



PLANNING
INSIGHT



CLASS Q – AGRICULTURAL BUILDINGS TO DWELLINGHOUSES

2021

INTRO.

Class Q, as it is now known, was first introduced on 6 April 2014 via the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 (abbreviated to GPDO) as 'Class MB'. It was renamed 'Class Q' in the subsequent Town and Country Planning (General Permitted Development) Order 2015 which came into force in April 2015.

Class Q allows the conversion of agricultural buildings to dwellinghouses subject to certain conditions and limitations. This guidance will explain how existing agricultural buildings qualify for Class Q, the limitations and scope of the permitted development right and the process for obtaining consent from the local planning authority.

The guidance will also provide information on strategies to make best use of the permitted development right and highlight relevant points to consider when seeking to convert an agricultural building.

The legislation has been translated from legalese into plain English with illustrations to show how the guidance can be applied in practice.

This guidance should be read alongside the following legislation:

www.legislation.gov.uk
www.legislation.gov.uk (2018 amendment)

CLASS Q – AGRICULTURAL BUILDINGS TO DWELLINGHOUSES

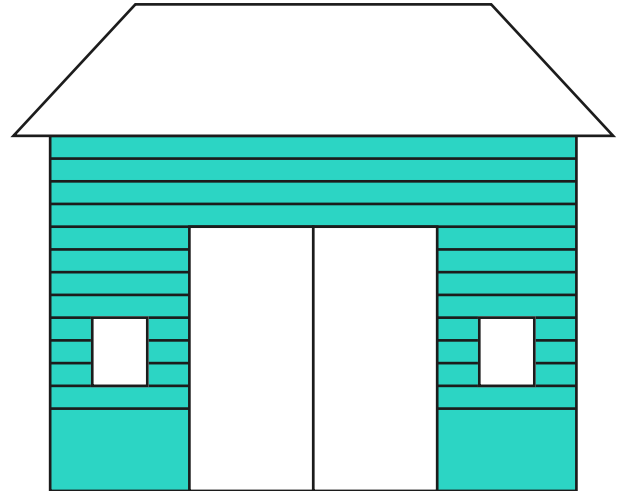
CLASS Q – AGRICULTURAL BUILDINGS TO DWELLINGHOUSES.

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q allows the change of agricultural buildings to dwellinghouses.

Class Q allows 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; and
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

In effect (a) allows the change of use and (b) allows operations reasonably necessary to convert the building to a dwelling, 'reasonably necessary' is a key phrase which will be discussed later in this section.



CLASS Q – QUALIFYING BUILDINGS AND LAND DESIGNATIONS.

The principal qualifying criteria is that the building was in agricultural use on 20 March 2013. If the building brought into agricultural use after that date, a period of 10 years must pass before development under Class Q begins.

A key point here is that the building was in use as part of “an established agricultural unit” on the relevant date.

Paragraph X of Part 3 of the GPDO defines an “*established agricultural unit*” as “*agricultural land occupied as a unit for the purposes of agriculture (and which was in use for that purpose on or before the relevant qualifying date under Classes Q, R and S respectively)*”.

Providing the local planning authority with the agricultural holding number is a good way demonstrate that the site is indeed an established agricultural unit.

Article 2(3) land means no Class Q in Conservations Areas, Areas of Outstanding Natural Beauty (AONB) or National Parks. It does not however preclude sites in the Green Belt.

Other land designation where Class Q is not permitted are given as follows:



Article 2(3) land

It cannot be located in Article 2(3) Land, which includes Conservation Areas, AONB, The Broads, National Parks, World Heritage Site.



Site of special scientific interest

The dwelling must not be located in a Site of Special Scientific Interest.



Safety hazard area

It is located within or forms part of a safety hazard area.



Military explosives storage area

Is the site located within or forms part of a military explosives storage area.



Scheduled ancient monument

It is with the curtilage of or contains, a scheduled monument.



Listed buildings

It is or within the curtilage of a listed building.

CLASS Q – FLOORSPACE THRESHOLDS.

