

NORTHUMBERLAND

Northumberland County Council

Town and Country Planning (General Permitted Development) (England) Order 2015 - Part 3 'Changes of use' - Class Q – Agricultural buildings to dwelling houses

A Guide to validation and determination of application for Prior Approval

Northumberland County Council 2016

Regulations have been introduced which allow for agricultural buildings to be converted into dwellings without the need for full planning permission subject to specified procedures being completed and subject to certain limiting provisions. Part of those provisions requires going through a prior notification procedure where details are submitted to the Council.

Qualifying buildings under Class Q and limitations

To meet the provisions of Class Q, buildings will need to have been used for agriculture on the 20 March 2013, or last used for agriculture before that date if unused on 20 March 2013. If this is the case the provisions allow for the following:

- Creation of up to 3 dwellings by conversion of existing buildings on an agricultural unit and includes associated residential garden area which would be required
- Use of up to 450 square metres of existing floor space on an agricultural unit
- The resulting floor space of the dwellings in total can be no more than 450 square metres (measured over each floor to the interior face of the external walls)
- The installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas and other services to the extent reasonably necessary for the building to function as a dwelling
- Partial demolition to the extent reasonably necessary to carry out the building operations above.

The legislation does not allow the following:

- Conversion of buildings within Areas of Outstanding Natural Beauty (AONB), National Parks and Conservation Areas
- Conversion of buildings where the site is or forms part of a listed building (including curtilage listed buildings), a scheduled monument, a Site of Special Scientific Interest (SSSI), a safety hazard area or a military explosives storage area Updated 16/06/2016
- Extending and enlarging the existing building beyond its existing external dimensions (including height)

- The garden area provided with the building to be any bigger than the footprint of the building itself
- Conversion of buildings on an agricultural unit where a new agricultural building has been put up on the unit under the 28 day prior notification procedure (under Part 6, Class A(a)/Class B(a)) since 20th March 2013, or where any works of internal or external alteration or extension (exercising rights under Part 6) have taken place since 20th March 2013.
- Structural works to the building required to carry out residential conversion
- Conversion of a building that is not part of an agricultural trade of business on or prior to 20th March 2013 or for a period of 10 years from that date.

If any of the above applies to your building then full planning permission will be required.

You may wish to seek formal pre-application advice from us. Please note that the legislation also effects how you can use your normal agricultural permitted development rights under Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Where you have carried out a conversion under Class Q it will remove your agricultural permitted development rights using the prior notification procedure for erecting or extending buildings for a period of 10 years, therefore any new agricultural buildings will need full planning permission.

Types of Building for Conversion and the extent of works

It is important to note that the procedure relates to 'change of use' of an existing building to a dwelling. The regulations do however allow for operational development such as the building of walls and replacement of roofs 'to the extent reasonably necessary for the building to function as a dwellinghouse'.

The regulations do not allow for additional works over and above those listed in the preceding paragraphs and appeal inspectors have found that amongst other things, the provision of new foundations, loadbearing floor slabs and in some cases, first floors, not to be permitted development as they are works which are not stated as being permitted. The Government's Planning Practice Guidance states: 'It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right' (subject to other criteria also being met).

It is important to remember Class Q relates to the conversion of existing agricultural buildings and not removal and reconstruction or demolition and rebuilding. Any proposal must therefore incorporate substantial parts of the original structure. The Council can ask for information to be submitted to demonstrate that the building works required to convert the building are reasonably necessary and do not involve new structural elements for the building. This would normally be through the submission of a structural appraisal and

construction method statement of the building by a suitably qualified engineer/designer. What is a structural appraisal? A structural appraisal is undertaken to check the adequacy of an existing structure with respect to a current or future use. Often the scope of these activities may extend to making a prognosis of future behaviour and safety. A Structural appraisal is therefore a process of gathering and evaluating information about the form and current condition of a structure and its components, its service environment and general circumstances, so that its adequacy for future service can be established against specified performance requirements, such as loadings, actions, or durability. In an appraisal, the engineer has to deal with an existing building or structure in which aspects of the structural form and the characteristics of the materials are established, but are generally much less well known. Although, notionally, these are definable qualities, depending upon the amount spent on the task, the appraising engineer must determine the condition of the existing building or structure and form an opinion on its suitability for future use in the envisaged circumstances. Therefore, a construction method statement should accompany the appraisal detailing the specific works proposed to the building for it to be occupied as a dwelling, which complies with the relevant building regulations.

What is required of a structural appraisal?

The buildings being considered under class Q for residential use vary widely in construction, materials and condition. Each building should be assessed individually on a case by case basis. It is recommended that any structural appraisal is based on the guidance set out in the BRE Digest 366 Part 2: (Structural appraisal of existing buildings, including for a material change of use). The appraising engineer must determine the condition of the existing building or structure and provide a written report on its suitability for future use as a dwelling without the addition of new structural elements to the building:

1. The structural appraisal should clearly identify retained structural elements and if they are sufficient for future residential use.
2. The structural appraisal should clearly and specifically answer the question of whether any new structural elements are required for the scheme proposed and if so, identify them. If a structural appraisal is deemed necessary but is not provided or shows that new structural elements would be required then an application may be refused.

