

DELEGATED DECISION REPORT

DET/2023/0012
Valid 20/04/2023

LAND AT NORTH
PLANTATION TENFORD LANE
TEAN

APPLICATION TO DETERMINE IF
PRIOR APPROVAL IS REQUIRED
FOR A PROPOSED: CHANGE OF
USE OF AGRICULTURAL
BUILDINGS TO ONE
DWELLINGHOUSES (USE CLASS
C3), AND FOR BUILDING
OPERATIONS REASONABLY
NECESSARY FOR THE
CONVERSION

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- Whether or not the application and proposal details as submitted comply with GPDO (2015) Schedule 2 Part 3 Class Q – permitted change of use.
- Transport and highways impacts;
- Noise impacts of the development;
- Contamination risks on the site;
- Flooding risks on the site;
- 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;
- Design or external appearance of the building;
- The provision of adequate natural light in all habitable rooms of the dwelling house;
- Part 3 paragraph W (procedure for applications under Part 3 prior approval) including assessments of impacts or risks.
- Part 3 – paragraph X.

DESCRIPTION OF SITE

A large, detached, agricultural building constructed with steel portal frame, Yorkshire Boarding, cement sheet roofing and concrete panels at lower wall level. The building is accessed via a lengthy farm track which rises in level from the roadside before reaching the crest of the field and then dropping down towards the building.

PROPOSAL

Conversion of the building to a single, large, 5 bedroom, detached dwelling. Other internal accommodation includes open-plan kitchen/dining/living room, sitting room, gym, storage and WC. External amenity space would be provided at the front (south) of the property and includes parking for a number of vehicles (plan shows 3 spaces but there is scope for many more).

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local Plan

- SS1 Development Principles
- SS10 Other Rural Areas Strategy
- H1 New Housing Development
- DC1 Design Considerations
- DC2 The Historic Environment
- DC3 Landscape and Settlement Setting
- NE1 Biodiversity and Geological Resources
- T1 Development and Sustainable Transport

Appendix 2 Parking Guidance

Supplementary Planning Guidance

1. Design Principles for Development

Supplementary Planning Document

1. Staffordshire Moorlands Design Guide

National Planning Policy Framework

Including sections;

2. Achieving sustainable development
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
9. Promoting sustainable transport
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

DET/2017/0003	Proposed change of use of Agricultural Building to 3 dwellinghouses. Refused.
DET/2016/0008	Conversion of an existing agricultural building into three dwellings. Refused.
SMD/2015/0105	Approval of reserved matters following outline approval (12/00255/REM1MJ) for erection of 9000 bird organic free range egg laying unit and access. Approved.
12/00256/REM_1	Extension of time for implementation of 10/00068/FUL, Agricultural workers mobile home (amended scheme of 09/00910/FUL) Variation of Condition 1 of 10/00068/FUL extension of time to 11/00106/REM_1. Approved.

12/00255/REM1M	Extension of time for implementation of 09/00465/OUT_MJ erection of 9000 bird organic free range egg laying unit and new access. Approved.
11/00106/REM_1	Variation of condition 1. of planning permission 10/00068/FUL-extension of time to 28.07.2012. Approved.
10/00068/FUL	Agricultural workers mobile home (amended scheme of 09/00910/FUL). Approved.
09/00465/OUT_MJ	Erection of 9000 bird organic free range egg laying unit and new access. Approved.
08/01421/OUT	Erection of 9,000 bird organic free range egg laying unit including new access. Refused.
07/01114/FUL	Shelter for livestock and storage. Approved.
06/00749/NOT_AG	Shelter for livestock and storage.

CONSULTATIONS

Publicity

Site Notice. Expired.

Neighbour consultation period. Expired.

Public Comments

One representation received confirming no objections in principle, comments are summarised as follows:-

- One residential home would be of no harm to us at all.
- Own access to this site/building which does not cause any neighbour issues.
- Lots of glazing, request that if overlooking occurs then additional screening is considered.
- If the barns had residential use then there would be no egg farm but not aware that this was a consideration as permission is over 5 years old.
- If egg farm permission hasn't lapsed then a home is more desirable because of noise and smells which would come from it.
- Will a further cowshed/barn be required? Would there be some reassurance that the shed would be further away?
- Not a sustainable location but this is an application for one home and for someone who already resides in the immediate area so will not be adding any impact or more vehicles on the road.

