

PLANNING STATEMENT

Prior Approval, Schedule 2, Part 3, Class M of
the Town and Country Planning (General
Permitted Development) Order 1995

Agricultural Barn
Located at
BRACKENHILL FARM
GRAIZELOUND FIELDS ROAD
EAST LOUND DN9 2LN

Agricultural Barn to C3 Dwellinghouse

Prepared by:
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1.0 Background

This application is for permitted development of a building last in use for agriculture under the Class Q regulations. This application demonstrates the compliance with all aspects of the regulations and on balance shall demonstrate the agricultural use of the barn which has not been interrupted or materially changed.

The applicant has worked in conjunction with the Architect, Mr Danny Snow to create a conversion which prevents any materials from increasing the external dimensions of the building and so as to create a curtilage no greater than the footprint of the barn.

The Class Q provisions have seen a change as of May last year with some of the provisions being amended and the larger conversion deleted. This is an application for a larger home conversion, however this application shall take advantage of the transitional provisions provided in The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024:

Transitional provision

10.—(1) Paragraph (2) applies where development (“previously permitted development under Class Q”)—

(a) is permitted under Class Q immediately before 21st May 2024, and

(b) is, by virtue of any amendment made by article 3, no longer permitted under Class Q on and after 21st May 2024.

(2) Where this paragraph applies—

*(a) a developer may, notwithstanding the amendments made by article 3, make an application for a determination as to prior approval in relation to previously permitted development under Class Q until the end of **20th May 2025**, and*

(b) the amendments made by articles 3 and 5 do not apply in relation to previously permitted development under Class Q in respect of which an application for a determination as to prior approval is made before 21st May 2025 (whether the application is made by virtue of sub-paragraph (a) or otherwise).

2.0 The Proposal

Change of use of agricultural building to 1 dwelling (permitted development)- The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3 Class Q.

This application is being submitted on behalf of Mr J Cook.

3.0 Site and Surroundings

The application site is located outside of any defined settlement boundary and thus has an open countryside location. It is also located within the land which forms part of the historic landscape under policy LC14 of the North Lincolnshire Local Plan, this is the Isle of Axholme Area of Special Historic Landscape Interest. However, this is not to be assessed as a planning application for a new development, but the conversion of a redundant farm building, therefore whether it is 'desirable' in this location, is not material in this consideration.

Images of the barn are shown below:





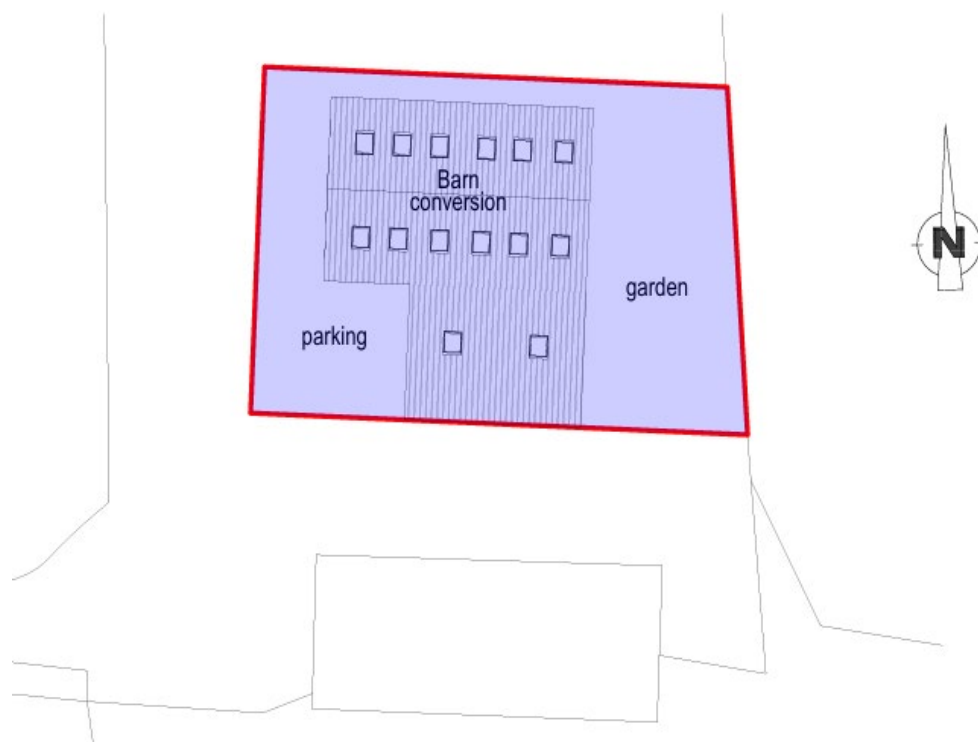
This is very much a traditional arable farm holding which, like many village farms, have revised its operations to suit the fluctuating economic demands of farming. This has resulted in this particular barn falling into active farming disuse with it becoming more of a storage barn for agricultural paraphernalia rather than storage of hay for example. The barns in the close vicinity to this barn are generally used for hay storage with no processing or keeping of animals occurring close to this building. . Some images of the interior are provided below for ease of reference:



The site and associated dwelling and buildings have had a long farming history, and nothing has significantly changed operationally since the applicants ownership and the buildings have been used for agricultural purposes for decades. This is an arable farm, growing crops etc. and with regard to the use of the nearby barns to this application barn, no processing is carried out as they are largely used for storage of hay.

There has been no other use of the barn to materially change its current and historical use which is primarily for agriculture and to serve the associated farm holding.

The barn has a sufficient and logical extent of curtilage to provide some amenity space and an area of parking for vehicles. The extract from the proposed site plan is produced below (not to scale) and demonstrates the proposed arrangement.



4.0 History of the Site

PA/2023/291 Planning permission for proposed detached garage with home office and store, Refused July 2023

PA/2020/1902 Application for determination of the requirement for prior approval for an agricultural storage building, Not required Jan 2021

5.0 Permitted Development – Assessment under Class Q/ Statement of Case

This submission is set out to address each requirement of Class Q and the Council is respectfully asked to consider the statute and accompanying case law.

THE KEY ISSUE

Whether or not the proposal complies with the provision of Class Q of Part 3 to Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended).

DESCRIPTION OF DEVELOPMENT

The proposal relates to the change of use of an agricultural building and land within its curtilage to 1 larger dwelling (“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).

For the proposed development to be permitted, it must comply with the provisions set out in the Town and Country Planning (General Permitted Development) Order 2015 as amended, in particular Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018.

The application form states that the proposal is for 1 larger dwellinghouse with the floorspace being 464.2 sq metres.

POLICY CONSIDERATIONS

The application falls to be considered under Class Q of Part 3 to Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) therefore policy is not relevant.

ASSESSMENT OF THE APPLICATION – CLASS Q

The proposal relates to the change of use of a building, which has been used for agricultural use on 20th March 2013 and the land within its curtilage into 1 dwelling. The application proposes the conversion of an existing agricultural barn into 1 residential dwelling, benefitting from 464/2 sqm of internal floorspace. The outside curtilage has been curtailed to 388.6 sqm leaving an overall site area of 777 sqm.

Taking each element of the Class Q legislation into account the following assessment of the proposal can be made:

For the proposed development to be permitted it must comply with the provisions set out in the Town and Country Planning (General Permitted Development) Order 2015 (as amended), in particular Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018.

In order to determine whether or not the proposal would be permitted development, the following steps are to be followed:

1. To determine if any previous planning permissions-imposed planning conditions are preventing the proposal;
2. To determine whether there are any Article 4 Directions covering the site;
3. To establish whether or not the proposed development complies with the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Article 3, Schedule 2, Part 3, Class Q.

Planning conditions preventing the proposal:

There are no conditions on planning permissions for this site that would prevent the proposal. The planning history of the site has been carefully considered and there are no apparent restrictions which would prevent the proposal.

Article 4 Directions.

