

Appeal Statement of Case

Appeal against the refusal of Prior Approval
application DET/2022/0026 relating to the
'Change of use of agricultural buildings to one
dwellinghouse (Use Class C3)'

at

Barnes Lea Farm, Reacliffe
Road, Rudyard, Staffordshire,
SK11 0QZ

September 2022

Document Control Sheet

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Version	File Name	Description	Prepared	Checked	Date
01	3789_SOC_V1	Statement of Case	AS	RP	16/9/22

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1 INTRODUCTION

1.1 This appeal Statement of Case has been prepared by Planning & Design Practice on behalf of Mr Julian Goodwin (the 'Appellant') against Staffordshire Moorlands District Council's (the 'Council') decision to refuse the Prior Approval application for the '*change of use of agricultural buildings to one dwellinghouse (Use Class C3)*' at Barnes Lea Farm, Reacliffe Road, Rudyard (application ref: DET/2022/0026).

1.2 The planning application was submitted to the Council on 16th June 2022 and was validated on 16th June 2022. No formal confirmation was received from the Council confirming that prior approval was required for the change of use and conversion of an agricultural building to a single dwelling house (C3) under Class Q, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 however, the Council resolved to refuse approval for the proposed development under delegated powers, in line with the recommendation set out in the Case Officer's delegated report and the decision notice, dated 11th August 2022, citing the following reason for refusal:

1) The current building, by virtue of its scale and modern storage building functional form is considered to have a poor design and appearance which is not significantly improved by the proposed timber finishing materials and other external alterations. It is considered the proposal would not lead to an acceptable design and appearance due to the scale and form of the building. The proposal therefore would fail to comply with Part 3 Class Q2(1)f of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Policy DC1 of the adopted Local Plan and the design provisions of the NPPF.

1.3 The Case Officer's report for the application and the Council's decision notice are attached at Appendix A.

1.4 The Appellant contests that the Council has misapplied the tests set out in Q.2(f) and Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 with regard to the design and external appearance of the existing building and the resulting conversion.

1.5 The appeal has been prepared in accordance with the PINS procedural guidance. This Statement of Case includes an overview of the appeal and a rebuttal of the Council's reason for refusal, with

particular reference to recent appeal decisions that have considered the design and external appearance of the existing buildings and resulting conversions. The appellant reserves the right to add to this statement of case, if necessary, once the council's statement and any third-party comments have been received.

2 SITE DESCRIPTION AND PLANNING HISTORY

Site Location

- 2.1** The application site lies within the open countryside (and Green Belt) to the south-west of Rushton Spencer and is a short distance to the west of Rudyard Lake. The site forms part of Barnes Lea Farm which is reached via a single track lane connected from Reacliffe Road, which extends past Rudyard Lake's North car park and onto Beat Lane, a C-class main road to the north.
- 2.2** The site comprises a modern steel portal framed agricultural storage building finished mostly with corrugated metal/fibre cement sheeting above a blockwork base but with one wall being mostly timber clad. The subject barn is on the east side of the grouping of farm buildings which includes a stone listed farmhouse to the west. The complex of farm buildings is surrounded by open land.

Relevant Planning History

DET/2022/0026	Change of Use of Agricultural Buildings to one Dwellinghouse (Use Class C3) – REFUSED, 11 th August 2022.
DET/2022/0001	Proposed Barn Conversion into a Residential Dwelling, Agricultural Prior Notification – REFUSED, 2 nd March 2022.

3 APPELLANT'S GROUNDS OF APPEAL

- 3.1** Class Q, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 is the relevant piece of legislation that permits the change of use and conversion of agricultural buildings to dwellinghouses (C3). The legislation states that the following development is permitted development:

(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; 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.

3.2 Firstly, in order for this change of use to be possible, it is necessary to examine whether the existing building is capable of conversion as part of the overarching principle of Class Q.

3.3 The Council confirms within the Case Officer's delegated report, that the proposal meets all of the criteria/tests under Q(1). Both parties also agree that the application meets the Conditions set out in Q.2-(1)(a) '*transports 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*' and (g) '*the provision of adequate natural light in all habitable rooms of the dwellinghouses*'. This is not in dispute.

3.4 Given the above, this appeal relates to the interpretation of Class Q.2-(1)(f) '*the design or external appearance of the building*' with regard to whether or not the proposal meets the above criteria.