Checkley Parish Council: In the interest of fairness and openness the Parish Council can neither Support or Object to this application as the Applicant is a serving member of Checkley Parish Council but trust that the Planning Department gives this Application the same consideration as if the Applicant was not a Councillor.

Environmental Health: No objections subject to conditions.

Waste Services: No issues regarding waste collections, but bins will have to be presented on Tenford Lane.

Staffordshire County Council Highways: Recommend condition to secure bound surfacing for a distance of 5m rear of the carriageway edge.

Staffordshire Wildlife Trust: No objections subject to conditions.

Severn Trent Water: No representations received.

OFFICER COMMENTS

Principle of Development

The Town and County Planning (General Permitted Development) (England) Order 2015 (As amended) allows, within Class Q, for the change of use of an agricultural building and any land within its curtilage to a use falling within Class C3 (dwelling houses) as well as building operations reasonably necessary to convert the building into a dwelling house.

It is clear that a Class Q development is not permitted if the site was not solely used for agricultural purposes as part of an established agricultural unit on (i) 20th March 2013, (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.

Agricultural building is specifically defined at paragraph X to part 3 as meaning a building “used for agriculture and which is so used for the purposes of a trade or business”. Part X (Interpretation of Part 3) states that for the purposes of Part 3 ‘established agricultural unit’ means agricultural land occupied as a unit for the purposes of agriculture and ‘agricultural building’ means a building (excluding dwelling house) used for agriculture and which is so used for the purposes of a trade or business; ‘agricultural use’ refers to such uses.

The application informs that the applicant’s ‘farming enterprise comprises a total holding of 332 acres, and operates as an organic dairy farm, with approximately 130 head of milking cattle each year.’ The Supporting Statement also confirms that ‘the subject building is predominantly utilised for the housing of cattle, with it also facilitating the storage of machinery, equipment, and materials, during the warmest months when all livestock has calved.’

The site visit confirmed the building is in agricultural use. There is a planning consent dated 5th December 2007 for an agricultural building however the plans show the building in a slightly different location. It is reasonable to conclude that the building currently on site is the one built as a result of the 2007 approval. It is also clear that the current use of the building is agricultural. Furthermore, previous applications to convert this building have accepted the established agricultural use of the building. For these reasons it is considered that the proposal complies with part Q1(a).

Part Q1(b) is relevant as this building falls within the ‘larger’ dwellinghouse category. The scheme complies as the proposal is for a single dwelling only. And the cumulative floorspace does not exceed 465sqm. The application states the internal floorspace is 441.72sqm, officer measurement of the internal floorspace equates to approximately 443.1sqm, regardless of the slight different of figures, it is accepted that the building falls under the floorspace limit.

Part Q1(c) is not relevant as this is not a ‘smaller dwellinghouse’ as defined by the Order.

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. A “smaller

dwellinghouse” means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres.

Q1(d) – complied with.

Q.1(e) and (f) relates to agricultural tenancies. The applicant has declared (application form) that there is/are no agricultural tenant(s) and that no agricultural tenancy agreements been terminated in the year prior. There is no evidence to suggest otherwise.

Q.1(g) The Class Q requirements are only concerned with whether any development has been carried out under Part 6 under any of the following circumstances. For these reasons, the application accords with these provisions.

(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;

Q1(h). The application complies with this provision. The submitted plans show the development would not result in the existing building being enlarged.

