

**COPELAND BOROUGH COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/21/2375/0F1
2.	<b>Proposed Development:</b>	PRIOR APPROVAL FOR THE CHANGE OF USE FROM AN AGRICULTURAL BUILDING INTO A DWELLING
3.	<b>Location:</b>	LANE HEAD GARDENS, LANE HEAD, SANDWITH, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: NO  Site Notice: NO  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>	<p><b>PROPOSAL</b></p> <p>This application is a notice for prior approval for the change of use of an agricultural building to a single dwelling at Lane Head Gardens, Sandwith. The site is accessed from High Road which leads from Whitehaven to Sandwith. There is a dwelling and an outbuilding on the site and which are surrounded by agricultural fields. The outbuilding was previously in use as a greenhouse for plant and flower sales.</p> <p>The proposed building for conversion is a rendered outbuilding, stated to be currently sectioned into a nursery and showroom, plant/workshop, store and office.</p> <p>This notice proposes the change of use of the building into a single dwelling. The proposal would require the replacement of the roof and the reconfiguration of all doors and windows. Parking and</p>

amenity space has not been specified by the Applicant.

## **CONSULTATION RESPONSES**

### Town Council

No objections

### Highways Authority and LLFA

Raise issues about access and lack of details of parking on the plans submitted.

### Flood and Coastal Defence Engineer

Initially raised an objection due to lack of information relating to drainage. Further to the receipt of further information stated the following:

#### Foul Drainage

Existing foul drainage is to septic tank.

Connection to mains drainage is not feasible.

Owner of existing and proposed dwelling are the same and favour a new treatment plant for both dwellings.

This is a suitable solution and I would suggest that it is conditioned that the proposed dwelling is served by a package treatment plant to comply with the "General Binding Rules".

#### Surface Water Drainage

Existing dwelling is on a soakaway, which works adequately.

It doesn't state how the building to be converted to a dwelling is currently drained.

It is proposed that the new dwelling is to be drained by means of a soakaway.

As long as surface water drainage can be disposed of by means of a soakaway to comply with building regulations, then again this would be a suitable solution and should be conditioned.

### Countryside Access Officer

Public Footpath 431032 follows an alignment to the east of the proposed development area and must not be altered or obstructed before or after the development has been completed.

## **ASSESSMENT**

### Legislation criteria

The proposal is considered permitted development under Class Q of the Permitted Development Rights, allowing for the conversion of an agricultural building to a dwellinghouse if it meets certain criteria; this is as follows:-

- The site was not used solely for an agricultural use as part of an established agricultural unit on 20<sup>th</sup> March 2013;

- The development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- The development would consist of building operations other than:
  - the installation or replacement of –
    - (a) windows, doors, roofs or exterior walls, or
    - (b) water, drainage, electricity, gas or other services,

To the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition reasonably necessary to carry out these building operations.
- Transport and highway impact of the development;
- Noise impacts of the development;
- Contamination risks of the site;
- Flooding risks on site;
- Whether the location or the siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use;
- The design or external appearance of the building, and
- The provision of adequate natural light in all habitable rooms of the dwellinghouses.

Assessment of criteria

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 permits:

***Permitted development***

***Q. Development consisting of—***

***(a) 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; or***

***(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.***

Paragraph Q.1 of Class Q outlines the circumstances when development is not permitted:

**Q.1** Development is not permitted by Class Q if—

*(a) the site was not used solely for an agricultural use as part of an established agricultural unit—*

*(i) on 20th March 2013, or*

*(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;*

*(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; (ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order 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 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);*

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

*(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;*
- (l) the site is, or contains, a scheduled monument; or*
- (m) the building is a listed building.*

4.3 Paragraph Q2-(1) of Class Q outlines:

**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 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 the Schedule to the Use Classes Order, and*
- (f) the design or external appearance of the building, and*
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.*

*(2) 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 (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.*

*(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.*

In my opinion, the proposal does not meet the definition for consideration under this legislation. Although horticulture is defined under agriculture in S336 of the Town and Country Planning Act 1990, the building was used as a showroom and retail facility for the flowers and plants and therefore the building is at least in part, classed as a retail use. The application therefore cannot be approved under Class Q of the Town and Country Planning Act as it does not meet the definition for agriculture.

No other criteria have been assessed as a result of this conclusion.

On the basis of the above, the application requires Prior Approval and a planning application must be submitted for the proposed development.

8.	<b>Recommendation:</b> Refuse	
9.	<b>Reason for Refusal</b>  On the basis of the information provided, the proposal does not meet the definition for consideration under this legislation. Although horticulture is defined within the definition of agriculture under S336 of the Town and Country Planning Act 1990, the building was last used as a showroom and retail facility for flowers and plants and therefore the building is, at least in part, classed as a retail use. The application cannot therefore be approved under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2021 (as amended) as it does not meet the definition of agriculture.	
<b>Case Officer: Sarah Papaleo</b>		<b>Date : 28/09/2021</b>
<b>Authorising Officer: N.J. Hayhurst</b>		<b>Date : 06/10/2021</b>
<b>Dedicated responses to:- N/A</b>		