Advice to Tenant Farmer/Landlords

The regulations include certain criteria which seek to safeguard agricultural tenancies which could be affected where landlords wish to carry out development under the provisions of Class Q. The safeguards consist of the following:

- If the site is under an agricultural tenancy, express consent from both the landlord and tenant will be required before an application for prior notification can be submitted.
- Development under Class Q cannot be carried out where a tenancy has been terminated less than one year before an application for prior notification is made, unless both the landlord and tenant have agreed in writing that the site is no longer required for agricultural use.

How to apply

An application for prior notification must be submitted before any works of conversion are carried out; if works have commenced, you will need to apply for planning permission. This must be submitted to our Planning Department. There are two separate parts to the process, each containing separate considerations. Class Q(a) considers the principle of the change of the use of the building and assesses the following:

- transport and highway impacts;
- noise impacts;
- contamination risk;
- flood risk and;
- whether the location or siting of the building makes it otherwise impractical or undesirable to be a dwelling Class Q (b) considers all of the above and the following:
- details of the building operations necessary to convert the building and;
- design and external appearance

There are two routes by which an application can be submitted:

Route 1

The first route is an application for prior notification ONLY for the change of use of the building under Class Q(a). You can only make an application under Q(a) if no building operations are required for the building to change use to a dwelling.

Route 2

The second route is a detailed prior notification application which seeks the agreement of the principle of development through the change of use and the detailed design and external appearance of the finished conversion (Class Q (a) and (b)). This application type must be used if any building operations are necessary to enable the building to be used as a dwelling. (It is important to note that there is no provision in the Regulations for an application under just Class Q(b). The only routes that are available are 1 & 2 as identified above)

What you will need to submit Class Q(a) to be considered:

1. A completed application form*
2. A plan indicating the site and showing the proposed development (including any garden, parking, turning and access arrangements). You may need to provide more than one plan to clearly (i) show the location of the building, ideally to a scale of 1:1250, and (ii) the extent of the building, garden, parking, turning and access arrangements, ideally to a scale of 1:500. Outline the proposed development in red*
3. If within Flood Zone 2 or 3, a site-specific flood risk assessment*
4. Protected species risk assessment, together with an ecology report as necessary.
5. A written statement detailing the extent of any demolition and building works required to convert the building to a dwelling house including a structural survey as necessary

6. Scale Drawings of all existing elevations *
 7. Scale Drawings of proposed elevations*
 8. Scale Drawings of existing and proposed floor plans*
6. A £172.00 fee*

* All drawings and plans should be to a metric scale, normally 1:50 or 1:100 and should be marked with either a scale bar or significant measurement. Please note – anything marked with * above is a statutory requirement to validate the application and the 56 day determination period will begin once this information is correctly submitted. It is however brought to the attention of applicants that there are other reports and information (such as structural appraisals, wildlife surveys and evidence of agricultural trade) which will need to be considered in the determination process, absence of these document is likely to result in an application being refused.

Additional Information

The regulations allow Northumberland County Council to request further information, which may include:

- Structural appraisals or other reports relating to the building operations proposed
- Assessments of risks or impacts, for example land contamination report
- Statements setting out how impacts or risks are to be mitigated, for example a decontamination strategy

Under these provisions whilst not expressly referred to as one of the prior approval issues for the council to consider, ecology remains a key factor in the conversion of rural buildings. The DCLG response to consultation in paragraph 25 indicates that “All changes under permitted development are required to meet necessary habitats and environmental legislation and regulations.” Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC) requires all public bodies to have regard to biodiversity conservation when carrying out their functions. In the exercise of its functions the Council is also required to have regard to the requirements of The Conservation of Habitats and Species Regulations 2010 (as amended) (Habitats Regulations).

The council believes that implications for protected species should be considered as “impacts or risks”. Accordingly, the council will require a prior approval application to be accompanied by an appropriate assessment of the potential impact upon protected species and a mitigation strategy if there are protected species at risk of harm from the development.

What happens once an application is submitted?

Once you have submitted an application to us, you will receive notification when the application has been registered as valid and details of the date the decision must be made by. The application will not be valid until we have the statutorily required information. If any further information is required to validate the application, a member of our planning

support team will be in contact. Once registered as valid, application will be assigned a case officer who will visit the site and display a site notice. We will have 56 days from the date the application is submitted and deemed valid in which to consider the proposals against the permitted development criteria in Class Q. You may be asked to provide additional information during this period.

You will receive written notification as to whether approval is given or refused before or on expiration of eight weeks from when the application was registered as valid. If a decision is not made within this time, and you have not been contacted by the Council, and your development complies with the criteria in the regulations, you may proceed with the development. The development, when permitted, must be completed within three years (not commenced as is generally the case with planning approvals).

Building Regulations

Please note that this procedure does NOT grant approval under the Building Regulations and separate approval will need to be sought. Due to the nature of these conversions it is strongly advised that you consult with your local Building Regulation Officer at an early stage so as to minimise the risk of not being able to comply with the Building Regulations as well as any approval granted under the Class Q provisions.