

1. RELEVANT PLANNING POLICY AND GUIDANCE

As this is a Prior Notification application (as per above), the provisions of Part 3 of Schedule 2 of the General Permitted Development Order 2018 (“GPDO”) are considered most relevant.

Under Part 3 Class Q of the GPDO, 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 Order, does not require Prior Approval, provided that (1) it meets the tests of Class Q,

- (a) The site was used solely for an agricultural use, as part of an established agricultural unit—
 - (i) on 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 ten years before the date the development under Class Q begins;
- (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;
 - (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;
 - (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;
 - (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;
 - (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
 - (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;
 - (g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit—
 - (i) since 20th March 2013; 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;
 - (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;”

- (i) The development under Class Q(b) would not consist of any 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);
- (j) The site is not on article 2(3) land;
- (k) The site is not or does not form part of
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area;
- (l) The site is not, or does not contain, a scheduled monument;
- (m) The building is not a listed building.

And (2), 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 impacts of the development;
- (b) noise impacts of the development;
- (c) contamination risks on the site;
- (d) flooding risks on the site, or
- (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
- (f) the design or external appearance of the building

and the provisions of paragraph W shall apply in relation to any such application.

And (3), 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 sub-paragraphs (1)(a) to (e.) and the provisions of paragraph W of this Part shall apply in relation to that application.

And (4) the development shall begin within a period of three years beginning with the date on which—

- (a) any prior approval is granted for that development, or
- (b) the period of days referred to in paragraph W(11)
- (c) of this Part expires without the local planning authority notifying the developer as to whether prior approval for that development is given or refused, whichever is the earlier.

Under paragraph W.(3) 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.

Section W(9)(as amended) of Schedule 2 Part 3 to the GPDO states that, *“the local planning authority [LPA] may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—*

- (a) assessments of impacts or risks;*
- (b) statements setting out how impacts or risks are to be mitigated; or*
- (c) details of proposed building or other operations;”*

Section W(10)(as amended) of the same Regulations states that, *“the local planning authority [LPA] must, when determining an application—*

- (a) take into account any representations made to them as a result of any consultation under paragraphs (5) or (6) and any notice given under sub-paragraph (8);*
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012, so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and*
- (c) in relation to the contamination risks on the site—*
 - (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and*
 - (ii) if they determine that the site will be contaminated land, refuse to give prior approval.”*