Q.1(i) states that the development is not permitted under Class Q if 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 dwelling house; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

Application reference DET/2017/0003 was a class Q application for a residential conversion of the same building the subject of this application. The photographs within the DET/2017/0003 file from the (then) case officer and the applicant, appear to show the building in the same condition as it is now. One of the reasons for refusing the application was *‘the building is not capable of functioning as a residential conversion and significant and extensive demolition and new structural elements would be required.’* Whilst the proposed design/finished appearance of the proposed dwelling would be different in some respects, the works would still need to be significant. Throughout assessment of the DET/2017/0003 application, the Hibbitt case was considered, the officer stating that the North Plantation building has clear parallels to the structure considered during the Hibbitt determination, the case officer also concluded that there were no arguments over the structural integrity of the building, this also appears to be the case now as the recent report has not highlighted anything of significant structural concern. However, similar to the refused class Q there would have to be significant areas of construction works for the intended residential use. The entire south elevation would have to be altered, large, open bays filled in and the roller-shutter doors removed and replaced with wall and windows. The building does not appear to be completely weatherproof, for example there are clear gaps between the timbers of the Yorkshire Boarding. As per the previous application the fact remains that the existing walls give no assistance to making the building habitable and that extensive structural works would be required. It had previously been suggested by the applicant of DET/2017/0003 that the existing exterior boarding could be retained rather than replaced, but this was not considered suitable as it would not contribute to structure or habitability. This is still the case and the success of the scheme would be reliant on new build, especially along the lengthy, open bay areas. It is noted that the submitted plans state ‘All proposed walls utilised to make the dwelling habitable only.’ It is widely known that ‘it is not the intention of the permitted development right to include the

construction of new structural elements for the building,' it is argued that the construction of 4 large walled areas are structural elements. The proposal therefore fails to accord with condition Q1. (i)

(j) the site is not on article 2(3) land;

(k) the site is not and does not form part of a site of special scientific interest; a safety hazard area; or a military explosives storage area;

(l) the site is not and does not contain, a scheduled monument; and (m) is not and does not contain any listed building.

Part of the Class Q(a) allowance is for land within the curtilage of the building to change its use from agricultural to domestic. Part X (Interpretation of Part 3) defines 'curtilage' as 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. The application states the proposed residential curtilage would be 395 square metres, case officer measurements concur with the 395 square metre figure.

Condition Q2 of Class Q requires the Local Planning Authority to determine whether or not prior approval is required in respect of;

- (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 (dwelling houses) of the Schedule to the Use Classes Order.

The provisions of paragraph W (prior approval) must also be applied and the Local Planning Authority must have regard to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

Transport/Highways

The County Highways officer has recommended a condition to secure some bound material surfacing to the rear of the proposed access. Interestingly the response contains a note referencing the applicant's offer not to implement to previously approved egg production unit. The County Highways officer is clear that the conditional response is based on the understanding that the egg unit will not be implemented. One of the conditions of the egg production unit consent was the requirement to close the existing vehicular access. There is information on historic files from the applicant confirming that the egg production consent has been implemented, however it is not clear whether officer's accepted this, it may be a matter for a Certificate of lawfulness to determine, depending on which route the applicant wishes to follow. At this stage, there exists the question of how the Class Q residential accommodation currently proposed, could be accessed. This matter has been raised before but the current submission has not provided any detail of how the applicant would intend to overcome the matter. There is therefore insufficient information to demonstrate transport/highways acceptability.

Noise

No objections raised within the consultation response from Environmental Health however there is no reference to the close proximity of the egg production unit approval.

Notwithstanding this, noise and disturbance matters have previously been raised by case officers. No information regarding noise/disturbance has been submitted with this application.

Contamination

Environmental Health officer's raise no contamination objections, commenting that 'the site has historically been used as an outbuilding/hard standing and may have some associated contamination from previous uses. A full contamination assessment would appear too onerous, however, it would be advisable that all soft landscaped/garden areas are tested for contaminants (including Asbestos screen) to ensure suitability of use areas conditions are recommended.'

Flooding

The application site is not within any area known for flooding.

Location/Siting of the building

This point allows for consideration of whether the location or siting of the building makes it impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwelling houses). The unknowns surrounding highways/transportation and noise render it impossible to determine whether the location is acceptable with regards to the Class Q provisions.

Ecology

Staffordshire Wildlife Trust do not object to the application, they request a number of conditions such as drainage details, landscaping and bat/bird features.

CONCLUSION / PLANNING BALANCE

That Prior approval is refused due to excessive building works required which go beyond the provisions of the Permitted Development Right and insufficient information to determine highways/transport and noise impacts.

OFFICER RECOMMENDATION : Refuse.

Case Officer: Lisa Jackson

Recommendation Date: 15/06/2023.

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council