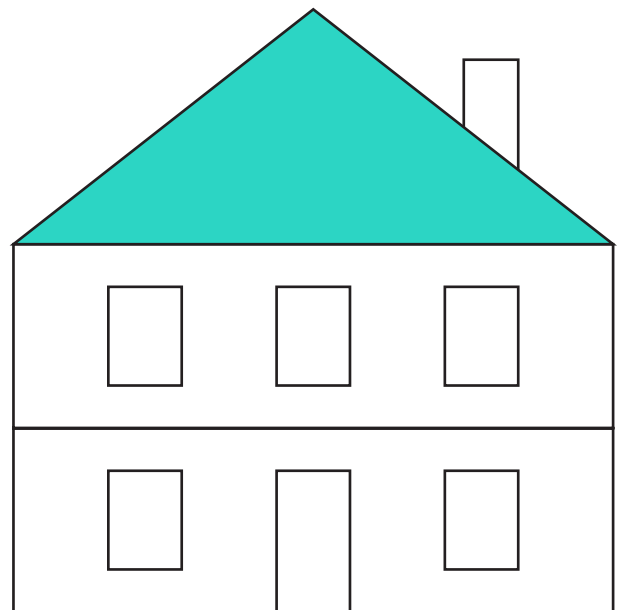
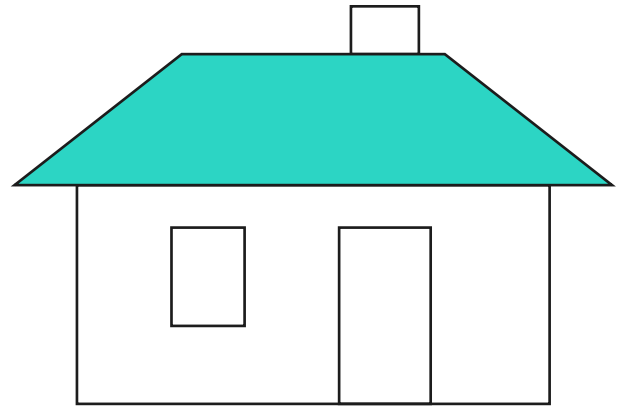
The 2018 amendment to Class Q makes a distinction between larger and smaller dwellinghouses. Previously, there was a limit of 450 square metres per agricultural unit.

In the case where buildings are converted to a larger dwellinghouse or dwellinghouses (those above 100 square metres), the number of separate larger dwellinghouses cannot exceed 3 and the culminative floorspace cannot exceed 465 square metres.

In the case of smaller dwellinghouses (those less than 100 square metres), the number of separate dwellinghouses cannot exceeds 5. Effectively, there is culminative limit of 500 square metres for smaller dwellinghouses.

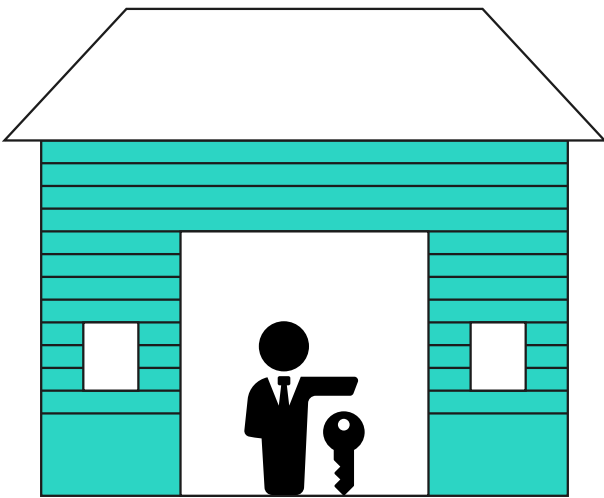
Where you have a combination of larger and smaller dwellinghouses, the total number cannot exceed 5 and the floorspace of a larger dwellinghouse cannot exceed 465 square metres.

This means, in theory, that you could have one larger dwellinghouse of 465 square metres and four smaller dwelling houses of 100 square metres, i.e. a total floorspace of 865 square metres.



CLASS Q – FOOTPRINT.

Development must be within the footprint of the existing agricultural building.



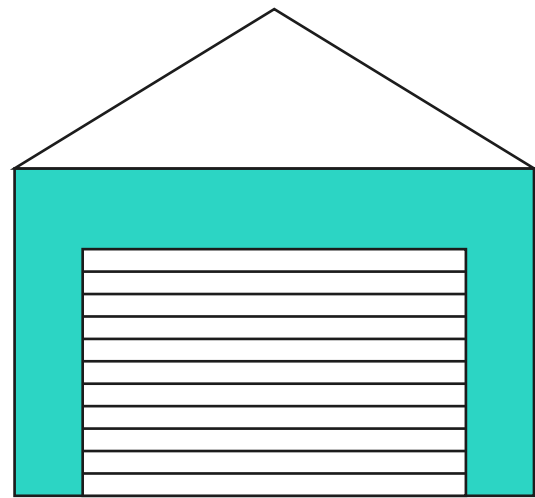
CLASS Q – AGRICULTURAL TENANCY MATTERS.

