

Consultations/Representations

Tenterden Town Council: Support

Environmental Protection: No Objection subject to conditions re Reporting of Unexpected Contamination and Disposal of Sewage

Neighbours: 4 consulted 0 letters of objection received.

Assessment

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), permits 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; and building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule” subject to exceptions stated at paragraph Q.1 and the conditions at paragraph Q.2.

To qualify for Class Q permitted development rights, there are three primary pre-requisites apart from other conditions that are required to be satisfied. Firstly, the rights apply to a building and its curtilage. Secondly, the building must be agricultural. Thirdly, whether the proposal is capable of conversion without substantial rebuilding. In addition to the above, there are several other conditions that are required to be permitted for the development to be considered as permitted development.

Curtilage

Having regard to the above, Class Q(a) of the GPDO permits development consisting of 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).

Paragraph Q.3 of the GPDO defines ‘curtilage’ for the purposes of Class Q as:

- a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be), closely associated with and serving the purposes of that building, and
- b) an area of land immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by that building.

whichever is the lesser.

The proposed area of curtilage would not exceed the area occupied by the agricultural building. Accordingly, and purposes of Class Q(a), I find that the proposal would comply. The proposed curtilage of the building is no larger than the land area occupied by the building.

Agricultural Use

Paragraph Q.1(a) of the GPDO states development is not permitted by Class Q if

- a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit on
 - i) 24 July 2023 or
 - ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q,

- b) in the case of a site that was (but is no longer) part of an established agricultural unit
 - i) the site was part of an established agricultural unit on 24th July 2023,
 - ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or
 - iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose.

The building subject of this application forms part of an established agricultural unit and was part of that unit on 24 July 2023. Therefore, this part of the proposal meets the criteria as set out above.

Building Operations and Convertibility

Class Q(b) permits the building operations reasonably necessary to convert the building.

Paragraph Q.1(j)(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the

- c) installation or replacement of windows, doors, roofs or exterior walls, or
- d) water, drainage, electricity, gas or other services to the extent reasonably
- e) necessary for the building to function as a dwelling house

The development right described in Part Q relates to the conversion of a building. For that right to apply, the building must first be capable of functioning as a dwelling. It has always been clear that the development permitted by Class Q does not, and was never intended to, authorise the substantial demolition and reconstruction of the pre-existing building, nor does it enable the extensive rebuilding of an insubstantial structure so as to create what would in substance be a new building. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, and which would otherwise require planning permission, should be permitted. Hence the right allows for 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 the partial demolition of the extent reasonably necessary to carry out these building operations.

Planning Practice Guidance (PPG) provides further clarification in this regard. It states that the rights under Class Q assume that the agricultural building is 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. 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. Therefore, the assessment should consider the extent of the existing structure which could reasonably be retained and whether the existing structural framework is capable of taking the load of the proposed development.

Rebuilding in this context is not limited to the erection of an entirely new building. Instead, works of rebuilding can include works that would go well beyond what might reasonably be considered a conversion. In effect, if the use of the building as a dwelling would require complete or substantial rebuilding then the development cannot amount to a conversion and cannot benefit from the rights conveyed by Class Q. Thus, the permitted development rights in Class Q of the GPDO to undertake building works has an inherent limitation.

Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. Furthermore, the principles established within the Hibbitt judgment (Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)) are material to consider. Hibbitt related to the conversion of an agricultural building that was open to all four sides. The Judgement considers whether the works required to bring about a change of use amount to a re-build or 'fresh' build as opposed to a conversion. It highlights the fundamental issue of the 'convertibility' of agricultural buildings, suggesting that agricultural buildings may be so skeletal and minimalist that the works needed to alter it to be used as a dwelling would be of such a magnitude that it would be tantamount to a new build or rebuild as opposed to a conversion.

The essential question therefore is whether the proposed works go beyond what might sensibly or reasonably be described as a conversion and effectively amount to a rebuild, which both Hibbitt and the PPG indicate would fall outside the scope of permitted development under Class Q.

The proposal seeks to change the use of an existing building of timber frame construction, with timber columns, rafters and purlins creating the main frame, to residential. In support of the application, a structural report has been submitted. It describes the building as follows:

- A single storey timber framed building composed of two, four bay internal frames, which form the principal purlins to support the rafters. The corrugated roof is supported on timber purlins. Timber cladding is supported on timber rails

- After a fire, (approx. 10yrs) some of the timber principal purlins & rafters were strengthened with steel plates. In some area the charred timbers were faced with plywood. Approximately half of the roof cladding was replaced.
- Generally, the building appears to be in satisfactory structural condition for its age, type and history, with no significant noticeable distortions or deflection.

The report goes on to state that conversion to domestic use would, from a structural perspective, be possible. The foundations appear to have functioned satisfactorily to date. The principal timber structural members are of substantial size and can remain unaltered, with some secondary structure to support new ceilings, insulation, glazing etc. The introduction of various new internal walls will also enhance the lateral stability of the building.