There are no Article 4 Directions covering the site.

Compliance with the General Permitted Development Order 2015 (as amended)

The main consideration is whether the change of use complies with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018). Class Q relates to the change of use of agricultural buildings to a dwellinghouse and associated operational development.

Development is permitted where it consists of:

(a) a change of use of a building or 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) 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.

Last use as an agricultural building

The agricultural building is quite clearly associated with Brakenhill Farm which is still an active farming venture, although scaling down with the national economic decline. This barn, with its original features and associated content, is and has only been used for agriculture. The farm business over time has had to adapt and curtail its production to demand; the result of this is that particular barn had not been needed for the active farming production and has only been used for agricultural storage. Therefore, although not actively used or required for daily farming activity, there has been no material change in use of the barn which lawfully lends itself to a change from an agricultural barn to anything else. The images provided earlier in the statement showing the internal arrangements, clearly demonstrates the agricultural nature of the barn.

It is clear from the wording of paragraph Q.1(a) that a non-agricultural use of the building after its agricultural use ceased would disqualify the building from residential conversion under Class Q. However, case law has established that it cannot be assumed that any other use, no matter how minor, would automatically have this effect. By virtue of section 55(2)(e), the agricultural use of land and of any building occupied together with land so used is not to be taken for the purposes of the 1990 Act to involve development of the land. It follows that if the building is then used in some way that represents a material change of use, then the agricultural use will be at an end, and will have been supplanted by the new use that replaced it.

Respectfully, the Council is therefore ask to conclude that the original use of the building was that of farming and agriculture and its enduring agricultural use has not been broken through an intervening material use and the agricultural use has been preserved.

Unless the Council holds some evidence to dispute the above the only historic and current use of the barn is that of agriculture and in these terms the barn undoubtedly fulfils this section of Class Q.

Cumulative Floorspace and Curtilage

The submission confirms that the existing agricultural barn will be converted into one residential dwellings, benefitting from 464.2 sqm of cumulative internal floor space.

The dwelling would have a curtilage of no more than 388.6 sqm. This will include some outdoor amenity area part of this area and parking spaces for at least 2 cars.

For noting in terms of highways, class Q appeal decisions have ling established that:

- For the purposes of Part 3 Class Q, the access from the highway to the site does not need to be included within the “curtilage”.
- For the purposes of Part 3 Class Q, any area to be used for vehicle parking (i.e. for the resulting residential unit(s)) does not need to be included within the “curtilage”

For the purposes of Class Q, the "curtilage" is defined 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".

On this basis the curtilage proposed is no more than the area occupied by the building.

BUILDING OPERATIONS REASONABLY NECESSARY

Development is permitted where it consists of:

(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.

The application is not accompanied by a Structural Survey as it is clearly a stable well-built structure with a concrete floor. The building is in an exceptional condition and the Council is invited to view the condition on their site visit.

The Council will note that the NPPG was updated in February 2018, which advises that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes 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 partial demolition to the extent reasonably necessary to carry out these building operations.

It is clearly 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

Appeal cases have found that where the original building would not be discernible following works to convert to a dwelling, this would go beyond what is reasonably necessary to be considered as the conversion of a building (eg APP/Z2315/A/14/2227883). This has also been reinforced in the courts under *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853.

The difference between conversions and rebuilding have been detailed in court cases, for instance the case again of *Hibbitt and another v Secretary of State for Communities and Local Government (1)* and *Rushcliffe Borough Council (2)* [2016] EWHC 2853 (admin). This clarified that a "conversion" of an agricultural building can constitute permitted development under class q but a "rebuild" cannot.

The NPPG has been updated to clarify that internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.

The regulations state what is permitted with regard to building operations:

(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);

Taking into account what is permitted and the present condition of the building, the barn is clearly in very good order and very limited structural works are required to convert the building. The works, as detailed in the submitted plans, clearly fall within what is considered to be conversion works and not that of a rebuild and in line with appeal cases it is the applicant's case that the barn is structurally capable of conversion. On this basis the building operations reasonably necessary to convert the building fall within what is permitted under Class Q.

