- 3.4. As of 18 February 2025, the open timber side structure, the mono-pitched extension and the 5.5m southern element of the building have been demolished. The structure did not have a roof and was in a state of disrepair. Works had commenced on site in relation to the previous prior approval 22/00555/P3CQ.

4. Relevant Planning History

4.1 23/00855/DISCON

- Application to discharge C7 (Contaminated Land), C9 (Waste and Recycling) attached to planning permission 22/00555/P3CQ
- Discharged
- 29.09.2023

4.2 22/00555/P3CQ

- Conversion of an existing agricultural building into 1no. new residential dwelling with new access facility
- Prior Approval Granted
- 11.10.2022

4.3 21/00772FUL

- Agricultural track measuring 270 metres in length and 4 metres in width
- Permitted
- 15.11.2021

This planning permission has not been implemented and has since expired.

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and a site notice was posted within the vicinity of the site.
- 5.2. No responses have been received.

6. Consultation

- 6.1. No objections have been received from the following:
- Hinckley and Bosworth Borough Council (HBBC)'s Drainage Officer

- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- Natural England

6.2. The Local Highway Authority referred to standing advice.

6.3. No further comments have been received.

7. Policy

7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q (GPOD)

7.2. National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

8. Appraisal

Amendments to the GPDO

- 8.1. The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) was amended on 21 May 2024 to broaden the range of buildings that could be converted to dwellings, allow extensions to the buildings, and to increase the total number of dwellings from 5 to 10. However, the revisions to the GPDO removed the right to create any dwelling with a floorspace of over 150 square metres and the eligibility of any building that does not have suitable existing access to a public highway.
- 8.2. Proposals that do not meet the above criteria are temporarily allowed to use the previous version of the GPDO, provided that the application is supported by a covering letter detailing the scheme's eligibility for prior approval via the pre-21 May 2024 GPDO and received by the Local Planning Authority by 20 May 2025.
- 8.3. The Applicants have stated that they wish to use the permitted development rights within the GPDO as it stood prior to 21 May 2024.
- 8.4. For the purpose of Class Q, a, "*Larger dwellinghouse*," means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
- 8.5. On the other hand, a "*Smaller dwellinghouse*," means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

The Proposal's Eligibility for Class Q of Part 3 of Schedule 2 of the GPDO

8.6. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), which relates to development consisting of:

- (a) A change of use of:
 - (i) A building that is part of an established agricultural unit and any land within that building's curtilage; or
 - (ii) A former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage
- (b) Development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a); or
- (c) Development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.

8.7. Paragraph 105 of Planning Practice Guidance (PPG) confirms that the Permitted Development Right only applies to agricultural buildings that are capable of functioning as a dwelling. 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.

8.8. Firstly, it is noted that the Structural Report is three years old and does not provide an accurate depiction of the current structure within the site.

8.9. Nevertheless, Paragraph 3.2 of the Structural Report states that:

"The stability of the fully roofed barn would be achieved by a relatively large number of substantial internal walls, forming a rigid box in conjunction with the external walls."

8.10. Paragraph 3.3.3 of the Structural Report also states that the mono-pitched section at the south-eastern corner of the property may require rebuilding. Paragraph 3.34 of the Structural Report refers to localised rebuilding for the existing openings. The extent of the rebuilding is not made clear within the Structural Report. Paragraph 3.13 of the Structural Report concludes that:

"The existing foundations are of limited width and depth and are thought to be suitable for the continued support of the existing brickwork walls only. Any additional load (new walls, new floors and roofs, new inner leaf etc.) will require additional support on new foundations."

- 8.11. Therefore, despite the Structural Report not assessing the current condition of the existing building, the Structural Report highlighted that the existing foundations of the development could not support any additional load and therefore the building required new foundations and substantial new internal walls, alongside several areas of rebuild to facilitate the conversion of this structure. Given the extent of the works required to the structure, the development proposal is not considered to comply with the limitations of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).
- 8.12. Given the above, and based on the Case Officer's site visit, the proposal is not considered to be eligible for Permitted Development Rights under Class Q or Part 3 of Schedule 2 of the GPDO (pre-21 May 2024) because the existing agricultural building is not capable of conversion and the proposal represents a significant rebuild of the existing structure.

The Proposal's Compliance with the Limitations of Class Q of Part 3 of Schedule 2 of the GPDO

Q.1. – (1) 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 time 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 building has been regarded as an agricultural building since, and prior to, 20th March 2013.

- (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;*

Only one dwellinghouse is developed within this scheme with a footprint of 138.5 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.*

Only one dwellinghouse is developed within this scheme with a footprint of 138.5 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; and*

(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;*

No previous development under Class Q is established within the site and the building subject to the Class Q development has a floorspace of 138.5 square metres and only converts the structure into one dwellinghouse.

(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 not occupied under an agricultural tenancy.

(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

An agricultural tenancy over the site has not been terminated less than 1 year before the date development begins.

(g) Development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have 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(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have been carried out on the established unit since 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 scheme does not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.

(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

As identified previously in this Report, the existing agricultural building is not capable of conversion and the proposal represents a significant rebuild of the existing structure. Therefore, the scheme is not considered to only consist of the building operations identified within Q.1(i)(i), nor are the proposed works reasonably necessary for the building to function as a dwelling house. Therefore, the proposal is contrary to, and in conflict with Paragraph Q.1(i)(i) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

- (ii) *Partial demolition to the extent reasonably necessary to carry out building operations allowed by Paragraph Q.1(i)(i);*

More demolition works have already been undertaken within the site than what was proposed within the submitted plans. These works are not considered to be reasonable or necessary for the building to function as a dwellinghouse. Therefore, the proposal is contrary to, and in conflict with Paragraph Q.1(i)(ii) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

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

The application site is not on Article 2(3) land, nor does it form a site of special scientific interest, a safety hazard area or a military explosives storage area and the site does not contain a scheduled monument, nor is the building a Listed Building.