If the site is occupied under an agricultural tenancy, Class Q cannot proceed unless the express consent of both the landlord and the tenant has been obtained.

Class Q cannot proceed if an agricultural tenancy has been terminated 1 year before the development begins or has been terminated for the purpose of carrying out the development, unless the landlord and tenant agree the site is no longer required for agricultural use.

This means that an existing agricultural tenant cannot terminate the tenancy in order to convert a building under Class Q.

This provision ensures that the landlord has ultimate control over the use of the land.



CLASS Q – OTHER AGRICULTURAL BUILDINGS CONSTRUCTED UNDER PD.

Development is not permitted where buildings have been constructed on the agricultural unit via agricultural permitted development rights (Class A(a) or Class B(a) of Part 6 of the GPDO) after 20 March 2013; or, where a development under Class Q begins after 20 March 2023, in the 10 years before the date of development under Class Q begins.

If Class Q is being carried out from March 2023, agricultural building cannot have been constructed (under agricultural permitted development) on the agricultural unit in the proceeding 10 years.

This provision ensures that buildings are not built for the purpose of conversion to residential. Indeed, if any new agricultural buildings are built under agricultural permitted development, this effectively extinguishes the right to convert existing building under Class Q.

CLASS Q – BUILDING OPERATIONS REASONABLY NECESSARY FOR THE BUILDING TO FUNCTION AS A DWELLINGHOUSE.

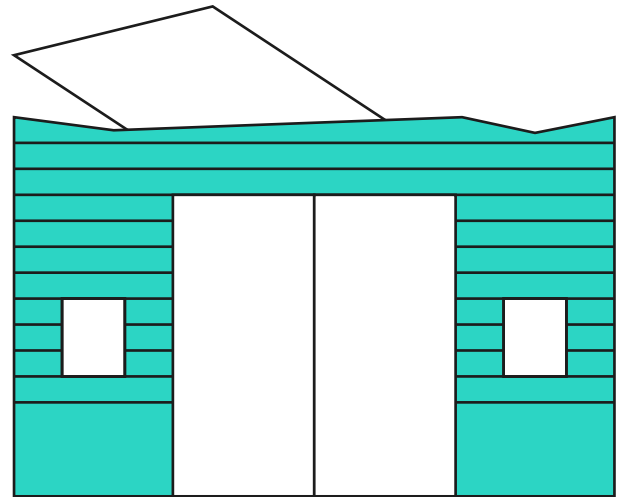
Class Q does not allow building operations other than the installation or replacement of:

- windows, doors, roofs, or exterior walls, or
- water, drainage, electricity, gas or other services to the extent **reasonably necessary** for the building to function as a dwellinghouse; and

Demolition is also allowed to the extent reasonably necessary to carry out building operations listed above.

The building operations condition is the most debated part of Class Q, i.e. what constitutes works that are reasonably necessary to convert a barn to a house?

As you can imagine, most barns will need extensive work to convert them to residential and bring them up to the *Building Regulations* standards – in most instances, this is beyond the scope of the building operations set out in Class Q.



Paragraph 105 of the Government’s online Planning Practice Guidance (or PPG) seeks to clarify the scope of Class Q:

“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. 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 guidance of the PPG is clear, however there is clearly room for interpretation of when a building might be ‘suitable for conversion’.

CLASS Q – BUILDING OPERATIONS REASONABLY NECESSARY FOR THE BUILDING TO FUNCTION AS A DWELLINGHOUSE (CONTINUED) – THE HIBBERT CASE.

Whilst the PPG provides guidance, guidance is not legally binding. Ultimately, it is the interpretation of the legislation in court which determines what is, or what is not, allowed. The legislation was tested in the High Court in 2016 by the ‘Hibbert Case’.

Rushcliffe Borough Council (RBC) refused Hibbert’s Prior Approval application to convert a barn to a residential dwelling. RBC determined that the proposal was not permitted development.

The barn was a modern, steel framed structure and was open on three sides. In order to convert the barn into a dwelling the existing steel frame and roof would be retained. No demolition was proposed. Panels were proposed for the four external walls and a ceiling within the existing frame.

The planning appeal was dismissed, the Inspector considered that the agricultural building would not be capable of functioning as a dwelling without substantial building works, including the construction of all four exterior walls. The proposed works went “*well beyond what could reasonably be described as conversion*”.

The case was then taken to the High Court. The case was quashed and the Inspector’s Decision upheld. The High Court decided that the concept of ‘conversion’ was the fundamental

provision of Class Q, if it is not a ‘conversion’, then it falls at the first hurdle.

In the case of Hibbert, it was considered that this went well beyond a conversion, effectively it was a new building, except for a limited amount of the existing building.

As is often the case with High Court decisions, it concluded that it is a matter of professional judgement as to what constitutes a conversion, thus, the determination of whether it is ‘conversion’ or ‘rebuild’ lies as a matter for the expert decision maker.

What does the Hibbert teach us?

The main takeaway from the Hibbert case is that the developer should be confident that there is no dispute that the proposal is a conversion.

Local Planning Authorities often request that a structural survey is submitted with the application to ensure that the building is structurally sound. We highly recommend a structural survey is submitted with any application. This serves as a good starting point to demonstrate that the building is capable of conversion.

If it is not clear cut, then it will be more appropriate to seek to convert the building via a full application. It is often the case that Local Plans include policies which support the reuse of vacant agricultural buildings.

Whether the development constitutes a conversion will inevitably be a question of fact and degree in each case. Planning Insight have a wealth of experience with Class Q and are well placed to advise whether the proposal would be deemed appropriate under Class Q.

CLASS Q – PRIOR APPROVAL.

Subject to compliance with the qualifying criteria set out in the previous section, an application for Prior Approval to the local planning authority can be pursued. A Prior Approval application effectively seeks confirmation that specified parts of a development are acceptable.

Prior Approval has a 56-day determination period, if the local authority fail to issue a decision within this period then planning permission is deemed as granted. However, this is on the proviso that the development qualifies.

For a Class Q application, the following matters are for Prior Approval:

- (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.

CLASS Q – PRIOR APPROVAL – TRANSPORT AND HIGHWAY MATTERS.

Generally, a Class Q application should not give rise to significant transport and highways impacts.

If it is a single dwelling, then the associated highways impacts arising from trip generation will be minimal. It is also likely that access to the dwelling will be from an existing agricultural access.

CLASS Q – PRIOR APPROVAL – NOISE IMPACTS.

The noise impacts of the proposed development are also unlikely to cause any issue with a Class Q application.

A residential use is not a noisy use. Given that the building subject of the conversion is likely to be remote from noise receptors, it is unlikely there will be any noise impacts.

CLASS Q – PRIOR APPROVAL – CONTAINMENT.

Some agricultural operations involve the use of chemicals. If the building was used for the storage of such chemicals then the applicant should undertake a Phase 1 Contaminated Land Assessment and remediate the land as required.

In most cases, the building is unlikely to pose a contamination risk. If the local authority require assurance, they will impose a condition on any Decision Notice.

CLASS Q – PRIOR APPROVAL – FLOODING.

A residential use is a more vulnerable use in terms of flood risk classification.

Any building earmarked for conversion under Class Q should be within Flood Zone 1 (lowest risk of flooding).

Flood Zones can be found via the Government's Flood Map for Planning
- www.gov.uk

CLASS Q – PRIOR APPROVAL – IMPRACTICAL OR UNDESIRABLE FOR THE BUILDING TO CHANGE FROM AGRICULTURAL USE TO RESIDENTIAL.

Impractical or undesirable are not defined in the regulations. The local planning authority should apply a reasonable ordinary meaning of those words in making any judgment. Impractical means that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”. In most instances we do not expect this to be grounds for refusing an application.

Importantly, Class Q allows residential use in locations where they might not normally be granted, for example, on a farm, therefore, this in itself is not a reason for objection.

Relevant considerations might be whether there is an access road to the building or whether it is impossible to connect services to the building, for example sewerage or electricity.

CLASS Q – PRIOR APPROVAL – THE DESIGN OR EXTERNAL APPEARANCE OF THE BUILDING.

Design is a relatively subjective matter for Prior Approval. Accordingly, the design and appearance of any Class Q conversion should be in keeping with the rural character of the setting.

By virtue of the requirement that building are ‘converted’ and not rebuilt, any external changes should be minimal. Attempts should be made to utilise existing openings and minimise the number of new openings. If elements of the building are being replaced, then they should be replaced to match original materials. Any attractive features of the building should be retained.

We recommend that a Planning and/or Design Statement is submitted with the application to demonstrate that the design maintains and enhances the character of the immediate rural surrounds.



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