Due to the very limited alterations to the walls the conversion would not result in any external dimensions that go beyond the buildings existing dimensions therefore the application is also compliant with:

(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;

OTHER SPECIFICATIONS

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

THE SITE IS NOT ON ARTICLE 2(3) LAND, THEREFORE COMPLIES WITH THIS PART.

(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;

THE SITE IS NOT, NOR FORMS PART OF, ANY OF THE TYPES OF LAND ABOVE, THEREFORE WOULD COMPLY WITH THIS ELEMENT.

(l) the site is, or contains, a scheduled monument; or

THE SITE IS NOT, NOR FORMS PART OF, A SCHEDULED MONUMENT, THEREFORE COMPLIES WITH THIS PART.

(m) the building is a listed building.

THE SITE IS NOT A LISTED BUILDING, THEREFORE COMPLIES WITH THIS PART. THERE ARE FEATURES OF MERIT INTERNALLY AND EXTERNALLY AND THESE ARE LARGELY RETAINED AND PRESERVED IN THE CONVERSION PROCESS. HOWEVER, THE BUILDING IS NOT LISTED AND AS SUCH CANNOT BE TREATED AS SUCH.

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:

(a) transport and highways impact of the development,

The Barn has its own separate access to the adopted highway which is established and has been well used when the holding was fully functional for the agricultural business. The outside curtilage allows for the parking of cars but as mentioned previously this does not need to be shown, although clearly the site has a number of opportunities to provide off street parking. The access to the Barn is long established and has good levels of visibility for cars accessing and leaving the site.

With regards to parking Appeal cases have long established that the parking does not need to be provided within the curtilage of the proposal. This is demonstrated in a number of appeals however appeal Ref: APP/T2350/W/16/3150631 Lambing Clough Barn is cited here as a clear example.

The Inspector in addressing this reason for refusal followed the established judgment in that parking within the curtilage goes beyond the provision of Class Q and states at para.12 the following:

12. Notwithstanding the above, there would appear to be sufficient room for waste/recycling and cycle storage within the defined curtilage. With regard to whether or not the curtilage could accommodate car parking, as the Council accepted that the development would not raise any highway issues in the Q(a) prior approval, insisting upon car parking provision would go beyond the provisions of Class Q, which does not specifically require the development to provide parking.

Nevertheless, there would appear to be sufficient off-road parking provision around the site, within the applicant's ownership.

(b) noise impacts of the development.

The barn does form part of a small cluster of barn buildings. This barn sits on the far edge of the site with a good degree of separation from the other buildings.

As mentioned previously, there is no livestock kept on this farm holding as it is an arable unit. The applicant has confirmed that the remaining barns are generally used for hay storage and farming equipment for working the land. There is no active processing taking place on the immediate site. Tractor movements are relatively low taking into account this largely rural area and of course seasonal, with very quiet periods occurring in the farming cycle.

It is considered that the remainder of the arable farm buildings would have no notable impact on the amenity of the dwelling and its occupants.