The design or external appearance of the existing building and resulting conversion

3.5 The Council's reason for refusal states:

1) The current building, by virtue of its scale and modern storage building functional form is considered to have a poor design and appearance which is not significantly improved by the proposed timber finishing materials and other external alterations. It is considered the proposal would not lead to an acceptable design and appearance due to the scale and form of the building. The proposal therefore would fail to comply with Part 3 Class Q2(1)f of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Policy DC1 of the adopted Local Plan and the design provisions of the NPPF.

3.6 Firstly, it is noted that in addition to the relevant Class Q legislation, specifically Q.2-(1)(f) which considers '*the design or external appearance of the building*', the Council also refers to Local Plan

policy DC1 and the design provisions of the National Planning Policy Framework (NPPF). However, no specific paragraphs of the NPPF have been highlighted.

- 3.7** The Appellant accepts that the consideration of local and national plan policies is correct in terms of Paragraph W. However, any assessment of local and national planning policies should be undertaken insofar as relevant to the subject matter of the prior approval, which in this case is the change of use of an agricultural building to a dwellinghouse. As such, the starting point for consideration of any local and national planning policies, in this instance, should be on the basis that the principle of development is acceptable and therefore the consideration of the design and/or appearance of an existing agricultural building should not be assessed against local or national planning policies.
- 3.8** Notwithstanding the above, whilst it is noted that the Council's reason for refusal and the assessment made by the Case Officer in their delegated report touches on the resulting appearance of the proposed conversion, the main area of concern relates to the design and appearance of the existing building.
- 3.9** Interestingly, the Case Officer in their assessment argues that *"The building is considered to currently have a poor design and appearance unsuited for a dwelling."* (Appellant's emphasis).
- 3.10** As set out within the detailed Planning Statement submitted as part of the planning application submission, Class Q allows for the conversion of modern agricultural buildings, and this should be taken as the starting point in assessing the design and external appearance of existing agricultural buildings.
- 3.11** Class Q does not limit the change of use of agricultural buildings based on their existing appearance and, importantly, it makes no distinction between modern or traditional buildings. To determine that *'the current building, by virtue of its scale and modern storage building functional form is considered to have a poor design and appearance'* and go on to conclude that *'the proposal would not lead to an acceptable design and appearance due to the scale and form of the building'* and would therefore fail to comply with Part 3 Class Q2(1)f of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) is, the appellant strongly contends, a highly questionable position for the Council to take.

- 3.12** The assessment of *‘the design or external appearance of the building’* as set out in Q.2(1)(f) should be limited to the consideration of new window openings, doors etc... and, where relevant, use of new materials, as set out in Q.1(i). To extend the assessment further than this is considered to be irrelevant to the subject matter and contrary to Class Q legislation.
- 3.13** The Council’s assessment of such applications is at odds with the government’s intention of Class Q which grants permission for agricultural buildings to be converted to dwellings. It is nationally recognised that the conversion of large modern agricultural buildings to dwellinghouses is permissible under Class Q, subject to meeting the relevant Class Q criteria.
- 3.14** The Appellant believes that the Council has misapplied the tests set out in Q.2(f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 with regard to the design and external appearance of the existing buildings.
- 3.15** Whilst the Appellant agrees with the Case Officer that *“each proposal should be judged on its own individual merits”* it would appear that the Case Officer has applied the same unnecessarily restrictive assessment of Class Q applications before. One such example is the assessment made for application ref: DET/2021/0019 (Appendix B). The assessment within the Case Officer delegated report is almost identical on the issue of design or external appearance of the building.
- 3.16** The Appellant would draw the Planning Inspector’s attention to the following Appeal Decision (appeal ref: APP/B3438/W/18/3202031) (Appendix C) relating to the change of use of an agricultural building into one dwelling at Hayes Gate Farm, Star Bank, Oakamoor where Staffordshire Moorlands District Council refused a Class Q application (application ref: DET/2018/0002) on the following grounds:
1. *The application does not demonstrate that the building is capable of functioning as a residential conversion and that significant and extensive demolition and new structural elements would not be required. The proposal therefore fails to comply with Class Q1(i) of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.*
 2. *Due to the excessive number of window openings, wide expanses of glazing and materials mix, the resultant building would have an adverse and harmful visual impact upon its rural surroundings and the proposal therefore fails to meet criteria Q1(i) and is contrary to*

conditions Q.2 (e) and Q.2 (f) of the Town and Country Planning (General Permitted Page 2 Development) Order 2015 and Chapter 7 of the NPPF in particular paragraphs 58 to 61 and 64.