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—*

Works have already begun on site. Therefore, the proposal is not eligible for prior approval as the development is contrary to Paragraph Q.2(1) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

- (a) *transport and highways impact of the development,*

The submitted plans do not include a vehicular access to the public highway within the red line boundary. Therefore, the proposal cannot be appropriately accessed.

Paragraph 5.1 of the Design and Access Statement suggests that the development shall be accessed from Sheepy Road via a new farm track that was approved via 21/00772/FUL.

This development has not been implemented, and the planning permission has expired. Therefore, the proposed access to the site does not represent a safe or suitable access to the highway without further planning permission. As a result, the Applicant has failed to demonstrate that a safe and suitable highway access can be provided for the proposed development, which is contrary to, and in conflict with Paragraph Q.2(1)(a) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

(b) noise impacts of the development,

The proposal is located in an isolated area with the nearest neighbouring property being Clares Barn Farm, which is a significant distance to the north of the site. The proposed conversion is not considered to have a significant adverse noise impact on neighbouring residential amenity.

(c) contamination risks on the site,

The Council's Pollution Officer has no objections to the development but requested that a planning condition should secure the investigation of land contamination which was not previously identified within the Phase II Land Contamination Report.

(d) flooding risks on the site,

The application site is within Flood Zone 1 and is not considered to be at risk of flooding.

(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,

The Applicant has not specified why a dwelling is required in this location, nor provided any justification as to why it would be practical or desirable to live in this location.

The structure is located within a pastoral field that is used for cows in association with the dairy farm at Clare's Barn Farm. No details have been provided as to how a building in these circumstances would be practical or desirable.

In addition, the building does not benefit from a vehicular access onto Sheepy Road within the red line boundary of the development. Whilst there is an agricultural access track associated with Clares Barn Farm; this is 608 metres in length from the building to the public highway.

Beyond this, the building is approximately 1 kilometre south of Twycross via the B4115 and 2.3 kilometres north of Sheepy Magna. Therefore, the development is in an area of poor transport sustainability. Whilst there is a residential property at Clares Barn Farm, this is still over 500 metres away from the structure within this application.

By virtue of these factors, the building is located within an impractical and undesirable location for a property to change from an agricultural use into a Use Class C3 (dwellinghouse) use. Therefore, the proposal is contrary to, and in conflict with Paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

- (f) *the design or external appearance of the building, and*

Based on the submitted plans, the design and external appearance of the building would not have a significant adverse impact on the character of the building.

- (g) *the provisions of adequate natural light in all habitable rooms of the dwellinghouses*

There are windows to every habitable room, which are supported with rooflights on the first floor. It is considered that the application provides an adequate provision of natural light in all habitable room of the dwellinghouse.

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

The application accords with the provisions of Paragraph W (prior approval) of this Part.

- (2) *Where the development proposed is development under Class Q(a) only, 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 the items referred to in subparagraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.*

The Applicant has not sought prior approval before beginning the development. Works have already commenced on site and therefore the proposal is not eligible for consideration within with the limitations of Paragraph Q.2(2) of Class Q of Part 3 of Schedule 2 of the GPDO (pre-21 May 2024).

- (3) *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.*

Note to Applicant.

9. Equality Implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The application does not meet the requirements of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England)

Order 2015 (pre-21 May 2024). It is therefore recommended that the application is refused.

11. Recommendation

11.1 Refuse prior approval subject to:

- Reasons detailed at the end of this report.

11.2 Reasons

1. The Applicant has not sought prior approval before beginning the development. Works have already commenced on site and therefore the proposal is not eligible for consideration within with the limitations of Paragraph Q.2(1) and (2) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
2. The Applicant has failed to demonstrate that the proposal benefits from permitted development rights and that the proposal represents a conversion of a structure rather than a rebuild. Based on the submitted details, the Applicant has failed to demonstrate that the existing building can be appropriately converted into a residential use. Consequently, it is the opinion of the Local Planning Authority that the works required to alter the structure into residential uses would be of such magnitude that they would go a very long way beyond what might sensibly or reasonably be described as a conversion. Therefore, the proposal does not comply with the limitations of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
3. The scheme's partial demolition works of the existing structure are not reasonably necessary building operations for the building to function as a dwellinghouse. Therefore, the proposal does not comply with the limitations of Paragraph Class Q.1(i)(i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
4. The Applicant has failed to demonstrate that the location and the siting of the existing building are considered to make its conversion from an agricultural use to a use falling within Class C3 (dwellinghouses) to be practical and desirable. Therefore, the proposal does not comply with the limitations of Paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
5. The Applicant has failed to demonstrate that the existing structure is provided with a safe or suitable access to the public highway. Therefore, the proposal does not comply with the limitations of Paragraph Q.2(1)(a) of Class Q of Part

3 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).

a. **Notes to Applicant**

1. The application has been determined in accordance with the following submitted details:

- Application Form (submitted: 05.02.2025)
- Block Plan Dwg No 2203- 05 (submitted: 05.02.2025)
- Contamination Report G23127 (submitted: 05.02.2025)
- Design and Access Statement (submitted: 05.02.2025)
- Existing Elevations Dwg no 2203- 01 (submitted: 05.02.2025)
- Existing Floor Plans Dwg no 2203- 02 (submitted: 05.02.2025)
- Location Plan Dwg no 2203- 04 (submitted: 05.02.2025)
- Proposed Elevations & Floor Plan (2203-02) (submitted: 05.02.2025)
- Report on Structure (submitted: 05.02.2025)
- Waste & Recycling Plan Dwg no 2203- 06 (submitted: 05.02.2025)