



CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2061/0F1
2.	Proposed Development:	APPLICATION TO DETERMINE IF PRIOR APPROVAL IS REQUIRED FOR CONVERSION OF BARN INTO A DWELLING
3.	Location:	BARN A, MOSS DALTS, EGREMONT
4.	Parish:	Egremont
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, Outer Consultation Zone - Sellafield 10KM
6.	Publicity Representations & Policy	See report.
7.	Report:	<p>Site and Location</p> <p>The Application Site comprises an agricultural building located at Moss Dalts, Egremont.</p> <p>The agricultural building comprises part of a small group of agricultural buildings and a dwelling located in open countryside.</p> <p>The agricultural building is concrete framed. The elevations comprise concrete block infill with fibre cement sheeting to the upper elevations and roof.</p> <p>An existing made part track provides access within from the agricultural building to the public highway.</p> <p>Proposal</p> <p>This is a notification for prior approval for the change of use of the agricultural building to a dwellinghouse (Use Classification C3) and for the associated operational development under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General</p>

Permitted Development) Order 2015 (as amended).

Architectural drawings have been prepared which detail the proposed operational development required to enable the change of use.

If is proposed to finish the dwelling externally with corrugated sheets.

A range of internal works are detailed.

A defined curtilage area has been identified.

It is proposed to dispose of foul water to a package treatment plant and surface water to watercourse.

A Visual Structural Inspection has been prepared by WDS Ltd in support of the planning application.

Planning Application History

Application Ref. 4/22/2493/0F1 – Application to determine if prior approval is required for the conversion of two barns to dwelling houses – Withdrawn.

Application Ref. 4/23/2052/0F1 - Application to determine if prior approval is required for the conversion of barn to a dwelling house – Withdrawn.

Consultation Responses

Town Council

No objections.

Cumbria County Council – Highways

As this falls under our Service Level Agreement (SLA) with your Council, this application does not need to be submitted to the Local Highway Authority or Lead Local Flood Authority; subject to the highway and drainage aspects of such applications being considered in accordance with the Agreement.

The highway and drainage implications of this application would therefore have to be decided by the Local Planning Authority.

Copeland Borough Council – Environmental Health

The main issue of interest is possible contamination of this site from its long history as a farm holding.



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Although farms are not classified as 'brownfield land', it is accepted that possible historical contamination from use of pesticides, asbestos, hydrocarbons and heavy metals can be problematic.

The scale of the farm however was historically small and not intensive, and Barn A was apparently used as a milking parlour.

The current concrete hardstanding surface is to be retained and built over, albeit relatively shallow ground works for drains and foundations for new internal walls will be required.

It would be possible that localised 'hotspots' of contaminants could be encountered during groundworks and a protocol for this is suggested below.

In terms of a basic risk assessment of significant harm to human health, a classification of 'low risk' could be applied whereby use of PPE for site workers would be sufficient.

There are no plans indicated on the application for a garden space, though it should be noted that the provision of a garden may cause the risk assessment for end users (the residents) to be upgraded.

In terms of possible significant harm to property, appropriate cement and P.E. services below ground may be required.

The risk assessment for significant harm to ecological systems and controlled waters may require further consultation from Natural England and the Environment Agency given that Black Moss SSSI is within 100m of Moss Dalts.

It is noted that the sewage package treatment plant will discharge to nearby surface water.

There is some doubt as to whether this discharge point is a permanent watercourse and if the 'General Binding Rules' for small sewage treatment will therefore be met.

In addition, an environmental permit for discharge of sewage to surface waters may be needed from the Environment Agency.

This site is also within a 1 km grid where parts of the grid have an elevated maximum radon potential of 10 – 30% and, as such, full radon protection is required.

Recommend the following:

- Consultation with Natural England and Environment Agency; and,
- Imposition of a planning condition in relation to unexpected conditions.

Neighbour Representations

The application has been advertised by way of a site notice and neighbour notification letter.

No representations have been received.

Assessment

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



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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 respect of the provisions of Q.1 of Class Q:

- (a) the applicant states that the site is currently in agricultural use as part of an established agricultural until and has been for 50-100 years. It is stated that it was originally attached to farm known as Moss Dalts.

The building currently contains agricultural paraphernalia etc..

I have not received and have not located any evidence to doubt or question the use of the building.

- (b) A single dwellinghouse is proposed. The cumulative floor space of the existing building changing use under Class Q extends to c.169 square metres only.

Permission has previously been approved for the change of use of a building at the holding under Class MB; however, the change of use of a building under Class Q has not been approved. It is not known if this has been lawfully implemented and remains extant; however, it has not been developed/completed.

- (c) No smaller dwellings are proposed.

- (d) A single dwellinghouse is proposed. The cumulative floor space of the existing building changing use under Class Q extends to c.169 square metres only.

Permission has previously been approved for the change of use of a building at the holding under Class MB; however, the change of use of a building under Class Q has not been approved. It is not known if this has been lawfully implemented and remains extant; however, it has not been developed/completed.



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- (e) The Applicant confirms that the site is not the subject of an agricultural tenancy.
- (f) The Applicant confirms that the site has not been the subject of a termination of an agricultural tenancy within one year of the date of this application.
- (g) The planning register confirms that no development under Class A(a) or Class B(a) of Part 6 of the GPDO 2015 or GPDO 1995 (as amended) has been completed on the established agricultural holding since the 20th March 2013.
- (h) The proposed development would not result in the external dimensions of the building extending beyond the external dimension of the existing building.
- (i) 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.

The Planning Practice Guidance is clear that it is not the intention of the permitted development rights 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.

The case in [Hibbitt and another v Secretary of State for Communities and Local Government \(1\) and Rushcliffe Borough Council \(2\) \[2016\] EWHC 2853 \(Admin\)](#) provides guidance in relation to the threshold of what constitutes conversion.

The building in question is a concrete framed building. The elevations comprise concrete block infill with fibre cement sheeting to the upper elevations and roof.

A Visual Structural Inspection has been prepared by WDS Ltd in support of the planning application.

The Visual Structural Inspection states:

The concrete portal frame is structurally adequate in its current form, it is proposed to convert the building sympathetically without compromising the existing structure. We propose a masonry and timber framed structure is built around the frame to allow the frame to be retained whilst relieving loading off the concrete frame and thus not compromising the existing barn structure.

The masonry wall to the perimeter of the building is not a structural element. If necessary, it can be retained but strengthened by underpinning, tying cracks and adding additional buttress walls to safeguard its ongoing structural adequacy.

The existing floor slab can be retained with the new insulated floor slab to the proposed development taken over the slab. Internal wall foundations will need taken through the slab and built off new footings, the slab will need locally removed to facilitate the construction of any new foundations.

The existing barn structure is in an adequate condition and can be retained as part of the conversion works, the planned conversion works will have no detrimental structural affect on the existing building structure.

Based upon the Visual Structural Inspection the main of the existing building is to be retained with some non-structural works to be completed that are reasonably commensurate with the conversion of any rural building only.

- (j) The site is not located on Article 2(3) land.
- (k) The site does not form part of a site of special scientific interest; a safety hazard area; or, a military explosives storage area.
- (l) The site is not and does not contain a scheduled monument.
- (m) The building is not listed.

4.5 In respect of the provisions of Q.2-(1):

(a) transport and highways impacts –

Access is proposed via the existing part surfaced access connecting to the public highway which serves a small number of the dwellings and agricultural land.

The proposed would result in a small increase in the use of the access only.

The junction with the public highway benefits from reasonable visibility and no highway capacity or access issues are known to exist.

(b) noise impacts –

There are other agricultural buildings located within close proximity to the building.

Permission has previously been approved for the change of use of building under Class MB in this location.

No issues have been raised by Environmental Health.

In the context of the above, the proposed would not be exposed to excessive noise and would provide acceptable living conditions for future residential occupiers.

(c) contamination risks –



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The Applicant confirms that no works have taken place that would result in contamination.

The construction of the building does not appear to contain materials hazardous to human health.

It is considered that the risk to construction workers; future occupants; and, the wider environment are low.

Environmental Health have confirmed the potential contamination of this site from its long history as a farm holding due to the use of pesticides, asbestos, hydrocarbons and heavy metals. It is confirmed that the scale of the farm however was historically small and not intensive and the application site was used as a milking parlour. It is confirmed that there is potential for localised 'hotspots' of contaminants to be encountered during groundworks. A planning condition is proposed to secure controls in relation to any unexpected contamination.

This site is also within a 1 km grid where parts of the grid have an elevated maximum radon potential of 10 – 30% and, as such, full radon protection is required. This will be secured through the building regulations.

(d) flood risk –

The building is located within Flood Map for Planning Flood Zone 1.

No surface water drainage issues are known to exist at the site.

No alterations are detailed in respect of the existing surface water drainage arrangements, which will continue to discharge to watercourse. No additional surface water flows will result from the proposed development; therefore, additional flood risk will not result.

(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 -

Paragraph 108 of the Planning Practice Guidance states: *“The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change the use to residential”.*

Paragraph 109 states: *“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 a sufficient reason for refusing prior approval.

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.

When a local authority considers location and siting in this context it will not therefore be appropriate to apply tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.”

The site is located in an isolated location in an area of open countryside.

The site is located in an area contained in wider landscape terms by existing landform and landscaping and comprises part of an existing group of buildings including a dwelling.

Services exist on or near the site given the presence of an existing dwelling.

Permission has previously been approved for the change of use of building under Class MB.

The development will not result in unacceptable impact upon the residential amenity of the existing dwellings or the dwelling approved under Class MB.

In the context of the above, it is considered unreasonable to conclude that the location is otherwise impractical or undesirable.

(f) the design or external appearance of the building

In relation to design, it is considered that the design of the proposed conversion relates to the simple form of the existing building or the site and its context.

The number, arrangement and form of the proposed windows/doors and use of external



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cladding relate well to each other and maintain the simple forms etc. of vernacular agricultural buildings.

The proposed external materials not considered appropriate to the design or details are not provided; therefore, a planning condition is proposed to secure.

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

Adequate natural light is available to all habitable rooms.

Other Matters

Part X states: "curtilage" means, for the purposes of Class Q, R or S only— (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.

The proposed curtilage aligns with the requirements of Part X.

Given the form and construction of the agricultural building, the potential for the presence of protected species including bats is extremely low; therefore, a Bat Survey was not requested.

It is proposed to dispose of foul water to a package treatment plant. Given the lack of mains drainage connection locally, the proposed accords with the drainage hierarchy.

Conclusion

It is considered that the proposals accord with the requirements of Schedule 2, Part 3, Class Q of the GPDO.

Prior approval is required and approved.

8. **Recommendation:**

Approve

9. **Conditions:**

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

Planning Application Form

Proposed Barn Conversion – Proposed Site & Block Plan – Drawing No. MD-DD006 Rev. B
Proposed Barn A Conversion Existing Elevations & Floor Plans – Drawing No. MD-DD-001 Rev. -
Proposed Barn A Conversion Proposed Elevations & Floor Plans – Drawing No. MD-DD-002 Rev. I
Proposed Barn Conversion Proposed Landscape Plan – Drawing No. MD-DD009 Rev. -
Proposed Barn Conversion Proposed Site Drainage Plan – Drawing No. MD-DD-007 Rev. C
Visual Structural Inspection Of The Concrete Framed Barn Building Moss Dalts Egremont - WDS/05/8013/REP01 mod B

Reason

For the avoidance of doubt and in the interest of proper planning.

Materials

2. Notwithstanding the submitted details, no works to the exterior of the building shall be commenced until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason

To ensure the development is of a high quality design.

3. The dwelling hereby approved shall not be occupied until the approved parking layout and turning space to serve the dwelling has been constructed and made available for use.

The parking spaces shall be used solely for the benefit of the occupants and visitors of the development hereby approved and for no other purpose and shall be retained for the lifetime of the development.

Reason

To ensure adequate provision of vehicle parking.

4. The dwelling hereby approved shall not be occupied until a scheme for the provision of external lighting has been submitted to and approved in writing by the Local Planning



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Authority. The scheme shall include full details of the location, design, luminance levels, light spillage of all external lighting within the site.

The approved lighting scheme shall be implemented in full prior to first occupation of the development hereby approved.

No additional external lighting shall be installed without the express permission of the Local Planning Authority.

Reason

To safeguard and enhance the character of the area and secure high quality design, prevent amenity harm and prevent ecological impacts.

5. No construction work associated with the development hereby approved shall be carried out outside of the hours of 07.30 hours -18.00 hours Monday-Saturday, nor at any time on Sundays and bank holidays.

Reason

In the interests of neighbouring residential amenity.

6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason

To prevent harm to human health and the environment.

Case Officer: Chris Harrison	Date : 12.04.2024
Authorising Officer: N.J. Hayhurst	Date : 12.04.2024
Dedicated responses to:- N/A	