3.17 The agricultural building subject of the appeal was a steel portal framed structure, with walls composed of block work to the lower parts, with a combination of timber slats and metal sheeting to upper parts.

3.18 The Council raised concern over the ‘in principle’ acceptability of the change of use and conversion of the modern agricultural building to a dwellinghouse, stating within the Delegated Report (Appendix B) that:

“It is still considered that the building is not one which was intended to have a permanent presence on the landscape. The building is of utilitarian design and built for its functional use as an agricultural building in this location.”

3.19 The Case Officer goes on to state that:

“Notwithstanding the design amendments, this application still proposes a development which, if allowed, would extend the life of a building which was never meant to be permanent.”

3.20 The application was appealed and subsequently allowed by the Planning Inspectorate. The Planning Inspector at Paragraph 5 stated that:

“Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order¹ and any building operations reasonably necessary to convert the building.”

3.21 Paragraph 25 goes on to state that:

“The fact that the proposal would extend the life of the building is not, of itself, a relevant consideration under Class Q. I have no evidence before me to indicate that the building does not exist lawfully or that it should not benefit from the permitted development right

under Class Q, which as its starting point, grants permission for agricultural buildings to be converted to dwellings, and it must therefore be the government's intention that, in principle, such buildings can remain in the landscape and serve a new function as dwellings."

3.22 The Inspector at Paragraph 27 then concludes that:

"Therefore, I conclude that the proposal would be acceptable with respect to matter (f) of Paragraph Q.2.(1) relating to the design or external appearance of the building."

3.23 In addition to the above, the Appellant would draw the Inspector's attention to a recent Appeal Decision (appeal ref: APP/H1033/W/22/3295929) (Appendix D) where High Peak Borough Council refused a Class Q application (application ref: DET/2021/0020).

3.24 The building subject to the appeal is a modern steel-framed agricultural shed with a sloping concrete floor. It has a full height blockwork gable separating it from an adjoining agricultural shed on its eastern side. The remaining elevations variously consist of areas of part-height blockwork, corrugated fibre-cement sheeting to the upper elevations and some openings. The roof has supplementary timber purlins supporting fibre sheeting.

3.25 The Planning Inspector at Paragraph 13 states:

"The shed is of a typical modern agricultural design. Its utilitarian appearance amongst a cluster of other modern sheds and more traditional rural buildings is a characteristic feature of the surrounding landscape."

3.26 The Planning Inspector at Paragraph 16 states:

"Accordingly, in most views, the building would largely retain its existing character and agricultural appearance. Contrary to the Council's position, I find that they would not appear prominent or cause undue harm to the character and appearance of the wider surrounding area."

3.27 The Planning Inspector at Paragraph 27 then concludes that:

“For the above reasons, I find that the character and appearance of the building and its location would be substantially retained. The proposal would thereby align with Policies S1, EQ2, EQ3 and EQ6 of the High Peak Local Plan [2016], the ‘High Peak Landscape Character Assessment’ SPD (2006), High Peak ‘Residential Design Guide SPD’ (2018) and the National Planning Policy Framework (the Framework) as they seek development to contribute to local character, appearance and distinctiveness, and protect the landscape character to achieve sustainable forms of development.”

3.28 It is clear that Class Q does not limit the change of use of agricultural buildings based on existing appearance alone and, importantly, Class Q makes no distinction between modern or traditional buildings. The Appellant is surprised by the Council’s continued overtly restrictive assessment of modern agricultural buildings following the above appeal. It would appear that the council continues to maintain an objection in principle to the conversion of modern agricultural buildings despite their acceptability in principle under Class Q of the GPDO.

3.29 Turning to the proposed design and appearance, it is acknowledged that design is a relatively subjective matter for Prior Approval. The design and appearance of any Class Q conversion should be in keeping with the rural character of the setting. However, the very nature of a change from an agricultural building, particularly a modern agricultural building, to a dwelling house will invariably introduce a more domestic appearance in the form of new windows and doors.

3.30 This is acknowledged by the Planning Inspector in the aforementioned appeal (Appendix C). The Planning Inspector at Paragraph 23 states that:

“The very nature of a change from an agricultural building to a dwelling will invariably introduce a more domestic appearance in the form of windows and doors.”

3.31 By virtue of Class Q limitations buildings must be ‘converted’ and not rebuilt. Class Q does allow for some external changes, as detailed within Q.1.(i) of the Town and Country Planning (General Permitted Development) (England) Order 2015. The application proposes to retain much of the existing exterior cladding with some modest replacement of the existing corrugated fibre cement cladding with matching timber cladding. The proposed conversion works will utilise, where appropriate, existing openings for windows and doors. The application proposes a number of new openings with a vertical emphasis to reflect the building’s original character and appearance. The

new window openings will be deeply recessed and set behind existing and new external cladding material to further screen them.

3.32 The Case Officer within their delegated report states that:

“This new application includes elevational drawings and these show the building clad in hit-and-miss timber boards and large areas of glazing included in the side elevations. Whilst this gives the building a more contemporary and modern appearance, it still remains in the form of a large and bulky functional modern farm building but just with a change in materials.”

3.33 The Case Officer goes on to state that:

“The addition of timber and glass to the external walls does not create an acceptable design and external appearance for this particularly building due to its scale, form and location prominent in the landscape.”

3.34 The application looks to respect and retain the building’s existing character by infilling existing openings with only a minimal number of new door and window openings proposed. The new window openings on the most visible elevations will be deeply recessed and set behind existing and new external cladding material to further screen them. The proposed materials are typically agricultural, and their use is widespread in modern agricultural buildings.

3.35 There is no realistic likelihood that the building will be demolished if the appeal is dismissed. Thus, with or without the development taking place, the building would continue to be a feature in the landscape. It is considered that the proposed conversion would have a simple, ordered appearance with the use of sympathetic materials, which would not result in an unduly prominent or discordant building, but rather one which would maintain much of its existing agricultural character.

3.36 Consequently, it is considered that the proposed conversion would not materially alter the character and appearance of the area and would subsequently result not be harmful to the character of the rural landscape in accordance with Q.2-(1)(f).

4 CONCLUSIONS

- 4.1** This appeal relates to the refusal of Prior Notification application ref: DET/2022/0026 for the change of use of an agricultural building to one dwellinghouse (Use Class C3) at Barnes Lea Farm, Reacliffe Road, Rudyard.
- 4.2** Both parties agree that the application meets the criteria of Class Q.(a) and this is not in dispute. The subject of this appeal is whether the proposed development under Class Q.(b) meets the requirements of Q.2-(1)(f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the requirements of Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 4.3** This Statement of Case has discussed the council's reason for refusal with reference to relevant appeals where necessary and concludes that the Council have incorrectly interpreted the Class Q Legislation and guidance documented in the Planning Practice Guidance in the decision to refuse the application.
- 4.4** The Council has misapplied the tests set out in Q.2(f) and Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 with regard to the design and external appearance of the existing building and the resulting conversion. Class Q does not limit the change of use of buildings based on the design or appearance of the existing building and makes no distinction between modern and traditional buildings for conversion. The test is whether or not the building is capable of conversion to a dwelling, which the Council has accepted.
- 4.5** We therefore respectfully ask for the Inspector to allow the appeal subject to relevant conditions as set out below.

5 CONDITIONS

5.1 Should the Inspector be minded to allow the appeal it is considered that the following conditions would satisfy the 6 tests:

- 1) The development hereby permitted must be completed within three years from the date of this permission.
- 2) Samples of any new materials (including windows and doors) to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be constructed in accordance with the approved details.
- 3) Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy activities shall be restricted to the following times of operations.
 - 08:00 - 18:00 hours (Monday to Friday);
 - 08:00 - 13:00 hours (Saturday)
 - No working is permitted on Sundays or Bank Holidays.

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

- 3) During construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary.
- 4) Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. All waste transfer records should be retained for inspection by officers of the Local Planning Authority.
- 5) No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely adjacent residential properties and/or other sensitive uses and/or the local

environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the Local Planning Authority.

- 6) In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development should not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exists to any identified receptors, development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment has been prepared, and is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 7) The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation. Details of all artificial lighting to be installed under this permission should be submitted to and approved by the Local Planning Authority prior to development commencing.



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