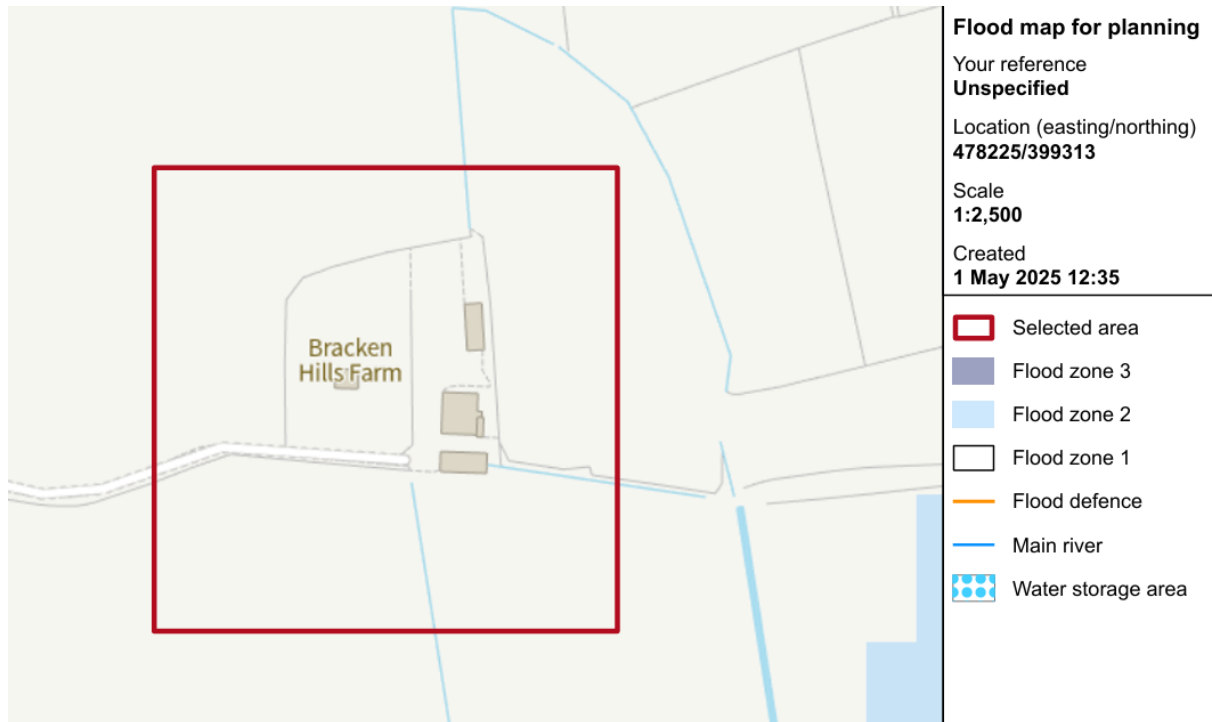
(c) contamination risks on the site,

The NPPG provides details in connection with contamination risks. Ensuring contamination is dealt with adequately is important as failing to do so could cause harm to human health, property and the wider environment, prevent development and undermine compliance with European directives. There are also other regimes in dealing with land that may be affected by contamination. As a result, the contaminated land regime under part 2a of the Environmental Protection Act 1990 provides a risk-based approach to the identification and remediation of land where contamination poses an unacceptable risk to human health or the environment. The regime does not take into account future uses, which may require planning permission. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development is to be considered by the local planning authority to the extent that it is not addressed by other regimes.

The site does not pose any obvious contamination risks however the applicant would welcome any conditions to alleviate any contamination concerns the Council may have.

(d) flooding risks on the site:

The site sits within Flood Zone 1 and it at the lowest risk of flooding.



Impractical or Undesirable

(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 NPPG advises that 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 an adequate reason for refusing prior approval. Due to the nature of the conversion, which does not increase the existing

development and would respect the agricultural nature of the barn, being located in the Historic Landscape does not constitute a reason for refusal either.

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.

The barn is by no means isolated or impractical for residential use both in terms of residential amenity through noise, odour, general disturbance and also outlook

(f) the design or external appearance of the building,

The application is accompanied by design plans which show the sympathetic introduction of doors and windows to facilitate the conversion. The Council is asked to note the extent of the works proposed which fall within what is permitted within the regulations. The design has leaned heavily on the agricultural nature of the building and the result is a conversion which utilises the rural features in a sympathetic design.

CONCLUSION

The procedure for consideration and determination of prior approval applications required under Class Q (and various other classes) is set out at section W of Schedule 2 Part 3. Paragraph W(3) states that:

"The local planning authority may refuse an application where, in the opinion of the authority -

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question".

On the basis of the above submissions, it is respectfully concluded that the proposed conversion of the Barn complies with all aspects of Class Q and on this basis does not require planning permission for its conversion to a dwelling.

Images below taken from proposed Design Plans:

