

Chichester District Council

Planning Committee

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CDC Guidance Note on Class Q Prior Approval (Agricultural to Residential changes of use) 2020

1. Contacts

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2. Recommendation

- 2.1. **That the Committee approves for consultation the draft Chichester District Council Guidance Note on Class Q Prior Approvals (see Appendix 1), to be used by the Council in determining all relevant prior approval and planning applications.**
- 2.2. **That the Divisional Manager for Development Management is authorised to make necessary minor changes to the guidance to take account of future pertinent case law or appeal decisions.**

3. Introduction and Policy Background

- 3.1. In 2013 the government introduced new permitted development rights to convert agricultural buildings to dwellings. The Town and Country Planning (General Permitted Development Order), 2015 (as amended) (GPDO) is the latest iteration of the permitted development order which automatically grants planning permission to convert agricultural buildings to dwellings and to carry out the necessary building operations to complete the change of use.
- 3.2. Prior to the conversion and associated works being undertaken, the developer must apply to the local planning authority to establish whether approval is required in respect of a number of key technical matters, however, as the development is permitted development under the GPDO, the Local Planning Authority (LPA) cannot resist the application in principle, even if the development appears to conflict with the Development Plan.
- 3.3. The GPDO contains limited information about how the regulations should be interpreted, or the extent of development permitted by the Order. As a result, a body of appeal decisions and case law has developed as LPA's across the country have sought to apply the 'new' permitted development rules. In addition, the government has created broad guidance within the National Planning Practice Guidance (NPPG). This growing amount of information provides helpful guidance that is used by officers when determining applications for prior approval; however agents, applicants and the broader public may not be fully aware of the information available.

- 3.4. In addition to applications seeking 'prior approval' it has become commonplace that developers follow up a successful prior approval application with an alternative new-build dwelling, once the principle of a residential dwelling on the site has been established. It is important to note that it is not necessary for a developer to acquire prior approval to establish a fall-back position that constitutes a material consideration, case law has established that the very existence of the ability to provide a further dwelling through the conversion of an existing building, provided for by the GPDO, is a fall-back position, unless it can be demonstrated that the limitations of the order cannot be met. Any alternative scheme must be comparable to the fall-back position, and locally set guidance will assist applicants and their agents to develop schemes that are likely to be acceptable.

4. The Content of the Guidance

- 4.1. The draft guidance note sets out the key requirements of Class Q and the guiding principles for how decisions will be made for applications submitted under this class of the GPDO. The guidance note explains what information will be required to demonstrate that a building is structurally capable of conversion. In addition, the guidance note establishes how the fall-back of a prior approval scheme will be taken into account should be a subsequent planning application be submitted for a new dwelling.

Class Q of the GPDO

- 4.2 The draft guidance note explains what development is permitted development, what limitations there are and what conditions must be met, including the limitations on the number of units and the maximum size of units; under the last iteration of the GPDO between 3 and 5 dwellings can be permitted development, dependent on their floor area. The guidance explains the requirements of specific sections of Class Q including what the Council can consider when prior approval is sought; i.e.

- Highways and transport
- Noise
- Contamination
- Flooding,
- Whether the proposal would be impractical or undesirable as a result of its siting, and
- Design and external appearance

Structural information

- 4.3 The draft guidance explains what level of information will be required with a prior approval application to demonstrate that the building can be converted without the need for structural alterations. The key emphasis of the guidance is that the building should be capable of conversion without any structural works to re-build, strengthen or support either the existing building or the building following alterations permitted by Class Q, such as the provision of a replacement roof covering that may be heavier than the existing roof covering. Therefore the strengthening of the sub-frame to support the load of a replacement roof covering or new internal or external walling systems that

would be required to enhance the stability of the building), or substantial new building works such as new external walls to a pole barn would not be permitted under the provisions of the GPDO. It is recognised that internal alterations can be made without planning permission, and it has been established at appeal that a first floor can be provided within an existing building. This will necessitate some structural works, however these should not be required in themselves in order to support the structural integrity or load bearing of a building.

Subsequent planning applications

- 4.4 The Council has previously received a significant number of planning applications for alternative schemes to those permitted under Class Q of the GPDO. The permitted development provisions within the GPDO are a material consideration, and they carry significant weight when considering a planning application. Therefore the Class Q permitted development rights may mean that a new dwelling could be constructed in the rural area where it would not comply with the Development Plan. However, any subsequent applications should be comparable to the fall-back position permitted by the GPDO. If it is clear that it would not be possible to implement a change of use under Class Q, for example, if the building is a glasshouse or a pole barn that could not be converted to a dwelling in its current form and without substantial building works, then the GPDO provisions would not represent a fall-back position that carries any weight. In addition, if the new dwelling proposed is in a different location and of a different scale or appearance, then it too would not be directly comparable to the fall-back position and, other than in exceptional circumstances, the fall-back would not carry any significant weight.

5. Conclusion

- 5.1. The guidance reflects the Council's experience of dealing with a large number of applications for prior approval under Class Q and builds on the guidance contained within the NPPG and the decisions of the Planning Inspectorate and the courts. The guidance note will be reviewed and updated periodically, and should any new leading case law be relevant to how the Council deals with Class Q prior approval applications then this will need to be reflected in the guidance.
- 5.2. The guidance provides useful information for applicants, developers and officers involved with Class Q developments or subsequent applications. The Committee is, therefore, requested to note and endorse the content of the guidance which, where relevant, will be applied to all undetermined and future prior approvals and planning applications.