Plans and elevations submitted with the application indicate that to convert the building the building operations proposed would comprise of no more than the no more than the installation of windows, doors, internal walls, the replacement of the roof, and addition of timber strips to space boarding to provide a hit and miss vertical boarding.

Based on the information provided within the application the building operations proposed would comply with the revised guidance and comply with the criteria under Class Q.1(i). The external dimensions would not extend beyond the external dimensions of the existing buildings at any given point and, the submitted plans indicate that minimal structural elements are required to support the proposed loading on the existing structures.

On balance, the proposed building operations required to facilitate the proposed change of use of the building would not exceed those considered reasonably necessary as outlined in Class Q, and the proposal comprises development permitted by Class Q. Subject to conditions requiring details of boundary treatment (to safeguard the character of the rural area) no significant or unacceptable visual harm would be caused.

Other Permitted Development Criteria

I note that changes were made to Class Q of the GPDO in May 2024. However, there was a transition period until the end of May 2025 which allowed for prior approval applications which would have been acceptable under the previous guidelines to be considered under the previous criterion. As this application was submitted before the end of May 2025, it is eligible to be considered under the previous criterion.

On this basis I consider that the proposed works would also comply with the remaining relevant criterion under Class Q.1.

Prior Approval Matters

Specific matters have been considered as to whether or not prior approval under Class Q.2 would have been required had the proposal constituted permitted development.

(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 (dwellinghouses) of Schedule 1 to the Use Classes Order,
- (f) the design or external appearance of the building, and
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

(a) transport and highways impacts of the development

There is an existing access to the site which would be utilised. Space could be provided within the site (as shown on the site plan) to allow for the parking of two cars.

(b) noise impacts of the development

The change of use to a dwelling is not considered to cause any significant noise impacts.

(c) contamination risks on the site

If there are concerns over the potential risk of contamination of site. It is considered that these issues could be dealt with via appropriate conditions.

(d) flooding risks on the site

The site is not within an area 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 Schedule 1 to the Use Classes Order

The updated NPPG advises on matters that should be considered and states 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”. It further comments that “When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval”.

In this instance, it is considered that the location or siting of the building would not be impracticable or undesirable for the building to change from agricultural use to a use falling within Class C3.

(f) the design or external appearance of the building

The proposed design would retain the form of the existing building. It is therefore considered acceptable.

(g) the provision of adequate natural light in all habitable rooms of the dwellings

It would provide adequate natural light to all habitable rooms of the dwelling.

Working with the applicant

In accordance with paragraph 39 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation and the decision notice.

Human Rights

I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties) and the wider public interest.

Conclusion

In light of the above assessment and Having regard to the above it is considered that the proposal is permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Conditions:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Description	Date
Proposed Site Plan - 2276 D04 Rev1	19 May 2025
Existing Site Plan and Location Plan - 2276 D01 Rev 1	19 May 2025
Proposed Plans and Elevations - 2276 D03 Rev 2	19 May 2025

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The development shall be carried out in accordance with the details of external materials specified in the application which shall not be varied.

Reason: In the interests of the visual amenity of the locality

- 3 A landscaping scheme for the site (which may include entirely new planting, retention of existing planting or a combination of both) shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: In order to protect and enhance the amenity of the area.

- 4 Prior to the first occupation of the dwelling hereby approved details of walls and fences to be erected within the development shall be submitted to and approved in writing by the Local Planning Authority. The walls and fences shall then be erected before the adjoining part of the development or dwelling is occupied in accordance with the approved details unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

- 5 The area shown on the drawing number 2276 D04 as vehicle parking space, garages and turning shall be provided, before the use is commenced/the dwelling(s) is occupied, and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users

- 6 Prior to the first occupation of the dwelling hereby approved, at least 1 Electric Vehicle Charge Point shall be provided. All Electric Vehicle charger points shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles. Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>.

Reason: To take into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles.

- 7 The dwelling hereby permitted shall not be occupied until the sewage disposal works have been completed in accordance with the relevant Building Regulation requirements and treated effluent discharge requirements as set by the Environment Agency (where applicable).

Reason: To avoid pollution of the surrounding area.

- 8 Prior to the occupation of the dwelling hereby approved, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the Local Planning

Authority. The proposed plan shall show the type and locations of proposed external lighting, as well as the expected horizontal and vertical light spill in lux levels, to demonstrate that areas to be lit will not adversely impact biodiversity.

All external lighting shall be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Reason: In the interests of minimising the impact upon biodiversity and the landscape impact of the development.

9 **Part 1**

If unexpected contamination is found at any time when carrying out the approved development it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2.

Part 2

Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Informatives:

- The applicant is reminded of the need for the development to satisfy the requirements of the Building Regulations and in respect of climate change in particular the following documents:
 - Approved Document L (Conservation of fuel and power)
 - Approved Document F (Ventilation)
 - Approved Document O (overheating)
 - Approved Document S (Infrastructure for electric charging vehicles)